LEGISLATIVE COUNCIL

Tuesday 22 October 1985

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PETITION: OMBUDSMAN

A petition signed by 46 electors of South Australia praying that the House take no action to remove Ms Beasley from the office of Ombudsman was presented by the Hon. Anne Levy.

Petition received.

PUBLIC WORKS COMMITTEE REPORTS

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

Mobilong Medium Security Male Prison

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

West Beach Marine Research Laboratory—Stage 1.

The PRESIDENT laid on the table the following interim reports by the Parliamentary Standing Committee on Public Works:

Adelaide Children's Hospital—Stage IV Redevelopment—Phase I,

Hallett Cove School (Construction),

Roxby Downs (Education Complex and Government Offices).

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Rules of Court—Local and District Criminal Court—Associations Incorporation Act, 1985—Appeals.

Legal Services Commission—Report, 1984-85.

South Australian Museum Board—Report, 1984-85.

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

Pursuant to Statute

Building Societies Act, 1975—Regulations—New Banks.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Advances to Settlers Act, 1930—Report, 1984-85.

Planning Act, 1982—Crown Development Report by S.A. Planning Commission on proposed 66 kV transmission line, Salisbury to Elizabeth South.

Commissioners of Charitable Funds—Report, 1984-85.

Real Property Act, 1886—Regulations—Conveyancing.

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

Pursuant to Statute—

Highways Department—Report, 1984-85.

By the Minister of Fisheries (Hon. Frank Blevins)

Pursuant to Statute—

Fisheries Act, 1982—Regulations—Port Broughton—Fisherman Bay Netting.

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

Pursuant to Statute—

Department of Recreation and Sport—Report, 'Improving the State of Recreation and Sport', 1984-85.

By the Minister of Local Government (Hon. Barbara Wiese):

Pursuant to Statute—

Local Government Finance Authority of South Australia—Report, 1984-85.

Outback Areas Community Development Trust—Report, 1984-85.

OMBUDSMAN

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: On Friday 18 October 1985, the State Ombudsman, Ms Mary Beasley, tendered to the Hon. P. Morris, M.H.R. (Minister for Aviation) her resignation as a Director of the Board of Qantas. The resignation took place following inquiries being made by Qantas and the Federal Government in respect of a claim by her for a rebate for overseas travel for Susan Mitchell.

On Wednesday 16 October 1985, the Premier issued a press statement detailing the actions undertaken by the Government following allegations involving Ms Mary Beasley, and referred to the investigations, of which the Premier had been advised earlier, by Qantas and the Federal Government. The Premier was requested by the Federal Government not to disclose the nature of the allegations until inquiries were completed because there were legal matters. When these allegations became public the Premier sent a telex to the Hon. P. Morris, M.H.R. (Minister for Aviation), requesting that he make available to the South Australian Government a full report on the inquiry by the Federal Government as soon as practicable. A copy of this telex was tabled in the Legislative Council on 16 October 1985.

Further, on 16 October 1985 at the Premier's request, I made a statement to the Legislative Council in which I made it clear that until the report of the Federal Government was received it was not appropriate to take further action in the matter.

On 18 October 1985 the Minister for Aviation advised the Premier by telex of the resignation of Ms Beasley, and advised that the Federal Attorney-General had been fully consulted on the matter and had advised that on the information available the question of any breach of Commonwealth law did not arise.

The Minister for Aviation stated that, in the light of the Federal Attorney-General's advice and Ms Beasley's resignation, he could see no grounds for further action in the matter. That may have been an appropriate attitude with respect to Ms Beasley's directorship with Qantas, but it does not relieve the State Government or Parliament of their responsibilities in respect of the position of Ombudsman.

Accordingly, on Friday 18 October 1985 I again attempted, by telephone, to seek from the Commonwealth more detail than the scanty information so far provided. That request was declined by the Commonwealth on the basis that the matter was concluded as far as the Commonwealth was concerned, and that correspondence between the Minister, Qantas and the Ombudsman was private and confidential.

Despite further representations made by me to the Federal Attorney-General, the Federal Government declined to provide the documentation requested. On Monday 21 October 1985, on the instructions of the Premier, I sent a telex to the Minister for Aviation referring to the examination being undertaken by the Solicitor-General, Mr M. Gray, Q.C., on matters arising consequential upon Ms Beasley's resignation insofar as they may affect her position as Ombudsman. No response had been received to that telex by mid afternoon and a further request for documentation was then made by an officer of the Crown Solicitor's Office to the Office of the Minister for Aviation. A telex from the Minister for Aviation was finally received at 5.30 p.m. yesterday, declin-

ing to make documentation available to the State Government.

In addition to all of the above attempts to obtain a report from the Commonwealth, efforts were made at the same time to obtain relevant documentation from Qantas, and from the solicitors acting for Ms Beasley (Johnston, Withers, McCusker and Co.). In relation to Qantas, an officer of the Crown Solicitor's Office sought on Friday afternoon (18 October 1985), by telephone, Qantas approval for the release all of the documentation held by Qantas relevant to Ms Beasley's claim for overseas travel.

In addition, a telex was sent late on the same afternoon to the Chairman of Qantas seeking copies of the relevant Qantas guidelines to entitlement for directors relevant to overseas travel, and copies of any general forms that need to be completed or certified in respect of such overseas travel and any information or documents which might assist in the inquiries.

In relation to those requests, the legal adviser for Qantas indicated that Qantas would carefully consider the request, but that he would need to seek instructions from the Qantas executive. The legal adviser indicated that, subject to instructions, Qantas would have no objection if the relevant documents were obtained from the solicitors for Ms Beasley. Concurrently, on Friday afternoon 18 October 1985 a request was made by telephone by an officer of the Crown Solicitor's Office to Paul Heywood-Smith, the solicitor from Johnston, Withers, McCusker and Co. representing Ms Beasley, for the release of documents relating to the allegations that had been made in respect of her position on the Board of Qantas.

Negotiations and discussions in respect of the release of relevant correspondence continued to take place on Friday night, 18 October, Saturday 19 October and Sunday 20 October 1985 between an officer of the Crown Solicitor's Office, Qantas legal advisers, and Mr Heywood-Smith.

On the morning of Monday 21 October 1985, a letter from the Crown Solicitor was delivered to Johnston, Withers, McCusker and Co. confirming that the relevant documents were still sought as a matter of urgency. Overlapping that request, a letter was sent by Johnston, Withers, McCusker and Co. to me, furnishing certain material which I propose to table shortly.

On the basis of the material provided by Ms Beasley's solicitors, and of Ms Beasley's public statement, and of the telex of the Minister for Aviation dated 18 October 1985, the Solicitor-General prepared a Memorandum of Advice which I also propose to table. The Solicitor-General relied upon certain opinions of other eminent counsel, and copies of those opinions will also be tabled.

I therefore seek leave to table all of the relevant documentation pertaining to the above matters, and will read out the documents that I seek leave to table. The following are the documents:

1. The opinion of the Solicitor-General dated 21 October 1985, annexed to which are the following documents:
   - (i) Statement of M.C. Beasley dated 17 October 1985.
   - (ii) Telex dated 18 October 1985 from the Hon. P. Morris, Minister for Aviation, to the Premier.
   - (iii) Letter dated 19 October 1985 from Johnston, Withers, McCusker and Co. to the Attorney-General, attached to which were the following documents:
     - *(a)* Letter from L.J. Fisk, Corporate Secretary of Qantas, dated 9 October 1985 to Paul Heywood-Smith.
     - *(b)* Letter dated 22 August 1983 from the Chairman to all Directors relating (among other things) to Directors' entitlements on travel generally.
     - *(c)* Letter dated 6 October 1983 from the Chairman to all Directors advising of travel entitlements of near relatives of single Directors (parents, brothers and sisters).
     - *(d)* Letters dated 20 October and 2 December 1983 from the Assistant Corporate Secretary to Ms Beasley, and travel application for overseas trip which commenced on 25 December 1983.
     - *(e)* Letter dated 18 July 1984 from the Assistant Corporate Secretary to Ms Beasley, and travel application for overseas trip which commenced on 27 September 1984.
     - *(f)* Travel application for overseas trip which commenced on 29 August 1985.
     - *(g)* Memorandum dated 8 October 1985 from the Corporate Secretary to the Chairman detailing fares relating to Miss Mitchell's three overseas trips.
   - (iv) Opinion of Dr Gavan Griffith, Commonwealth Solicitor-General, dated 24 February 1984.
   - (v) Opinion of Ian Temby, Q.C., Director of Public Prosecutions, dated 15 February 1985.
   - (vi) Opinion of Mr C.W. Pincus, Q.C., dated 14 May 1984.

In addition, I indicate that I seek leave to table a supplementary opinion of the Commonwealth Solicitor-General, Dr Griffith, which has just come to my attention and is contained in the *Hansard* record of the Commonwealth Senate on 4 September 1984 at page 410. That can also be taken into account by honourable members in considering the other opinions that I have sought leave to table. Continuing with the list of documents, I seek leave to table:

2. Telex dated 16 October 1985 from the Hon. J.C. Bannon, Premier, to the Hon. P. Morris, Minister for Aviation.

3. Telex from the Hon. P. Morris, Minister for Aviation, to the Premier.

4. Telex dated 18 October 1985, from P.A. Heywood-Smith to the Premier, seeking the opportunity to peruse the report of the Solicitor-General.

