HOUSE OF ASSEMBLY

Tuesday 16 February 1988

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 389 and 471.

PETITION: SHOP TRADING HOURS

A petition signed by 484 residents of South Australia praying that the House reject any proposals to extend retail trading hours was presented by the Hon. R.K. Abbott.

Petition received.

PETITION: TOBACCO PRODUCTS

A petition signed by 119 residents of South Australia praying that the House urge the Government not to increase taxes on tobacco products in order to fund anti-smoking campaigns was presented by Ms Gayler.

Petition received.

PETITON: FIREARMS

A petition signed by 19 residents of South Australia praying that the House reject any changes to the regulations governing the ownership and use of legal firearms was presented by Mr Meier.

Petition received.

PETITION: DUCK HUNTING

A petition signed by 17 residents of South Australia praying that the House urge the Government to reject any proposal to further restrict duck hunting, quail hunting and fishing was presented by Mr Meier.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. J.C. Bannon):

Financial Institutions Duty Act 1983—Regulations—Exemptions and Prescribed Amounts.

By the Minister of Lands (Hon. R.K. Abbott):

Crown Lands Act 1929—Regulations—Examination Fees.

Real Property Act 1886—Regulations—Examination Fees.

By the Minister of Employment and Further Education (Hon. Lynn Arnold):

South Australian College of Advanced Education—By-laws—Parking and Traffic Control.

By the Minister of Transport (Hon. G.F. Keneally):

Drugs Act 1908—Regulations—Lubricants, Motor Fuels and Inorganic Pigments.

Corporation By-laws—Port Adelaide—

No. 2—Vehicle Movement.

No. 3—Streets.

District Council By-laws—

Lacepede—

No. 1—Permits and Penalties.

No. 2—Obstructions To Vision Near Intersections.

No. 3—Cattle and Sheep.

Paringa—No. 30—By-law Repeal.

By the Minister of Education (Hon. G.J. Crafter):

Friendly Societies Act 1919—Manchester Unity-Hibernian Friendly Society—General Laws.

Classification of Publications Act 1974—Regulations—Acre Industries (Amendment).

By the Minister of Labour (Hon. Frank Blevins):

Motor Fuel Licensing Board—Report Year Ended 31 December 1987.

Dried Fruits Board of South Australia—Report For Year Ended 28 February 1987.

MINISTERIAL STATEMENT: REGINALD SPIERS

The Hon. FRANK BLEVINS (Minister of Correctional Services): I seek leave to make a statement.

Leave granted.

The Hon. FRANK BLEVINS: Last Thursday the member for Light asked me a question about the sentence imposed on Reginald Spiers. During his explanation the member for Light quoted very selectively from the remarks made by Justice Olsson when sentencing Spiers.

The effect of that selective explanation was that it was very misleading. I think it essential that the facts of the case are put before the House. The member for Light made much of the judge's remarks that Spiers' co-conspirator Kloss served four years three months of a six year non-parole period. The member claims the judge was unable to give Spiers a longer sentence because of the actual time served by Kloss. However, the member chose not to quote further from the judge's sentencing remarks which put a totally different complexion on the case.

The Hon. B.C. Eastick interjecting:

The Hon. FRANK BLEVINS: I will. Justice Olsson said:

> It must be borne in mind that both the Court of Criminal Appeal and the High Court have intimated, in unmistakeable terms, that the head sentence awarded to Kloss was probably too severe. The fact that, almost fortuitously from his point of view, he actually served a minimum sentence somewhat less than that originally contemplated by the sentencing judge was, then, by no means anomalous in practical terms. I should therefore particularly bear that aspect in mind in imposing sentence upon you.

Clearly, the Court of Criminal Appeal and the High Court of Australia agreed that the sentence served by Kloss was appropriate in the circumstances and the judge, quite rightly, sentenced Spiers on that basis. I also point out the Spiers is, as was Kloss, a Commonwealth prisoner and they were sentenced under the Commonwealth Prisoners Act. Under section 19 of that Act, Commonwealth prisoners are eligible to receive any remissions normally awarded in the State in which they are imprisoned. However, the State authorities have no control over when such prisoners are released.

That responsiblity is solely at the discretion of the Governor-General who can refuse to release the prisoner even after the minimum term, set by the court, has expired. Spiers was charged under the Federal Customs Act and the maximum penalty available to the court is 25 years imprisonment and a fine of $100 000.

From the judge's sentencing remarks it is clear that he is satisfied the sentence imposed on Spiers was appropriate in all the circumstances. Clearly, the State Government's parole laws have little bearing on this case except that as in any case before the court the judge is able to determine the minimum amount of time a prisoner will serve in custody.

No-one denies the right of the Opposition to raise matters it considers to be important. However, as members of Parliament they have an obligation to raise those issues in a responsible manner and not to use selective material which causes unnecessary fear and consternation in the community.

Members interjecting:

The SPEAKER: Order!

DISTINGUISHED VISITORS

The SPEAKER: I draw the attention of members to the presence in the gallery of distinguished visitors, the Hon. Derog Gioura MP, Speaker of the Nauru Parliament and members of his parliamentary delegation. I am sure that all members will extend to them every courtesy during the two or three sitting days in which we will have their company.

Honourable members: Hear, Hear!

QUESTION TIME

TEACHERS DISPUTE

Mr OLSEN: Will the Premier confirm that the Government's negotiating position in the current teachers dispute represents a further major retreat on his 1985 election promise not to cut teacher numbers? I refer to the Premier's 1985 election policy speech in which he said:

> I give the teaching profession a guarantee that teacher numbers will be maintained.

This was a promise the Premier first broke in his 1986 budget, which required more than 200 teaching positions to be axed, and now the Government is proposing a further cut in teaching staff.

Education Department documents which set out the Government's negotiating position in the current dispute with teachers propose a further reduction of between 260 and 350 positions. Under these proposals, the number of teachers for levels between reception and year 7 would be reduced by up to 191, and for years 8 to 12 by up to 160.

The Hon. J.C. BANNON: I reject that. It is not correct information nor is that our negotiating position which at all times has been extremely realistic and directed to ensuring that the best standards of education are retained in this State, as indeed they have been under this Government. It is interesting that Opposition members even bother to get up on their hind legs on this question of education and teacher resources after what they did to the system. Against a background of considerable declining enrolments, against a background of considerable constriction of our financial resources, we have in fact honoured our promises in relation to education.

Class sizes have decreased under us. In the amount of resources in many areas, and particularly those areas of great need—and this is one area that the Opposition is not too happy about; it is not interested in the way in which education resources are applied to ensure that those areas that need them most are getting the most attention—there has been a fulfilment of promises. What about the promise in relation to substantial extra numbers of teacher aides and assistants? What about the difference that even the teachers union was saying this would make to the whole standard and level of education services in that it would free up teachers in order to be able to do more of their primary and basic responsibility—teaching? All that was done, those greatly increased resources are there in the schools, and we are paying for them.

Over the period we have been in office, in both primary and secondary levels the pupil:teacher ratio has fallen, and in each of the past two years as well. When the previous Government left office, the ratio was 18 pupils per teacher in primary schools on average. In 1986 it was at 16.4, and in 1987 it was 16.3, and the national average is over 18. In the case of secondary schools, it was 12.2 when the previous Government left office, and it went down to 11.9 in 1986 and 11.8 in 1987.

So, we are seeing those reductions occurring. In fact, class sizes have also remained stable or in some cases have reduced. We are talking numbers in primary on average of around 23 and in secondary around 18. I notice that in Western Australia, for instance, the teachers union there is saying, 'We demand a reduction in average class sizes to 32.' So, people had better understand just what commitment this Government has to education and its resources and what we have done there, and not listen to some of the propaganda from the teachers union, which is all about a wage claim they are pursuing. Every industrial organisation has a right to pursue wages.

However, I reckon that they should be playing by the same rules as others. Other sectors of the work force have had to negotiate around productivity improvements and many sectors have been unable to establish such improvements and indeed have not received a wage increase. What makes members of this group different and what gives them the right to say that by requiring what is required in other sectors of the work force we are somehow discriminating not against teachers but against education itself? On the contrary, if we were simply to hand over $20 million a year to teachers, there would be no palpable increase of any kind in the services provided to schoolchildren in this State. On the contrary, because of the massive financial crisis that would be caused, there would have to be some sort of reduction.

My Minister is not into reducing the quality of education in this State. There are all sorts of ways, if the teachers union was prepared to negotiate on an open, proper and decent basis, in which we could arrive at improvements in education. They could get their increase, it would be available to them, and education would not suffer: on the contrary, there could be major improvements. However, they have not been prepared to do that. All they say is, 'You pay us. It is fair for you to pay us and, if you suggest that there could be changes in organisation, administration, and teaching conditions, you are, by that means, lowering the standard of education.' What absolute nonsense!

The number of students in our system is still decreasing despite a massive and important improvement in our retention rate and, while that is happening, while we maintain and develop resources as we are doing, and while we add teacher aides to the work force, the workload of teachers and their ability to get more things done is improving year by year. We have kept our promises and it is about time the teachers union gave us a bit of credit for that and started working with us in the interests of the children and their education and not against us for their selfish industrial pursuits.

Members interjecting:

The SPEAKER: Order! I call the honourable member for Mount Gambier to order. The honourable member for Albert Park.

FILM CORPORATION

Mr HAMILTON: Can the Premier say what is the State Government's attitude to proposed changes in Federal Government assistance for the film industry in Australia? This morning's *Advertiser* carries a story on page 3 which states, in part:

> The SA Film Corporation says six mini-series films for Australian TV networks . . . will not go into production without Federal Government assistance.

The report also states:

> And independent SA film makers say they lack about $7 million for productions 'in the pipeline'.

The article gives credit to the South Australian Government for its assistance to the film industry in this State, but goes on to say that such help was only a fraction of the $12 million to $20 million production finance needed by the South Australian film industry.

The Hon. J.C. BANNON: This is a matter of considerable concern to us as it affects a major industry in which South Australia has played a leading role. One of the flag ships of that industry has been the South Australian Film Corporation, in which the honourable member has always had a special interest. The film industry in Australia, the importance of which can be demonstrated clearly by the example of *Crocodile Dundee* and what that film has done for our international image and for tourism in this country, is facing a crisis of funding that must be resolved rapidly indeed. We have had two or three good years and South Australia has shared in those years. We have seen many millions of dollars spent in this State. Over the past 18 months more than $34 million on feature films and TV productions alone has been spent in South Australia: that is, on productions emanating from this State and productions assembled in other States and brought here for various aspects of production, whether location shooting, sound mixing or whatever.

So, we have an important stake in this important industry. Most of these projects have operated under section 10ba of the Income Tax Assessment Act, which was introduced in 1981. That has been the basis for investment in films in this country and it has been adjusted downwards on a number of occasions. In 1985, at the time of the tax summit, it was put under threat and was going to be abolished completely.

I took a leading role in representations to the Federal Government to preserve section 10ba or, if it was not to be preserved, then at least to introduce something in its place. As it turned out, section 10ba was not abolished, but the figure has been reduced from a deduction of 150 per cent of investment and 50 per cent of returns on investment for certified Australian films to the current situation in which it is 120 per cent and 20 per cent. As that margin has been reduced it has become more difficult to finance films. Something like 75 per cent of pre sales is necessary in the Australian or overseas market, or a combination of both, in order to attract funding. So clearly section 10ba is, if you like, outliving its usefulness.

There was also the problem, particularly in the early days, that rather than encouraging genuine film projects, because of the generosity of the concession in those initial stages, a lot of money was not going into films in Australia, but was simply being used as a tax dodge and was therefore totally unproductive. I believe that that problem can be overcome in a very simple way by getting out of the area of tax deduction, which can be abused (and in any case it is difficult to set an appropriate level), and have a positive fund which is called the film bank. This proposal was originally developed as an option by the Australian Film Commission to be established with some outlay targets. It is suggested that the initial outlay would be $25 million, a loan fund of $120 million established from bond issues—in other words, a turnover fund—with a recurring cost of between $50 million and $60 million. This would mean that the Commonwealth outlay would be considerably less than the revenue forgone under section 10ba. It would also mean that, in terms of attracting finance and budgeting for films, some considerable certainty could be arrived at because of the way in which the film bank would operate.

The Commonwealth Government has been looking at this proposal. The Minister concerned, Senator Richardson, has said on a number of occasions that he likes the proposal and believes it has a great deal of merit. I am concerned that the longer it takes to announce a decision post the 1987 financial year—that is, from July 1987—more opportunities for finance will simply slip away. One cannot conjure up a film project overnight; a lot of preparatory work must be done and prospectuses issued, and this takes some months. At the moment, while there is a bit of activity in the pipeline, it is declining and there is very little in prospect after 1 July 1988. Unless an announcement is made within the next few weeks we could see the collapse of our film industry. I suggest that any members with any influence over their Federal colleagues should put some pressure on them to ensure that we do get a decision, and that we get it quickly, on either the film bank, which would be the most ideal answer, or at least a restructure of section 10ba with a certain period of operation over the next few years.

TEACHERS DISPUTE

The Hon. E.R. GOLDSWORTHY: Does the Minister of Education deny that he is negotiating for a reduction in teacher numbers as one trade-off for the 4 per cent pay rise for teachers?

The Hon. G.J. CRAFTER: I thank the honourable member for his question, because this matter can now be clarified. At no stage has the Government negotiated on the basis that there would be a reduction in teacher numbers in our schools and that the quality of education would thus be affected. What we have said—and said very clearly—to the public, and indeed to teachers and those involved in the negotiations, is that, if we could not arrive at a situation where there were adequate offsets, there would have to be a reduction in teacher numbers. That is very clear.

Members interjecting:

The Hon. G.J. CRAFTER: The great majority of the money paid into the education system is for teachers' salaries. It is only logical that, if this negotiation does not eventuate in the creation of rational and responsible offsets, there must be a cost to the education system. That has been patently clear to those negotiating and to the teachers, and that is why the current dispute is really quite irresponsible. That is a well-known fact to those in the education community who have been involved in these negotiations.

Mr FERGUSON: Can the Minister of Education advise the House how many schools and preschool teaching programs will be affected by tomorrow's planned half-day stoppage called by the teachers union and whether this irresponsible and ill conceived action can still be avoided?

Members interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER: Thank you, Mr Speaker. I advise the House that, as a result of the ill conceived and irresponsible advice given by the union to its members, less than 20 per cent of schools and 13 per cent of preschools

have voted to proceed with industrial action of the type recommended by the union leadership. As to the question of whether it is too late to call off this dispute, I can say that it is not and I quote *inter alia* from a letter addressed to the Government and received by me this morning from the South Australian Institute of Teachers, as follows:

> An extensive list of changes to work and management practices has been traversed in our discussions and I believe it is now incumbent upon us—

that is, the Institute of Teachers—

> to reach a settlement on the claim . . . We wish to highlight—

presumably in discussions—

> a number of areas which we have hitherto been reluctant to consider but now believe we can advance an alternative proposal or indicate some areas of agreement.

Clearly, the teachers union has decided that it is time to get back to the negotiating table to show a bit of commonsense in this matter, not to cause havoc and harm in the school community or to reduce the standing of State schools in the eyes of the people of South Australia. The union wants to get on with responsible discussions to achieve the offsets that we require to provide the additional salaries that teachers in this State deserve in accordance with the requirements laid down by the Arbitration Commission. Having received advice from the union that it has changed its mind, we can get on with that now.

In a recent article in the institute journal, the President of the Institute of Teachers said that negotiations were getting nowhere and it was time to take to the streets, to get into widespread and long lasting industrial action—that was the way to deal with the matter. That is very foolish advice and, indeed, reflects a leadership quite contrary to that which, in the main, has been shown in the past by the Institute of Teachers. I believe it is contrary to what the great majority of teachers in this State want. Now we have a very real change of heart by the union. It wants to get back to the table to negotiate points that it said it was not prepared to negotiate in the past. The Government wants to do the same. It wants to get back to the negotiating table and sort out this issue in the interests of the education of children in South Australia. It is not too late for the union to call off the strike, and negotiations can be resumed straightaway.

The Hon. JENNIFER CASHMORE: How does the Minister of Education intend to ensure that all schools are staffed during tomorrow's strike by teachers? What will be the cost of these measures and do they have the approval of his parliamentary colleagues, particularly the Minister of Labour and the member for Florey, who are on the public record as being completely opposed to any such measures to reduce the impact of strike action?

The Hon. G.J. CRAFTER: The honourable member pursues rumour, misinformation and, indeed, innuendo on this matter. There was a suggestion—and it came from none other than the President of the Primary Principals Association, Mr Talbot, whose words the honourable member echoes here and who alleged—that in an industrial dispute last year, 'scab' labour had been used in schools. My office has asked the Institute of Teachers and the trade union movement to name one school where that occurred, but not one skerrick of information has come back to us. It has not occurred and it will not occur. A standing agreement between the institute and the Education Department has been in place for many years on matters like this and is embodied in a circular that I think was promulgated to schools at the time of the ministership of the member for Mount Gambier, to the effect that the institute does agree—

The Hon. H. Allison interjecting:

The Hon. G.J. CRAFTER: I am sure it will be to the honourable member's education. I can advise the House that schools will be provided with a skeleton staff. Whether that is provided by the institute according to that agreement or through additional staff provided by the Education Department to care for children, we have an obligation at law to provide an education program for children who come to our schools; or, alternatively, there is an agreement with the concurrence of parents, that in some cases (few cases) schools would close for part of that day, although I must admit that that involves only a few instances in South Australia. As I have said, less than 20 per cent of schools in this State are affected by this dispute, and many fewer preschools than that.

BUS AIR-CONDITIONING

Ms GAYLER: Can the Minister of Transport advise the House, with the return of hot weather today, which categories of the State Transport Authority's fleet of vehicles now have their air-conditioning systems fully functioning? Late last year the legionella bacteria were again detected in bus air-conditioning systems and, following that, testing was carried out by the STA in conjunction with the South Australian Health Commission and the Institute of Medical and Veterinary Science in December.

The Hon. G.F. KENEALLY: I thank the honourable member for her question, which is a serious question that ought not to have engendered the sort of amusement that members opposite displayed. The whole question of legionella is a serious one about which the whole community is concerned. I regret that members opposite should treat a serious health matter in such a way.

In South Australia we provide air-conditioned buses. Following extensive trials on all models of evaporative air coolers fitted to STA buses, it was demonstrated that the Mk II units fitted in 272 MAN and Mercedes-Benz buses can be safely operated with established treatment and testing procedures for the control of legionella. The coolers on these buses were therefore returned to service on 10 November 1987.

That was just in time for some very hot weather, as the House will recall. However, all other buses in the fleet have operated without cooled air, but blowers are used to provide forced ventilation. Testing is continuing to establish procedures to make the earlier Mk I coolers safe to operate. That means that all the buses on the O-Bahn service, for instance, which serve the honourable member's electorate so well, have their cooling systems operating effectively. It has been the responsible decision of the STA and the Government that none of these cooling systems will be returned to operation until we are absolutely certain that the commuters in South Australia and all the authorities can be assured that the safety standards that should apply do apply.

TEACHERS DISPUTE

Mr OSWALD: My question is directed to the Minister of Labour. In view of his Party's strong endorsement of the last teachers strike in South Australia, does he recognise the right of teachers to stop work tomorrow, and does he support their action? The last teachers strike in South Australia on 10 April 1981 closed 160 schools. On the eve of that strike the State council of the Labor Party unanimously passed a motion supporting it, and the present Minister of State Development, who was then his Party's education

spokesman, openly endorsed the actions of the Teachers Institute.

However, on the ABC *7.30 Report* last night, the present Minister of Education said that it was outrageous for teachers to seek to prevent children attending school—a position completely in conflict not only with the Labor Party's position the last time teachers went on strike but also contrary to official Party policy which fully recognises the right to strike.

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: I thank the honourable member for his question. I am sorry that I did not think of it myself and ask one of my colleagues to ask it. Obviously, I am getting a little slow. The first question was: do I support the teachers' right to strike? I do absolutely—100 per cent—without any qualification whatsoever. However, whether they ought to strike under these circumstances is something else again. Under these circumstances I think that they are completely wrong for the reasons that have been very well stated by the Premier and by the Minister of Education, and I do not intend to repeat them.

Certainly, on this occasion there is no question that they are wrong. They are merely after more money. I appreciate their desire to get more money—everybody wants more money—but to suggest that this dispute has anything whatsoever to do with the quality of education for children is nonsense. Over the years it has been a classic tactic of the teachers union and of teachers unions all over Australia to say, no matter what their particular grab for money has included, that it is all in the interests of the children or in the interests of education. On some occasions they have been correct. The last time they were correct was when they went on strike, on the occasion that was mentioned by the member for Morphett, and that was over the 4 per cent reduction in ancillary staff that the previous Government wanted to impose. In that case the teachers union, with the support of the then Opposition, said that it was an irresponsible thing to do. That was the last occasion I can remember when teachers were on strike over an issue with which I agreed.

Let us contrast that matter about ancillary staff with the actions of this Government and this Minister of Education. In the last year alone we have increased ancillary staff by 100. Every electorate has had an increase—a part of that 100—and this is at a time when the numbers of students in our schools are falling by thousands. This year alone I think that the net reduction in numbers is in the order of 2 000 or more. Last year, when there was an equally large if not larger reduction, we increased the number of ancillary staff by 100.

Again, I thank the member for Morphett for his question. To summarise: we do support absolutely their right to strike. However, we reserve our right to comment on whether or not this particular strike is justified. On this occasion we do not believe it is justified one iota, and the majority of teachers agree with us, as does the Opposition. In relation to the previous dispute over ancillary staff, we were right behind the teachers, and we have put our money where our mouth is by increasing ancillary staff during the period of this Government.

ILLEGAL PARKING

Mr GREGORY: My question is directed to the Minister of Transport, representing the Minister of Local Government. Will he advise the House whether an investigation of breaches of the Local Government Act has been concluded? On 11 November 1987, I asked a question in this House of the Minister representing the Minister of Local Government and I requested that Minister to investigate alleged breaches of the Local Government Act by an Enfield councillor, Mr Bryan Stokes.

Members interjecting:

The SPEAKER: Order!

The Hon. G.F. KENEALLY: I thank the honourable member for his question. The information I have to hand is that the investigations have taken place and, as a result of those investigations, summonses have been issued to the gentleman for breaches of the Local Government Act.

HOUSING TRUST RENTS

Mr BECKER: In view of the statement of the Minister of Housing and Construction to the House last Wednesday that 'after August this year rent increases will revert to being linked with the CPI', can all Housing Trust tenants assume that the Government has already rejected those options in the paper he released today which would result in further real increases in rents? While the paper released by the Minister today is called 'Housing for the Community—A Paper to Provoke Community Discussion', much of this discussion on some of the key options it has put forward has already been pre-empted if the Minister's statement last week is not to become yet another broken promise to Housing Trust tenants.

Underlying much of the comment in the paper is the need to increase funds available to the trust from its tenants to deal with the trust's escalating deficit and declining Commonwealth funding. I refer in particular to the following options put forward in the paper:

Further real increases in full rents beyond 1988.

Ending the differential between country and metropolitan rent rebates.

Increasing the rents of all tenants currently receiving rebates.

Introducing a system of minimum rents for those on rebates who prefer single units and medium density housing rather than double units.

Implementation of any of these options would result in real increases in rents currently payable and therefore run completely counter to the unequivocal promise the Minister has already made.

The Hon. T.H. HEMMINGS: I thank the honourable member for his question. Last week, when we had that rather pathetic urgency motion on the Government about State taxes and charges, surprisingly enough I felt quite comfortable that at long last it seemed that the Opposition was genuine in its concern for the disadvantaged and the poor in our community. In fact, the Leader of the Opposition made great play about this Government's having some form of hidden agenda about increasing trust rents above CPI. Because I am a fair minded man, I thought that at least they were concerned about it.