5. Telex dated 18 October 1985, from Kym Kelly, Crown Solicitor's Office, to the Chairman of Qantas.

6. Letter dated 21 October 1985, from Crown Solicitor's Office to Johnston, Withers, McCusker and Co.

7. Telex dated 21 October 1985, from C.J. Sumner, Attorney-General, to the Hon. P. Morris, Minister for Aviation.

8. Telex dated 21 October 1985, from the Hon. P. Morris, Minister for Aviation, to C.J. Sumner, Attorney-General.

9. Letter from C.J. Sumner to the Hon. K.T. Griffin, dated 21 October 1985.

Leave granted.

The Hon. C.J. SUMNER: I now turn to the opinion of the Solicitor-General dated 21 October 1985. In summary, that opinion advises that:

1. Where either the Parliament addresses for removal or the Governor is advised to suspend the Ombudsman from office, it must be on the grounds of incompetence or misbehaviour.
2. Misbehaviour in matters outside the discharge of the duties of an office must be an act in breach of the general law of such a quality as to indicate that the person is unfit for the office.
3. Upon the available material, and in particular that, at present, there is no material available which rebuts Ms Beasley's assertion that she believed that she had an entitlement to claim a rebate for Ms Mitchell, there is no breach of the general law.
4. In the Solicitor-General's opinion he does not regard the available material as sufficient to amount to

grounds of misbehaviour within section 10 of the Ombudsman Act 1972.

As my letter to the Hon. K.T. Griffin dated 21 October 1985 (now tabled) indicates, I made available copies of the Solicitor-General's opinion and supporting documentation to the Hon. K.T. Griffin on Monday night of 21 October 1985 and fully briefed the Hon. Mr Griffin in relation to that opinion and to matters arising from it in the presence of the Solicitor-General, and Mr K. Kelly, Assistant Crown Solicitor in the Crown Solicitor's Office.

The opinion and documentation were also provided today to the Hon. Lance Milne, Mr N. Peterson, M.P., and Mr Martyn Evans, M.P. The question now to be resolved is for the Parliament to consider the material now before it and to determine the future course of action in respect of the Ombudsman's position.

This morning the Premier, the Leader of the Opposition, the shadow Attorney-General (Hon. K.T. Griffin) and I met to further discuss the matter. It was agreed that a statement should be made and that all relevant documents should be tabled. Following discussions, it was agreed also that at this point in time further information was needed to enable the Parliament to properly consider the matter. The conclusion that has been arrived at is that further inquiries must be made. The shadow Attorney-General and I have been asked to consider the nature of those further inquiries and the mechanisms by which they might be carried out.

The question of whether Ms Beasley should be requested by the Parliament to stand aside pending these inquiries is one that Parliament will need to address following further discussions between me and the shadow Attorney-General. I made it clear to the Parliament last week when these allegations were first raised that the Government wished this matter to be dealt with properly, in accordance with the law, and in a manner acceptable to the whole Parliament.

The Government, in the very short time that has been available—effectively two working days—has made what inquiries it could to obtain relevant information. The Government took the view that it was imperative that some report of the matters be produced to the Parliament on its resumption today. The Government, however, believes that further inquiries are necessary which were not able to be completed in the short time available to it before Parliament resumed. I would also point out that, as the telexes which I have tabled indicate, our inquiries have been hampered by the lack of information available from Commonwealth sources.

The Hon. K.T. GRIFFIN: I seek leave to make a statement.

Leave granted.

The Hon. K.T. GRIFFIN: As the Attorney has indicated, an invitation was extended by him to the Leader of the Opposition yesterday to meet yesterday afternoon for a briefing on the subject of the Ombudsman. Early yesterday evening I met with the Attorney-General and his advisers for an interim briefing. I was nominated by the Leader of the Opposition as the appropriate person to be briefed at that time on the information that was then available to the Government in respect of the allegations relating to the Ombudsman.

I was provided with all the documents that have now been tabled today except the supplementary opinion of the Commonwealth Solicitor-General, as it was not then available; however, that supplementary opinion has now been made available to me. As a result of the interim briefing and a perusal of the material that was made available early yesterday evening, the Leader of the Opposition delivered a letter to the Premier at a meeting convened at the request of the Premier at which both the Attorney-General and I were present. The letter has been made available to the other place and it is appropriate, for the purposes of the record, that I indicate the contents of that letter in this Council.

The letter is based on certain facts: first, that the Solicitor-General's opinion to the Government yesterday is qualified because it is based on insufficient information; secondly, the Federal Government has not provided any report to the South Australian Government on the matter; and, thirdly, the question of Ms Beasley's declarations to Qantas relating to the status of Miss Mitchell requires further clarification, because there is no evidence yet available that Qantas approved a rebate for Miss Mitchell in the way claimed by Ms Beasley. The letter, dated 22 October 1985 from the Leader of the Opposition to the Hon. J.C. Bannon, M.P., Premier of South Australia, was as follows:

My Dear Premier,

I have considered the documents and information supplied to the Opposition last night by the Attorney-General. In considering its approach to this matter since allegations about the Ombudsman first became known to us and subsequently, when they were made public by the media, the Opposition has had only one objective: to maintain the status and integrity of the office of Ombudsman. Accordingly, we are concerned about the qualified nature of the Solicitor-General's opinion in this matter. I refer to the following statements of the Solicitor in his memorandum of advice to you yesterday:

1. . . . there is no material available to me which rebuts Ms Beasley's assertion that she believed that she had an entitlement to claim a rebate for Ms Mitchell.
2. Ms Beasley could, of course, be guilty of a criminal offence or an offence again the Companies Code (see in particular section 229 of the Companies Code) but, in my opinion, the material which I have does not disclose such a breach.
3. It follows that I do not regard the material as sufficient to amount to grounds of misbehaviour within section 10 of the Ombudsman Act 1972.

You will note that in each of the above three references, the Solicitor has qualified his opinion by reference to the material available to him, yet it is clear from the other information supplied to the Opposition last night that the Government so far has had difficulty in obtaining all relevant material to allow a fair, objective and responsible assessment of this matter.

I am particularly concerned about the suggestion in Mr Heywood-Smith's letter to the Attorney-General of 19 October that the federal Minister for Aviation declined to provide information and documentation sought by the Attorney. Further, in a telex to the federal Minister dated 16 October, you called for a 'full report on the situation', but Mr Morris advised the Attorney-General by telex yesterday that 'there is no report'.

In these circumstances, I do not believe that your Government can be satisfied that it has received the full cooperation of the Commonwealth in seeking all relevant information, or that your Government has done enough itself to obtain that information. With the possibility of there being breaches of the Companies Code and of the criminal law I would have thought that, regardless of the office which a person holds or the status of that person, it would be incumbent on the Government of the day to insist upon a full and independent investigation to get all of the facts. In view of this I am surprised that neither your Government nor the Commonwealth Government appears to have undertaken so far such an investigation which the matter requires.

You would be aware that last Friday, I telexed the Federal Minister of Aviation seeking answers to 14 specific questions. The Federal Minister refused to provide any further information and I therefore believe the only course now available is for you to press the Prime Minister for the further necessary information and use such other avenues as may be available to fully investigate the matter. The question of Ms Beasley's declarations to Qantas relating to the status of Miss Mitchell requires further clarification.

The travel entitlements available to Ms Beasley as a director of Qantas were set out in a letter to all directors from the Chairman of Qantas dated 22 August 1983. That letter limited rebates of the type Ms Beasley claimed for Ms Mitchell to spouses of directors. However, in a further letter to all directors dated 6 October 1983, the Chairman sought to clarify the position of entitlements for 'near relatives of single directors'. It stated:

Parents, brothers and sisters may accompany single directors on the one trip per annum vacation travel on the basis of 80 per cent rebate of the applicable fare—

Within a fortnight, the Assistant Corporate Secretary of Qantas wrote to Ms Beasley asking her to substantiate as correct inforamtion provided by Ms Beasley in a claim for concessional travel for Ms Mitchell. The information provided to the Opposition last night included three forms signed by Ms Beasley in which she designated Ms Mitchell as her sister.

Of further relevance in considering Ms Beasley's claim that she had verbal confirmation from the then Chief Executive Officer of Qantas that 'it was in the spirit of the guidelines that Ms Mitchell have the benefit of the rebate' is the provision in the Chairman's letter of 22 August for clarification of the guidelines. Section D of the Chairman's letter, entitled 'General' states:

> 'Any matters not covered in the foregoing, for example, exceptional circumstances, may be raised by a director and will be considered by a subcommittee of the board, consisting of the Chairman, the Vice-Chairman and one other director.'

Apparently Ms Beasley did not seek to clarify her situation through this means, and it is reasonable to ask why she did not do so, rather than seek verbal confirmation from the then Chief Executive Officer, who is now dead. The Chairman's guidelines for entitlements also required the Chairman to approve all travel arrangments for directors. I believe that your Government also must establish whether, in approving Ms Beasley's arrangements, the Chairman was aware of any 'verbal confirmation' by the then Chief Executive Director of Ms Mitchell's entitlement to a rebate.

The forms Ms Beasley signed to obtain rebates for Ms Mitchell stated quite clearly that her signature was to be regarded as 'a personal affidavit' and that, amongst other things, in any application for travel for a relative the relationship shown was to be 'true and accurate'. In designating Ms Mitchell as her 'sister' Ms Beasley therefore submitted a false personal affidavit. While the Solicitor-General has stated that there is no material available to him 'which rebuts Ms Beasley's assertion that she believed she had an entitlement to claim a rebate for Ms Mitchell', equally there is no evidence yet available that this entitlement was approved by the Chairman of Qantas, who had the ultimate responsibility for giving such approval, knowing that it was based on a false personal affidavit.

This is the crucial point that must be clarified beyond doubt because, until it is, there remains the possibility, according to the Solicitor-General, that Ms Beasley could be guilty of a criminal offence or an offence against the Companies Code. This is a cloud which cannot be allowed to remain above the office of Ombudsman, and your Government now has a direct responsibility and duty to seek through the Commonwealth, or other sources, this further clarification. If it is the case that the Chairman of Qantas knowingly accepted a false personal affidavit as coming within the spirit of the company's travel entitlement guidelines for directors, then that is a matter the Chairman should be asked to confirm so that you Government and, ultimately, the Parliament can further consider the position of the Ombudsman in that light.

The Ombudsman is in a position of independence where often she has to test the word of one person against another and has access to condifidential files in departments, statutory bodies and local government bodies. In these circumstances, no doubt must remain about the word of such a high public office holder of the State. In the meantime, the Opposition is of the view that your Government should ask Ms Beasley to step aside while these matters are clarified. The Solicitor-General's opinion makes it clear that the initiative for any suspension of the Ombudsman remains with the Government and, while I believe that Ms Beasley should first be asked to stand aside, her suspension should be given serious consideration if she refuses to step aside.

I express my continuing concern about a distinct reluctance on the part of the Commonwealth and your Government to get to the bottom of this matter. Had some of the questions which remain to be resolved been raised with Ms Beasley when these allegations first became known to you and the Commonwealth, it is possible that this matter could have been cleared up before now. I am also seriously disturbed at the admission by the Federal Minister of Aviation in his telex to the Attorney-General yesterday that there has been no Commonwealth report on this matter.

Yours sincerely

John Olsen, Leader of the Opposition.

The Opposition welcomes the indication in the Attorney-General's statement of Government action to get to the bottom of this matter.

QUESTIONS

OMBUDSMAN

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about the position of Ombudsman.

Leave granted.

The Hon. M.B. CAMERON: We are now entering a very difficult situation with the possibility of an election pending: everybody in this Parliament and this State is aware that that potential is hanging around. It would be extremely difficult if an election was called while this problem remains unresolved. Last week, I asked the Attorney-General to request the Ombudsman to delegate her powers under section 9 of the Ombudsman Act to another person. The Attorney-General declined to do this on the ground that a decision eventually would have to be made by Parliament.

I then, the next day, moved a motion seeking a direction from this Council that the Ombudsman be requested to delegate her powers under section 9 of the Ombudsman Act. As this was the only House that was sitting last week, the other place took no similar action. That move was rejected. So, we have the possibility of an election being called while this situation is unresolved. Is the Attorney-General prepared on behalf of the Government to give an unequivocal commitment to the Council that all matters relating to the position of Ombudsman will be resolved before the Government advises the Governor to prorogue the Parliament to call an election?

The Hon. C.J. SUMNER: First, the question of the prorogation of the Parliament and the calling of an election is for the Premier, and I am not, therefore, able to speak on his behalf with respect to that matter. Secondly, the honourble member's question cannot be answered because, as he has already heard from the ministerial statement that I have made following the discussions with his colleagues, further inquiries need to be made. The nature of those inquiries and the mechanism whereby they may be carried out are to be discussed by me with the shadow Attorney-General, the Hon. Mr Griffin, and we will then report to the Parliament on what action the Parliament may wish to consider. Then, if the Parliament agrees that further inquiries are necessary and agrees on the extent of those inquiries, I am not in a position to say how long those inquiries might take.

So, it is not possible to answer the honourable member's questions. I can say that the question of whether Ms Beasley should stand aside is being considered, as I indicated in my ministerial statement, and I wish to discuss it further with the Hon. Mr Griffin and no doubt will produce a report for the Parliament. However, it should also be said that there is no power in the Government or the Parliament in any legislation to require the Ombudsman to stand aside.

The Hon. M.B. Cameron: An expression of opinion from the Council?

The Hon. C.J. SUMNER: The honourable member has interjected that an expression of an opinion from the Council is one option. When I debated this issue last week I conceded that a motion from both Houses of the Parliament requesting the Ombudsman to stand aside while these matters were being investigated, if this approach were adopted, would be more appropriate—

An honourable member interjecting:

The Hon. C.J. SUMNER: Just a minute—than requesting the Premier to request the Ombudsman, but whether that request should be made by the Parliament is something on which at this stage I do not have a concluded view. I wish to discuss the matter with the Opposition and the other Parties in the Parliament. Given that the Opposition has asserted that that should happen—and asserted it last week, as the honourable member mentioned—and that the Opposition, through the Leader of the Opposition in the letter that the Hon. Mr Griffin read out, has again said that the Government should request the Ombudsman to stand aside, the Opposition's view on this has not changed.

The Government, in light of its opinion on the basis of information it has received that further inquiries need to be carried out, will now consider that proposition put by Mr Olsen in his letter to the Premier. However, until we have considered it and until I have discussed the other issues I have outlined in my ministerial statement with the Hon. Mr Griffin, I am not in a position to respond. However, I assure the honourable member and the Parliament that that is not a matter that will be left in abeyance. It is obviously a decision that has to be made, and made as quickly as possible. I undertake to do that as soon as the discussions I have had with the shadow Attorney-General (Hon. Mr Griffin) have been concluded.

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

Leave granted.

The Hon. K.T. GRIFFIN: On 16 October the Premier sent a telex to the Federal Minister seeking a full report on the situation, as soon as it was practicable to do so. The Attorney-General also asked the Federal Minister for information and documents that would assist inquiries. According to the papers that have been tabled, yesterday the Attorney-General received a response from the Federal Minister saying that as Ms Beasley had resigned from her position on the Qantas board the matter had not been pursued and that there is no report.

That is a position that the Government and the Parliament cannot accept. Will the Attorney-General, as a matter of priority, request the Premier to ask the Prime Minister to instruct the Federal Minister for Aviation to cooperate with the State Government to clarify the position of the South Australian Ombudsman?

The Hon. C.J. SUMNER: I agree with the honourable member that the response that the State Government received to its request from the Federal Government was unsatisfactory, in view of the heavy responsibilities that the Parliament of this State has in making a determination on the issue. I reiterate that the Government, in the short time that was available to it, took whatever steps it was able to to seek the information from the Federal Government authorities. I do not know what information the Federal Minister may have in any detail. Of course, one of the problems with the Federal Government's response is that not only does it say that there is no report and that it does not intend to provide us with any information but also it does not even indicate what information it has.

I agree that the matter is unsatisfactory. I am not prepared to respond positively to the honourable member's assertion at this stage. However, I am prepared to discuss it with him, and discuss it with the Premier to see whether it is the Parliament's view that the Premier should make an official request at Premier to Prime Minister level, given that the requests from lower beings in the structure have not produced any result. It is certainly a question that I will consider and discuss further with the honourable member and the Premier.

BRAIN INJURED PERSONS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the treatment of brain injured persons.

Leave granted.

The Hon. J.C. BURDETT: The Minister will be aware of the predicament of Kylie Pocock, a young brain injured person in something like a coma situation. There is a form of treatment which can give relief to Kylie and persons in a similar position.

The Hon. J.R. Cornwall: May.

The Hon. J.C. BURDETT: Right. Such treatment may be able to restore awareness and communication. However, facilities are needed where such people can be treated in some isolation from other patients. I understand that Kylie Pocock's parents and supporters have approached the Minister for financial support for this kind of facility—a facility where she can be cared for in some isolation from other patients while she undergoes the treatment.

I believe that there were discussions that such facilities might be provided at the North Eastern Community Hospital and that there might be funding from the Health Commission for this purpose. My questions are:

1. Does the Minister propose to grant any financial assistance for the provision of such a facility (that is, in regard to Kylie and also other brain injured persons)?

2. If so, what amount is proposed to be provided out of the health budget, and when?

3. If so, has any condition been imposed as to the provision of other funds from any other sources and, if so, what sources?

The Hon. J.R. CORNWALL: There are two or three errors of fact that I would like to correct before I turn specifically to the questions asked by the Hon. Mr Burdett. The honourable member referred to Kylie Pocock and other similarly brain injured people. I make it clear that the Kylie Pocock situation is unique in South Australia at this time. There are other coma patients, but they are not respirator dependent. What makes Kylie's situation unique principally are two facts: first, she is not brain dead; she is not vegetative in that sense nor is she legally brain dead; secondly, she is at least intermittently respirator dependent (in other words, if full respirator facilities were not available at any particular time then my advisers tell me that Kylie would die).