The following night, a public meeting was organised by Shelter South Australia, and I approached my Whip and asked for a pair so that I could attend and address the meeting. My Whip, who is very fair, said, 'Of course you can go,' and I automatically assumed that she would have arranged with her opposite number to ensure that the member for Hanson, the spokesperson for housing on the other side, would have been there giving his Party's views, both State and federally, on housing and Housing Trust rents.

Well, Sir, he was not there. However, if he had attended, he would have had to tell those people that the State Liberal Party would asset strip the whole of the trust accommoda-

tion, sell it off at a discount, and walk away. The member for Hanson's answer to the maintenance problem is, 'Do not spend any money.' The member for Hanson's answer is to sell it all off at 60 per cent, like Mrs Thatcher is doing. He also has a very good principle, which he has not stated publicly, to build high rise *a la* Hong Kong with plumbing on the outside to overcome our problem. He could have attended that meeting and told the people what his Federal Party's position is on public housing, that is, to walk away from the problem completely.

Members of his Party have said (and I have heard no retraction) that they will abandon the Commonwealth-State Housing Agreement because, as far as they are concerned, housing is a State responsibility. After giving the House all that information, no wonder the honourable member did not turn up for that meeting. I was well received at the meeting because I pointed out that, as there were real problems resulting from an increase in rent rebates not only in South Australia but throughout the Commonwealth, we were faced with this operating deficit.

There would also have been a marked reduction in Loan Council money so that this State could not continue to build as many homes as we want to. We had a compounded problem. In 1984, the Commonwealth Government allowed us to use untied grants for rent rebates. In some ways that assisted us, but it produced strains on our capital works program. In the light of that, the Premier asked for a report, in the worst possible scenario, on all the financial options available to the Government to meet the shortfall so that we could continue to provide a building program in an attempt to meet the needs of those on the waiting list.

Immediately, the Government made perfectly clear that real rent increases were just not on, nor was jerry-built housing. That was stated categorically in this House on Wednesday. This is where I wonder about the intelligence of members opposite. One could not be clearer than that: after August 1988 (read your *Hansard* pull!) there would be no real increases and all increases during the term of this Government would be linked to the consumer price index. Australia Post is a good organisation which is very prompt and I instructed the General Manager at this morning's launch to ensure that the member for Hanson received a copy of the report 'Housing for the Community' because I am desperate, as I am sure is the Housing Trust, to get the views of the member for Hanson on housing. However, obviously one of his friendly journalists has given him a copy of the report. Obviously, that friendly journalist mistakenly forgot to give him a copy of the covering letter written by Mr Edwards and to be received, with the report, by 400 members of the community asking for their comments. In the last paragraph of that letter, Mr Edwards (General Manager of the Housing Trust) states:

> I must stress that the State Government, through the Housing and Construction Minister, Mr Hemmings, has stated categorically that after August this year there will be no real increases in full trust rents for the remainder of its current term of office. Readers should therefore take this position into account when considering the sections of the paper dealing with funding for public housing.

If the member for Hanson cannot understand that, my advice to him is, 'Don't bother to read the report because whatever you find out from it and whatever you put on paper is bound to be a load of rubbish.'

The SPEAKER: Order! The honourable Minister knows that he must direct his remarks through the Chair and not address honourable members opposite as 'you'. The honourable member for Price.

NOISE

Mr De LAINE: Can the Minister for Environment and Planning say whether there is a legal way to control the level of noise generated by musicians or by amplified music both indoors and outdoors? All members would know of the sometimes head splitting noise that emanates from rock bands, and the like, and the potential risk arising therefrom to people's hearing.

The Hon. D.J. HOPGOOD: It really depends on whether the complaint comes from inside or outside of the activity that is generating the noise. Under section 18 of the Noise Control Act, the police have authority to act in cases where there is noise emanating from domestic premises which can be shown to be excessive, such as from blaring stereos and the like. From time to time people have recourse to the exercise of those powers.

Under section 11 of the Noise Control Act I can give exemption from the Act for certain large rock concerts, and the like, usually undertaken on a formula basis. For example, there is an arrangement with the City of Adelaide as to the number of such exemptions which will be granted in any one calendar year. In relation to the situation of the person who is outside the activity and is concerned about the noise and the impact on their health, welfare and well-being, there is an Act of Parliament which allows redress.

As far as I can see, there is no Act of Parliament which permits redress by a person who is actually inside the particular activity. I guess it comes down to how far we protect people from themselves. There is no compulsion on a person to pay $25 to go to a noisy rock concert or a smaller fee to go into a hotel where a disco is blaring away. At the same time we must concede that almost certainly these people are doing themselves and their hearing some damage, and some considerable damage. It is difficult to measure, and we know from our experience in workers compensation and noise in the workplace generally—and, of course, there is legislation to cover that—that often the hearing loss shows up years later.

I think it is true to say that we are becoming inured to greater noise from entertainment generally. It is a stock situation for singers to require amplification when once upon a time it was some sort of mark of the excellence of a singer that he would be able to drown out whatever band or orchestra was accompanying him. What this really meant was that the overall level of sound produced was rather less. We have come to accept higher levels of noise. As far as we are concerned as legislators, it is for the community to give us our signals. Do they really believe that it has come to such a pass that we should protect what is largely our younger generation from their own folly?

I conclude with one example which I think illustrates the absurdity of the whole matter. The famous Molly Meldrum on television once advised rock musicians that they should get themselves a set of earmuffs to reduce the total volume of noise without distorting the tone or the pitch. I suggest that the simple solution is to turn the noise down a bit.

HOUSING FOR THE COMMUNITY

Mr S.J. BAKER: Will the Minister of Housing and Construction elaborate on the statement in the paper entitled 'Housing for the Community', released today, which foreshadows radical changes to the Hawke Government's public housing policies? I refer to page 24 of this paper, which canvasses the question on 'Giving up on the supply side model?' or, in other words, Governments totally abandoning their role in building and supplying homes.

While the paper states that such action 'would result in a system of housing assistance which is likely to be unacceptable to the majority of South Australians', it also makes the following revelation:

> Serious consideration is currently being given to the alternative approach within various Commonwealth quarters.

Namely: let us give away building houses. The Minister is invited to elaborate on this statement, which seriously conflicts with previous statements that he, the Premier, the Prime Minister and other Federal Ministers have made about their Party's attitude to the role of public housing authorities.

The Hon. T.H. HEMMINGS: The mind despairs! I thank the honourable member for his question. First, let us get this report in perspective. It is entitled 'Housing for the Community—A Paper to Provoke Community Discussion'. It was not prepared by me; it is not my paper. It says—

Members interjecting:

The Hon. T.H. HEMMINGS: I will answer the question, Sir.

Members interjecting:

The SPEAKER: Order! The honourable Minister.

The Hon. T.H. HEMMINGS: Page 2 of this document, under the heading 'Setting the Scene', refers to what the Housing Trust is likely to do in the next five years and it says that certain areas will need to be discussed. In relation to giving up the supply side model, the report talks about the horrendous track that Governments may go down with regard to the supply side of housing. It quotes the United States and United Kingdom experience. It also states that twice in the past 15 years that model has been questioned; in other words, instead of State and Federal Governments building public housing, they just supply relief.

In the United States, public housing is down to nil and, in the United Kingdom, where Thatcher is carrying out the Liberal Party policy of selling off all the good stock at 60 per cent discount (which the Party of the member for Mitcham advocated at the last State election), public housing is almost down to nil. That money goes into consolidated revenue, not back to the public housing authorities. The end result, the alternative model, of which the member for Mitcham is most likely completely unaware, is that homeless people are given handouts to take lousy slum housing for one night's accommodation. In London, which has the biggest growth rate in the world, slum landlords are becoming millionaires in a year. That is what the honourable member's Federal—

Members interjecting:

The SPEAKER: Order! The honourable member for Murray-Mallee.

Mr LEWIS: Mr Speaker, I am as concerned as anyone to understand what the Minister is talking about but I fail to see the relevance of the subject matter.

Members interjecting:

The SPEAKER: Order! The honourable member for Murray-Mallee has a point of order.

Mr LEWIS: I fail to see the relevance of what he purports or claims to be happening in the United Kingdom to the question that has been asked of him about matters in South Australia under his direct control.

The SPEAKER: Traditionally, Ministers have been given a reasonable amount of latitude upon which to call for information that they supply in response to a question. As yet, I have not been convinced that the Minister has exceeded that latitude. The honourable the Minister.

The Hon. T.H. HEMMINGS: It is obvious that the member for Murray-Mallee has not received his report from the friendly journalist. For his edification, I will read from it as follows:

> British and US experience in using the alternative model have shown that it sets in place the opportunity to contract housing expenditure in ruthless haste, resulting in significant social dislocation.

Hence my examples of the US and Thatcher's London experiment. In answer to the member for Mitcham, I point out that he was ill-advised by Ms Burnett, because the report states:

> Serious consideration is currently being given to the alternative approach within various Commonwealth quarters.

It does not say Mr Keating, Mr Hawke, Mr Staples (the Housing Minister), Mr Bannon (State Premier) or Mr Hemmings (State Minister of Housing and Construction): it says 'various Commonwealth quarters'. When I go to the next Housing Ministers' meeting, I will reinforce the view of this Government that it has a place in providing affordable housing at reasonable rent for those people who require it—not the alternative model. What the member for Mitcham, or Ms Burnett, failed to consider in his question—

The Hon. JENNIFER CASHMORE: Mr Speaker—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. JENNIFER CASHMORE: A point of order, Mr Speaker—

The SPEAKER: Order! I ask the member for Coles, notwithstanding the fact that she was given the call for a point of order, to resume her seat. I warn the Deputy Leader for interjecting in that manner. Its continuation will lead to his naming forthwith. The honourable member for Coles.

The Hon. JENNIFER CASHMORE: On a point of order, Mr Speaker, the Minister of Housing and Construction has twice mentioned the name of a member of staff in this House. I understood that practice to be quite unacceptable in the House of Assembly or, indeed, in any other place. I ask the Minister to withdraw and apologise to the staff member concerned.

Members interjecting:

The SPEAKER: Order! I accept the point of order from the member for Coles and suggest that the Minister fall in line with the thrust of that point of order.

Mr RANN: On a point of order, Mr Speaker, it was a practice and a tradition put into effect by the Deputy Leader throughout the last term of his Government.

Members interjecting:

The SPEAKER: Order! The honourable Deputy Leader has not been given the call and will resume his seat immediately, or the threat that I made of his instant naming will take place right now.

Members interjecting:

The SPEAKER: I do not require any assistance from members on my right.

Members interjecting:

The SPEAKER: Order! I will not entertain the point of order from the Deputy Leader until I have considered the purported point of order from the member for Briggs. The point of order raised by the member for Briggs was not a point of order and, whatever their motives, I caution members about introducing frivolous points of order. The honourable Deputy Leader.

The Hon. E.R. GOLDSWORTHY: Mr Speaker, in view of the fact that it was not a point of order, I think I should make a personal explanation—

The SPEAKER: Order! If the honourable member wishes to make a personal explanation, he can do so at the conclusion of Question Time.

The Hon. E.R. Goldsworthy: We'll sort out the member for Briggs, all right.

Members interjecting:

The SPEAKER: Order! In view of circumstances that arose last week, I caution members about making remarks that could be interpreted as threats against other members. In calling the Minister to conclude his remarks, I hope that in view of the time that has elapsed since he started he does just that and concludes his remarks.

Members interjecting:

The SPEAKER: Order!

The Hon. JENNIFER CASHMORE: I rise on a point of order, Mr Speaker. I understood that you asked the Minister of Housing and Construction to withdraw and apologise to the member of staff that he named.

The SPEAKER: Order! There is no point of order. The honourable Minister.

The Hon. T.H. HEMMINGS: The third point that was conveniently left out in the question states:

> 3. It is the view of the trust that any attempt to introduce the alternative model to the extent of totally abandoning the supply side model would result in a system of housing assistance which is likely to be unacceptable to the majority of South Australians.

I endorse those comments.

BOTTLE BANKS

Mr ROBERTSON: In view of the apparent success of Igloo bottle banks established interstate by glass manufacturers ACI and Smorgon, and the apparent willingness of those companies to extend the network of bottle banks throughout Australia, can the Minister for Environment and Planning say how many bottle banks presently exist in South Australia and what is the likelihood of the establishment of future bottle banks? Sir, with your leave and that of the House I want to put on record briefly an article in *Packaging Today* published last July in which it was pointed out that ACI and Smorgon had spent $1 million establishing—

Mr LEWIS: I rise on a point of order, Mr Speaker. If the honourable member does not understand Standing Orders, will you explain to him that it is not up to him to put anything on the record? He seeks leave of yourself and the House to explain his question and, unless it is an explanation of the question, it is quite out of order. Is that not the case?

The SPEAKER: Order! The Chair is not in a position to give a completely satisfactory response to the point of order because at that particular moment I was engaged in consultations with a member of the Opposition regarding an earlier point of order and did not hear the remarks made by the member for Bright. However, if they were in accordance with what has been outlined—

The Hon. Ted Chapman: They were.

The SPEAKER: Order! There will be another member who will be at risk of being named if he persists with the course of action being followed at the moment. If the remarks of the member for Bright were in accordance with the description that has been given to the House by the member for Murray-Mallee, and if he did not seek leave, I am sure that the member for Bright would not have wished to offend in that case. If he did not seek leave, he will do so; if he did seek leave, he may continue with his explanation.

Mr ROBERTSON: I sought leave, but I did not wait for your indication that leave had been granted and I apologise for taking that for granted. In seeking leave, I wish to draw the attention of the House to an article in *Packaging Today*, which was published in July last year, indicating that ACI and Smorgon had spent $1 million in establishing 370 bottle banks by the middle of last year and had established a further 200 bottle banks by the end of last year. I wonder how many found their way into South Australia.

The Hon. D.J. HOPGOOD: The Igloo system as such is not in operation in South Australia because of the radically different way in which we handle beverage containers, and the like. However, in view of some discussions that the honourable member and I have had in the past about this, I have a little information for him. First, notwithstanding what I have just said, there is a form of bottle bank that operates in this State. It comprises some marine store dealers who have accepted to join and who buy back jars and things like this as well as the other bottles that they have to handle. They are paid a particular amount per tonne and there is a buy-back allowance for being a member of the scheme. (I do not know that it is appropriate at this stage to reveal those figures.)

So far as the Eastern States are concerned, I just caution the honourable member about that. One or two concerns are having second thoughts about the system over there, and it may be that it needs some reconsideration. It is also coming in for some criticism from local government bodies. The system has been tried and rejected by some councils. In some cases bottles were stacked alongside them. In other cases, bottles were placed inside and the cartons were littered around them. When larger bins were provided for the cardboard, people started to deposit animal and domestic waste in them and they were removed. Probably the system requires some longer trial in the Eastern States. We will watch it with a great deal of interest but, in view of our radically different approach here, because of the very successful beverage container deposit legislation, it is unlikely that we will be adopting the Eastern States scheme in its present form.

ETSA CLAIMS

The Hon. TED CHAPMAN: What hope, on this the fifth anniversary of the Ash Wednesday tragedy, can the Minister of Mines and Energy give to those victims who are still waiting to settle compensation claims with the Electricity Trust? While the Electricity Trust this month announced a basis for settling claims arising from the fires in the South-East on 16 February 1983, it made no reference to outstanding claims from the McLaren Vale and Clare districts where the trust has been found liable in negligence. The latest information made public indicates that only about 45 of 86 claims resulting from the McLaren Vale fire have been settled, while in the case of Clare only four of a possible 42 have been resolved. Claimants in both these cases have stated that they have been told by ETSA that they would be required to press their claims in court and that they have been pressured by the trust to reduce their claims, in some instances by well over half, it is alleged, in order to have some settlement considered. These claimants are also asking why the Electricity Trust cannot announce principles and a timetable for settling their claims in particular in the same way that the trust has done in connection with the South-East fires.

The Hon. R.G. PAYNE: I will answer the last part of the question first. The reason certain arrangements have been announced is that they were agreed between the joint claimants through their solicitors and the trust, through its solicitors, and then entered into court. That is an arrangement that every honourable member could understand. I am surprised to hear from the honourable member that claimants are still complaining in the McLaren Vale area. The last information I had, and I am speaking from recollection,

was that more than 75 per cent of those claims had been settled. That was about three weeks ago when I was given that figure. As to the Clare area, I have been assured by the ETSA General Manager that strenuous efforts are being made to get together on assessing principles, which is somewhat similar to the situation that was codified in relation to the South-East fires and put before the court by way of agreement.

I do not have before me accurate figures in relation to the Clare situation, but I undertake to get them and let the honourable member have them. I point out that claims surely can be settled only on a fair basis; that is, claims need to be assessed and agreement reached on an assessed figure. I make no comment other than that. I am aware of situations where claims have been stated to be outstanding, as I have advised the House on previous occasions where the claim had never even been lodged. However, I am not saying that much of that sort of thing now applies.

Only last year we were in that situation—that claims had never been received. On investigation by ETSA it was found, in some cases, that they had been lodged with respective clients' solicitors but had not yet been submitted to ETSA. I assure the honourable member that in regard to my relationship with ETSA as Minister I have no desire to see people suffer unduly or to waste unnecessary time. There has to be some fairness, ETSA; is not in the game just on its own. I am sure that the honourable member knows that there are the requirements of ETSA's insurers, and ultimately any difference has to be picked up by all the consumers in this State.

Mr D.S. Baker interjecting:

The Hon. R.G. PAYNE: To my knowledge no-one is suffering unduly.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. PAYNE: I utterly refute what the honourable member said about pressure from ETSA, and to back up what I have just said I will obtain a statement from ETSA on that as soon as possible. No pressure is being applied by ETSA in these matters. Solicitors for claimants and the solicitors for ETSA, together with assessors, are looking at claims and trying to reach agreement so that a figure can be arrived at around which an offer can be made. Of course, in some cases claimants will not accept the offer. What is the honourable member asking me to do—interfere on a political basis in a matter like this and say, 'You will pay, whatever anybody claims'? Is that what the honourable member is asking?

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. PAYNE: This matter has been raised by thc Opposition several times. I do not quarrel with their right to do this, but I ask them whether they are being responsible. It seems that I am being asked to intervene with no knowledge and no standing in the matter, and say that whatever people claim they should be paid. Well, I am not going to do it.

Members interjecting:

The Hon. R.G. PAYNE: No, I have not.

Members interjecting:

The SPEAKER: Order! I call the honourable member for Alexandra to order.

The Hon. Ted Chapman interjecting:

The SPEAKER: Order! I warn the honourable member for Alexandra.

PERSONAL EXPLANATION: SHELTER MEETING

Mr BECKER (Hanson): I seek leave to make a personal explanation.

Leave granted.

Mr BECKER: During Question Time this afternoon the Minister of Housing and Construction referred to my non-attendance at a meeting last Wednesday called by Shelter. I wish the Minister to note, and the House to record, that last Wednesday, on behalf of my Party, I had the responsibility of being in charge of the reproductive technology legislation that was debated in this House until 9.40 p.m.

Members interjecting:

The SPEAKER: Order!

PERSONAL EXPLANATIONS: NAMING OF STAFF

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. E.R. GOLDSWORTHY: The member for Briggs sought to attribute to me the initiation of the foul practice that we saw today when the Minister of Housing and Construction mentioned in this place a member of staff in a critical fashion—one of the most reprehensible utterances we have heard for many a long day. The member for Briggs did get a mention in this House by me when we were in Government because, at that time, he was a prominent member and often spokesman for an organisation called CANE—the Campaign Against Nuclear Energy. The fact that he also worked for the then Leader of the Opposition did not preclude him from having a prominent position in that organisation. As such the present member for Briggs, who no doubt was rewarded for his services at that time, was often in the media—with his public profile.

The SPEAKER: Order! The honourable Deputy Leader will resume his seat. The Deputy Leader, as all other members, should be aware that in the course of making a personal explanation a member should not reflect on another member or make derogatory remarks that would be certain to inspire another member to seek to make a personal explanation. The honourable Deputy Leader.

The Hon. E.R. GOLDSWORTHY: Suffice to say that it was in the public capacity and public statements of the member for Briggs, as a spokesperson for this Campaign Against Nuclear Energy at a time when he and the Labor Party were seeking to subvert the Roxby Downs project, that he got a mention in this place. I will refrain from enlarging on some of the disreputable tactics that he then adopted.

Mr RANN (Briggs): I seek leave to make a personal explanation.

The Hon. Ted Chapman interjecting:

The SPEAKER: Order! The Chair will determine the order in which personal explanations are called. The Chair has no recollection whatsoever of having acknowledged a call from the member for Alexandra for a personal explanation. No call was acknowledged by the Chair prior to this very moment. However, two members rose almost simultaneously, and I first acknowleged the honourable member for Briggs. If the honourable member for Alexandra seeks leave to make a personal explanation, he will be called next.

Mr RANN: I can understand the Deputy Leader's sensitivities. However, at least—

The SPEAKER: Order! Is the honourable member seeking leave?

Mr RANN: Yes, Mr Speaker, I am seeking leave to make a personal explanation.

Leave granted.

Mr RANN: At least six members of staff, including myself, from this side of the House were named at various stages by members of the Opposition, both when we were in Government and in Opposition. The Deputy Leader referred to an alleged incident that occurred in my duties as a press secretary, not in relation to any other duties. In fact, I have never been a member of the Campaign Against Nuclear Energy or the other organisation that he keeps naming. The simple fact is that we are not public servants—we never complain. We are political staffers. If the Leader's staff cannot take the heat, let them get out of the kitchen.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The honourable member for Briggs—

Members interjecting:

The SPEAKER: Order! The Deputy Leader has already been warned. The honourable member for Briggs, at the conclusion of his personal explanation, strayed away from the general purpose of it. I trust that the honourable member for Alexandra, if given leave by the House, will not do so. I understand that the honourable member for Alexandra wishes to seek leave.

PERSONAL EXPLANATION: ASH WEDNESDAY FIRE CLAIMS

The Hon. TED CHAPMAN (Alexandra): I seek leave to make a personal explanation.

Leave granted.

The Hon. TED CHAPMAN: Near the conclusion of Question Time today I raised with the Minister of Mines and Energy a question on behalf of some constituents of South Australia, only a few of whom are in the electorate of Alexandra, and some being as far north as the Clare region of the State. Notwithstanding their geographic location, they were all victims of the 1983 bushfire known as Ash Wednesday. In fact, it is five years today since they fell into that unfortunate category. It was clearly on their behalf that I lodged the question and explained the reasons for it. I would have expected, in response to that non-Party political question, which was clearly intended to serve the community at large, that the Minister would have answered accordingly.

The SPEAKER: Order!

The Hon. TED CHAPMAN: However, he did not. He made a—

The SPEAKER: Order! I ask the member for Alexandra to resume his seat. Notwithstanding the traditional circumlocutory approach of the honourable member for Alexandra, I ask him to be very wary of deviating from the purpose of a personal explanation by debating a matter or by reflecting on another member of this Chamber. If he cannot get his personal explanation within those limits, then I will withdraw leave. The honourable member for Alexandra.

The Hon. TED CHAPMAN: In concurrence with your guidelines as spelt out, I make the point that I am disturbed, offended and concerned at the behaviour of the Minister this afternoon as it applied to his reflection on me personally. In answer to my question, by very clear implication if not directly, he said that I was seeking to mislead the true position on behalf of my constituents. He in fact questioned the public statement that I quoted in relation to the number of claims that have not yet been settled in the given area of McLaren Vale. Therefore, in that comment, he questioned my credibility. He went on to refer again and again and again to what I should know as a member in the context that I was straying again from the facts that surrounded those particular victims.