It has to be seen in the context of being a unique, particularly sad and extremely complex and difficult problem. I have been aware of it for some considerable time. I have also been aware more recently (that is, in recent months) that there is a coma arousal program developed at Westmead Hospital in Sydney. That is a program which is experimental in nature. There is no guarantee whatever that it would be successful. I also want to make clear, again on the medical advice that is available to me—and none of these statements should be attributed to me as having any expertise in the area whatsoever—that the situation with Kylie is that she has now been unconscious for almost two years and it is in the realms of speculation as to whether or not the coma arousal program would be successful, or to what degree it might be successful. Those are matters of fact and should be placed on the record.

The second point is that I have met with the Pococks on one occasion and I have directly and indirectly been in touch with them over a very considerable period. The last contact I had was a telex from Mr Pocock yesterday. In the first instance I have tried to find specialist nursing staff at the Queen Elizabeth Hospital where Kylie has been in the intensive care unit for almost two years. I tried, through senior officers in the commission and senior hospital personnel, to find specialist nursing staff. They would have made it possible for Kylie to be taken from the intensive care unit into a far more stimulating environment on a daily basis so that the coma arousal program could be put in place.

At that time I made available, from memory, an additional $70 000 for the employment of specialist nurses who would have had particular training in resuscitation and respiration support techniques. We were unsuccessful in

recruiting any nurses with those qualifications to take on that job, regrettably. I might add that at that time all of my advice was that the coma arousal program could be conducted at the Queen Elizabeth Hospital, provided that Kylie could be removed from intensive care on a daily basis for a substantial amount of time to be stimulated in a variety of ways as part of the program.

When that failed I specifically directed—I make this very clear—the Chairman of the Health Commission to take the responsibility, with the full support of the South Australian Health Commission, to find alternative accommodation for Kylie. Negotiations were undertaken with the North Eastern Community Hospital. I was given to understand that it undertook to accept Kylie as a patient on the basis that the capital and recurrent cost of that for a 12 month period would be in the order of $250 000. I took that to Cabinet because I thought it was the sort of expenditure that should have the imprimatur of the entire Cabinet, and it accepted that recommendation. At that time the position was that $70 000 was to be made available for capital costs, including possibly authorising and commissioning an additional bed at North Eastern Community Hospital, and the balance was to be made available for the actual cost of hospitalisation and treatment of Kylie, including the coma arousal program.

Again, it is my recollection—although I could not swear to its accuracy—that at least some of that funding was to be a contra against the Queen Elizabeth Hospital budget. My most recent information is that the Board of the North Eastern Community Hospital has now raised some difficulties.

It is possible, for a number of reasons that I will not canvass at this time, that that proposal will be thwarted. Certainly, it is not being thwarted or obstructed in any way by any action that I have, or the Health Commission or anybody in the public hospital system has, taken. That is a standing offer. The finance is available if the North-East Community Hospital sees fit to proceed with what it had originally proposed.

However, in view of the fact that there may be some difficulties with the board, I again discussed the matter very recently with senior officers in the commission, and only this morning I gave further instructions as to negotations which should continue—there have been some preliminary negotiations already—with two other institutions, one in the private sector and one in the public sector. At the moment, negotiations are, for practical purposes, occurring with the North-East Community Hospital and with two other institutions.

This is a particularly sad and extremely difficult and complex case, but the Chairman and the Health Commission on my instructions are doing everything that they possibly or reasonably can to see that the coma arousal program is made available to Kylie Pocock under optimum conditions.

The general question of head injured patients is a much broader subject. We have developed a three year program beginning with the upgrading of the rotary A block at the Julia Farr Centre. A report has been produced which is currently being implemented and which will be implemented over the next three years. When it is completely in place, it will see us with the best head injury service in South Australia. However, that is another story for another question for perhaps another day.

WAITE INSTITUTE

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Minister of Agriculture a question about the Waite Agricultural Research Institute.

Leave granted.

The Hon. K.L. MILNE: Many members will recall that, some considerable time ago, this Parliament passed a resolution unanimously in both Houses that the then Premier (Hon. David Tonkin) be asked to write to the then Prime Minister (Hon. Malcolm Fraser) requesting that the Federal Government finance the Waite Agricultural Research Institute as an independent school of excellence, rather than through the University of Adelaide. The idea was to raise the status of the Waite Agricultural Research Institute to that of a college or university of excellence, similar to six other schools which were established in Canberra by Sir Robert Menzies. No agricultural college, university or institute was included among those six chosen.

Members may also recall that this resolution was proposed by me, seconded by the Hon. Renfrey DeGaris, and supported ably by the Hon. Anne Levy, whose late husband had worked with the Waite Institute, and equally supported by the Liberal Government. The Premier (Hon. David Tonkin) did as he was asked and wrote to the Prime Minister with this request, but the Prime Minister saw fit to reject it on what some of us thought were rather spurious grounds—but then South Australia has to fight very hard to be treated as a partner in the federation rather than a colony. My questions are:

1. Can the Minister of Agriculture inform this House whether or not he is satisfied with the present funding arrangements for the Waite Agricultural Research Institute, whose funds are channelled through the University of Adelaide?

2. If not, are any changes contemplated to improve the standing of the Waite Agricultural Research Institute to that of a school of excellence?

3. Will the Minister write to the present Prime Minister to ascertain his views as to the value and correct status of the Waite Agricultural Research Institute?

The Hon. FRANK BLEVINS: I will have to examine the honourable member's question at considerable length rather than give an off-the-cuff answer to those very important questions. I will obtain very quickly a considered reply for the honourable member.

In passing, I would just say this: to suggest that South Australia does not get the respect and treatment that it deserves from the Commonwealth under the present Federal Government is just simply incorrect. The fact that Mr Fraser treated with contempt the resolution passed by this House—moved, seconded, supported, etc. by such luminaries of South Australian politics—shows how Mr Fraser regarded Dr Tonkin and South Australia. True, one could have a certain sympathy for his view. However, that is all in the past and the present Federal Government certainly does not treat South Australia in that manner. I will quickly get a considered reply for the honourable member but, as the question involves other portfolios and Ministers, it is only fair that I consult with those Ministers and the Premier.

COMMUNITY SERVICES PAMPHLET

The Hon. ANNE LEVY: Has the Minister of Health, representing the Minister of Community Welfare, a reply to the question I asked on 7 August about a community services pamphlet?

The Hon. J.R. CORNWALL: The replies are as follows:

1. (i) 100 000 copies of the 1985 version of the pamphlet were produced.

   (ii) The 1985 version is a revised edition of the pamphlet which was first produced by the Department for Community Welfare in 1984.

2. (i) With the pamphlet's release in 1984, a comprehensive publicity campaign was mounted and 120 000 copies were distributed throughout the State via Government and non-government welfare agencies, information centres, and in response to requests from individuals as a result of the promotion.

(ii) The 1985 version has been distributed to welfare agencies, is used extensively by all Departments of Social Security and Department for Community Welfare offices and provided in information kits.

(iii) The booklet is a widely used source of information and will be updated yearly. It is proposed to produce the booklet in a range of community languages during 1986.

CLEVE AND CUMMINS AREA SCHOOLS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about school staffing at Cleve and Cummins Area Schools.

Leave granted.

The Hon. PETER DUNN: It has come to my attention that in the last week Cleve and Cummins Area Schools have been advised that they will have a reduction in teaching staff of about 10 per cent in each school. Cleve Area School will lose two teachers from the primary section and 2.1 from the secondary section. They have at present 39.4 teachers in total and one extra teacher under the PCEP scheme, which includes teaching music at Cowell, Cleve and Kimba. School numbers will be falling next year and there is only an estimate of that fall, but the reduction is expected to be less than 10 per cent. However, that is not the problem and, indeed, I would probably agree that a reduction in teachers could be made if there was a reduction in student numbers.

The problem created is that students have been told that they are eligible for particular courses and that those courses will be available to them in future years. Students in year 9 onwards have been told this. However, now that there is to be a reduction in staff the school believes that it will have to cut back on its curriculum—on the number of subjects that will be available to students. That implies either that parents wishing to have their sons and daughters taught those subjects will have to send their children to Adelaide at great expense or else the Government will have to provide accommodation somewhere for those students so that they can receive education in that curriculum area.

Further, as Cleve Area School was successful in retaining Sims Farm, it implies that there is some cutback because the school was successful. It appears that the school has been penalised because it was successful, and my questions are as follows:

1. Are these cutbacks across the State?

2. Will the specific cuts of staff at the Cummins and Cleve Area Schools affect the curriculum choice of students at those schools?

3. Will the agricultural courses now being developed at Cleve Area School be restricted as a result of staffing cuts proposed?

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

NATIONAL DIVORCE MAINTENANCE AUTHORITY

The Hon. DIANA LAIDLAW: I seek leave to make a brief statement before asking the Attorney-General a question about a national divorce maintenance authority.

Leave granted.

The Hon. DIANA LAIDLAW: The *News* featured an article on 16 October announcing that the Federal Government is about to establish a national divorce maintenance authority. Apparently the authority will spearhead a tough crackdown on enforcing divorce maintenance payments. At present there are about 160 000 single parents who receive the supporting parents benefit and the cost to the taxpayer is $1.1 billion a year. Meanwhile, on average around Australia up to 50 per cent of women with family court maintenance orders do not receive payments at all, or they receive them only irregularly.

I understand in South Australia the figure is somewhat higher as we are the only State—together with Western Australia—that have any form of enforcement procedure. Notwithstanding these procedures, there are 20 per cent to 30 per cent of women in South Australia who do not receive the maintenance payments to which they are due, and they and their children suffer undue hardship as a consequence. Therefore, in view of the current deficiencies with the South Australian maintenance enforcement procedures operated by the Department for Community Welfare, I ask the Minister:

1. Has the State Government indicated to the Federal Government that it endorses the establishment of a national divorce maintenance authority?

2. If so, what assurances has the State Government received from the Federal Government that the authority will be more effective in enforcing maintenance orders than DCW has been to date?

3. In pursuing its functions, is it envisaged that the authority will take over the work that is now the responsibility of DCW, will it complement this work, or give greater powers to DCW to ensure its enforcement procedures can be operated more effectively in the future?

The Hon. C.J. SUMNER: I will attempt to obtain answers to the questions raised by the honourable member and bring back a reply.

QUESTIONS ON NOTICE

THE SECOND STORY

The Hon. R.I. LUCAS (on notice) asked the Minister of Health:

1. To provide a breakdown of the estimated $700 000 total cost of The Second Story and in particular estimated expenditure on rent and salaries.

2. *(a)* Have any guarantees been given by the Minister or a Government representative to other youth organisations working in this field about levels of future funding?

(b) If yes—

(i) What are the guarantees?

(ii) Which organisations have received such guarantees?

(iii) Who gave the guarantees?

The Hon. J.R. CORNWALL: The replies are as follows:

1.	Estimated Recurrent Expenditure 1985-86 $	Full Year $	Capital Expenditure 1985-86 $
The Second Story	187 000	208 000	350 000
Goods and services (ex rent)	105 500	109 000	
Rent	27 500	33 000	
Total	$320 000	$350 000	

2. The Minister of Health has not given any specific guarantees about future funding to youth organisations. He is not aware that South Australian Health Commission officers have given any guarantees.

The Hon. R.I. LUCAS (on notice) asked the Minister of Health:

1. After the damage caused by youths at The Second Story on the first day of its operation, did the Director close The Second Story and, if so, what were the reasons?

2. Did the Minister or an officer acting on behalf of the Minister ring the Director and direct her to re-open The Second Story immediately and, if so, what were the reasons?

3. Were questions of the safety of staff at The Second Story raised with the Minister or his officer and, if so, what was his response?

The Hon. J.R. CORNWALL: The replies are as follows:

1. The Director closed The Second Story for approximately one hour in order to arrange additional staff and supplies to cope with the unexpectedly large number of visitors. That was on the first Friday.

2. No.

3. No.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: The honourable member says 'ho, ho, ho'. Very funny. We are victims of our own success.

The Hon. R.I. Lucas: You said 'No, no, no' before.

Members interjecting:

The PRESIDENT: Order! If the Minister and the Hon. Mr Davis want to continue their debate, they can do so outside the Chamber.

STATUTES AMENDMENT (ENERGY PLANNING) BILL

In Committee.

(Continued from 15 October. Page 1309.)

Clause 2—'Amendment of Pipelines Authority Act 1967.'

The Hon. M.B. CAMERON: I move:

Page 1, lines 15 to 19—Leave out all words in these lines.

This amendment will omit reference to the Pipelines Authority so that this body remains as it is now—without ministerial control. It is a fairly simple and straightforward amendment and one I would expect the Committee to support.

The Hon. FRANK BLEVINS: The honourable member will be disappointed, because I oppose this amendment. It is contrary to what this short Bill seeks, that is, to bring the Pipelines Authority and, further, ETSA under ministerial control. We feel that is totally appropriate. We are dealing with the very basis of the State's wealth and prosperity and the well-being of the citizens of South Australia: it is absolutely essential that this authority be under ministerial control which means, in effect, under the control of the Parliament and, through the members of Parliament, under the control of the citizens of South Australia. I cannot believe that anyone would oppose such a measure.

The Hon. M.B. CAMERON: The Minister has referred to clause 3, which covers ETSA. The two clauses are probably interrelated, because they have the same objective. Both of these statutory authorities are referred to in this Bill. If the Minister wants me to refer to ETSA now, I am prepared to do that.

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, K.T. Griffin, C.M. Hill, Diana Laidlaw, and R.I. Lucas.

Noes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, and Barbara Wiese.

Pairs—Ayes—The Hons R.C. DeGaris and R.J. Ritson. Noes—The Hons C.W. Creedon and C.J. Sumner.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 3—'Amendment of Electricity Trust of South Australia Act 1946.'

The Hon. M.B. CAMERON: Similarly to the last amendment, I ask members to oppose this clause. It is a very serious matter, indeed, to bring under the control of the Minister totally and under the control of the Government the statutory authority that we call ETSA. I spoke about the matter in my second reading speech and indicated then that one of the problems that one always faces in relation to bodies like ETSA is that it is very easy, for example, to use these bodies politically, particularly when it comes time for elections. We have seen recently a move by the present Government to pay back to the taxpayers through ETSA some of the money that it has taken out of ETSA: that position is clearly being used politically.

I advise honourable members to look at this matter very carefully because I can see that sort of thing happening in so many other areas as we get close to elections from time to time. Because we have a democratic system, this occurs. The other thing that will occur—and, again, I have seen this happen, having been a candidate standing in a seat that became very marginal—

An honourable member: Very marginal!

The Hon. M.B. CAMERON: Very marginal, indeed, to the point where one vote is the difference! No matter who one was in that district and no matter what one asked for, the former member for that district, the Hon. Mr Corcoran, was very responsive to any problem that occurred. One can imagine what happens if one has any complaints about ETSA: one goes straight to the Minister and no longer has any argument with ETSA because it is under his direction and control. I warn honourable members that that will occur, even in minor issues such as whether a pole should be shifted or not: candidates and members will find that Ministers will be very responsive, as ETSA will be.

I would regret that greatly. Until now, ETSA has been above that sort of problem to a very large extent. I have no doubt that some issues occur, but they tend to be bigger issues rather than single issues relating to particular individuals in electorates. One will find, as we have seen so often and as all of us are aware, that schools and other areas suddenly get great attention, and sewerage works suddenly become issues when we are close to an election. This sort of problem will certainly occur.

Again, as I have been a candidate in that situation I can speak not from outside knowledge but because of what I have seen occur in relation to the seat and because I, as a former candidate, have approached a member of Parliament who suddenly found that his seat was marginal.

If honourable members agree to this, in future they will see this sort of thing occurring within this State. If honourable members—and particulary I speak to the Australian Democrats, who may not have experienced this sort of problem because they seem to concentrate their activities very much in the Upper House where that sort of problem does not occur—do not believe that that occurs or has potential for occurring, they do not know much about the system as it works in relation to marginal seats when an election is imminent. So, I ask members to consider this problem very seriously.

There are no real reasons for this move: if Governments really want their way on a major issue in relation to taxation or tariffs, they should argue with the board or management of ETSA, but on a potentially equal basis and not on the basis of, 'You will do this because I am in charge of you and you are under my control, so that is it.' Whilst it may work at that level, it also goes down the line to a very minor level. So, I urge honourable members very sincerely to consider this matter and vote against the clause.

The Hon. I. GILFILLAN: As the Hon. Martin Cameron would know, I have a Bill, dealing with ETSA, before the Council. In that is a clause that specifically seeks to have ETSA under ministerial direction and control. I also indicate to him that we had misgivings about passing this clause in this Bill detached from all the other very worthwhile material in the Bill that I have before the Council, dealing with the whole of ETSA. We have, therefore, cause to have fairly wide ranging discussions with the Government, with members of the Association of Professional Engineers within ETSA and, to a lesser extent, with people in the Opposition on an informal basis.

There may be very good grounds for some concern, as the Hon. Martin Cameron has outlined, but in balance, and particularly if taken in concert with other substantial reviews and reforms that could apply to ETSA in further legislation, we intend to support this clause. We have been assured—and I am anticipating that the Minister will indicate this in his third reading speech—that the Minister of Mines and Energy will establish a working party to look at the wide range of legislation that could apply to ETSA. I am assured that the Association of Professional Engineers will have direct access to that working party, as I will since my Bill will be referred to it.

Under these circumstances the professional engineers who are related with ETSA have expressed to me satisfaction with the program that is outlined. Of equal significance to us was the statement from the ETSA Board itself, in a memo dated 22 August 1985, which stated:

> Resolved that the Acting Minister of Mines and Energy be advised that the board appreciates the acknowledgment in the second reading speech of the trust's past cooperation with the Government. The board is of the opinion that in view of this established relationship the Bill will simply formalise a situation that already prevails.

The memo goes on to recognise a statement made in the second reading explanation, which was as follows:

> It is the Government's intention that the exercise of ministerial control and direction would concern matters of major policy and not the general administration of the undertaking on a day-to-day basis.

There are very significant modifications in what I have outlined to the bald clause as it is in the Bill, which moves ETSA directly under ministerial direction and control. We intend to support the clause and oppose the amendment. We believe that this provision is part of a major overhaul that will take place in the legislation and functions of ETSA. Therefore, it is appropriate that it be supported at this time.