I take exception to the style and implication of the answer that the Minister gave in this instance and, in this personal explanation, I would say that when I rise in this House to ask a question of the Crown, or of any member of the Government for that matter, on behalf of constituents, quite apart from any Party politics, I do not expect that to be alleged, delivered directly or, indeed, implied again.

The SPEAKER: Call on the business of the day.

SITTINGS AND BUSINESS

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That the time allotted for—

(a) all stages of the following Bills:
Strata Titles,
Trade Standards Act Amendment,
Coroners Act Amendment and

(b) completion of the second reading stage of the Superannuation Bill—

be until 6 p.m. on Thursday.

Motion carried.

STRATA TITLES BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2507.)

Mr S.J. BAKER (Mitcham): The Opposition welcomes and supports the legislation before this House today, although there are some reservations about some of its provisions. The legislation represents the culmination of a complete review of the strata title provisions of the Real Property Act 1886. Some 38 000 strata units in this State house, I am told, some 60 000 people. To be quite candid, the legislation has been a mess.

Over a period of time, since it was possible to have strata titles, the difficulties have compounded. The amendments have gone only a little way to solving the problems, and the situation has become more and more difficult. Perhaps that is because it was tied to the Real Property Act, and there are some anomalies in principle in dealing with land and allotments in the sense that we often do when we refer to the quarter acre block and that piece of inviolate land under separate deed and then look at the situation of strata titles which not only involve a slice of inviolate property but, more importantly, have an area which is common to and usable by all participants. It is sad that the State has taken such a time to get legislation before the House. I believe that an effort being made in 1978 to sort out these problems lapsed due to a variety of reasons.

This is only the beginning because, whilst we have sorted out some of the legal matters behind strata titling and strata plans, we still have to get into the very difficult area, which is the sorting out of some of the rights and obligations of individuals pertaining to these corporations. I might add that the proliferation of strata titles in this State was given a significant boost by the then Attorney-General, the then member for Elizabeth, who brought in the Residential Tenancies Tribunal and the Landlord and Tenants Act, which placed the landlords of this State in many cases in a very

difficult situation. The landlords said, 'If I have to live by all of these rules and regulations, I would prefer not to have the problems of renting property.' A very large departure from the rental market at about that time caused some reverberating effects throughout the rental market, and the supply of good quality housing was reduced as a result of that legislation. Many people simply said, 'Look, there is now a great imbalance. Previously under the law we were responsible, we were liable, whether it be under common law or other provisions. Now the Labor Government has made it so difficult to be a landlord in this State that we would prefer to sell off our properties.'

The best medium for selling off a property, if it was in a multiple unit form, was to go into strata titling. At that time we saw a very large number of units going into strata titling, simply to do two things: first, to get out of the rental market; and secondly, to provide permanent accommodation on what was a rising demand market. It is important to understand that this ageing process that we talk about almost weekly these days is a reality. We must continue to provide more suitable accommodation, and that suitable accommodation happens to be smaller dwellings with less garden to be looked after and of a reasonable quality so that people can have comfort. Strata titling meets that need adequately because it addresses all of those questions.

Whilst the initial boost, if you like, to strata titling was due to legislation passed in this place, the momentum has been maintained by developers and people who have seen opportunities to provide accommodation which is suitable particularly for the more senior elements in our community, but also for young couples and singles without responsibility who do not really need a great deal of space in which to live. So, historically, during the 1970s and 1980s, strata titling has had a significant impact on the quality and diversity of housing in this State. That is why it is a great shame, I believe, that it has taken so long for this Bill to be sorted out to the satisfaction of the Parliament, and some of the real problems addressed. Many still remain to be addressed, and I will briefly allude to those when I have looked at the contents of the Bill.

The first reform in the Bill is that it is almost complete in its own right. There are some sections which must be read in conjunction with the Real Property Act, but it is a stand-alone document, and I think that is good. People who wish to know their rights and responsibilities under the legislation can pick up one document and understand what the law specifies. The second area of reform, which is very much welcomed, is an improved method of handling amendments to the strata title plan. I have had two approaches from constituents asking, 'When will you bring in this new strata titles legislation? Under the existing legislation, it is very difficult and very expensive for me to make seemingly very minor alterations to my dwelling. Now I will get hit by the Stamp Duties Office because I will have to deposit a whole new plan. I will have to hire a very expensive surveyor, who will have to redraw the whole plan despite the fact that all of my neighbours agree with me and are quite willing for me to do it. The costs and problems associated with amending a plan are not worth the effort. When will Parliament do something about it?' This Bill has come up with a reasonable set of rules on how to amalgamate, extend or swap units.

Another reform relates to the amalgamation of strata plans. This has not been possible in the past unless a whole new plan was submitted for acceptance and even then there were grave difficulties. If a developer, investor or even a group of unit holders say, 'For the purposes of better living it is desirable to amalgamate two strata plans so that the residents can share a greater common area, construct a swimming pool in one area, and keep another area as open space,' the Bill contains a provision for the amalgamation of separate plans. This provision, too, is welcome.

The Bill also sorts out the problems of encroachment both on private and on public land. Generally, the encroachment on private land is an extension of the eaves over a neighbouring property, because it is not possible to have the building alignment other than on a boundary unless the allotment is changed. Where the encroachment has taken place under difficult circumstances and strata plans encroach onto public land held by a council, the council can readily agree and that matter is covered by this Bill.

The Bill also provides checks and balances in that, when the strata plan is accepted by the Registrar-General, there is automatic promulgation of a strata corporation. I will refer to some of the difficulties that arise where only a small number of units, such as two units, is involved. In such cases, to place impositions on the strata corporation is probably not as appropriate as it would be where five or more dwellings are involved. However, at least it provides in legislation for a formal structure that must be adhered to in respect of the keeping of accounts.

The Bill also sets out the rules on how one can change the appearance and structural nature of the unit. In effect, the provision tells a group of unit holders that they are responsible for themselves and for their neighbours, that any change made in the dwelling will affect others, and that any change made in the outside appearance, structural nature of the dwelling, or the common area must be consented to by all those people forming the corporation.

So, we have a democracy working in terms of what is allowed to happen to the externalities. The legislation also provides that proper accounting records are kept and maintained by the corporation. I shall not speak on those matters in greater detail now because in Committee I will be moving a long list of amendments that will be filed shortly. Suffice to say that two areas referred to in the Minister's second reading explanation remain unresolved. In fact, one element of the legislation makes the situation more difficult.

First, I refer to 'staged development', whereby a developer or investor says, 'I should like to develop the area in a staged fashion. I will build so many self-contained units now with the proviso that expanded facilities will be provided in the next stage of development.' While we are providing for a propensity to amalgamate site plans, we are not providing for the propensity to have staged development. This area is a minefield, especially when the developer goes broke which is always a possibility, but it can be sorted out over a period of time.

Probably, one of the most interesting areas affecting strata titles with which members would have been concerned relates to the difficulties between unit holders. Various propositions have been bandied around to provide a mechanism for solving such disputes. I noted that the Minister said, 'We have looked at these schemes, including contributory schemes, but we are not sure how to collect the money. We have looked at other propositions and at this stage we will defer a decision.' I concur in that situation, but the only recourse provided by the legislation is through the Supreme Court. Although I do not intend in this debate to canvass what will occur elsewhere it is fair to say that the Liberal Opposition will try to divide those matters which properly lie within the province of the highest court of the State from those that can be dealt with by other more appropriate jurisdictions.

If a resident removes a plant without the consent of the owner, such resident has broken the articles to which he or

she has consented. In those circumstances, if the corporation is wild enough about the resident's action, its only redress is to take the matter to the Supreme Court. However, that will cause difficulties and this matter must be seriously addressed before the Bill is passed. Greater minds than mine will address that matter in another place. With those few remarks and with the reservations to which I have referred the Opposition supports the Bill.

Mr FERGUSON (Henley Beach): I support the Bill. In general I agree with most of the remarks made by the member for Mitcham, although I disagree to some extent with his opening remarks regarding landlords. In my area, because of the strata title legislation, I believe that problems in that regard have increased and not decreased. Some problems have resulted from absentee landlords owning three or four units but living at Surfers Paradise, Darwin, Alice Springs or overseas. This results, under the present legislation, in difficulties being experienced in getting a quorum because the absentee owner is not available for a meeting. I have come across this problem regarding strata titles in my duties as a local member.

My district contains many premises on strata titles because of the great flat development in the 1950s and the 1960s at Henley Beach, and many owners of those blocks of flats have taken the opportunity to strata title their establishments. So, we have many strata titles, especially along the seafront.

The member for Mitcham alluded to the difficulties that occur in disputes between strata title owners. Although I agree with the thrust of the proposed legislation, I would like the Attorney-General to look at better ways and means of settling these disputes. This is not a new proposition. I wrote to the Attorney-General and he replied explaining that Cabinet has agreed in principle to a dispute settling mechanism, but the problem lies in the funding of that mechanism.

My heart goes out to the secretaries of strata title companies, because it is difficult to settle disputes in this area. The disputes often involve the erection of structures—for example, the building of a shadehouse; the use of common ground; the illegal parking of vehicles (not only vehicles but, in my electorate, things such as boats) on the common ground; and even run-of-the-mill problems such as one unit holder putting his or her rubbish in the bins of another unit holder. If these disputes cannot be settled by way of a special meeting, the only way to settle the matter is to take it to the Supreme Court. A Supreme Court action is very expensive and is not the ideal situation in which to overcome disputes. In other States, such as Western Australia, New South Wales and Victoria, full-time officers have been appointed under various titles, such as Ombudsman, Commissioner, etc., to settle disputes. I think this might be the ideal way to overcome the problem.

In its report on the Strata Titles Act Project No. 56 the Law Reform Commission of Western Australia referred to the question of office bearers in strata companies. This was reported in *Hansard* on 12 April 1984 as follows:

> The report stated that office bearers of strata companies have complained from time to time about the impracticability of enforcing by-laws under the existing Act. Allegations have been made of proprietors and tenants parking their vehicles in a manner contrary to that prescribed by the by-law of the strata company, of noisy behaviour by residents, and on the unauthorised constructions by proprietors of improvements on the common property for their own use.

My understanding of the legislation before us is that the third problem mentioned will be alleviated to some extent, but it leaves the problem of how officers of strata title companies can enforce the necessary provisions.

Other problems that arise in this area often relate to disputes about maintenance. Some companies are badly run and no provision is made for sinking funds to cover maintenance costs. When it becomes necessary to, for example, repair the building by putting on a new roof or painting the exterior, unit holders are often faced with a large bill that has been levied by way of a quickly assembled meeting to overcome the problem. This puts financial stress on unit holders and is a problem for those who cannot or will not pay, as the case may be. This then sets up a series of disputes which need to be examined.

I have been given a photocopy of an account from a solicitor to one of my constituents for advice sought to overcome a problem. The problem related to her considered wrongful use of the common ground so far as strata title was concerned. She incurred an account of $200 and, as she is a pensioner, she could not afford to continue her action to overcome the problem. As I mentioned earlier, other States have taken the opportunity to do something about this matter. I disagree with the proposals that the member for Mitcham has suggested might occur in another place in trying to separate matters that should go to the Supreme Court and those that should go to another court. I think there should be a separate jurisdiction in which all of these complaints can be tendered and in which a lesser cost is involved.

In 1978, when changes to the strata title legislation were first put before this House, the suggestion was made to provide for a commissioner who would be able to handle these disputes. At the time another controversial proposal was involved—the so-called cluster titles. Local government authorities were not happy with the proposal that there ought to be cluster titles and the Bill was withdrawn. The opportunity to provide a commissioner to settle disputes in the strata title area was therefore taken away and never returned to Parliament.

I do not think that this legislation represents the end of the line in the regulation of strata titles. We need to look more closely at a way of settling disputes between unit holders and I hope that in due course the Attorney-General will consider the provision of some sort of dispute settling mechanism that will not be so costly that it prevents unit holders—particularly those on low incomes—from utilising it. I hope that there is some way of raising sufficient money to provide this sort of an office and I look forward to the time when this matter is returned to the House to provide that mechanism.

Mr LEWIS (Murray-Mallee): Without wishing to delay the House I want to say how much I support the concerns that have been expressed by the member for Henley Beach. He just shot two of my foxes: the first two matters I intended to clean up in the course of my remarks. What he says bears repetition but I will not detain the House: I merely refer members to his remarks with emphasis—we need to address that question.

I say that with some feeling as a result of my experience over the years, having lived in strata title dwellings of one kind or another, either as a tenant or an owner. Problems arise between neighbours and there needs to be an adequate and satisfactory mechanism by which disputes can be settled. Those problems are not only between neighbours within the one strata title plan, but may also be between neighbouring strata title plans, each with the other. One block of unit holders may have a view about what they should do and how they should behave, which is not seen to be in the interests of the neighbouring property, whether that is a strata title plan or household. So much for that.

The third matter that I wish to address might have been mentioned by the member for Mitcham but my attention during the course of his remarks was distracted by the conversation I was necessarily having with experts on this matter. I refer to the construction of the Bill and the way in which it is intended it should work. The specific matter to which the honourable member might have referred is the fact that the Bill before the House contains no definition of the word 'unit'. If I am not mistaken, the member for Mitcham will seek to amend that. If that is not the case, I believe that the Bill is deficient. It should contain a definition of 'unit'. I will explain what most people think of as a unit and why an acceptance of implied meaning is not adequate.

Most people think of a unit as being part of one single building within which are self-contained dwelling premises. By that I mean a room or rooms in which people can sleep, perform their ablutions, eat and carry out other activities, such as watching television, conversing, reading or playing games. That tends to represent a self-contained dwelling with or without shared property in common to support the need for some privacy in the dwelling. The common property to which I refer may go as far as shared bathrooms but, in this day and age, that is unlikely. Some premises in suburban Adelaide have shared bathrooms. However, more common are shared laundry facilities or shared lounge room facilities.

Most strata titles with share facilities have arisen as a consequence of the impact of punitive taxation measures imposed in recent times by the Commonwealth Government on landlords, that is, people who own premises but do not live there themselves, but let them to tenants. It became unprofitable—indeed, a distinct liability—to own such premises given the nature of the legislation and fears about its consequences when, in the first instance, the Residential Tenancies Tribunal was established and, in the second instance, the present Federal Treasurer moved against people owning property who were painted by the Labor Party, in many instances, to be the rich, fat landlord class, undeserving of any consideration whatever.

In recent times there has been something of a conversion of Paul, not on the road to Damascus, but Paul Keating on the way to the next budget. He realised the necessity to reinstate negative gearing, especially to save the skin of his Party colleague the Premier of New South Wales at that State's next election, if there is any hope of doing that, which I doubt. The important point is that negative gearing has been returned to taxation law, which makes it attractive for people to invest in the establishment or ownership of dwellings in blocks of apartments called units. That is a definition of what people perceive as being a unit, and I hope that the House understands what I am talking about.

I ask members to contemplate what that simple definition, added to this legislation, could mean if it were interpreted in the strict legal sense. There would be nothing in the legislation or in any other legislation that I know of to prevent the establishment of semi-detached or detached dwellings, multiple in number, on any one title which could be rented or strata titled and sold to people who might choose to live in them or let them for rental purposes to tenants. I hope that members understand what I am talking about, because it is now commonplace in many States of the United States to have substantial holdings of land on which there is ample privately owned open space for people (who become strata title holders of that land) to enjoy open space activities in a private way knowing that their children can ride BMX bikes, Shetland ponies or horses—on private land held in common with other people who have dwellings on the same strata title plan.

Because it is so secure, it is popular. A security perimeter can be erected around the dwellings and no-one can get in or out without having a key to the gate, as it were. There is some danger in rural areas or in areas designated rural living in having only one main entrance. I perceive a danger in Australia, although it is not relevant where I saw the practice in America, because it rains in the summer time, not in winter as it does in Australia; therefore, the risk of bushfire of the kind experienced in Australia is very limited in America, so one point of entry and exit to the property does not represent a great threat to the security of the people or the properties within it since there is little, if any, likelihood of a fire sweeping up to the open space and burning the dwellings in which the people live. I draw this to the attention of the House because if that one common exit and entry point onto strata title premises in a rural setting of the kind to which I have referred is on the upwind side on a bushfire day and a bushfire approaches that entrance, the people inside are cut off and trapped, and they will cook; there is nowhere else for them to go. That would not be appropriate. However, it is a minor problem.

I return to the substance of my remarks, namely, that I believe that an overwhelming desire is emerging in our society amongst a few people to have a share in some open space acres bigger than the conventional backyard and frontyard in a suburban home and less expensive in terms of maintenance. Most of these people want to live in a detached or semi-detached box of masonry containing the various rooms in which they sleep, eat, converse, entertain and perform their ablutions. They want that intimate space for their families, but they are happy to share, and desire to share, common open space property. They want the common open space for recreational activity like picnics, open air barbecues, a private lake cum swimming pool or whatever. They want to own this in common with each other, and for the kind of activities for their children and themselves to which I have referred where there is no likelihood of their being accosted, kidnapped, raped or in some other way subjected to violent crimes of assault, and so on. They can be secure in there, knowing that the gate is locked against strangers and that the only people within are those with a vested interest in good relations with their neighbours. Indeed, all the people are there because of their interest in the property, either as owners or tenants. Their presence is well known and identified to each other.

It is a pity that the Bill has not addressed this emerging desire to provide the kind of strata title that would suit our cosmopolitan diverse lifestyles in Australia. It is well suited to the Australian climate overall to have such dwellings and, furthermore, it would reduce and not increase the cost to public utilities and local government in maintaining services and access to the property. The driveway from the front gate to the carports and parking areas around the dwellings would be maintained at the expense of the strata title plan owners, as is the case in metropolitan settings, where apartments simply contain a nominal amount of garden, open space and carports established on common property, with private access extending only to the dwelling part of the strata title. Therefore, the Government and at least certain Ministers have misled me.

I can already cite instances in which it would be appropriate to allow strata titling of what is rural land at present in Murray-Mallee. At Placid Estates, which is just downstream from Tailem Bend, between Tailem Bend and Wellington, a number of people at present have 999 year leases

taken against not an individual but a straw company which has deliberately gone broke.

The only solution, in my judgment, to the problem confronting these people at present is for them to be allowed to strata title that piece of land. It is not appropriate to subdivide and sell blocks separately, as that would involve an undesirable checkerboard approach to the area's open space development, with an inappropriate responsibility being exercised by landholders of the smaller allotments concerning the control of pest plants and vertebrate pests and other matters such as disposing of rubbish, and so on.

I believe it is better to make them all tenants in common under a strata title plan arrangement where, for example, they could be required to place their rubbish at a common collection point and thereby reduce the burden of expense on council for its removal. Strata titling in this case would resolve the problem for the Government and the present title holders. I point out that there is one title as far as the Lands Titles Office and the Government are concerned. However, the original straw company proprietors carefully surveyed and defined a number of individual blocks not registered on the title, and they leased those blocks to the separate individuals for this enormous length of time—quite within the law at the time it was done—and the individual property owners who have moved there have no liability to Government or local government to pay land tax, and so on.

The company which owns the land is virtually defunct, but there is no interest whatever—no benefit or joy to the State Government or local government—in taking the company to court to liquidate it, because it has no assets. The Government cannot require more than the one peppercorn that it has already received as payment from its tenants for the lease that they have for virtually 1 000 years, and there is no way that the directors can be held liable for the debts that have been built up by that company. Some of the directors have died, yet the company goes on because no-one will get any joy out of winding it up.

I believe that the sensible solution to the entire problem is to strata title that piece of land, thus satisfying local government and the State Government. The landholders or current occupiers do not own the land; they are the current occupiers and they would be able to resume their proper responsibilities to their neighbours within that one title as it now stands, as well as to those people across the boundaries as they are defined at present in the Lands Titles Office. This would mean that neighbouring farmers would not be prevented from requiring the pest control board to accept responsibility for rabbits and weeds to be cleaned up. At present they cannot get the board to do anything much. Landholders do not have to pay rates or taxes and the boards can hold the view, 'Go to hell.' The dilemma arises in that these people cannot assign or sell their interest in that land, and this impasse needs to be solved.

I understood, from certain conversations I had with Ministers of both this and the previous Government, that there would be changes to section 19b, involving the strata title provisions in the Real Property Act. I understood that these matters would be addressed, but that has not happened. For that reason I express my disappointment, both on behalf of the people who live in the circumstances to which I have referred and on behalf of those people who wish to live in cluster housing on large acres outside urban settings, but still secure from the threat of those nefarious activities of the various types of criminals to which I have referred.

If in due course the Government can therefore address the problems that I have mentioned in my remarks today by making amendments to this or any other Act, I would be pleased. At this stage I will not attempt to amend the Bill myself, but I will leave it for the Government to exercise its discretion.

Mr S.G. EVANS (Davenport): I support the general tenor of the Bill. As I see that there are six pages of amendments to be moved by the Minister, it makes one wonder what sort of research goes into legislation before it hits this place. A Bill is brought before the House after committees have inquired into the matter and there have been talks and discussions about changing the strata title legislation since 1978 and earlier. So, 10 years down the track the Bill is introduced and now there are six pages of amendments proposed by the Minister plus, of course, amendments from individual members. My experience with strata title legislation is that it is the same as all other pieces of legislation: where we have people living closer and closer together, we try to make laws to govern their activities, and it becomes more difficult.

People living on farms with a long way between the houses can have disputes that are caused, for example, by children interfering with the other party's property or by neighbour's cows or sheep crossing boundaries. Living on allotments in an urban environment has brought pressure on individuals, and living in strata title accommodation, flats and homeunits brings about even greater pressure. Human nature then takes over and, in the main, that is the reason for this legislation.

In modern society people have become more selfish. Lawyers, albeit in a small percentage of cases, are prone to encourage people to take matters before the courts, encouraging them to challenge matters that could be settled with commonsense, compromise or, if you like, by adopting a forgive and forget attitude, which in the end is obviously cheaper.

Various pieces of legislation encourage people to complain. Mr Deputy Speaker, in your contribution you pointed out that a Government committee could be set up to handle the situation of neighbours not reaching a compromise. Once we do that we move closer to the stage where, say, some people cannot afford to paint the eaves of a building because they are too poor, so others should carry part of the cost; or we set up a special Government fund to help subsidise them. Where will it all end?

People with a more responsible approach to maintenance may have the value of their property decreased because of the inaction or lifestyle of their next door neighbour. We cannot solve all the problems in this area. A Government department with all the communicating and counselling services at its disposal often cannot solve them because human nature is such that the chemistry between individuals works differently. In some cases a neighbour, if upset, will set out to be objectionable, no matter what the other person does.

The Hon. J.W. Slater: It only needs one.

Mr S.G. EVANS: Yes. I had a situation in my electorate concerning two detached houses, one of which had been built according to law with the parapet wall right on the boundary. The neighbour planted a large growing tree alongside that wall, which contained no windows and was the common boundary. In a high wind that tree kept banging against the eaves of what was the bedroom wall. The owner of the tree would not cut the tree down and his neighbour could only cut the limbs that hung over his property.

I have a cure for that which upsets some people. In the early 1970s a person in my electorate complained about some of his neighbour's poplar trees. I suggested several alternatives, one of which involved digging an eight foot

trench and filling it with concrete to stop the roots coming through. The person who owned the trees did not agree with this. Whenever his neighbour had mown the lawn the suckers of the trees coming through the lawn injured his young children's arms when they were rolling on it. I suggested that the simplest method was to put jars containing weedicide in the lawn and placing the tree roots in the solution. The two neighbours ended up being the best of mates about nine months later when they realised that the poplar trees were dead and, although I had solved the problem, I lost the votes of those people living in both homes. Sometimes that is the only way that one can solve problems where neighbours will not compromise.