The Hon. M.B. CAMERON: I think that the honourable member is somewhat naive. He surely does not believe that because he has these assurances that that will occur after this clause is passed. If that is to occur, it should occur on the basis of a total Bill, not the Bill that is the overriding Bill, with all these other things to be brought in at a later stage. I find that a remarkable attitude towards a Bill. I would have thought that if other changes were to be made they should be made in total, not in isolation. The honourable member might be happy with the discussions he has had, but I believe that once this Bill passes all the other issues will disappear, because the Government will have achieved what it wants and will have control of ETSA. The honourable member may have assurances, but the moment there is a problem in an electorate prior to an election that problem will be resolved by the Minister. It will not be on major issues, but minor issues, because the honourable member will have handed control and power to the Government to fix those minor issues, and marginal seats will gain the advantage.

Well, so be it. It is the honourable member's decision, as in so many other cases, that changes the issue. I think that he has been conned. It is unfortunate that ETSA, a very valuable body in this State, will be changed because the honourable member is happy with assurances he has received. The best of British luck to ETSA in its future if this Bill passes. I believe that it is a wrong move and one that we will all live to regret.

The Hon. I. GILFILLAN: Does the mover of the amendment anticipate that when a Liberal Government is elected it will move to repeal ministerial direction and control of ETSA?

The Hon. M.B. CAMERON: Whether we make the move could depend entirely on the attitude of the honourable member. I guess that, potentially, he will be in the same position—sitting over the top of us. Before we introduce a Bill we would want assurances that he would pass it and change his mind. However, that might not be difficult to achieve because we can give him other assurances that might achieve that. Certainly, we will consider the situation but will have to take into account the views expressed by the honourable member. It would be pointless to introduce Bills if the honourable member is going to reject them.

The Hon. FRANK BLEVINS: It is regrettable that the Hon. Mr Cameron is so cynical. That, to me, really is sad. I have known the Hon. Mr Cameron for about 10 years, and to see him degenerate into such a state of cynicism is, I think, very bad and a great pity. In opposing this provision, the Hon. Mr Cameron had no more substantial grounds than that he thought the Government might use control over ETSA not for the purposes of implementing Government policy but for more blatant political purposes—pork barrelling. During the second reading debate, the Hon. Mr Cameron said:

> No longer will decisions be made on a proper commercial basis or on the real needs of the community: there will be a move towards, 'Let us look at this. That is in the seat of so-and-so. Right, we must do that because otherwise we will be in trouble as a Government. That is the seat we must win.'

That might be the way that members opposite believe the game is played, or the way they would play it. However, let us contrast that with this Government's record.

In July the Government announced the findings of its Future Energy Action Committee's evaluation of coalfields for the State's next new baseload power station. The preferred deposits from that study are Lochiel (which is in the Leader of the Opposition's electorate) and Sedan (which is in the Deputy Leader of the Opposition's electorate). That is how impartial we are. More recently, the Premier made an offer to councils on the West Coast—and I hope that the Hon. Mr Dunn is listening—for ETSA to take over their electricity undertakings at considerable expense to Treasury, so that consumers in those areas could enjoy tariffs at the

same rates as consumers attached to the rest of the State's grid system.

Neither of those decisions will buy the Government a seat in any of the electorates that will benefit directly. Those decisions were taken for sound planning reasons, and it is for reasons of implementing sound planning principles that this Bill is before the Council and this clause is now before the Committee. This clause and indeed the whole Bill simply establish the relationships between the utilities and the Government in respect of energy planning.

The Hon. Mr DeGaris, while speaking about this clause during the second reading debate, was certainly more constructive. He did not touch on the question of energy planning specifically. However, in relation to ministerial responsibility for ETSA, which is dealt with in the clause presently before the Committee, he said:

> If we believe in the doctrine of ministerial responsibility any activity carried out on behalf of the public should be responsible to a Minister or to a committee of the Parliament.

The Hon. Mr DeGaris pointed out that he had opposed ministerial control over SGIC in 1970 because it operated as a Government instrumentality in the private sector, so that the case for ministerial control was not justified. However, at that time Parliament came down firmly on the side of ministerial responsibility. The Hon. Mr DeGaris noted:

> . . . neither the Pipelines Authority nor the Electricity Trust of South Australia is a competitor with the private sector, and the reasons that I have followed for the removal of ministerial control of the SGIC do not apply in that way. Both the Electricity Trust and the Pipelines Authority are under Government influence. I do not think that any member of the House would doubt that statement. The idea that those authorities are totally outside Government influence is without foundation. Questions in the Parliament are directed to Ministers on ETSA activities and on Pipelines Authority activities, and ministerial answers are given to those questions.
>
> It is reasonable that ministerial responsibility should be made clear in our statutes.

I think that, as a matter of principle, the Hon. Mr DeGaris was correct when he concluded:

> These two services—the Electricity Trust and the Pipelines Authority (with its gas delivery services to South Australia)—should be subject to ministerial decision and responsible to the Minister.

That is fairly straightforward. I think that the Deputy Leader of the Opposition has been less than straightforward about this matter in recent weeks with his display of vehement opposition to the proposal of putting ETSA under ministerial control, in particular. His reasons for that opposition have been no more substantial or coherent than those of the Hon. Martin Cameron.

We know that the Deputy Leader wants this clause to pass and his opposition to it is just a show. We have only to go back as far as 26 September 1984 to Estimates Committee B to find the Deputy Leader's real views, when he actually asked the present Minister to put ETSA under ministerial control. He said:

> Other than putting the trust under direct ministerial control, there is no legislative authority for the Minister or the Premier to tell ETSA what it should charge. There is no suggestion that the Government should have no responsibility in this matter. To ensure that the issue is put beyond doubt, will the Minister consider amending the ETSA Act to put ETSA directly under ministerial control?

The Hon. R.I. Lucas: On mature reflection, he changed his mind.

The Hon. FRANK BLEVINS: I leave it to the public of South Australia to judge that. In August last year, the Deputy Leader of the Opposition asked the Minister to put ETSA under ministerial control. Now we have this sham opposition. It is generally understood that, when in Government, the Deputy Leader as Minister of Mines and Energy contemplated this measure, though for quite different reasons.

It has also been contemplated more recently by the Australian Democrats. Currently before the Council is a Bill, moved by the Hon. Ian Gilfillan, to amend the Electricity Trust of South Australia Act. The Bill contains a provision to make ETSA subject to the control and direction of the Minister, as well as a series of other provisions designed to streamline the legislation under which ETSA operates and to amend the Electricity Trust of South Australia Act in a number of areas including the retiring ages and terms of employment of board members, ETSA's functions and the authorities under which it operates, as well as in respect of ETSA's tariff structure. These additional matters will be canvassed in the debate on that Bill.

However, I am advised that there have been discussions between the Minister and the Hon. Ian Gilfillan on the two pieces of legislation, and it has been agreed that ministerial control of ETSA is more appropriately addressed in a Government Bill, and the Minister has agreed to set up a working party to review the Gilfillan Bill and all of the existing legislation under which ETSA operates. The working party will consider the relationship between the Minister and the board having regard to ETSA's functions, Government policy and detailed operation of ministerial direction and control as it affects the role of the board and the Minister in relation to day-to-day operations of the undertaking and major policy issues, bearing in mind the Minister's undertaking in his second reading speech that:

> It is the Government's intention that the exercise of ministerial control and direction would concern matters of major policy and not the general administration of the undertakings on a day-to-day basis.

That clarification of the purpose of ministerial direction had been suggested by the ETSA board at its meeting on 22 August when it considered the proposed amendment to the Electricity Trust of South Australia Act. At that meeting, the board resolved: 'That the Acting Minister of Mines and Energy be advised that the board appreciates the acknowledgment in the second reading speech of the trust's past cooperation with the Government. The board is of the opinion that, in view of this established relationship, the Bill will simply formalise a situation that already prevails.' I commend the clause to the Committee and urge it to reject the amendment that has been moved by the Hon. Martin Cameron.

The Committee divided on the clause:

Ayes (8)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, I. Gilfillan, Anne Levy, and K.L. Milne.

Noes (7)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, C.M. Hill, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons C.W. Creedon, C.J. Sumner, and Barbara Wiese. Noes—The Hons R.C. DeGaris, K.T. Griffin, and Diana Laidlaw.

Majority of 1 for the Ayes.

Clause thus passed.

Clause 4 and title passed.

Bill reported without amendment; Committee's report adopted.

SWINE COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 October. Page 1167.)

The Hon. PETER DUNN: In supporting this Bill, I would like to ask several questions of the Minister, but before doing so, I would like to run through some of the new provisions in the Bill.

The Bill sets up a new Swine Compensation Fund Advisory Committee, with which I will deal in more detail later. Fundamentally, the Bill has been asked for by the industry over a period because of the long time since values were last set for compensation for valuable animals that had prescribed diseases that were deemed compensative. The amounts that could be paid were rather out of step with present prices. The previous amount was less than $60 and it has now been increased to $250, which is about the average price of an adult fully grown pig.