I agree with most of what the member for Murray-Mallee said. However, I do not agree with his suggestion that if we go to strata titles for bushfire prone and country areas we should have more than one drive going into the complex because residents should not stay in the buildings. That is one of the greatest fallacies of modern times. People who came to this country 150 years or more ago quickly learnt that they did not leave their homes in the event of a fire—that was the last thing they did. These people fought fires with rakes and bags, not water. They had no mobile equipment or combustion motors for pumps. They survived, except in one or two cases where new settlements in Scot Creek were wiped out in 1876. Even the 1915 fire did not cause as much loss of human life as we experience today.

We have to make sure that people stay on their properties. It does not matter what a house is built of, except in the case of highly flammable material. Even weatherboard houses in the 1939 fire in the Hills did not burn because people knew what they were doing. They did not have indigenous eucalypts close to their houses but had exotic vegetation. The argument in relation to dual drives should not be involved with this strata title legislation.

This Government is advocating the infill of the inner suburbs, not just the Adelaide City Council area, and the Bill goes part of the way towards solving some of the problems existing. I am amazed that we do not encourage the developers of new projects or the developers upgrading old projects to build living accommodation above shops.

In Europe in particular, and in parts of Canada and America, one would find shopping centres with homes on top of the single storey shops, and homes built around the outer perimeter on the first floor level and sometimes on the second floor level, with a play area for children in the middle and gardens on top of the shopping centre. They have security of entrance. The car park is used by the homeowners because most of them are semi-professional or other people going to work, and they use the car park when the shops are not open, although we are talking of a stupid system here to open them all the time. The car parks are open to the shoppers during normal shopping hours.

If we did that and encouraged it, it would fall within the concept of strata titling because you would strata title the buildings on top. The Act provides for it quite clearly and so do the new proposals, but we need a Government to tell councils to try to encourage the developers to do it. It brings about another aspect, a sense of security to the shopkeepers. With somebody living on or above the premises at night time, it would put some doubt into the minds of those who may want to offend against the law, whether by vandalism or breaking in. In the day time when the shops are open, it gives the same security to the homeowners who occupy the properties above, because people are around the place.

I have raised that matter before. I believe that the Government needs to make a clear statement and support the concept. It does not have to say it because Evans said it—I know that will not occur—but it should promote and encourage it. It would thereby increase the number of people who live along Unley Road, for instance, and other areas as they are further upgraded without interfering with the environment and making it an unpleasant place to live, making more use of the public facilities including water, gas, electricity, roads, footpaths and public transport, and cutting down the cost of providing those services over all the community.

It will give a good lifestyle to people who will have a common area for their kids to play; they will have an opportunity to have their own private garden; and in a State such as South Australia, where we are struggling for money, as everybody knows, it will help reduce not only the private debt but the public debt. I support the Bill and wait to see what happens to the Minister's massive six pages of amendments. I hope that he is well versed in them, because I am not.

The Hon. G.J. CRAFTER (Minister of Education): I thank all members who have contributed to this debate and who have added their interest in this matter and their knowledge to the context of the passage of this important piece of legislation. We have before us a Bill to create an Act which will provide for the first time by way of separate legislation for what are commonly known as strata titles for the ownership of land and property in this State. This is a relatively new phenomenon—I guess a post-war phenomenon—whereby many more people are now living in strata units. As estimated now, strata title development provides in this State for about 38 000 units in which some 60 000 people reside.

As has been illustrated by the comments of members, this style of ownership of property brings with it a number of problems that have proven difficult to resolve in the past. There is a very strong interest on the part of those who live in strata units, those who own them, and those who assist those who live in and own them, to resolve these difficulties by way of legislation.

This measure was introduced into the House last year and left on the table for further community consideration and consultation. It is for that reason that we now have before us a very long list of amendments. Indeed, that is a very healthy thing, although it will cause some delay in the passage of this legislation through the House, but the legislation will be all the better for our consideration of the amendments that have come to the Government from many sources. Although a reasonable period of time was given for this final consultation phase, the submissions arrived somewhat belatedly; indeed, only in recent days some very important submissions were received and they also have been included in the amendments circulated.

I place on record my appreciation to all those who have given very thorough consideration to this measure and who have taken the trouble to contact the Government to add their comments. In particular, two submissions—one from the Law Society and another from the Standing Committee of Conveyancers—have proven extremely valuable and have resulted in further amendments. Also, a further review of the measure by the Lands Titles Office has suggested further amendments that are before us. It is for those reasons that we have the very large number of amendments currently before us for consideration in the Committee stage of the Bill.

There has been some comment by members about the proposal to appoint a Strata Titles Commissioner with responsibilities to resolve and settle disputes. Whilst the Government is well aware that disputes continually arise

between unit holders, it considers that the expense of a Commissioner needs further consideration. The Government considers that, if established in the future, a Strata Title Commissioner's office should be funded by the people who have an interest in strata units and should not be an imposition on the general revenue. During the consultation processes, no viable funding proposal that could be easily and fairly implemented came forward. The Government considers that this matter should be the subject of further debate and research, and the Government will continue to explore other options in consultation with interested parties.

Other options which may be capable of development include providing for an expansion of the jurisdiction, for example, of the Residential Tenancies Tribunal. The Government is confident that this Bill will bring greater clarity and certainty into this area of the law and many grounds of dispute may well be done away with as a result of the passage of this legislation as it currently stands. As I said, it creates a completely new piece of legislation in this area which will be of real assistance to those who have sought recourse to the law in this area and to resolve disputes and also to assert rights.

This Act obviously will be a very important tool that will be available to all strata title unit owners and tenants and, particularly, to those who have accepted responsibility within the incorporated bodies that exist as a result of this legislation and of the previous provisions of the Real Property Act. I commend the legislation to the House.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

Mr S.J. BAKER: When does the Government intend to proclaim the Bill?

The Hon. G.J. CRAFTER: It is expected that there will be some delay in the proclamation of the Bill because regulations under the Bill must be prepared. I cannot say precisely when that will be, but it is important to give members an estimation and I will seek the information so that it may be given in another place.

Clause passed.

Clause 3—'Interpretation.'

The CHAIRMAN: There are identical amendments from the Minister and the honourable member for Mitcham. I call on the Minister.

The Hon. G.J. CRAFTER: I move:

Page 2, line 17—Leave out 'the owner' and insert 'the proprietor'.

This amendment simply improves the interpretation clause. 'Proprietor' is a term that is more familiar to the public and the conveyancing industry in this State and it seems appropriate that more current and appropriate terminology be used.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 2, line 22—Leave out 'noted' and insert 'entered'.

Similarly, this amendment makes a minor alteration to the terminology used in the Bill and it is in line with Lands Titles Office practice.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 2, line 33—Leave out 'private' and insert 'general'.

This amendment corrects an inappropriate reference to the meetings of strata corporations.

Amendment carried.

Mr S.J. BAKER: I move:

Page 3, lines 1 to 5—Leave out the definition of 'structural work'.

The definition of 'structural work' in the Bill causes problems regarding other aspects of the Bill. In this regard, I specifically point to later clauses relating to the obligations of people in units to ensure that they do not undertake any work that would change the material or outward appearance of the units. One of the problems concerning the definition in the Bill is that it excludes a reference to matters such as painting. For instance, if the outside of a block of cream brick units was painted pink, this would damage not only the unit of the resident doing the painting but also the outward appearance of the whole structure so it is appropriate to strike out this definition and have it included in the appropriate part of the Bill, that is, clause 29, which deals with structural work.

The Hon. G.J. CRAFTER: The Government accepts the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Page 3, after line 8—Insert new definition as follows:

'unit' means an area shown on a strata plan as a unit.

A deficiency in the present legislation is that there is no appropriate definition of 'unit'. It is a circular definition and it is necessary to satisfy the need to have exactly what is regarded as a unit inserted in the legislation, because at present this matter is open to interpretation. The member for Murray-Mallee raised this matter and it was to be addressed in Committee. My amendment tidies up the interpretation of 'unit' to ensure that this legislation is self-contained and that we do not have to go to another reference which may be in conflict.

The Hon. G.J. CRAFTER: The Government accepts the amendment, which clarifies this matter for those who have recourse to the legislation to learn of their rights. To that extent the amendment improves the measure.

Amendment carried.

Mr S.J. BAKER: I wish to bring a number of items in the interpretation clause to the attention of the Government. First, it should be realised that differences exist between the definitions in the interpretation clause and the Real Property Act. Although those differences will not cause much difficulty, we should use terminology that is consistent between the Acts, especially when they deal with the same matter, which is land and property. There is a difference, in considering the Real Property Act, in respect of the definitions of 'allotment', 'council', and 'encumbrance'. Parliamentary Counsel should address this matter so that we do not create a new set of difficulties for people referring to various Acts.

Secondly, it has been asked, 'When is a ceiling a ceiling?' Under the interpretation clause in the Bill a 'ceiling' includes a false or suspended ceiling. The Standing Committee of Conveyancers, comprising representatives of the Law Society, the Land Brokers Society, the Brokers Division of the Real Estate Institute, and the Associated Banks of South Australia, did an excellent job. It recommended that the Bill should include a further reference, 'installed at the date of the lodgment of the plan'. However, on reflection I considered that this could create its own difficulties, because later the legislation specifies the right of a person to make changes within their inner walls, and this includes a reference to ceiling.

A difficulty could be caused if someone installed a suspended ceiling after the plan had been filed or if someone took away a suspended ceiling after the plan had been filed, and the resident entering the unit would not know where the common boundary started. Therefore, I cannot agree with that proposition.

I have referred to the difficulties concerning the Supreme Court jurisdiction, which is referred to in the legislation. The member for Henley Beach claimed that it was appropriate to let the definition of 'the court' remain in the Bill, but that would mean that all problems relating to strata title units, whether complying with the Act or the articles, should be referred to the Supreme Court for adjudication.

I believe that the law should try as far as is humanly possible to satisfy the needs existing when the legislation was enacted. If the Government in its wisdom wishes to set up a separate body I hope it will not have the same track record as the Residential Tenancies Tribunal, the performance of which has been absolutely abysmal.

However, if the Government should at some time further down the track decide on a disputes mechanism which is cost effective, it would then be appropriate to change the jurisdictional direction of this Act so that certain matters are taken outside the province of the Supreme Court and placed within the province of that body. In the absence of such change I believe it is important that this legislation be amended in the Upper House to reflect what I believe is a faster track for settling disputes which will arise and in which people will receive no justice because they have to be serviced through the Supreme Court.

I am keeping to statements as far as this Act is concerned to provide what I think is direction. I would like the Minister to answer a question about public land. It is quite clear that the definition of 'public land' is placed in the Bill so that later in the legislation there is the ability for strata plans to flow over into public land with the approval of council. Does that same situation relate under any provision to land in the hands of State Government? I think that the remainder of the definition clause is satisfactory. If the Minister responds to the question about public land, which is a very tight definition, he may be able to clear up this area, because I have some difficulty in understanding whether it relates only to councils.

The Hon. G.J. CRAFTER: I am pleased to note the comments of the honourable member on behalf of the Opposition and I will briefly touch on those points. I believe that the question of current usage must be taken into account when drafting legislation of this type, which will be widely used by non-lawyers in the community for their benefit. So, the most current terminology appropriate to this industry is used in the legislation, and that at times brings it into conflict with those definitions that apply to the Real Property Act, which has much older definitions.

The question of ceilings is a matter that is taken for granted in the interpretation in the normal course of events. For that reason it was not seen as necessary to include it more specifically in the definition clauses. In relation to the matter of the Supreme Court's jurisdiction I refer the honourable member to the comments that I made—comments that I also made in my second reading speech—with respect to the resolution of disputes and further work that the Government will undertake in this area.

With regard to the question of 'public land', as the honourable member has suggested it is a very tight definition, if I may use that expression. This legislation expands that definition. Usually the circumstances, as I understand them, dealt with encroachments on to roadways or other land vested in local government. Here the law provides that rather than local government having that responsibility it can be revested in the strata title incorporated body. That incorporated body then assumes the responsibility that was previously vested in councils and this is therefore seen as an improvement on the previous situation.

Mr PETERSON: I would like to ask the Minister some questions on strata in a particular situation. On page 2 of the Bill 'strata scheme' is defined as:

(a) The land comprised in a strata plan;—

I stress 'the land'—

and

(b) The buildings and other improvements on that land:.

Last weekend I was at the boat show at North Haven, where I saw on display an idea for housing development over water. I think this creates a totally new concept in this State. I am not aware of anywhere else where we are given a strata title system over water. Such a situation creates in my mind some real problems. The area proposed is the North Haven indenture area, or the trust area, which is not under control of the Crown as such—otherwise it would be Crown land beneath it. It is controlled by the present contractors or the owners of the land. As I see the situation, it creates problems with responsibility below any strata space given over water.

Where does the responsibility lie for the levy bank on that harbor, for the piles or supports or whatever holds one in the air above the water? The strata plan gives an area above and, reading through this legislation as it stands, there does not seem to be any aspect that relates specifically to that style of development. Can the Minister clarify any peculiarities that will be created by this type of development and, in particular, responsibilities that will be placed upon the people who take advantage of that type of development? It is an area that is above water, on water, out from land that has been created for that development.

The Hon. G.J. CRAFTER: I understand that my colleague the Minister of Lands attempted to explain this at the function to which the honourable member refers.

Mr PETERSON: No, he was not there. It was the Minister of Marine, and he did not try to explain it.

The Hon. G.J. CRAFTER: I believe that the Minister of Marine attempted to explain this situation. It is a novel situation and the water in those circumstances is included in the definition of the land. As I understand the situation to which the honourable member refers, the water is in the form of a lake and the lake is part of the development, which includes some strata titles that are encroaching over the water. Therefore, this in itself is a corporate entity in which there is the land and the water and in which there are titled units. Therefore, the responsibilities for maintenance and other issues fall under the responsibility of the incorporated body, and that is provided for in this legislation.

Clause as amended passed.

Clause 4 passed.

Clause 5—'Nature of strata plan and requirements with which it must conform.'

The Hon. G.J. CRAFTER: I move:

Page 4—

After line 7—Insert new paragraph as follows:

(aa) must consist of, or include, the whole or a part of a building;.

Line 12—Leave out 'land' and insert 'an area'.

After line 32—Insert new subclause as follows:

(6a) A wall or fence between a building that forms part of a unit and a unit subsidiary to that unit is part of the common property.

Lines 33 to 41—Leave out subclause (7) and insert new subclause as follows:

(7) The plan must conform with any requirements of the regulations as to the design of the strata scheme.

My first amendment is included to ensure expressly that a unit must be defined by reference to a building. Both the existing strata title provisions of the Real Property Act 1886 and the provisions of this Bill provide for the division of land into units. However, it is then mainly by implication

that one ascertains that a unit must consist of part of a building. This point is obviously of significant importance, so it has been decided to include a specific paragraph. Members will note that a building is defined to include any fixed structure. A proposal to divide land that is not to be related to the division of a building will continue to be dealt with under Part XIXAB of the Real Property Act 1886.

The second amendment, to page 4, line 12, is proposed on the recommendation of the Standing Committee of Conveyancers. The amendment relates to the inclusion of unit subsidiaries as parts of units. It has been pointed out that a unit subsidiary may not always by in the nature of land and a small amendment is therefore proposed.

Further, the amendment to page 4, line 32, is included to provide a point of clarification. It is proposed that walls and fences between units will form part of the common property. However, a wall or fence between a part of a unit and a unit subsidiary might not, without this amendment, also be regarded as common property. Issues relating to the maintenance and appearance of these walls often arise. It is appropriate that they form part of the common property of the corporation and not be dealt with as part of the unit. This amendment will expressly provide for this.

The amendment to page 4, lines 33 to 41, provides for a new clause 5 (7). Subclause (7) presently requires that a strata plan must conform to prescribed requirements relating to open space, car parking and other matters specified in the regulations. It has been pointed out that issues relating to open space and car parking would usually be addressed in the relevant development plan. Subclause (7) is therefore to be amended simply to provide that the plan must conform with any requirements specified in the regulations.

Amendments carried.

Mr S.J. BAKER: A drafting question applies to clause 5 (6) paragraphs *(c)* and *(d)*. The definition in paragraph *(a)* provides that any land or space that is not within a unit is common property. Paragraphs *(c)* and *(d)* are superfluous but at least they spell out the elements of common property. In his wisdom, the Attorney-General might remove them in another place, but I simply point out to the Committee that they are surplus to requirements.

The Hon. G.J. CRAFTER: I understand that they have been included for the sake of completeness, but the point raised by the honourable member can be considered in another place.

Clause as amended passed.

Clause 6—'Unit entitlement.'

Mr S.J. BAKER: When I first read this clause, I was somewhat perplexed as to how the relative share of responsibility in the corporation is worked out. The clause provides that the unit entitlement of a unit is a number assigned to a unit representing, within a tolerance of plus or minus 10 per cent, the relative capital value. When I talk about relative capital value, I think in fractions, decimals and percentage points, so there is a question about terminology. However, more important is the question that was raised about those people who do artificial things to the outside structures of their buildings so as to increase their capital value. The suggestion was put that those people who have gone ahead at their own expense and under their own volition should not have an increased capital value or an increased share out of the corporation just by virtue of their own initiative. The definition may include those special things that are being done by one or two unit holders and they may get greater value from the corporation and greater liability as a result of the changes that have taken place. That was deemed to be inappropriate.

The Hon. G.J. CRAFTER: The intention of this clause is to cover the valuation of the standard property so that equity can be achieved. If there is a dispute, it can be based on the valuation of an independent valuer or on the valuation of the Valuer-General. An amendment which I will move to clause 7 impinges on this to some extent and empowers the incorporated body, in the first instance, to obtain a valuation so that a base valuation can be established to resolve matters of subsequent dispute to which the honourable member alluded.

Clause passed.

Clause 7—'Application for deposit of strata plan.'

The Hon. G.J. CRAFTER: I move:

Page 5—

Lines 13 and 14—Leave out paragraph *(b)*.

After line 18—Insert new paragraph as follows:

(ba) appropriate certificates of approval issued under Division V by the Commission and the council for the area in which the land is situated;.

After line 22—Insert new paragraph as follows:

(ca) a certificate from a licensed valuer certifying that the schedule of unit entitlements is correct;.

Lines 34 to 42—Leave out paragraphs *(a)*, *(b)* and *(c)* and insert new paragraphs as follows:

(a) no part of a unit to be created by the plan forms part of the encroachment; and

(b) (i) the encroachment is over public land and the council within whose area the land is situated consents to the encroachment;

(ii) the encroachment consists of the protrusion of footings by not more than the prescribed distance beyond the boundaries of the site, and the owner of the land over which the encroachment occurs consents to the encroachment; or

(iii) it is established to the Registrar-General's satisfaction that the encroachment is otherwise authorised by law.

Page 5, lines 43 and 44, page 6, lines 1 to 3—Leave out subclause (6) and insert new subclause as follows:

(6) where an application is accepted by the Registrar-General under subsection (5)—

(a) unless the encroachment is over public land, the Registrar-General will, on the deposit of the strata plan, enter the encroachment on any relevant certificate of title; and

(b) any consent given under that subsection is binding on present and subsequent owners and occupiers of the land.

These amendments clarify matters that have been raised previously and may be raised subsequently. My first comments relate to the amendments to page 5 lines 13 and 14 and after line 18. It has been decided that a certificate of approval should be issued by the Planning Commission and by local councils. No specific requirement for a certificate appears in the Bill at the moment. Certificates are issued under the current legislation and it is thought to be appropriate to preserve this practice by express provision in the Bill.

The amendment to page 5 after line 22 will expressly require that a strata title plan lodged in the Land Titles Office be accompanied by a certificate of a licensed valuer certifying that the schedule of the unit entitlements is correct. Clause 6 provides that a schedule of unit entitlements must be prepared according to the relative capital value of these units. It has been suggested that the schedule should be verified by a licensed valuer. This suggestion has been accepted.

The amendment to page 5 lines 43 and 44 and page 6 lines 1 to 3 deals with the vexed question of encroachments. The Bill presently deals with encroachments caused by eaves and attachments to buildings. It was originally proposed that encroachments caused by footings should be dealt with separately from this legislation, for example, under the Encroachments Act. However, the Government has now decided to allow some relief under this Bill when the

encroachment is relatively small—to a distance to be prescribed in the regulations. Encroachments caused by footings can be relatively costly to rectify. This is not always so with eaves and attachments as the ajoining owner can grant an easement. A simple provision as proposed in the amendment will be of great assistance to a number of lodging parties. However, the provisions will not apply if the encroachment includes part of a unit, in which case the problem must be dealt with in some other way.

Mr S.J. BAKER: I am pleased that the Minister has taken up suggestions in a number of submissions about deficiencies in the wording of the Bill. I have one question about a certificate from a licensed valuer. Licensed valuers come up with different answers and, whilst it is appropriate to say that some means of securing a common valuation is needed, some dispute or difference of opinion as to the valuation arrived at might arise. At some stage all members would have been involved with licensed valuers from banks or real estate agencies and the differences of opinion coming from that method are amazing. The Valuer-General sets the most important value because it determines one's water rates and council rates and some of the values that his officers ascribe to houses are quite astounding. Extreme differences of opinion can emerge between valuers as to the real value of a property. There may well be room for disputes in what is a fairly critical matter, particularly for people sharing costs.

The Hon. G.J. CRAFTER: I cannot provide a simple answer to that question. On many matters disputes arise within incorporated bodies regarding strata titles. The valuation of land by licensed valuers is controlled by legislation of Parliament under the Valuation of Land Act and that gives some protection. If there is dispute about the accuracy of a valuation, another valuation can be obtained and the incorporated body can decide which valuation it as a group believes is the most appropriate. The matter can be resolved in a number of ways and they rest with the members of the incorporated body.

Amendments carried; clause as amended passed.

Clause 8—'Deposit of strata plan.'

The Hon. G.J. CRAFTER: I move:

Page 6, line 25—Leave out 'subsection (5)' and insert 'subsection (4a)'.

Lines 26 and 27—Leave out '(and the easement is not to be discharged on the deposit of the plan)'.

After line 28—Insert new subclause as follows:

(4a) The plan may, with the consent of the registered proprietor of the dominant tenement, provide for the discharge or variation of an easement registered in relation to the land and, in that case, the easement will, in accordance with the consent, be discharged or varied.

These amendments are all related. It has become apparent that it could be of assistance to lodging parties to provide for the discharge of variation of easements by an endorsement on the strata plan. Precedent for this course of action may be found in section 223 *le* and 223 *lo* of the Real Property Act 1886. The amendments will alleviate the need to file an additional instrument with the application to deposit the plan.

Amendments carried.

Mr S.J. BAKER: I raise a question about the deposit of the strata plan. By that process we insist that a strata corporation be formed. That seems to be an awfully bureaucratic encumbrance in a situation involving perhaps two unit holders. I have two such examples in my district, and there are probably many more, but they have been in contact with me because they want to change their units around. Further, in the Bill we are prescribing lots of responsibilities on the strata corporation and under the legislation we place much responsibility on it. If they do not comply, there is a $500 fine for committing an offence. It may well be that after reviewing the legislation the Minister may deem it appropriate to take off the provisions under a certain size. I seek a response from the Minister about this situation.

The Hon. G.J. CRAFTER: I do not quite follow the purport of the question. What does the honourable member believe is deficient in the current provisions providing for the lodgment of the plans?

Mr S.J. BAKER: Subclause (2) *(c)* says that when you deposit a plan, 'a strata corporation with the powers and functions conferred or assigned by the Act is created'. Automatically there is a strata corporation, an identifiable body. How relevant is that structure if we have one, two or three units involved? Later in the Bill many responsibilities are put on the corporation, including holding meetings, when it is a bit difficult with one person, in such a case, being available. It automatically creates a corporation. Perhaps after reviewing the workings of the legislation, the Minister might see it appropriate to include a restriction as to size.

The Hon. G.J. CRAFTER: Obviously, you need some structure in order to administer the circumstances where you have common ownership of property. This provision simply mirrors the existing legislation so that it does not take the current legislation any further.

Clause as amended passed.

Clause 9—'Easements.'

The Hon. G.J. CRAFTER: I move:

Page 6, lines 37 to 39—Leave out this clause and substitute new clause as follows:

9. The following easements exist, to the extent required by the nature of the strata scheme, between the units and between the units and common property—

(a) easements of support and shelter;

(b) easements allowing for the establishment and maintenance of pipes, ducts, cables and other equipment so that—

(i) a unit may be supplied with water, gas, electricity, heating oil, or air-conditioned air;

(ii) a unit may be connected to the telephone or to a radio or television antenna;

(iii) a unit may be connected to sewerage, garbage, drainage or other similar services.

This amendment provides expressly for the creation of easements allowing for the establishment and maintenance of pipes, ducts, cables and other matters that service a unit. Similar provisions presently exist under the strata title provisions of the Real Property Act 1886.

Amendment carried; clause as amended passed.

Clause 10 passed.

Clause 11—'Vesting of public land in the council.'

The Hon. G.J. CRAFTER: I move:

Page 7, line 3—Leave out 'public'.

Line 4—After 'or' insert 'similar'.

After line 6—Insert new subclause as follows:

(2) Any road, street or thoroughfare that vests in a council under subsection (1) will be regarded, for all purposes, as a public road, street or thoroughfare.

All the amendments to this clause are related. They bring the language and approach of this clause into line with section 223 *le* of the Real Property Act. The amendments do not effect any substantive changes.

Amendments carried; clause as amended passed.

Clause 12—'Application for amendment.'

The Hon. G.J. CRAFTER: I move:

Page 7, lines 18 to 24—Leave out paragraph *(c)*.

After line 26—Insert new paragraph as follows:

(ab) if the amendment affects the delineation of units or common property—appropriate certificates of approval issued under Division V by the Commission and the council for the relevant area;.

These amendments are consistent with earlier amendments to clause 7 to provide that a certificate of approval will be

issued when the Planning Commission or a council approve a strata amendment plan.

Amendments carried.

Mr S.J. BAKER: I move:

Page 8, Line 15—Leave out 'freed' and insert 'discharged'.
Line 16—Leave out 'in' and insert 'over'.

My amendment is merely a change in terminology which is more befitting the legislation before us. The word 'freed' is somewhat out of kin with the content of the legislation.

The Hon. G.J. CRAFTER: The Government does not oppose the amendments.

Amendments carried.

Mr S.J. BAKER: We are dealing with amendments concerning the deposit of strata plans. This will be a valuable device for a large number of people who have been frustrated in their attempts to make sometimes minor alterations to units. My question concerns stamp duty. As I understand what was described to me, one of the costs of changing a unit is not associated just with the price of the surveyor who has to redraw the whole plan, but of equal concern is the fact that stamp duty has to be paid on the whole of the property and not simply that part of the property affected by the change in structure. Can the Minister advise the Committee what is the liability of persons who change the strata plan or, more importantly, who change their units within the strata plan? How will stamp duty be applied?

The Hon. G.J. CRAFTER: I understand that stamp duties will require proof of that and will stamp it as if it was a transfer of land.

Mr S.J. BAKER: Can the Minister be more explicit? Are we transferring that portion of the land or are we promulgating a new unit over which stamp duty will be applied? As members can appreciate, it is a fairly serious question. The difference between stamp duty on a unit worth $80 000 and the cost of alterations worth $10 000 is very significant. This is one of the areas that people have pointed to as being too high for them to pay. Members will understand that if one alters one's house on one's property one does not pay stamp duty because one's right of title has not changed. When dealing with a strata title plan everything is strictly documental and defined down to the last millimetre. By changing the outward nature of the unit will a person incur stamp duty over the proportion that is changed or over the whole unit? The difference in cost is considerable.

The Hon. G.J. CRAFTER: I refer the honourable member to clause 12 (7), which provides:

An application for the amendment of a deposited strata plan that effects the transfer of an interest in land is a conveyance.

So, there must be a transfer of interest or ownership in order to attract the duty. If there is not then it is not attracted.

Mr S.J. BAKER: In this case the transfer happens to be the common property.

The Hon. G.J. CRAFTER: It must be a transfer in accordance with clause 12 (7), that is, a transfer of an interest.

Clause as amended passed.

Clause 13—'Amendment by order of the court.'

Mr S.J. BAKER: I move:

Page 8, line 37—After 'insurer' insert 'of a unit or any of the common property'.

This amendment clarifies the situation in relation to an insurer. As the clause stands, any insurer can order the amendment of a strata plan. That is not the intention of the Bill. The insurer provision is being tied securely to the common property and to the unit holder, and we believe that it is an appropriate amendment.

The Hon. G.J. CRAFTER: As this amendment further clarifies the Bill, I have no opposition to it.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 9, line 4—Leave out 'variation' and insert 'amendment'.

The word 'variation' is consistent with the word 'amendment' on line 2, so this amendment clarifies the situation.

Amendment carried; clause as amended passed.

Clause 14—'Approvals required for deposit or amendment of strata plan.'

The Hon. G.J. CRAFTER: I move:

Page 9—after line 15—Insert new subclause as follows:

(2a) An application for approval must be in the prescribed form and accompanied by the prescribed fee.

After line 32—Insert new subclauses as follows:

(3a) The Commission may, if it thinks fit, remit the contribution payable under subsection (3) *(c)* wholly or in part.

(3b) The Commission may refuse to approve an application if it considers—

(a) that the division of land in accordance with the plan is unsuitable because a building or buildings shown on the plan as forming part of a unit or units are not of sufficient substance or quality;

or

(b) that an application to divide the land should instead be made under Part XIX AB of the Real Property Act 1886.

Page 10, after line 13—Insert new subclauses as follows:

(6a) The approval of the Commission or a council under this section will be given by certificate in a form prescribed by the regulations.

(6b) Subject to subsection (6c), a certificate of approval issued under this section will lapse if it is not lodged with the Registrar-General (together with the application to deposit a strata plan or to amend the strata plan to which it relates) within 12 months of the date of its issue.

(6c) The Commission or a council may, on due application made before the expiration of the period referred to in subsection (6b), extend the period within which a certificate that it has issued may be lodged with the Registrar-General.

New subclause (2a) comes about as a result of a suggestion from the Local Government Association that it has been decided to provide specifically for a prescribed form in the payment of a fee for an application under this clause. New subclause (3a) will authorise the Planning Commission to reduce or waive the fee payable to the Planning and Development Fund. Experience has shown that occasionally it is unfair to levy the full amount against a development, for example, when the development itself provides for extensive open space. This provision will allow applications to be assessed on a case by case basis and will allow a reduction in appropriate cases.

The amendment to insert new subclause (3b) has been made at the specific request of the Department of Environment and Planning as it is concerned that the strata title provisions could be used to circumvent Part XIX AB of the Real Property Act 1886 relating to the division of land into allotments. This new subclause could be enough to prevent the occurrence of any such action.

New subclause (6a) is consistent with the decision to have a certificate of approval. New subclauses (6b) and (6c) are consistent with other provisions of the Real Property Act 1886 providing that certificates of approval have a life of only 12 months. It is considered that if the relevant plan is not lodged within that period the Planning Commission or the council should be given the opportunity to reassess the development before the plan is proceeded with.

Amendments carried; clause as amended passed.

Clause 15—'Appeal to Planning Appeal Tribunal.'

The Hon. G.J. CRAFTER: I move:

Page 10—
Line 22—Leave out 'or'.
After line 23—Insert new word and paragraph as follows:
or
(c) the failure of the Commission or council to issue a certificate of approval after the applicant has complied with the conditions of a provisional approval within the period stipulated by the Commission or council,.
Line 28—Leave out 'or'.
After line 30—Insert new word and paragraph as follows:
or
(c) if the appellant has complied with the conditions of a provisional approval within the period stipulated by the Commission or council—the refusal of the Commission or council to issue a certificate of approval.
Line 37—
Before 'vary' insert 'confirm'.
After 'appeal' insert '(and if the Tribunal reverses the decision, issue the appropriate certificate'.

These amendments relate to appeals of the Planning Appeal Tribunal. Specific reference is to be made to cases where the commission or a council fails to issue a certificate of approval after the applicant has complied with the conditions of provisional approval. Furthermore, in a manner consistent with Part XIX AB of the Real Property Act, the tribunal itself will, in appropriate cases, be able to issue a certificate.

Amendments carried; clause as amended passed.

Clause 16—'Amalgamation of adjacent sites.'

The Hon. G.J. CRAFTER: I move:

Page 11, line 9—Leave out 'both sides' and insert 'the proposed new site'.

This amendment is of a technical nature and clarifies that an application to amalgamate two or more places must be accompanied by a plan of the proposed new site.

Amendment carried.

Mr S.J. BAKER: It is appropriate now to raise the question of staged development. I know that it is a very vexed question which somehow has not been grappled with under these provisions. I make the point that it is possible to devise a structured development. This means that it can be economically viable to produce a strata plan on the basis of an overall concept and then to stage the development within that strata plan. This clause provides that common space is almost a requirement within each segment of a plan. There is no doubt that if an investor or a developer wishes to put forward a village concept involving strata titling, and they have to do it by staging, it is far easier to have that facility in the Act. If one has large villages of the order of 100 units, the cost of those units in the one plan is quite considerable.

The cost of going through the building approval stage and the financial stage can be significant. It is important that there be sufficient scope within the law to allow investors to have an overall concept of what they wish to achieve as an end product and to allow development of that product in stages, in manageable parts, which do not defeat the overall purpose of the whole plan.

Whilst we have this provision for amalgamation of site plans which allows that, after completion, each site plan can be put together, I contend that that is not necessarily the best way to handle the situation. By this method we may have too much common property, if you like, to satisfy the council and the unit holders. We may need much larger facilities than are necessary because the developer cannot vest any rights beyond that plan. The developer cannot say, 'Look, this is our strata plan but it is part of stage I of a two-part plan, and you will get the value of this second part, although you might have insufficient garden area or lawn area in your section of the plan. However, overall, you will be a beneficiary of a rather marvellous concept.' I believe that there is potential for stage development. I believe that the Bill can, with a few wise heads, be extended to encompass that concept, and I recommend it to the Committee.

The Hon. G.J. CRAFTER: I note the Opposition's comments on that matter. This has also been referred to in the second reading explanation and in other debates on this measure outside the Parliament. The provisions for amalgamation included in this Bill cover a number of other situations in addition to the question of stage development. Indeed, I understand that there is some anticipation for a number of proposals to be lodged following the passage of this legislation. The need to address the issues relating to stage development is recognised by the Government and, due to a number of complexities which will mean a further delay in this measure, there has been relief only to the extent provided in this clause dealing with the amalgamation of schemes once the stage schemes are completed. However, it is anticipated that the problems to which the honourable member refers—and other problems not addressed in this Bill—will be the subject of further investigation referred to in my second reading explanation. That work will be done in the Lands Titles Office in the near future with a view to incorporating a further provision in the legislation that will permit stage development to occur satisfactorily.

Clause as amended passed.

Clause 17—'Cancellation.'

The Hon. G.J. CRAFTER: I move:

Page 12, line 19—Leave out 'two' and insert 'the'.
Line 30—After 'plan' insert '(other than land vested in the council)'.
Line 32—After 'units' insert '(but the estate so vested in a former unit holder is subject to any estate or interest that was, immediately prior to the cancellation, entered on the original certificate for the unit of which he or she was the registered proprietor)'.
Lines 33 to 36—Leave out paragraph *(b)*.

The first amendment corrects a clerical error. The amendment to line 30 clarifies that if a strata plan is cancelled, lands previously vested in the council (for example, a road) will continue to remain so vested. As to the amendments to line 32 and 33 to 36, the Bill presently provides that, if a strata plan is cancelled, all mortgages and charges registered over individual units will operate by reference to the whole of the land. This is consistent with the fact that there will only be one title after cancellation. However, the Real Property Act presently provides that the distinct estate of each former unit holder remains subject to any mortgage or charge over the former unit. It has been decided to maintain consistency with the existing provisions.

Amendments carried.

Mr S.J. BAKER: I move:

Page 12, after line 46—Insert new subclause as follows:
8. For the purposes of subsection (7), a former unit holder is a person who was a unit holder immediately before the cancellation of the plan.

Subclause (7) *(d)* refers to former unit holders, and particularly to their liability in the event of a strata plan being cancelled. The former unit holders can go back as long as the strata plan has been in existence. It is not quite clear whether all former owners of units should be responsible for the excess revenue or excess liabilities that pertain to the property. This amendment ensures that the law is quite explicit, that it applies only to the people who own the property at the time of cancellation.

The Hon. G.J. CRAFTER: The Government has no objection to that amendment.

Amendment carried; clause as amended passed.

Clause 18—'Name of strata corporation.'

The Hon. G.J. CRAFTER: I move:

Page 13, after line 9—Insert new subclause as follows:
(4) All the unit holders of the units are members of the strata corporation.

This amendment simply clarifies the fact that owners of units are members of the strata corporation.

Amendment carried; clause as amended passed.

Clause 19—'The articles.'

Mr S.J. BAKER: The concern about this clause relates to the articles in schedule 3. In practical terms, when new corporations are set up, they will probably have a far more sophisticated set of articles than we see here. We see in the articles in schedule 3 a mere skeleton of some of the articles that will be applied. The more expensive the strata plan, the more extensive will be the articles that apply. One of my concerns about this clause—and I ask the Minister to refer it to the Attorney-General—is that, on the depositing of the plan and the setting up of the strata corporation at the first general meeting, if that group does not formally accept the articles in schedule 3, they will be committing an offence. Clause 19 provides:

(1) Subject to this section, the articles of strata corporation will be as set out in Schedule 3.
(2) A strata corporation may by special resolution—
(a) adopt articles in substitution for those set out in Schedule 3; or
(b) revoke or vary articles previously so adopted.

As the Bill is worded at the moment, it is almost incumbent that they accept the articles in schedule 3 before they can do anything else. However, I would imagine that at the first meeting of the corporation, they will say, 'These are all the articles and they will be accepted.'

The Hon. G.J. CRAFTER: I will be happy to refer it to the Attorney for his consideration. They basically provide standard provisions that are a requirement of any basic articles. I really cannot take the matter any further than that.

Clause passed.

Clause 20—'Binding character of the articles.'

Mr S.J. BAKER: This is where we get into difficulties with the Supreme Court. This clause provides that the articles of a strata corporation are binding on that corporation, the unit holders and the owners of the common property. This clause binds them to the articles, which are very nebulous. I refer members to the two schedules, in particular schedule 3, to which I will refer later, where it is quite illegal to disturb a pot plant without first obtaining permission. In fact, it provides:

6. A person bound by these articles must not, without the consent of the strata corporation—
(a) damage any lawn, garden, tree, shrub, plant or flower on common property;
or
(b) use any portion of the common property for his or her own purposes as a garden.

If those articles are taken to the extreme no-one will be able to do anything without the consent of the corporation. There is a need for rules but if those rules are linked to the Supreme Court it will only cause aggravation.

Clause passed.

Clause 21 passed.

Clause 22—'Restriction on payment by strata corporation to its members.'

Mr S.J. BAKER: A question has been raised about the role of a person who does a significant amount of work for a corporation, namely, the secretary. Inevitably, it is the secretary who must ensure that all the things that the corporation wishes to be done are done. I understand that there are a number of schemes for some sort of honorarium to be paid to the secretary who looks after the strata corporation. However, this clause now appears to preclude payment of any honorarium to any office bearer. Can the Minister advise whether my interpretation is correct?

The Hon. G.J. CRAFTER: The honourable member's interpretation is correct.

Mr S.J. BAKER: On one occasion when I was door knocking a person raised with me the question that the secretary was getting more out of the corporation funds than was being spent on the property. That secretary wielded a very large stick. So, there are difficulties concerned and the matter should be considered by the Attorney. It may well be adequate to say that an honorarium is payable with the unanimous decision of the corporation; that may overcome this little hiccup. As it stands, I think a number of corporations in this town perhaps are operating illegally and if one of those unit holders gets hold of the legislation he will say, 'Listen here, as secretary you are not entitled to anything. Despite the fact that you have to spend a lot of time on the phone, write letters and put yourself to great inconvenience you are not really entitled to anything.' That may cause difficulties.

I ask that this matter be referred to the Attorney-General. I realise that difficulties can arise on the other side with people organising themselves large pay-offs from the schemes if they have properly sorted themselves out with some of their fellow tenants, but there may well be a proposition that is acceptable to one and all.

The Hon. G.J. CRAFTER: No doubt this matter will be pursued in another place, but the honourable member really set the scene for the purport of the provision as it currently stands when he door knocked and found out the anguish this can cause to residents of strata title units. It is my interpretation that the sorts of payments to which the honourable member refers for such things as postage stamps and telephone calls are legitimate expenses incurred in the conduct of the business of the incorporated body and would obviously be met by that body.

Clause passed.

Clause 23—'Officers of strata corporation.'

Mr S.J. BAKER: I move:

Clause 23, page 14, line 10—After 'officers' insert '(who must be unit holders)'.

Let us make it quite explicit that nobody from outside the corporation can become an officer bearer. The amendment is designed to clarify the situation and make sure that everyone understands that unit holders are the only people who can bear office.

The Hon. G.J. CRAFTER: That amendment is accepted.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 14, after line 19—Insert new subclause as follows:
(3a) Appointments to the above offices must be made by the strata corporation at a general meeting of the corporation.

This amendment has been included as a point of clarification on the suggestion of the Standing Committee of Conveyancers. It will provide expressly that appointments to the offices of presiding officer, secretary and treasurer must be made at a general meeting of the strata corporation.

Amendment carried.

Mr S.J. BAKER: I move:

Page 14, after line 22—Insert new subclause as follows:
(5) A strata corporation may, by unanimous resolution, appoint or engage a person to assist any person appointed under this section as an officer of the corporation.

In very large strata titles it is not uncommon for an accountant, a real estate agent or somebody quite skilled in these matters to be assigned some of the responsibilities because it is far too much work for one person to look after such

things as insurance, hire of gardeners and various other matters associated with the corporation. This amendment allows for the corporation, by unanimous resolution, to permit some of those tasks to be undertaken by a particular person who has the unanimous support of the members of the corporation.

The Hon. G.J. CRAFTER: That amendment is also accepted.

Amendment carried.

The Hon. B.C. EASTICK: I take the opportunity in relation to the totality of the Bill, and more particularly in relation to the meeting of subscribers or unit holders, to ask the Minister whether, in respect of the duties of a presiding officer, or secretary in particular, it is deemed necessary or has in the past been prudent to provide a general format method of operation or schedule of activities and actions that ought to be expected of such people.

I doubt whether there is a member in this Committee who has not had representation at some stage relative to the conduct of meetings associated with strata titles. The most recent one that I had was that the president of one such organisation always swills stubbies throughout the meeting, and makes offers to those who vote with him but not to those who do not. The full truth of that remains.

A lot of people who find themselves in these positions are not necessarily *au fait* with usual meeting procedure and a lot of the hassles experienced in relation to strata units occur because of a perceived breakdown in normal expectation of performance. If we are to provide these general directions and background detail through this revised Bill, which is an advance on the previous situation, we should undertake an educative program to make sure that the actual functioning of strata title activity flows satisfactorily. It would not require a great deal of imagination on the part of a Government department to provide that detail, which could be available to every unit holder as a copy of the constitution or documents relative to that particular corporation should be available.

The lady who complained to me recently about the President swilling beer whilst the meeting was proceeding claims that she has never received a copy of the constitution of that strata corporation. I cannot refute that statement. Granted, she is about 70 years old and is a little vague on some matters, but it seems that background information of this nature along with a copy of the constitution could overcome a lot of the difficulties that finish up in members' offices or in the office of the Minister.

The Hon. G.J. CRAFTER: The honourable member has made some valuable comments. However, I must point out that there is a limit to how far any Government can or should go in entering this grey area. To prescribe whether or not one should drink stubbies or Scotch whisky at a meeting is going a little too far. Obviously, this legislation, as separate legislation taken out of the Real Property Act, will be a very valuable guide and should be in the possession of every person who has an interest in a strata title unit.

The provision that the Committee is debating allows for an incorporated body to appoint someone who has expertise to advise that body. It has been the practice that many strata title holders have vested in people experienced in that area a good deal of responsibility for the management of the incorporated body. A profession of people manage strata titles efficiently and effectively in the interests of unit holders. However, the point that the honourable member has made about an educative program is a valuable one and I will have that referred to the Minister.

Clause as amended passed.

Clause 24—'Contractual formalities.'

Mr S.J. BAKER: This clause refers to a contract being entered into under the common seal. The President of the Law Society has suggested that the Bill should provide for how the use of the seal is authorised and who must sign documents to which it is affixed. I do not know whether some precedent exists which suggests that the use of the common seal is known to one and all, or whether there is an established means of applying the seal and documentation to say who will be able to sign documents. I am unaware of it and perhaps the President of the Law Society has a very valid point.

The Hon. G.J. CRAFTER: I will have to refer that point to the Attorney-General to take further advice as to whether the thrust of the honourable member's argument is valid.

Clause passed.

Clause 25 passed.

Clause 26—'General powers.'

The Hon. G.J. CRAFTER: I move:

Page 14, line 39—After '(including an interest in a unit)' insert 'and rights in relation to real and personal property'.

Page 15, after line 16—Insert new subclauses as follows:

(4) The strata corporation may, if authorised to do so by unanimous resolution of the corporation, grant to a unit holder an exclusive right to occupy part of the common property for a specified period.

(5) A strata corporation may only dispose of real property that has been held as common property if the property no longer forms part of the site.

(6) If a strata corporation sells real property, any money received in respect of the sale must, after paying the costs of the sale and any associated expenses, be paid into the funds of the strata corporation and used to meet any outstanding administrative expenses or other liabilities of the corporation and any remaining balance may then, by unanimous resolution of the corporation, be divided between the unit holders in proportion to the unit entitlements of their respective units.

The amendment to page 14 line 39 has been included in response to a point made by the Standing Committee of Conveyancers. That committee is concerned that express power is not presently given to a strata corporation to lease land, grant licences, and so on. While the Bill would give the corporation such powers, it has been decided to amend it to clarify the matter even further. The amendment to page 15 after line 16 provides for a new subclause (4), which will expressly empower the corporation to grant a unit holder an exclusive right to occupy part of the common property. This power might be used, for example, when a unit holder wants to place an outside air-conditioning unit on the ground.

New subclause (5) will, in effect, require a strata corporation to amend its strata plan before it sells part of its common property. Subclause (6) is similar to a provision in the existing Act. Its inclusion was recommended by the Standing Committee of Conveyancers. Under clause 22 of the Bill, a strata corporation is restricted in its ability to pay money to its members. However, it has been submitted that the restriction should not apply if real estate is sold. It is therefore proposed to amend the Bill to provide that if real property is sold the proceeds must be applied to meet outstanding liabilities and expenses of the corporation and may then, if the corporation so desires, be distributed amongst the unit holders in proportion to their unit entitlements.

Amendments carried; clause as amended passed.

Clause 27—'Power to raise money.'