If such a pig were to die of a disease that was deemed to be compensative, that would be the amount that could be paid. Compensative diseases are usually those deemed to be outside the control of pig breeders and growers within the State. Of course, there are the more exotic diseases, including foot and mouth disease and blue tongue. Such diseases could wipe out totally a pig farmer's existence. Over the years it has been deemed necessary to establish a compensation fund and pig breeders themselves contribute through each sale of pigs. A certain proportion of the amount realised is put into a fund. It appears from the Bill that such moneys have been used over the years to purchase property. Can the Minister say what property has been purchased through the use of the fund over the years? I am not aware of the purchase of property but clause 6 in new paragraph *(ab)* provides:

all moneys arising from the sale of any property, purchased from moneys provided by the fund;

This indicates that property has been purchased by the fund. Paragraph *(b)* provides that the fund will have a ceiling of $50 000. In the past the ceiling was $25 000. I draw to the Minister's attention that we have increased the sum available for compensation from $60 to $250, and so it might have been better to increase the fund ceiling to an amount greater than $50 000.

Certainly, only about 200 pigs would be involved to take $50 000 from the fund in compensation for farmers with pigs with a prescribed disease. The Bill establishes the new Swine Compensation Fund Advisory Committee, which comprises six members, all of whom will be appointed by the Minister, as follows:

(a) three shall be persons who are, in the opinion of the Minister, suitable persons to represent the interests of persons involved with the pig industry in this State.

I imagine that they will be pig producers. The provision continues:

(b) three shall be officers of the Department of Agriculture.

That appears to be a suitable mix for such a committee. They should be able to administer those funds and determine matters where necessary. In the past, a committee has acted unofficially in this manner since 1974 by giving advice to the Minister. That committee performed unofficially the tasks and responsibilities set out in this Bill. In fact, the Bill brings into force a proven method. The Minister is wise in writing that method into the Bill. Further, I find it strange that the committee's functions include:

to advise the Minister in relation to proposals to vary the rate of stamp duty imposed by this Act;

I thought stamp duty reflected the Government's charges for administering the committee. It seems relatively strange that a committee established by the Minister should determine how much should be paid to the Government. Perhaps in his second reading response the Minister can advise me about that.

As soon as the fund reaches its $50 000 ceiling I presume that the stamp duty rate will be reduced. I agree to the Bill. The industry sought its introduction and so it is hard to disagree with that. Further, we have conferred with the United Farmers and Stockowners and with Mr Lienert of Lienerts Australian Piggery, Gawler—he is one of the biggest breeders in South Australia. These people are in full agreement with the Bill—its principal object is to raise the compensation. I agree with that wholeheartedly. Inflation has seen the cost of pig meats increase dramatically and it would be sad if we had an outbreak of some disease that was compensative but farmers went to the wall because there was insufficient compensation.

Finally, I query the increase of the fund ceiling to only $50 000, and perhaps the Minister can answer that. We have increased by about four times the amount payable in compensation, yet we have increased the ceiling on the fund to only double the original amount. Can the Minister answer that? We could have a severe outbreak, especially with the way that people move around by both ship and plane. As a result, we are more likely to have an outbreak of an exotic disease and it would be necessary for us to have a reasonable sum available. We could have an outbreak of blue tongue or foot and mouth and, as the Minister of Health well knows, a large area must be included to try to cut out the disease. I refer to outbreaks in England and the suspected outbreak in Tasmania. We have seen what can happen. I believe that the fund should be larger than has been specified. Nevertheless, I support the Bill as it stands.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank the Hon. Mr Dunn for his contribution in supporting the Bill on behalf of the Opposition. As the honourable member said the Bill is essentially one that is agreed to by the industry. It has been developed by the Government and the industry and I fully support it. Many other industries could take a lead from the rural industry in this State: almost without exception, before Bills are introduced into Parliament, there is almost total agreement between the various groups involved. Of course, that cannot always occur, and there will be some dairy industry legislation that will appear in Parliament where, with the wisdom of Solomon, I have had to make some quite strong decisions.

However, that is not the case in the pig industry. That is a good industry in this State, it is very soundly based and it has some tremendous representatives, in particular Mr Ron Lienert, who has given the Government considerable assistance in the preparation of this Bill. I do not have all the fine detail that was requested by the Hon. Mr Dunn. It will take some time and some work within the department to get it together. However, if the Hon. Mr Dunn agrees, I will obtain that information and supply it as soon as possible later this week. Alternatively, we could hold up the Bill in Committee (although the Bill has been requested by the industry) and await the information. I am sure that the Hon. Mr Dunn, who invariably assists the Government in relation to the betterment of rural industry, will be patient for a few days while the Department of Agriculture gets together the information he requires. Again, I thank the Hon. Mr Dunn for his assistance in the speedy passage of this legislation.

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

PARKS COMMUNITY CENTRE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October. Page 1305.)

The Hon. C.M. HILL: I think this is the first Bill that the new Minister has introduced. There are some features of this Bill that must be questioned very seriously. It has been introduced to improve the Act under which the Parks

Community Centre is administered. The Minister said in the second reading explanation that there was a need to increase the number of people on the board that controls the centre. She stated that a new member would be nominated by the Minister of Ethnic Affairs, and she has made arrangements in the Bill concerning the appointment of a Deputy Chairman. The centre will be given the right to either acquire or sell land subject to ministerial approval.

The membership of the board will increase from 12 to 13. At present, eight members of the board are appointed by the Governor on the recommendation of the Government: of those eight members, four are nominated by the Minister, one is nominated by the Minister of Education, one by the Minister of Community Welfare, one by the Minister of Health, and one by the Enfield council. The remaining four members to make up the 12 come from both the registered users of the centre and the staff. It is a large board in its present form, and I know that because I was responsible for setting it up in 1981-82. I was a little concerned at the time about whether or not the board was too large with a membership of 12. However, the Minister believes that another member should be added, taking the membership to 13.

What does the Minister really want to achieve by this action? Does she want a larger board or, alternatively, does she want to ensure that the migrant community is represented on the board? Quite properly, the Minister stated in the second reading explanation that the migrant community represents a large group of users, and I understand that several members of these minority communities are on the staff.

If we really get down to tintacks, I think that what has really happened is that there has been great pressure for the migrant communities to be represented on the board, but the Minister has not found it possible to achieve that change, so she has simply added to the existing 12 members. She has said, 'Let us have one more, ensuring that that person shall be from a minority group.' I totally oppose this approach in principle. One might say that it is an approach of 'us and them', where the Government admits that it finds it impossible to arrange a member (or even more members) of the ethnic community on the board from the membership of 12. Of course, in my view, that indicates a complete lack of the proper attitude towards migrants.

Surely the Minister could have said to the Minister of Education, 'Would you please give the ethnic people in the education area at the centre an opportunity to serve on the board?' Surely she could have said to the Minister of Community Welfare, 'The Government has to see to it that there is migrant representation on the board.' The same kind of consulation could have taken place with the Minister of Health. If the Minister was not successful with those Ministers, she must remember that she has the right to put her four nominated members on the board.

Rather than treat everyone as equal, she seems to want these people to be in a separate group from the host population and has to bring in a law to see to it that one should come on to the board. I deplore any trend along these lines. I want governments in this State to make appointments from the ethnic communities, but not to have to make a law to ensure that such people gain representation. I will not accept the principle in relation to the eight positions (excluding the Enfield council, the users and the staff) that are appointments of the Ministers of the Crown that the Government is saying by this measure, 'We cannot be sure that representatives of the ethnic communities will be included in the eight.' The Government should be condemned for not being able to give these people a fair go under the existing legislation.

I hope that we will not see a repetition of this kind of amendment to legislation in which the Government in effect admits that it is not prepared to nominate from the communities without having to have a law requiring it to make such nominations. A great number of representatives from migrant communities are involved in this centre and a great number of ethnic children are at the school that uses a large part of the centre. It is right and proper that such people should have fair representation on the board, but the Government ought to be able to make those appointments without laying down the law that is saying, in effect, that at least one should be a migrant.

I am very disappointed in the Minister for increasing the number on the board from 12 to 13 because with 13 it gets unwieldy, but, more importantly, for admitting that Ministers of the Crown are not able to nominate representatives from such communities and have to ensure such nomination by an amendment to the Act. The Minister in reply might like to comment on this point, because it is very important from the point of view of the administration of community affairs. We are all residents of South Australia, and we must all be treated as equals and leave behind that approach in which we are here and out there on the fringe is a group of migrants for whom we have to make laws to see that they have representation. If we genuinely believe that they should be given a fair go, we should be able to appoint them to such positions without having to amend the law to enforce such equality.

The other amendments that the Bill introduces are fair and reasonable. There is a problem, apparently, about some land, and the board will be given the opportunity to deal with this land, subject to the Minister's consent. It is desirable that a Deputy Chairman can be known on the board who can take the role of the Chairman during the Chairman's absence.

I support the Bill because the Government is unable to overcome its apparent difficulty in regard to ethnic representation, but it is a great pity that we have not got representatives of the ethnic communities on the board now and it is a great pity that the Minister, having the power that she alone has to appoint four such members, and that the other Ministers who have the right to nominate, as I have explained, have not been able to give the migrant people fair and just representation without a measure of this kind. I support the second reading.

The Hon. G.L. BRUCE secured the adjournment of the debate.