The Hon. G.J. CRAFTER: I move:

Page 15, after line32—Insert new subclauses as follows:

(6) If the strata corporation carries out work that wholly or substantially benefits a particular unit or group of units, the strata corporation may, subject to any agreement to the contrary, recover the cost of that work as a debt from the unit holder or unit holders of the unit or units.

(7) Where the cost referred to in subsection (6) is recoverable from two or more unit holders, the extent of their liability will be proportioned to the unit entitlements of their respective units.

This amendment will provide specifically for the corporation to recover from the owner of a unit the cost of work carried out by the corporation that wholly or substantially benefits his or her own particular unit. A similar provision may be found in section 223nc of the existing Act.

Amendment carried; clause as amended passed.

Clause 28—'Power to enforce duties of maintenance or repair.'

The Hon. G.J. CRAFTER: I move:

Page 15, line 39—After 'a breach of' insert 'this Act or'.

This amendment will specifically empower a corporation to require a unit holder to carry out specified work to remedy a breach of the Act.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 16, line 5—Leave out 'stipulated' and insert 'specified'.

The word 'specified' is preferred as it probably has a clearer meaning. It has been decided to further clarify the use of that word.

Amendment carried; clause as amended passed.

Clause 29—'Structural work.'

Mr S.J. BAKER: I move:

Page 16, line 19—Leave out 'structural' and insert 'prescribed'.

Difficulty has been created by the word 'structural'. It is a real menace in talking about changes in the appearance of the building. Changes could detract from the value of the units in the corporation. My amendment is properly explained in new subclause (4), which I will be moving subsequently.

The Hon. G.J. CRAFTER: The Government does not oppose the amendment.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 16, line 27—Leave out paragraph *(d)* and insert new paragraph as follows:

(b) to restore the unit to its previous state.

My amendment was suggested by the conveyancers. Under clause 29, a person must not carry out structural work on a unit unless authorised to do so by unanimous resolution of the corporation. The corporation has power to order that rectification work be carried out if a person acts in contravention of the clause. The amendment strengthens the corporation's ability to have the unit restored to its previous state.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 16, after line 30—Insert new subclauses as follow:

(4) Where a person is convicted of an offence against this section, the court may, in addition to any penalty it may impose, order the person to carry out, within a period fixed by the court, specified work on the relevant unit.

(5) If the person against whom an order is made under subsection (4) fails to comply with the order within the period fixed by the court, that person is guilty of a further offence.
Penalty: $5 000.

This amendment provides that, if a person fails to comply with an order of the corporation to carry out rectification work on a unit, the person is guilty of an offence. This amendment will allow the court before which the person is convicted to order that the work be carried out.

Amendment carried.

Mr S.J. BAKER: I move:

Page 16, after line 30—Insert new subclause as follows:

(4) In this section—
'prescribed work' in relation to a unit means—
(a) the erection, alteration, demolition or removal of a building or structure;
(b) the alteration of the external appearance of a building or structure.

Amendment carried; clause as amended passed.

Clause 30—'Duty to ensure.'

The Hon. G.J. CRAFTER: I move:

Page 16—
Line 36—Leave out 'and any' and insert ', any'.
Line 37—After 'work' insert 'and any other associated or incidental costs'.

This technical amendment is suggested once again by the conveyancers. Under clause 30, a corporation must keep all buildings on the site insured to their replacement value. 'Replacement value' is defined to include the cost of preliminary demolition work and necessary surveying, architectural or engineering work. It is suggested that the definition also make reference to other 'associated or incidental costs'.

Amendments carried; clause as amended passed.

Clause 31—'Duty to insure against liability.'

The Hon. G.J. CRAFTER: I move:

Page 17, line 7—After '$1 000 000, 'insert, ', or such greater amount as the regulations may prescribe.

The amendment provides that a corporation must keep itself insured against a liability in tort. The Bill provides that the insurance cover must be for at least $1 million. It has been submitted that the minimum figure should be higher. The Government is not convinced that this should be so, but does acknowledge that the figure should be kept under review. Accordingly, it is proposed to amend the Bill to allow a regulation to be made in the future if (or when) the figure should be increased.

Mr S.J. BAKER: The Opposition supports the amendment. I understand that the common insurance cover is now about $5 million and it may be that this amendment is already out of date in fixing the sum of $1 million. For two small units sitting together, the owners may not want $5 million coverage. The greatest need is in regard to people who might suffer personal accident. I understand that the current standard is $5 million. When the regulations are put down, I ask the Minister to consider that, because it may be necessary to prescribe a sum greater than $1 million.

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33—'Holding of general meetings.'

Mr S.J. BAKER: I move:

Page 17, lines 25 and 26—Leave out 'any unit holders in respect' and insert 'the unit holders of'.
Page 18, line 5—Leave out ', wherever possible,' and insert ', in writing,'.

The first amendment cleans up a deficiency in the English wording and the second ensures that, as the original notice of meeting is in writing, if a meeting is adjourned the next notice of meeting also is in writing so that everyone knows when the meeting is to take place.

Amendments carried; clause as amended passed.

Clause 34—'Voting rights at general meetings.'

Mr S.J. BAKER: I move:

Page 18, line 11—Leave out 'development' and insert 'scheme'.
Line 11—After 'commercial' insert 'or business'.

We are not referring to a strata development but a strata scheme when we are talking about the voting rights at the general meeting and the words 'commercial premises' may have connotations that we do not necessarily believe should be conveyed. We want to make it specific that we are talking about business or commercial premises, and the amendment clarifies the law in this regard.

The Hon. G.J. CRAFTER: The Government accepts this amendment.

Amendments carried; clause as amended passed.

[*Sitting suspended from 6 to 7.30 p.m.*]

Clause 35—'Management committee.'

The Hon. G.J. CRAFTER: I move:

Page 18, line 42—After 'committee' insert 'of unit holders'.

This amendment improves the wording of subclause (1) and has a similar purport to the rest of the Bill.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 19, line 3—After 'Act' insert 'or by the articles of the corporation'.

This amendment adds additional words to subclause (3) to make clear to corporations that the articles are part of the Act.

Amendment carried.

Mr S.J. BAKER: I move:

Page 19, after line 11—Insert new subclause as follows:

(6a) A member of a management committee can appoint another unit holder to act as his or her proxy at any meeting of the committee that the member is unable to attend.

The Bill does not provide for proxies. I intended to move that proxies be allowed at general meetings but, because I did not feel so strongly on the issue because of the ramifications of motions that might be moved at general meetings, I did not pursue the point. However, it could perhaps be pursued in another place. It is appropriate, however, with management committees meeting on day-to-day operations, that a proxy can be appointed if someone is away, and I therefore move my amendment.

The Hon. G.J. CRAFTER: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clauses 36 and 37 passed.

Clause 38—'Duties of the original proprietor in relation to strata corporations.'

Mr S.J. BAKER: I move:

Page 20—

Line 10—After 'original' insert 'registered'.

Line 15—After 'original' insert 'registered'.

Line 17—After 'original' insert 'registered'.

The amendments add the word 'registered' between the words 'original' and 'proprietor' whenever occurring, to ensure that this provision is in keeping with the interpretation clause.

The Hon. G.J. CRAFTER: The Government is not opposed to accepting pedantics.

Amendments carried; clause as amended passed.

Clauses 39 and 40 passed.

Clause 41—'Information to be furnished.'

The Hon. G.J. CRAFTER: I move:

Page 21, after line 32—Insert new subparagraph as follows:

(iia) particulars of any expenditure that the corporation has incurred or is about to incur and to which the unit holder of the unit must contribute, or is likely to be required to contribute;.

Clause 41 sets out the various matters that the corporation should disclose to a unit holder or a prospective unit holder. It has been submitted that the corporation should also disclose particulars of any expenditures which the corporation has incurred or is likely to incur and to which the unit holders are to be required to contribute. This submission has been accepted by the Government. It is particularly important that a potential unit holder know of the extent of any liabilities that are to be charged against his or her unit.

Mr S.J. BAKER: I ask the Committee to defer to my amendment in this case, which means that the Minister's amendment must be defeated so that I can move the Opposition's amendment.

The CHAIRMAN: We are taking these amendments in two parts and are considering the first amendment, that of the Minister to insert new subparagraph (iia) after line 32. In this case, the Committee must defeat the Minister's amendment, or an amendment must be moved to the Minister's amendment.

Mr S.J. BAKER: The amendment standing in my name provides:

(iia) particulars of any expenditure that the corporation has incurred or has resolved to incur and to which the unit holder of the unit must contribute . . .

The phrase 'about to incur' in the Minister's amendment raises a question on which I do not know that the Parliament can rule because 'about to incur' may involve only a short space of time. However, if a corporation has ruled that the arrangement should be long term as well, my amendment would be appropriate.

The CHAIRMAN: I believe the Minister has indicated his agreement to the honourable member's amendment and, if that is so, he may by leave withdraw his amendment, and the Committee will then proceed with the honourable member's amendment.

The Hon. G.J. CRAFTER: I seek leave to withdraw my amendment. This is a minor issue of wording, and that suggested by the Opposition is more comprehensive, and in that sense an improvement on the wording of my amendment.

Leave granted; amendment withdrawn.

Mr S.J. BAKER: I move:

Page 21, after line 32—Insert new paragraph as follows:

(iia) particulars of any expenditure that the corporation has incurred, or has resolved to incur, and to which the unit holder of the unit must contribute, or is likely to be required to contribute.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 22, after line 11—Insert new subclause as follows:

(4) A statement of a strata corporation provided for the purposes of subsection (1) *(a)* is, in favour of the person to whom it is provided and as against the corporation, conclusive evidence (as at the date of the statement) of the matters contained in the statement.

This amendment provides that a statement of a corporation provided under clause 41 is binding on the corporation as to the matters contained in the statement. The provisions will estop the corporation from later claiming amounts not included, or inaccurately included, in a statement.

Amendment carried; clause as amended passed.

Clause 42 passed.

Clause 43—'Insurance by unit holder.'

The Hon. G.J. CRAFTER: I move:

Page 23, line 5—Leave out 'mortgages secured over the unit' and insert 'the mortgages noted in the contract'.

This is another drafting matter that makes the clause clearer. The subject matter of the clause is a contract and deleting reference to the unit makes the clause clearer.

Amendment carried; clause as amended passed.

Clause 44—'Dealing with part of unit.'

The Hon. G.J. CRAFTER: I move:

Page 23, line 28—After 'unit' insert—

(a) to another unit holder;

or

(b).

The clause restricts the ability of a unit holder to deal with part of a unit. For example, a unit holder cannot sell his or her unit subsidiary unless he or she first achieves an amendment to the strata plan. However, the provision does not prevent a unit holder granting a lease or licence over a part of the unit if so authorised by unanimous resolution of the corporation. This amendment will allow the unit holder at any time to grant a lease or licence to another unit holder. There is no significant reason why the Bill should regulate these arrangements.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 23, line 29—Leave out 'subsection' and insert 'paragraph'.

This is another drafting amendment.

Amendment carried; clause as amended passed.

Remaining clauses (45 to 50) passed.

Schedule 1 passed.

Schedule 2.

The Hon. G.J. CRAFTER: I move:

Page 27—

Leave out subclause (3) of clause 4.

Leave out paragraph *(c)* of subclause (1) of clause 5.

In relation to the first amendment the aggregate of unit entitlements of units in a particular scheme may be required to total a prescribed number (refer to clause 6 (3)). This transitional provision assumes that an appropriate number will be 10 000. It has become apparent that this may not be so. Accordingly, it is proposed that this particular transitional provision be deleted.

The second amendment corrects a technical error. Clause 5 relates to building schemes established before 22 February 1968. It is intended to preserve the ability of these schemes to 'convert' to strata title schemes. The qualification contained in paragraph *(c)* of subclause (1) no longer applies under the Real Property Act 1886, and so it should be deleted from this Bill.

Amendments carried; schedule as amended passed.

Schedule 3.

The Hon. G.J. CRAFTER: I move:

Page 28, clause 4—

Leave out 'A person' and insert 'Subject to the Strata Titles Act 1987, a person'.

Leave out subclause (2).

Page 28, clause 9—

Leave out 'the inner surface of the boundaries of the unit' and insert 'the inside of any building forming part of the unit'.

Leave out 'that surface' and insert 'that building'.

Page 29, clause 12—

Leave out 'any change in the ownership or occupancy of the unit' and insert—

(a) any change in the ownership of the unit, or any change in the address of an owner;

(b) any change in the occupancy of the unit.

The amendment to clause 4 relates to the keeping of animals in a unit. Subclause (2) provides that the corporation cannot prevent the keeping of a guide dog in a unit. Some confusion has arisen over the relationship between this clause and clause 19 of the Bill. In particular, the Government does not want a corporation to be able to argue that it can alter its articles to restrict guide dogs. Accordingly, it is proposed to make this simple amendment to ensure that clause 19 of the Bill (forbidding the corporation from changing its articles to prevent, or restrict, the use of a guide dog) always prevails.

The amendment to clause 9 is a point of clarification proposed by the Standing Committee of Conveyancers and accepted by the Government. The amendment to clause 12 will require a unit holder to notify the corporation of any change in the ownership of a unit or the address of an owner. It was suggested by the Standing Committee of Conveyancers.

Amendments carried.

Mr S.J. BAKER: This schedule provides the standard set of articles under which strata corporations will operate. Admittedly, there will be the opportunity for strata corporations to set their own articles (and I referred to this process previously). The Minister will be aware that the Standing Committee of Conveyancers made a number of recommendations in respect of the articles and suggested that a number of things should be done by unanimous resolution. For example, a person bound by these articles must not, without the consent of the strata corporation—and it wanted the unanimous consent of the strata corporation—damage any lawn, garden, tree, shrub, plant or flower. Reference was earlier made to the situation of a tree that was dying or inappropriate shrubbery that needed to be replaced which could be regarded as being damaged; that could be subject to legal interpretation.

The committee has recommended a number of changes to these articles. I find the articles, as they stand, quite acceptable, because there is the provision to adopt one's own articles. The larger strata corporations in relation to the more expensive developments will certainly adopt their own articles, and they will be more extensive than these skeleton articles. I did not think it was appropriate to go further down the track of laying down unanimous decisions when one wants to take a plant out of a garden. The Opposition is relaxed about this standard set of articles which will automatically apply to strata corporations but which, in many cases, will have a short lifetime until they have their own articles.

The Hon. G.J. CRAFTER: There is nothing I can add except that I am glad the Opposition is relaxed about the matter.

Schedule as amended passed.

Title passed.

Bill read a third time and passed.

BEVERAGE CONTAINER ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

ACTS INTERPRETATION ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

TRADE STANDARDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 February. Page 2642.)

Mr S.J. BAKER (Mitcham): The Opposition cautiously supports the measure that we have before us tonight. It is an important measure from the viewpoint of the rights of people, whether they be manufacturers, suppliers, retailers or, indeed, consumers, in this State. It addresses the specific question of dangerous goods and dangerous substances and the supply of dangerous services. We already have a set of standards laid down. We have the Fair Trading Act 1987 and the Trade Standards Act 1979 in which there are prescriptions as to how people should conduct business and what controls should be maintained on such people.

The Government has determined that the provisions which apply now are quite insufficient in those circumstances where dangerous goods, substances or services are placed on the market. It is a very sensitive issue, because it means that in the process rights are at risk, and can be trampled upon if not handled correctly. That is why we have a number of concerns about this measure. Generally, we believe that it is imperative that the Minister has the right—indeed, the bounden duty—to prevent dangerous goods, substances and services from being on the market. In that process, the Opposition commends the Government for taking action to make it possible to remove goods at the

earliest opportunity should they threaten the life or health of a person. The Act is but a short one, and I note that a number of amendments are to be moved both by the Government and me.

Briefly, the Bill enables the Minister to declare specified goods or services to be dangerous goods or services, and goes far further than the existing Trades Standards Act. It enables the Minister to place a temporary ban on the manufacture or supply of goods or services which appear to him or her may be dangerous. Such a ban may be extended only on the recommendation of the Trade Standards Advisory Council. The total period of the temporary ban including the extension cannot exceed six months. Referring to the Trade Standards Advisory Council, the Minister has an opportunity to do something immediately, but it must be ratified by the advisory council, which has a broad cross-section of representation, before those bans or limitations can continue for a period. In this Bill, that period is from three months to six months, but we intend amending that measure.

The Bill enables the Minister to issue a defect notice which identifies the defect in, or the dangerous characteristics of, the goods, and directs the supplier to take specified action, including the recall of goods. Importantly, there is a 'fail safe' provision that involves the holding of a conference about the publication of such notice—given that if a notice happens to be wrong and the goods are not defective, there must be recourse, and the recourse is provided by reference to the council. This council will stand in judgment, not only on the goods but, I suppose, inevitably, on the action of the Minister, because it will be the Minister who is depriving someone of their livelihood in the process.

It provides for notification to the Minister of voluntary recall of goods. We are well aware, when we listen to the radio, that when Mitsubishi or General Motors-Holden or one of the other manufacturers finds a fault in their fuel emission system or braking system or carburettor system which requires attention, they put out a general call back across the air waves and put notices in the paper. This requires the Minister to be informed within a very short period of time so that he can do all in his power to ensure that the public is informed likewise.

The Bill enables the Governor, by regulation, to promulgate quality standards covering goods and services. Whilst we do not want to be overburdened with regulations, the facts of life are that in certain instances it is appropriate that quality standards be laid down. Indeed, quality standards have been laid down in a number of areas already, and this Bill will be able to pick up those and, perhaps in newer areas, put down other standards which must be complied with, particularly by manufacturers.

The Bill amends section 44 concerning compensation to persons who have suffered loss through the failure of a manufacture or supplier to comply with a provision of the Act. The Opposition has some grave difficulties with the new provisions relating to section 44 and section 26 of the Act, but those will be addressed during the Committee stage. The Bill rewrites the powers of the standards officer, who has the right of entry and a whole range of other rights when searching for what are presumably dangerous goods, substances or services. It enables the officers to take measurements, photographs, films and video recordings. I am pleased to see that we are up to date by including video recordings. The Bill brings the current provisions into line with the Fair Trading Act. That means we do not have to have duplicate legislation. A range of other measures are contained within the Bill, mostly of a minor nature.

We have some concerns about the way in which the Bill operates, because we believe it is important that fairness should prevail. In this very difficult situation, where people can be bankrupted, every opportunity must be provided for recourse under the Bill. By the same token, we believe it is absolutely essential, if there is a risk to life, limb, health or whatever, that that risk be removed from the marketplace. I believe that, with appropriate amendments, this Bill will do exactly what is intended; that is, prevent the proliferation of poorly designed toys, equipment, pharmaceuticals and various other devices that are on the market, but at the same time, if our amendments succeed, the manufacturers and suppliers can feel safe in the knowledge that the Act will be fair to one and all. I commend the Bill to the House.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its support of this measure, although I note that it intends to move some amendments. I give notice to the House that I also have on file a series of amendments that will be moved by the Government in the Committee stages. Those amendments have come about by some belated representations made to the Government by the major association of traders, which has raised a number of points to which we have given full consideration. We now propose to add to the Bill various amendments to accommodate the particular difficulties raised by that association.

Briefly, the Bill allows for interim bans on dangerous goods and potentially dangerous goods and allows for a system of product recall for dangerous goods. That is based on the Commonwealth Trade Practices Act. It is interesting to note that this State has not previously trodden down that path because of financial consequences to retailers and manufacturers who, it is believed, may suffer considerable loss if it is later found that the goods were safe, that the fault lay with the consumer's use of them, and an interim ban was then lifted.

Provisions to compensate suppliers in these circumstances were considered too complex and it was decided at that time that banning was a serious step that should be taken only as a last resort and after it had been established that the goods were dangerous or potentially dangerous. However, most other States in Australia have specific provisions, in their equivalent legislation, to impose interim bans, as does the Commonwealth under the Trade Practices Act. Both the Commonwealth and State Governments have used these powers regularly for a number of years and this Bill amends the South Australian Trade Standards Act to include specific provisions for interim bans to bring the legislation into line with the Trade Practices Act. The Bill also attends to a number of other matters which improve this legislation, and I commend it to the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Repeal of s.3.'

Mr S.J. BAKER: It has been suggested that the repeal of section 3 of the principal Act detracts from the quality of the Bill and, indeed, detracts from all Bills. Section 3 of the Act specifies the divisions which are contained within the Act. Those people who are viewing the Bill for the first time can go to clause 3, near the front of the Bill, and note the general provisions that are contained within the Act. This happens to be very important for people who have had no exposure in the past to legislation and who wish to be able to get to the specific area in which they have an interest as quickly as possible.

Without clause 3, the index clause, we do not have the opportunity to quickly scan the propositions or the listing of the various divisions and then spend time only on that division that we want to. It is important that all Bills be as simple as possible. They should have attached a schedule which assists the user to work his way through. I note that the Fair Trading Act 1987 has on the front a summary of provisions. I think that is excellent because it means that people can pick up the legislation and go straight to the provision which affects them.

One of the difficulties I had in reading this Trade Standards Act is the difficulty that I always experience when dealing with legislation in this House. It is always the case that amendments have been agreed to, enacted and proclaimed and I have to work through all those amendments to make sure that the provision has not already been amended. When will we get to the situation where we have a Bill before this House and we can pick up the Act, which has been consolidated, because we have word processors and computers, and the last word that was spoken in this House is included in the legislation? That would mean that I do not have to spend until 2 a.m. or 3 a.m. consolidating all the amendments so that I can understand where the changes are being made. I commend that suggestion to the Committee. I know I speak on this issue at least five times a year but it is about time that this House got itself into the twentieth century, perhaps even beat the gun and jumped a century. It is absolutely hopeless, when we have such complex legislation, that it is not given to us in consolidated form.

Ms LENEHAN: In speaking to this clause I want to say that amending the Trade Standards Act is vitally important, particularly in an issue that I have been fighting for some time—and I know other colleagues, particularly the member for Fisher, have been doing the same—and that is looking at demanding the kind of standards which would prohibit and prevent the manufacture and sale of victim and violent toys. If we are to have proper standards this is one area that we can look at as a Parliament.

To that end I called upon the Federal Government to legislate to prohibit the import—most of these toys are imported—of violent and victim toys. The Federal Government has decided on a policy of self-regulation by the major retailers in this country for a trial period of one year. I, for one, will be watching very carefully what happens regarding this self-regulation trial. I remind the House of some of these dreadful toys: things like the 'Stitch Mitch' series, where you have little children coming out of garbage bins with their entrails hanging out, and all kinds of other horrendous types of sick toys that would have to come from the minds of sick adults. I am aware that there is a great movement in the community to prohibit these types of toys. I am very supportive of this Bill and of the call for an increase in standards in a number of areas, but specifically in relation to children's toys.

Clause passed.

Clause 4—'Interpretation.'

The Hon. G.J. CRAFTER: I move:

Page 1, after line 26—Insert new paragraph as follows:
(ab) by striking out the definition of 'materially inaccurate'.

The Statutes Amendment (Fair Trading and Trade Practices) Act 1987 repealed section 31 of the Trade Standards Act and, because that section is no longer in the Act, it is no longer necessary to have a definition of 'materially inaccurate'.

Mr S.J. BAKER: The Opposition supports the amendment. It is consistent with the Fair Trading Act and was recommended by the Retail Traders Association. It is eminently sensible.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Line 27—Leave out 'and'.

This is a simple drafting amendment.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

After line 33—Insert new word and paragraph as follows:
and
(c) by inserting at the end of the definition of 'supply' the passage 'and "supplier" has a corresponding meaning:'.

This simply clarifies the legislation. A definition of 'supplier' will now be inserted.

Amendment carried; clause as amended passed.

New clause 4a—'Establishment of council.'

The Hon. G.J. CRAFTER: I move:

Page 1, after line 33—Insert new clause as follows:
4a. Section 8 of the principal Act is amended—
(a) by striking out from subsection (2) 'five' and inserting 'six';
and
(b) by inserting after paragraph (c) of subsection (2) the following paragraph:
(ca) one shall be appointed from a panel of three persons nominated by associations that, in the opinion of the Minister, represent the interests of suppliers of goods;

This new clause illustrates that the Government desires to add to the Trade Standards Advisory Council a person versed in the supply of goods. Therefore, the Government proposes to amend subsection (2) by altering the membership of that advisory council from five persons to six persons and inserting a new paragraph *(ca)* after paragraph *(c)*.

Mr S.J. BAKER: I am delighted with the Minister's response. I thought that I would have to suspend Standing Orders—and then I thought it was not worthwhile—to get a new clause inserted in the Bill. It is appropriate that, because suppliers will be asked to conform with this legislation, they have representation on the advisory council. I commend the Minister for taking up the proposition that was put forward by the Retail Traders Association.

New clause inserted.

Clause 5 passed.

New clause 5a—'Standards officers.'

The Hon. G.J. CRAFTER: I move:

Page 2, after line 4—Insert new clause as follows:
5a. Section 14 of the principal Act is amended by inserting in subsection (1) 'employed in the Public Service of the State' after 'any person'.

The Chamber of Commerce and Industry has requested that the legislation be amended to restrict the appointment of standards officers—to limit that position to public servants—and the Government has acceded to that request.

Mr S.J. BAKER: The Opposition supports that amendment.

New clause inserted.

Clause 6—'Powers of standards officer.'

The Hon. G.J. CRAFTER: I move:

Page 2, line 10—Leave out 'the premises' and insert 'any premises'.

This is simply a drafting measure to make more sense of the clause.

Amendment carried.

Mr S.J. BAKER: I move:

Page 2, line 20—After 'that' insert 'the standards officer believes, on reasonable grounds,'

The existing provision in the Trade Standards Act is that, during the course of an inspection of any premises or vehicle, a standards officer must have reasonable grounds before he can seize and remove anything that constitutes evidence

of an offence against the Act. The proposition is that one cannot go around seizing goods and, if one is challenged, one should be able to give good reason why the goods must be seized. The Opposition is trying to preserve rights. If the goods are defective or dangerous they should be seized and this provision does not water that down. It just makes it incumbent upon a standards officer to ensure that he has a reasonable belief before he seizes any material.

The Hon. G.J. CRAFTER: The Government opposes this measure. It is my belief that the Opposition has misunderstood the purport of the amendment that it has moved. I understand that it will substantially increase the powers of an inspector in those circumstances, and I oppose it. I suggest that the Opposition look at this matter again, discuss it with officers and give the matter further consideration in another place.

Amendment negatived.

The Hon. G.J. CRAFTER: I move:

After line 29—Insert new subparagraph as follows:

(ixa) search for any plans, specifications, books, papers or other documents or records;

This amendment comes about as a result of the representations that the Government has received from the Retail Traders Association, which has drawn to our attention that subparagraph (ix) requires that a person provide all documents, even if those documents may incriminate them. The Government recognises this and desires to address the matter. However, to accommodate this, it is necessary to ensure that officers have the power to search for documents. Therefore, the Government has moved to insert this subparagraph.

Mr S.J. BAKER: I am not too sure that the Retail Traders Association suggested this amendment. The association said that the same provision should apply as under the Fair Trading Act, which is that you should not be required to produce a document if it is likely to incriminate you. For some reason there has been the assertion that one can go and search for any plans, specifications, books, papers or other documents or records. That provision is not contained within the Fair Trading Act. It is subsumed within the Act that one cannot seize anything until one looks for it, and so I do not believe the amendment is necessary. I would have to take further legal advice about how far this can be taken. At this stage the Opposition opposes the amendment because we are not sure of its ramifications. Certainly, the amendment was not put forward by the RTA; it was interested only in preserving the normal rights of non-incrimination that exist under our laws. For that reason the Opposition opposes the amendment.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 2, line 39—After 'question' insert 'or to produce a plan, specification, book, paper or other document or record'.

This amendment completes the picture by including in subsection (5) the requirement that the production of plans, specifications, etc. are provided for.

Mr S.J. BAKER: This amendment is the same as that proposed by the Opposition and it is important that it be included.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 2, line 40—After 'answer' insert 'or the production of the plan, specification, book, paper or other document or record'.

Exactly the same principle applies here.

Amendment carried.

Mr S.J. BAKER: I move:

Page 2—Line 41—Leave out 'subsection' and insert 'subsections'.

After line 41—Insert new subsection as follows:

(7a) Where any plan, specification, book, paper or other document or record is seized and removed under this section, the person from whom it was seized, and any other person authorized by him or her, is entitled to inspect it at any reasonable time.

The first amendment is a drafting matter, consequential on the second amendment. These provisions apply in the Fair Trading Act. Under the amendment, if a person is given the authority to take something away, the person owning the property has a right of inspection. It is important that that right be preserved in the legislation, otherwise no-one has an opportunity, if books of account are taken away, to inspect them. Businesses cannot operate in those circumstances. The Liberal Opposition seeks to include this provision to safeguard and assist people who might be operating under difficult circumstances if they do not have access to essential books of account or pieces of equipment.

The Hon. G.J. CRAFTER: The Government accepts the amendments.

Amendments carried.

Mr S.J. BAKER: I move:

Page 3, line 2—Leave out 'three' and insert 'two'.

I know that the Government will not accept the amendment, because the Bill amends the time limit, from two months to three months, but I cannot understand why the Government has sought this change. It is important that members understand the Minister's amendment. New subsection (8) of section 15 provides:

(8) Where any goods are seized and removed under this section and—

(a) proceedings are not instituted for an offence against this Act in relation to the goods within three months of their seizure;

or

(b) proceedings are instituted within that period but the defendant is not subsequently convicted,

the person from whom the goods were seized is entitled to recover the goods, or, if the goods have been destroyed or damaged, or have deteriorated, to recover from the Minister as a debt the market value of the goods at the time of their seizure.

The Trade Standards Act has operated since 1979 and similar provisions existed before that. The longer goods are kept without due reason, the greater cost to be incurred by private business. If it has been appropriate for nine years that there be a two month period during which the Minister can hang onto goods, I cannot understand why in these days of modern technology the period is to be to three months. We are extending the liability borne by the supplier or manufacturer. We are making life more difficult for these people. Is the Minister suggesting that we have so many bad goods on the market that three months is required to assess them? It is important to keep a balance. We have operated successfully for nine years and I cannot see why we cannot keep the existing provisions. I commend the amendment to the Committee.

The Hon. G.J. CRAFTER: I will explain the Government's position in rejecting the Opposition's attempt to insert two months for three months. Some problems have been experienced in the administration of this legislation involving the two month framework. They have been brought about by a few unscrupulous officers of corporations which are under investigation who have simply not been available or who have made it very difficult for officers of the department to gain the necessary information that they require as part of their investigations. Also, it has made it difficult to analyse the product. Sometimes it requires assistance interstate, and what must be taken into account here, apart from the important considerations to which the honourable member has referred with respect to the industry and its proper functioning, is the public interest.

To be barred from completing the successful investigation and taking appropriate action because of this time limit would simply not be in the overall community interest. I understand that only a very few operators have caused this problem but, nevertheless, a few operators can cause considerable havoc in the community in this area and bring about a most unsatisfactory situation and an unsatisfactory end result if this matter cannot be brought to a satisfactory conclusion following appropriate investigations.

Mr S.J. BAKER: For reasons that I have already given, I am dissatisfied with the Minister's response. As I believe that the appropriate period in this case is two months, I insist on my amendment.

Amendment negatived; clause as amended passed.

Clause 7 passed.

Clause 8—'Cost of testing.'

Mr S.J. BAKER: I move:

Page 3—Line 29—After 'the services the' insert 'reasonable'.
Line 36—After 'the services the' insert 'reasonable'.
Line 40—After 'that person the' insert 'reasonable'.

My amendments provide that Governments cannot simply indulge themselves in requiring extraordinarily expensive tests and then ask people to pay the absolute price for such tests. As an example, if both partners are fertile the costs of the tests involved can be minimal in terms of producing a pregnancy, whereas if one of the partners or both of them are not fertile the cost of *in vitro* fertilisation can be extremely high because expensive technology is involved. When we talk about such testing we are talking about a costly mechanism if the tests are taken to an extraordinary degree.

When in Sweden 18 months ago, I examined equipment that was being used to test various materials. That equipment is so far in advance of anything used in Australia today that I suppose it will take 10 years before we catch up. The Swedes considered that equipment necessary because they said that they wanted to provide the safest working conditions and the safest products on the market.

It is important that we do not ask people to bear extraordinary costs merely because a Government official requires a test to be made overseas. My amendments will ensure that the Government recovers reasonable costs, although it may not be able to recover extraordinary costs. If a director at departmental level may require an oversea test to be made because there is no reasonable means of testing here, there is no checks or balances system that says that a departmental decision has been made at the Director-General level to ensure that the expenditure is worthwhile or whether the test will elicit a result other than that already obtained by means of existing local techniques.

The availability of expensive technology means that today we can no longer guarantee the results of the simple tests that were previously applied. One of the foremost testing laboratories in Australia is AMDEL and some of its tests are expensive. However, they are nowhere near as expensive as some overseas tests. If the Minister requires that these costs shall be borne by the public, only a reasonable cost should be charged for otherwise expensive tests, bearing in mind that an overseas test may reveal the same result as would a local test.

The Hon. G.J. CRAFTER: The Government accepts the amendments.

Amendments carried; clause as amended passed.

Clause 9—'Duty to comply with trade standards.'

Mr S.J. BAKER: Existing section 22 of the principal Act provides:

No person shall in the course of a trade or business manufacture or supply any goods that do not comply with any applicable safety standard.

The new section is probably an example of a provision that is not clear. There is only a thin difference between the existing section and the new section. This matter was raised by the Retail Traders Association and I have received legal advice that by this new section we seem to be providing the same things in paragraphs *(a)* and *(b)*. It is possible not to comply with the applicable standards the same as it is possible to contravene the safety standards, but the two in certain circumstances may not be mutually exclusive. We should tidy up this provision and put it into one set of words that state 'If you do not comply or if you contravene, you will incur a penalty of $10 000.' That would be more appropriate than the present provision in the Bill. The RTA considered that paragraph *(b)* was superfluous.

The Hon. G.J. CRAFTER: The best advice received by the Government is that this is the most appropriate way to express the law so as to cover the field and to ensure that there cannot be a way around this provision and that prosecutions under it will succeed.

Clause passed.

Clause 10—'Safety standards.'

Mr S.J. BAKER: I move:

Page 4, line 25—Leave out 'directed at preventing or minimising' and insert 'designed to ensure the prevention or minimisation of'.

This is an interesting recommendation from the RTA, which provides:

Safety standards are directed at preventing or minimising risk of injury or impairment of health.

My amendment will result in stronger wording than that of the provision in the Bill. I recalled the provisions of the occupational and safety legislation. I commend the RTA, which desires its members to provide the safest services available, and many of the comments that they have provided for the Government on this matter have been directed at just that. Safety standards are not directed at any specific person or group. They are designed to achieve a certain purpose: that is, to minimise or prevent a range of misfortunes including injury and impairment of health.

The Hon. G.J. CRAFTER: The Government rejects this amendment. We are trying to mirror the Trade Practices Act provisions. It is believed that the inclusion of the words that the Opposition seeks on behalf of the Retail Traders Association will very much hamper law enforcement in this area and may not achieve the end result that the association seeks.

Amendment negatived; clause passed.

Clause 11 passed.

Clause 12—'Declaration of dangerous goods and services.'

Mr M.J. EVANS: The Parliament previously had its attention drawn to a number of items that might well fall under the provisions of this clause. One case was that raised by the member for Newland late last year concerning manufactured catapults—a slingshot type of device that fired steel ball bearings or the like—which were commercially available. These devices are particularly dangerous. By raising this matter in the House last year the member for Newland did the State a service. It so happens that recently a constituent of mine was also affected by a similar device when someone on an adjacent property fired such a projectile into his car windscreen, and it in fact penetrated it. The police investigated the matter and were quite concerned.

I continue to be amazed that these devices remain available in the community. I understand that the matter may well have been examined by the Government, and I would like the Minister to comment on that. If he is not able to bring information before the House this evening, perhaps he could obtain a report from either the Attorney-General

or the Minister of Emergency Services on whether the Government has yet considered banning this kind of device under the provisions of the previous Act or whether the provisions we have before us this evening will strengthen the Government's hand in this respect. I am sure that all members of the House, and indeed the South Australian community, will look forward to the day when such devices are no longer available as a weapon, as an item of vandalism or mass destruction.

The Hon. G.J. CRAFTER: I understand that the devices are regarded as weapons and, therefore, are dealt with under a separate Act of this Parliament—I think the Summary Offences Act covers them—although it is possible that they could be brought under this legislation if that were deemed appropriate. I understand that thus far the administration has regarded the other legislation as being appropriate for dealing with these matters. Of course, this opens the way for another line of action to be taken if that is deemed to be appropriate at some future time.

Clause passed.

Clause 13—'Compensation.'

Mr S.J. BAKER: I move:

Page 5, after line 35—Insert new subsection as follows:

(1a) A person who has supplied goods to another is not entitled to recover any amount under subsection (1) in respect of those goods unless that other person has recovered an amount against him or her under that subsection.

The idea is that if one has not suffered material damage one cannot claim a loss. Therefore, if one has not been put to a financial disadvantage one cannot claim. The provisions already existing under the Act very much follow the wording of the amendment.

The Hon. G.J. CRAFTER: The Government opposes the amendment. We believe that it restricts the chain of recovery that is available to persons who are suffering loss in these circumstances and that it is not an appropriate way to deal with the problem to which the honourable member refers.

Amendment negatived.

The Hon. G.J. CRAFTER: I move:

Page 6, line 6—After 'the Minister may' insert 'on the recommendation of the council'.

This amendment was suggested after representations to the Government, and those representations requested that the Minister should be able to place only a temporary ban on the recommendation of the council. The Government accepts that request.

Mr S.J. BAKER: We support the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Page 6, line 7—Leave out 'three months' and insert 'one month'.

I persist with the amendment although I believe that some of the problems we perceived are now dissolved because the matter will now have to go through an arbitrated process. We believe it was important that the Minister could not temporarily ban the supply of goods for three months without any proof that the goods were dangerous. In view of the previous amendment we now have some check and balance in the system, and I think that is excellent. My amendment will make the situation even better.

The Hon. G.J. CRAFTER: In fact, the ban can be for a period of three months, and there is provision in the Act for it to be extended for another three months. However, around Australia the time provided in the various pieces of legislation varies from 28 days to 18 months. Therefore, it has been regarded as appropriate to provide for the three month rule.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 6, after line 18—Insert new subsection as follows:

(4) The Minister must, so far as is reasonably practicable, notify personally or by post any manufacturer or supplier of goods, or any supplier of services, affected by a temporary ban that the ban has been imposed, extended, varied or revoked as the case may be.

We should not be in the situation where the Minister can put a notice in the *Gazette* and suggest that all suppliers will read it. I assure him that very few people in this State read the *Gazette*. In fact, I used to receive a copy but the Government decided to take it away from me because information contained in it was subject to Questions on Notice. The *Gazette* is not well read in this State. It is read by prominent employer bodies, members of the trade union movement and the Public Service (to see who is being promoted), but beyond that it does not have widespread reader appeal. For those very reasons, I do not believe it is sufficient for the Minister to just plonk a notice in the *Gazette* and expect everybody to suddenly understand that a temporary ban is in place. The Government should take reasonable steps.

The Hon. G.J. CRAFTER: The Government opposes this proposal, because it is not in a form regarded as practical. Whilst there may be limitations with respect to the current proposals which involve gazettal, it is believed that the Opposition's proposal simply may not be able to be applied because of the way in which trading occurs in our community and particularly in circumstances where some of it is difficult to link to a person who is responsible for distribution.

Mr S.J. BAKER: I have not said that the Minister 'must' notify personally or by post. I have said that the Minister should take such steps as are reasonably practicable. That is infinitely reasonable. We say that if you are going to place a temporary ban on the goods, then you should at least notify the people affected. If you do not know the people affected, so be it. However, in each case, the department has had contact with someone who has or is likely to have supplied those goods. At the very least, you will have one contact in the industry. I believe that it is a useful amendment. I believe it will help those people who may not know that there is a temporary ban on the goods.

The Hon. G.J. CRAFTER: I can only reiterate that to entrench this in legislation in this form will hinder rather than help. Obviously the department does take steps to advise people to take out of the market-place things regarded as unsuitable for the market-place, to gain publicity in the popular press and the like. It is not appropriate to include this sort of clause in the legislation.

Amendment negatived; clause passed.

Clause 14 passed.

Clause 15—'Insertion of new Part IIIA.'

Mr S.J. BAKER: I move:

Page 7, after line 37—Insert new subsection as follows:

(3a) If the Minister publishes a notice in the *Gazette* under subsection (3) *(c)*, the Minister must take such steps as are reasonably practicable to bring the publication of the notice to the attention of suppliers of the class affected by the notice.

Given this Minister's track record on the last amendment, I know that I will get no joy on this one. However, I believe it is important that the Government does live up to its responsiblities. If it thinks it can wander along and say, 'We might temporarily ban this today on the recommendation of the council', and all they do is put a notice in the *Gazette*, I do not believe that that is living up to its responsibilities. There must be many occasions when the suppliers are well known to the Government. Therefore, there should be a responsibility within this legislation that they shall do this. I commend the amendment.

The Hon. G.J. CRAFTER: As the honourable member suggested, the same reasons apply to this as to my explanation in the last clause. Simply, the entrenchment of this requirement in the legislation does not assist in its administration, as well meaning as it is. Obviously, it is in the interests of the administration of the legislation that the information is disseminated widely. It is believed that the best way to do this is by administrative practices.

Mr S.J. BAKER: That has inflamed me. Can the Minister inform the Committee how many people in this State pay for the *Government Gazette*? We will see how widely spread it is then.

The Hon. G.J. CRAFTER: I do not suppose anyone knows how many people actually read the *Government Gazette*. That is one requirement and it is appropriately a requirement at law and is contained in the legislation for the purposes of procedures and the like. The administration that applies varies from case to case and in varying circumstances. So, for one product, there may be a particular *modus operandi* adopted by the administration to publicise that in the community, to get the message across; certainly to notify manufacturers, distributors, retailers and the like. In another case, a different ploy may be applied. Certainly, that is something taken seriously. It has worked effectively in the past and it will continue to be administered responsibly by the department.

Mr S.G. EVANS: In the case of the *Government Gazette*, why are MPs not provided with a copy? The member for Mitcham may have established how many are distributed on a freebie list, but—

The CHAIRMAN: Order! I must interrupt the honourable member. We are dealing with the amendment to clause 15, page 7, after line 37, and the proposition that the member is putting is not relevant to that amendment. I ask him to come back to the amendment before the Chair.

Mr S.G. EVANS: I will do it by letter and try to correct an injustice that occurs at the moment regarding the *Government Gazette*.

The CHAIRMAN: The honourable member will have plenty of opportunities to rectify any injustices that might occur. We must stick to the proposition in front of us.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 8, line 10—Leave out 'necessary transportation costs' and insert 'reasonable transportation costs that may be necessary'.

I presume that this is acceptable to the Government. We are getting into what is necessary and reasonable in terms of transportation. We believe that if something has to go by train, and there is no time limit on it, and it does not go by plane, transport costs can be quite substantially different when talking about the return of goods. We are talking about the cost of repair or replacement of the goods and the necessary transportation costs. It is a similar provision to reasonable costs incurred in testing and it is consistent with that clause. I commend it to the Committee.

The Hon. G.J. CRAFTER: The Government opposes this measure. It has been inserted, as I explained generally in the second reading explanation, to where possible, mirror the Commonwealth legislation. This section is similar to that which applies in section 65F (6) of the Trade Practices Act. That is seen as desirable.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 8, line 13—Leave our '12' and insert 'six'.

This amendment relates to the deterioration of goods deemed to have taken place whilst in the possession of the purchaser. The Act stipulates that there should be a refund but that the refund should be diminished by the amount of use that has been made of those goods. The period that has been specified is required from the supplier more than 12 months beforehand. We believe that a period of six months is more appropriate. Some goods deteriorate quickly and others can receive a lot of use in a period of 12 months. The Opposition believes that a period of six months is more appropriate rather than allowing a person use of the goods for 12 months.

The Hon. G.J. CRAFTER: This amendment is opposed for the same reasons because it is seen as desirable to bring about uniformity with Commonwealth legislation, and this particular clause relates to section 65f (2) of the Commonwealth Trade Practices Act.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 8, line 34—Leave out '10' and insert '28'.

This amendment relates to the right of a person to seek an audience with the advisory council so that, when the Minister proposes to publish a defect notice, it is incumbent upon the suppliers who feel aggrieved by that decision to contact the Minister within 10 days and say, 'I want you to desist from this measure, but I am willing to go before the advisory council and seek a determination.' The problem that the Opposition envisages is that the *Gazette* is the only instrument involved, so people have to read the *Gazette* in the first place and have to advise the Minister within a period of 10 days. It may well be that after the circumstances are made known they are willing to fit within the defect notice. On the other hand, after some research they might say, 'We believe we are in the right and that the defect notice is not appropriate.' We suggest that 28 days is a better period during which the suppliers have a right to go back to the Minister and seek an audience with the advisory council.

The Hon. G.J. CRAFTER: This amendment is opposed for similar reasons. It relates to section 65j of the Commonwealth Trade Practices Act.

Amendment negatived.

The Hon. G.J. CRAFTER: I move:

Page 9, after line 21—Insert new subclause as follows:

(7) If the Minister decides not to publish a defect notice, the Minister must give notice of that decision in the *Gazette*.

This amendment brings about the situation where the Bill requires that the Minister publish in the *Gazette* a draft defect notice. In the event that the Minister decides, on the advice of the council, not to proceed with the defect notice, it seems reasonable that the Minister should publish a further notice withdrawing the draft defect notice.

Mr S.J. BAKER: That explanation does not appear to fit in with clause 27b, which provides:

(1) Where the Minister proposes to publish a defect notice in relation to goods, the Minister must publish a notice in the *Gazette* containing—

(a) a draft of the proposed defect notice;

All the Minister is saying is that it is a possibility, so he is suggesting that there will be in the minds of people the idea that the draft still exists as a document and therefore hangs over the supply of those goods. By so doing, new subsection (7) says that if the Minister decides not to publish a defect notice, he must give notice of that decision in the *Gazette*. I support the amendment.

Amendment carried.

Mr S.J. BAKER: I move:

Page 9, after line 21—Insert new subsection as follows:

(7) The Minister must not publish a defect notice so as to contravene a recommendation of the Council under subsection (6).

The interesting thing about new subsection (6) is that it goes nowhere. It states:

(6) As soon as is practicable after the conclusion of a conference the council must recommend that—

(a) the Minister published a defect notice in terms of the draft notice;

(b) the Minister publish the defect notice with specified modifications;

or

(c) the Minister refrain from publishing the defect notice.

What does that mean? Should the Minister then concur and actually do what the council requires or leave it hanging for another two months and live up to the determination? There is no requirement whatsoever upon the Minister to take the expert opinion of the advisory council and do anything with it. To do nothing in certain circumstances can be just as damaging as publishing the defect notice.

In the terms of our amendment, I am sure that if the council advised the Minister to publish a defect notice it would be out in five minutes. Subsection (7) is similar to the one talked about and recommended by the Minister, but it also covers another possibility, so the Opposition commends it to the Parliament.

The Hon. G.J. CRAFTER: The Government opposes this measure because it fetters the power of the Minister to administer the Act and does so in a way which is seen as undesirable.

Mr S.J. BAKER: Can the Minister explain the role of the advisory council and the role of the Minister and his responsibility in accepting the commendation of the advisory council?

The Hon. G.J. CRAFTER: It is an advisory council which gives advice to the Minister. In the community interest the Minister rightly accepts the receipt of that advice, takes it into account and makes the appropriate decision.

Amendment negatived.

Mr S.J. BAKER: I move:

Page 9—

Line 24—Leave out 'two' and insert 'seven'.

After line 32—Insert new subsection as follows:

(3) The Minister may exempt (on such conditions as the Minister thinks fit)—

(a) a supplier or suppliers of a particular class;

or

(b) goods or goods of a particular class, from a requirement of this section.

This amendment deals with the recall of goods. This crazy amendment that the Government has put forward says that if the goods are to be recalled the Minister should be notified within two days. In practical circumstances that could be Friday, Saturday and Sunday, and that is simply not on as far as notifying anybody about the recall of goods or services. The Opposition thinks it more appropriate that a greater time span be given, and recommends seven days. I am sure that when the great minds meet in another place they will probably reach a compromise, but we suggest seven days as a reasonable period within which the voluntary recall should take place.

Whilst addressing this first amendment I wish to add that the next amendment has some bearing on this matter. There are a number of times when goods will be recalled because they have simply run the course of time. We know that particular goods and services have a limited lifetime. The manufacturer or supplier may well deem it appropriate to remove them because they are stale or no longer do the job for which they are designed.

In those circumstances, voluntary recall involving a requirement that the Minister be notified that the potato chips will go stale will overload the Government with a great deal of paperwork for what I can see is very little gain. As the provision blandly says, where a supplier voluntarily takes action to recall any goods because the goods will or may cause injury (one may get sick from eating stale potato chips), the supplier must, within two days after taking that action, give notice in writing to the Minister. The Opposition supports the intent of the proposition and believes that it would not be appropriate on many occasions because, due to the effluxion of time, those goods should no longer be on the market and are taken off.

My other amendment inserts a new subsection after line 32. If articles are recalled as a natural course of action, the supplier should not have to tell the Minister every time it happen. This allows the Minister the opportunity not to require notices to hit his desk in relation to absolutely inconsequential items. A greater time span must be provided, namely, seven days, and there should be an opportunity to get rid of the rubbish and concentrate on only those items that may have a propensity to maim, injure or cause ill health.

The Hon. G.J. CRAFTER: The first amendment mirrors a section of the Commonwealth Trade Practices Act (section 65R(1)); the same arguments apply, so the Government opposes that amendment. In his second amendment, the honourable member referred to a number of circumstances with respect to date stamping of foodstuffs. It is not intended that this provision apply to that situation but to the voluntary recall of motor vehicles or contaminated foods. It is a matter of the application of this provision in the appropriate circumstances.

Amendments negatived; clause as amended passed.

Clause 16 passed.

Clause 17—'Repeal of s. 44 and substitution of new section.'

Mr S.J. BAKER: I move:

Page 11, after line 10—Insert new subsection as follows:

(1a) A supplier who incurs a liability under this Act through the failure of a manufacturer or another supplier to comply with a provision of this Act is entitled to compensation from the manufacturer or the supplier (or jointly from them both) for any loss or expense incurred as a result of that failure.

This provides that the supplier has the right to recover, which is no longer allowed under this legislation. If a supplier, through no fault of his or her own, loses the goods through a ban or a defect notice, the Minister has effectively removed the right of that person, in legislative terms at least—he or she might have a common law right—to obtain recompense for the losses incurred. This provision exists in the Trade Practices Act, and the amendment should be supported.

The Hon. G.J. CRAFTER: My initial reaction to this amendment is that it is really superfluous because those rights already exist at law. However, it is appropriate that the matter be looked at and advice taken on it. If I am wrong, the matter can be dealt with in another place.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

The Hon. G.J. CRAFTER (Minister of Education): I move:

That the House do now adjourn.

The Hon. P.B. ARNOLD (Chaffey): On 19 February 1987 the Minister of Water Resources introduced into the House the Waterworks Act Amendment Bill to give the Government and the Engineering and Water Supply Department the opportunity to introduce new policies concerning the administration of the Waterworks Act and in relation to

connections and the provisions for laying mains. I responded on 10 March 1987 and said:

Unless there is some sinister or ulterior motive behind this Bill that I have not been able to detect, my comments on it will basically apply to the Sewerage Act Amendment Bill. The Government is creating a legislative framework that will enable it to introduce extensive policy changes by way of regulation in the administration of the provision of water and sewerage facilities in this State. If that is the case, there is very little in the Bill before the House.

However, we will watch very closely when the Government introduces the regulations to put into effect the policies that it has outlined in the Minister's second reading explanation.

I am quite sure that the Minister recognised what I was getting at when I made those comments in my second reading speech; in other words, if there was any abuse of the regulations that were brought into the House as a result of the amending Bill, the Opposition would move a motion to disallow those regulations. During the same debate, the member for Eyre in his contribution said:

This will probably be the last chance that Parliament has to debate this matter, because the Government will give itself the power to exercise authority by regulation in relation to revenue and its collection. I believe that this will simplify administration, but it denies Parliament the opportunity of debating these issues.

By way of interjection I said, 'There might be a few motions for disallowance.' Unfortunately, we have seen fit to propose disallowance of the regulations because we believe that there has been blatant abuse by the department in the application of the regulations which relate to the $1 200 fee that must be paid on application to subdivide. Of course, in the past the $1 200 fee appeared to be fair where the person making the initial application for the extension of mains and the provision of water supply was confronted with the cost of the extension of that main. Therefore, a $1 200 contribution by all those who would ultimately benefit from that extension was fair and reasonable.

However, the Government has applied that $1 200 fee not only in relation to subdivisions for the provision of water to additional housing allotments but also where a house property is subdivided from a primary producing property in the Riverland. I refer particularly to the Loxton irrigation area, where the domestic supply is a separate supply from the irrigation system; it comes off the town water supply and, therefore, comes under the Waterworks Act.

The issue is that in many instances (in the vast majority), when the house property is subdivided from the primary producing property, the domestic supply is there; the main has been attached to the house for a long period, ever since the early 50s. Of course, no further domestic water supply will be required, because the rest of the property remains as an irrigated primary producing property. It is not being subdivided for the purpose of creating another housing allotment. Therefore, the demand for $1 200 before the E & WS Department will approve the subdivision is a blatant abuse of the regulations that are before the House. Certainly, it is a charge that in no way can be justified. Certainly, if in the longer term someone was to build on that primary producing property and required a domestic connection, the contribution could be justified. However, a $1 200 contribution for no connection and no work being undertaken by the department is plainly absolute extortion.

I now refer to one or two examples of applications that have been made. Most relate to the Loxton irrigation area, although one deals with the Cooltong area. Basically, the standard response coming back from the department is as follows:

The standard capital contribution is $1 200 per additional allotment created, and is not only a contribution towards the existing main but also includes the cost of providing prelaid water connections to the allotments.

Of course, there will be no prelaid water connections to the allotment. It is an absolute farce and a rip-off. The department further states:

Consequently, before the Chairman, South Australian Planning Commission, will be informed that the land division is satisfactory to this department, it will be necessary to meet the following:

A payment of $1 200 within 60 days of the date of correspondence.

That is a blatant abuse of the regulations. The correspondence continues:

The prelaid water connection work will be constructed after the receipt of advice from the Registrar-General in the Lands Titles Registration Office that the plan of land division has been accepted. Should the early construction of the work be required, this can be arranged by the signing of an indemnity form which can be obtained from this branch.

As I have pointed out, there is no likelihood that a connection will ever be required and, consequently, the prelaid water connection works will never be undertaken. This really is obtaining money under false pretences; it is little short of straight out extortion. In relation to a similar application by a constituent in the Cooltong area, the same advice has been given. The licensed landbroker, in responding to his client, said:

We enclose copy of letter received from E & WS Department making a demand from you of $1 200 as a condition of its consent to your land division. This is a recently introduced policy by the E&WS. You should know that nothing is given in return for this payment except a consent to the land division.

All the person is getting is a piece of paper whereby the department consents to the land division. There is no requiremnet for a further domestic water supply, because it is primary producing land. The person concerned is not creating a further housing allotment. One example involves a constituent in Loxton who has written to me, as follows:

I have been a War Service land settler at Loxton since 1948. As I am now 70 years old, I wish to retire. My wife and I want to continue living in our home. I have applied to the South Australian Planning Commission for approval to excise the house from the rest of the property so as to sell the horticultural property.

He goes on to state:

I feel it is an unreasonable imposition to pay $1 200 to continue using a facility that has been in use for that time.

The DEPUTY SPEAKER: Order! The honourable member's time has expired.

Mr HAMILTON (Albert Park): It was with a great deal of sadness that I read the article today in the *News* on page 3 concerning the death of the engine driver from Port Augusta. As a former railwayman I am well aware of the dangers to which engine crews and, in particular, engine drivers are subject, particularly in the rail cars and when trains travel at high speeds. The very nature of the shell of the rail car is in some ways very fragile when we consider protection of the engine crews, and I understand that the train to Whyalla or Port Augusta travels at about 70 miles an hour. Really, Mr Davison did not have much chance of escaping from the front of the rail car, as I understand it.

Over the years, I have known many instances where driver of motor vehicles (and I will not point the bone at anyone now) have tried to race trains over level crossings. It is a frightening experience. As a person who has travelled in the front of an engine on many occasions, I have witnessed these events. I understand that Mr Davison had warned the passengers on the rail car and that he told his workmate to get back in the rail car. I hope that Australian National and the Federal Minister for Transport will look at this heroic act.

We hear repeatedly how people try to look after others and are seriously injured or killed themselves. Therefore, I hope that, if what I have been told is correct, the Federal Government will recognise this very brave act. Again, as a former railwayman and as the father of an engine driver I, too, would like to convey to the wife and the children of Mr Davison my sincere and deepest sympathy for their tragic loss.

Turning to other matters, last Friday I interviewed a constituent in my electorate office. I have heard of good employers and of bad employers, but the one to whom I shall refer is almost beyond the pale if the allegations made to me are correct. I have written to the Minister of Labour detailing those allegations at length. They are numerous and far too long to relate in this Chamber this evening. However, I shall refer to a couple of matters arising from that interview.

I understand from the woman who visited me that her daughter had been to a doctor complaining of a sore heel and foot. The lass in question advised her employer and went to a doctor who told her that she had a strained achilles tendon and must take the rest of the week off and refrain from walking on that foot. Subsequently, she took the doctor's certificate to her employers, one of whom told her to go home whereas the other wanted to see her. I am advised that the lass eventually went home and I understand that in the meantime the employer had the gall to telephone her doctor.

All members are aware of the doctor-patient relationship which I believe no employer has the right to question. However, I have been informed that the employer questioned the doctor about this lass having time off from work. I suggested to the mother that, if it was possible, the doctor should write to me so that I could take up the allegations with the Minister of Labour, and in due course I received a letter from the doctor, whom I do not wish to name. The doctor's letter states:

> Dear Mr Hamilton. Regarding a phone call I received from a Mr X, Miss Y's ex-employer, I saw Miss Y [on the date given] after she strained her left heel [outside of work] and ordered anti-inflammatory medication and rest from walking for four days [12 to 15 inclusive]: that is, an ordinary sick certificate was issued as walking would aggravate her heel. Her boss phoned me back to discuss her condition and dispute the need for time off. With Miss Y's agreement, I discussed her case with Mr X, outlining the problem, the necessary treatment, and recommended brief rest. I also recommended she avoid high heels while her heel recovered. As I recall, Mr X thought Miss Y should not be doing activities in her free time outside of work—

and I emphasise 'doing activities in her free time outside of work'—

> (that is, modelling or hockey) which would risk her injuring herself and missing time off work. He pointed out her above award wage and value to the business. I put my opinion that it was healthy and proper for people to participate in active sports and other pursuits and that his request for her not to do so was unusual and unreasonable. He also remarked that he didn't play active sport for fear of missing work if he was hurt.
>
> Above all, I reiterated that the medical diagnosis was made by myself and the treatment prescribed accordingly. (I am an active sports medicine doctor involved in post graduate training and practical work with athletes.) I don't see how he, a layman, can dispute my diagnosis or treatment. I also agree that in law, as I understand it, he cannot request or demand an employee's abstinence from other activities unless this is included in a work contract.

The letter contains a few more remarks to the effect that the doctor hopes that this episode may be concluded satisfactorily. It is like the gall of that employer, if that is the case (and I have other evidence that substantiates what the mother has told me), to dominate and, in my opinion, intimidate this girl by telling her that she is not to play sport outside her normal working hours. I have never heard the like of it before. No doubt it has happened previously, but this is the first time this sort of thing has been brought to my attention. I have asked the Minister of Labour to have his department investigate this matter thoroughly, and to have an inspector check these allegations. If the allegations made to me are proved correct, I will consider naming that employer in this House because his is a despicable and intimidatory act. There is much more to this matter than I have time to relate this evening.

In the minute remaining to me, I should like to go on record as to how sad I felt at the resignation of the Hon. Mick Young as the Federal member for Port Adelaide. Everyone knows that Mick has very few enemies. He has tried to help people around him, especially people in the Labor Party such as I. His ability should be recognised in this Parliament. I also believe that soon after the Port Adelaide by-election has been held the people of that district should appropriately recognise, either within the Labor Party or outside it, the wonderful efforts of Mick Young not only on behalf of the people of South Australia but also on behalf of the Australian Parliament itself.

Mr BECKER (Hanson): Whenever the Minister of Housing and Construction thinks that no-one from the Liberal Party is present at a meeting or function, he allows his imagination to run wild. He did this today during Question Time when he accused me and the Party that I represent of a whole range of untruths. He does that deliberately because he wants me and my Party to refute allegations such as those that we support high rise housing development, asset stripping, selling off the Housing Trust, etc.

The Minister, commonly known as Loose Lip, says anything that comes to mind when talking about the Opposition. I have notes taken at last Wednesday evening's meeting, which was organised by the Shelter organisation. At that meeting, again, many untruths were peddled. Fortunately for us, however, we have a copy of the statements made at that meeting and we will deal with them at the appropriate time. That type of tactic is an illness, especially with the socialist left members of this State, and no longer can one feel sorry for them. We are getting a little tired of them, and it is time we set the record straight as to what is happening in this State.

Before we consider the mess that the Minister of Housing and Construction has made of the Housing Trust, I wish to refer the Minister to what the Burke Socialist Government did in Western Australia recently. Time and time again, we have heard the Minister tell us of the policies announced during the most recent State election campaign. The Perth *Daily News* of Monday, 18 January, 1988, contains the following report:

> A by-election promise made by Premier Brian Burke has led to Homeswest refunding $24 000 to an Exmouth house buyer. The man had paid $59 500 to buy his Homeswest house. But last week, the Government agreed he could have it for only $35 000. During the Gascoyne by-election campaign, Mr Burke promised Homeswest tenants in Exmouth they could buy their homes for between $30 000 and $35 000. That was good news for most—but not Peter Green who had paid $59 500 for his house earlier in the year.

The report goes on to state that the Government refunded Mr Green $24 500, so he got his house for $35 000. The report continues:

> Government figures show the cost of the new three-bedroom Homeswest house in Exmouth is $104 500.

That is a 60 per cent reduction or a 60 per cent benefit given to the Homeswest tenant in Western Australia by the Burke Labor Government.

What a lot of nonsense we get from the Minister when he berates the Opposition. I believe that the Minister of

Housing and Construction has increased speculation that there will be real increases in rents payable by Housing Trust tenants on rental rebates, and this will affect 65 per cent of the trust's tenants. Last Wednesday in Parliament the Minister gave an unqualified promise that after August no tenants would be hit with further real increases in rents—and 'real increases' are those over and above inflation.

However, in answer to my question this afternoon the Minister has now limited this promise to apply only to tenants on full rents. The paper he released today included recommendations for real increases in rents payable by tenants on rebates. The Minister's answer, and the letter to which he referred written by the General Manager of the Housing Trust (Mr Paul Edwards), clearly leave open the possibility that the Government will implement some of these options. It is about time the Minister came clean about the rents and advised trust tenants exactly what the future will hold, and that of course depends on the timing of any future State election. The Government put an artificial freeze on rents at the time of the 1985 election. It has more than recouped the revenue lost during that period with a 20 per cent real increase in rents since then. The Auditor-General estimated that in excess of $2 million was lost during that rent freeze. Fancy using the Housing Trust to prop up the electoral chances of a political Party!

The Minister's answer today is a further indication of how little faith trust tenants can now place in anything he says. Since the 1985 State election, Housing Trust rents have increased by 32 per cent, and by 31 August this year will have risen by about 45 per cent. In July 1986, Housing Trust rents increased by 8 per cent, following that notorious freeze. In February 1987 rents increased by 5 per cent, and in August 1987 they increased by 14 per cent—that was 5 per cent plus the CPI of 9 per cent. In February this year rents increased by 5 per cent. If one adds that up it comes to 32 per cent. In August 1988, Housing Trust rents will go up by 5 per cent plus the CPI which is currently running at 8.5 per cent—that is, 13.5 per cent. That makes a total increase of 45.5 per cent. One would have to allow a 1 per cent or 2 per cent variation at present, and this depends on how Paul Keating decides to juggle the figures.

Apart from the rent increases the South Australian Housing Trust has added veterans' disability allowances to their income. This has eroded the valued of the allowance and has meant an increase in rents. In some cases veterans are out of pocket by several dollars per week. That is a disgraceful way to treat those who served this country in its hour of need. The reward we now give these veterans who suffered physical or health impairments is to suddenly tax, by way of rent, their disability allowances. This is the arrogant manner in which the Government is treating our Housing Trust tenants, and it is clear from recent pamphlets that tenants expect their rents to increase to 25 per cent of the income of that household.

When I was in the banking industry it was considered foolish for anyone to commit 25 per cent of their income to housing repayments. We might have been conservative, but to charge someone 25 per cent of their income in Housing Trust rents defeats the purpose of why the South Australian Housing Trust was set up and why it was so strongly supported by the Playford and other Liberal Governments in this State.

What about those who are 75 years of age? During the past 10 years people 75 years of age and over have had their rents frozen. As at 1 July this Government will no longer apply that concession, and this is at a time when those who have survived that long and whose health would not be the best deserve some incentive to provide for their lives and their departure from this earth. The Housing Trust will now put pressure on these people by taking this concession away. This is poor administration and management by a Minister who says that he is there to represent the people. The socialisation of the South Australian Housing Trust is not working and under the past five years of this Bannon Government it has failed.

Let us now turn to its record. In 1985-86, the South Australian Housing Trust suffered its first operating loss of $6 091 000; in 1986-87 it suffered another $6.6 million loss, making an accumulated deficit of $12.7 million. The financial facts are clear. The Housing Trust, when it presented its figures to Parliament, assessed the rent on its accommodation units as rents receivable of $160.8 million less rebates of $47.4 million. That is just a play on figures. Why does it not tell us the facts? The actual rent it receives is $113 million. The rebate is worked out in relation to those who cannot afford the rent.

In other words, the Housing Trust taxes each property with what the market rent should be and if it puts in a pensioner the rent is reduced. What we ought to do is to get down to tintacks. The actual rent paid by tenants was $113 million and the supplementary rental assistance was some $34.5 million. During the year united grants provided under the Commonwealth-State Housing Agreement were applied in part to fund the rental rebates to pensioner tenants and unemployed beneficiaries. The amount so applied was determined by the Commonwealth based on rental supplement assistance of up to $15 per week and granted to tenants of private landlords. For the first time the South Australian Government contributed towards the balance of rental rebates. In other words, the Government was unsuccessful in negotiating a better agreement with the Commonwealth Government.

They are the facts. Pensioners who are means tested by the Department of Social Security should be entitled to rental assistance, but if they are in a trust property they cannot get that. Therefore, the Government, through the Housing Trust, applies for that rental assistance. Housing Trust tenants have never been told the facts of that rental assistance. We find that management expenses, interest, maintenance, council and water rates, bad debts and sundries are $159 million. Therefore, the Housing Trust is forced to sell and do all sorts of things to try to balance the books.

Motion carried.

At 9.47 p.m. the House adjourned until Wednesday 17 February at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 16 February 1988

QUESTIONS ON NOTICE

ELECTRICITY SUPPLY

389. **Hon. B. C. EASTICK** (on notice) asked the Minister of Mines and Energy:

1. Has there been a change of policy in the required payment of a standing charge for electricity supply to new consumers where capital works to provide the supply is involved and, if so, when was the alteration made and what are the effects of such change(s) to consumers?

2. If consumers are now required to pay a standing charge plus the cost of electricity tariff and charges, the latter components not being an offset, what consideration was given by:

(a) the ETSA Board; and

(b) the Government,

to such change?

The Hon. R. G. PAYNE: No. The last variation was made in 1983.

COUNCIL ON TECHNOLOGICAL CHANGE

471. **Mr S. J. BAKER** (on notice) asked the Minister of State Development and Technology: Given the report of the South Australian Council on Technological Change, which expressed concerns about declining Government support for the council, what is the Minister's intention in relation to its future?

The Hon. LYNN ARNOLD: Since the South Australian Council on Technological Change's annual report for 1986 referred to insufficient resources being made available to the council, Cabinet approved a new resource agreement for the council in August 1987. In addition, Cabinet approved the appointment of a new chair, Dr Peter Ellyard, and six new members to the council and the reappointment of three existing members.

The resource agreement that was drawn up was the first such agreement that had quite specifically stated what level of resources the Government was willing to make available to the council. During the previous six years of the council's operation, the South Australian Council on Technological Change drew its secretariat resources from the Department of Employment and Industrial Affairs and, since the election of the Bannon Government, from the Ministry of Technology. In the three budgets brought down by the Tonkin Government (1980-81 to 1982-83) $352 000 was allocated compared with $750 000 allocated by the first three budgets of the Bannon Government (1983-84 to 1985-86). In 1986-87 $250 000 was allocated and in 1987-88, $230 000.

With the formation of the Ministry of Technology, the secretariat personnel were allocated work additional to that of the council and having different priorities. Attempts were made to redress the erosion of the council's resources brought about by these changes. However, the Government has been mindful of the urgent need to keep expenditure to a minimum and the reallocation of resources to the Ministry of Technology to increase the support to the council has always been made with budget constraints in mind.

The amalgamation of the Ministry of Technology with the Department of State Development to form a new Department of State Development and Technology in April last year also had implications for the resources allocated to the council because staff of the former Ministry will now be working within the framework of the new department's corporate plan and the priorities and strategies needed to fulfil that plan.

With these changes in mind, the Government has presented the council with a formal resource agreement that states the resource allocation to the council to which the Government will commit itself. This agreement was drawn up in consultation with the new chair of the council, Dr Ellyard and the Director of the Department of State Development and Technology, Mr Rod Hartley.

In brief, the resource agreement provides the South Australian Council on Technological Change with:

- one part-time secretary,
- one part-time executive officer,
- one full-time equivalent research officer (which may be provided by several officers working part-time for the council), and
- a consultancy budget of $25 000 p.a.

Additional staff will be provided for the council's secretariat to a limit of two full-time equivalents provided due consideration is given to priorities of the department.

The council is, I understand, more than happy with this new resource agreement, and believes that it more than redresses the problems of decreasing secretariat support that the council faced in the preceding three years.