BLOOD CONTAMINANTS BILL

Adjourned debate on second reading.
(Continued from 9 October. Page 1161.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. As the Minister has explained, it has been found that across the Commonwealth the Red Cross and other authorised suppliers of blood are not able to gain indemnity cover against the transmission of AIDS and other diseases that are transmitted by blood if anybody who receives blood provided by them contracts the disease or diseases. Obviously, this is intolerable. This legislation, as I understand it, is part of model legislation that is intended to be enacted across the Commonwealth.

The strategy of the Bill is reasonable, and I support it. The strategy to overcome this problem is to lay down stringent requirements as to what the suppliers of blood must do. It says, 'If you do this you will receive indemnity in regard to civil and criminal liability; you will not receive

that indemnity if you don't do it.' That seems a sensible way of dealing with the problem. Suppliers are required to take blood only where the appropriate declaration has been signed by the donor, to cause approved tests of the blood, as defined in the Bill, to be taken, to dispose of blood that has not passed the test and to provide a certificate with respect to blood that passes the test. When the conditions are complied with, the supplier is protected from civil or criminal liability: otherwise, he is not. The principle is sound.

I note only one minor matter. Clause 4 (a), which sets out the provisions that shall apply, provides that the blood shall not be taken unless the donor has signed a declaration in a form approved by the commission. The importance of that form is something to be considered. I suggest that instead of the form being approved by the commission it should be prescribed by regulation so that it comes under the scrutiny of Parliament. I propose to move an amendment in Committee accordingly, but I am pleased to support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): I thank the honourable member for his contribution and I thank the Opposition for expediting the passage of this Bill. I gave notice publicly that it would be retrospective to on or about 1 July, so there is nothing unusual in those circumstances to having this legislation apply from the time that we gave notice.

The only other point that I make is that the Red Cross has been to see me regarding the special circumstances that may exist from time to time in remote areas. For example, some little time ago a patient who sustained a very severe injury, resulting in severe haemorrhage, was saved at Coober Pedy by the local medical practitioner calling together a panel of donors of known blood grouping in that area.

It is not practical or feasible, of course, in a place like Coober Pedy or Leigh Creek to hold comprehensive stocks of blood on hand. The two places that would be principally involved in this sort of scenario are, in fact, Coober Pedy and Leigh Creek. One could also, I suppose, start to think about places like Streaky Bay, Ceduna and so forth, but they are in reasonable proximity, relatively speaking, to large hospitals like the Whyalla Hospital, where stocks of blood are available.

The situation in the past has been that details of panels of blood donors have been kept locally. They are 'typed' so that the doctor or doctors who require the blood know immediately who is in a particular blood group. That situation, in an ideal world, should persist. However, it is important, of course, that anybody who is on the donor panel should have to observe all of the stringent requirements that we place on people giving blood at major centres: in other words, the high risk people should be excluded. There would need to be a declaration form signed.

Further, because of the prevailing situation we will administratively be requiring that anybody on that donor panel should have had a blood test for AIDS or any other contamination under this legislation within the previous 12 months, so it will be possible administratively to keep up that donor panel system. We will certainly develop to the extent necessary any further sophistication that may be required to arrange air delivery or air drops. However, we did not feel that we could take the additional step of providing indemnity in all of those circumstances.

Indemnifying the Red Cross Blood Bank is an important step. It is a significant and highly desirable step, but it is not one that can be taken lightly because we are taking away the right of an individual to claim damages, provided that the steps outlined in the legislation have been followed. I did not feel inclined to take that a fairly major step further in giving what would amount to a virtual blanket indemnity to practitioners and other personnel in remote areas. I have, therefore, conducted discussions and negotiations with the Red Cross and other interested health professionals and I believe that we have arrived at a situation that will give us the greatest possible degree of protection in all the circumstances.

To summarise, where the situation arises that a patient can be evacuated without whole blood then that will happen. Where it is the opinion of the attending doctor that a blood transfusion is necessary then he will have the option of either calling together a donor panel or sending for blood to be delivered by air drop. The maintenance of that donor panel, of course, will be a local responsibility. It will be a requirement, as I have said, that all of the members of that donor panel are tested or retested on at least an annual basis. I believe that that will provide the greatest reasonable measure of protection. Having said that, I commend the Bill to the Council. The Hon. Mr Burdett has foreshadowed that he intends to move an amendment to clause 4 (2) *(b)*, which I think will be best addressed during the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Steps to be taken in relation to donation of blood.'

The Hon. J.C. BURDETT: Before I move the amendment standing in my name I have some questions to ask the Minister which arise out of the statements he made in his reply about problems raised by the Red Cross with regard to Coober Pedy, Leigh Creek and so on. I think that his response to that has been perfectly reasonable. I want to clarify this matter. He has pointed out that in areas like this there will be blood taken from a panel, members of which will have to sign a declaration form. I take it that it will not be possible to comply, for example, with 4 (1) *(b)* to have the approved tests carried out, and so on.

I was interrupted during the Minister's reply, but I understood the Minister to say that he does not propose making any change to the Bill and that as it stands, if all of the four conditions in clause 4 (1) are not carried out, there will not be any indemnity. So, if transfusions are carried out, say, in Coober Pedy or Leigh Creek (and I agree that they ought to be carried out in emergency situations when life can be saved by doing so) and if the conditions set out in clause 4 (1) *(a)* to *(d)* are not complied with there will be no indemnity. Will the Minister confirm that?

The Hon. J.R. CORNWALL: That is basically the position. As the Hon. Mr Burdett says, it would not be possible to comply with clause 4 (1) *(b)* in those situations. Testing is not yet at a level where it can be done virtually in a doctor's surgery, or even in a remote hospital situation. One would hope that, as testing continues, eventually it will be refined to that situation, but it is not currently available. This is a matter to which we gave considerable attention. I believe that it was only fair of me to raise the matter during the passage of this legislation.

It is my view, and the view of the Government, that it would be unwise to extend the indemnity any further. As I said in my second reading reply, it is a significant step to indemnify the Red Cross even in the situation where all of these steps are followed. I think that the figures that I gave during the debate on the budget last week indicated that, currently, with the testing that is in place and the current incidence of AIDS in the community, and based on all available knowledge, the chance of contracting AIDS through blood transfusion is about one in two million. I think that most of us realise that in smaller communities the social behaviour, shall I say, of the residents of a place like Leigh

Creek, or particularly Coober Pedy, would be reasonably well known to other members of the community.

It is also fair to say that they would particularly be likely to be known to their medical practitioner. In all of those circumstances, I think that if we adopt the proposed line of having a declaration and an annual testing arrangement in order to maintain the panel—and also, of course, as a first line of defence, have arrangements through the Flying Doctor Service, the Air Ambulance, or whatever other appropriate transport might be available, to have the preferred method to do a blood drop or a blood delivery from the nearest hospital where adequate blood is stored—then the sort of protection we are providing to people in those areas would, in almost all respects, be as good as the protection that will be available to people in more closely settled areas.

I make the point again that to take away the right of a patient to sue in circumstances that extend beyond the exemptions in the Bill would be, I think, to take it one step too far. One could envisage, although the chances may be remote, a young person who is the traditional breadwinner in a family contracting AIDS because the strict protocols were not followed. In those circumstances I believe that that individual, and more particularly his family—his next of kin—should have the right to sue. I think that there is a limit to just how far we should go with these exemptions. Frankly, I think this legislation takes it far enough. I have conveyed that view to the Red Cross Society. That has been the basis on which we have conducted our negotiations, and the basis of the advice I have received from our legal officer in the Commission. As I understand it Red Cross has taken independent legal advice, and is happy with the proposals we have put forward.

The Hon. PETER DUNN: Clause 3 (1) *(b)* provides that any other organism can be a prescribed contaminant, and I do not know what those other organisms are. However, clause 4 (1) *(c)* provides that where an approved blood test indicates the presence of a prescribed contaminant the blood should be destroyed. I am a blood donor and have travelled to India, and my blood was then used for serum after that. Can blood be used for serum or must it be destroyed? Is a 'prescribed contaminant' one of the diseases that one might catch in such a place? If that is the case, then in the past it is obvious that serum from centrifuged blood has been used, although maybe not for transfusion.

The Hon. J.R. CORNWALL: 'Contaminant' is a lawyer's expression rather than a doctor's expression. It is an awkward expression in scientific terms, but it is the appropriate word, apparently, in legal terms. 'Contaminant' in this sense means 'infection' for practical purposes, as it would be understood by the average reasonable layperson. The ones we are concerned about principally are AIDS, hepatitis B and, of course, malaria if one happens to be in the wrong area prior to making a donation. Possibly, if one were to go to Africa and get bitten by the tsetse fly, we would be worried about sleeping sickness. However, the two matters of immediate practical concern to anyone running a blood banking operation or involved in the giving of a transfusion in our situation would be AIDS and hepatitis B. Simply centrifuging the blood and removing the serum would not be, by any means, adequate. The blood would be discarded.

The other reason for putting it in those terms is that we think confidentiality is important. For example, there have been cases of false positives, albeit a very limited number, that have turned up in spouses in perfectly normal heterosexual stable family relationships where they are quite clearly false positives. They then have to be checked out by further sophisticated testing at the IMVS or even Fairfield Hospital. If any other routine is adopted other than the discreet disposal of that blood and a confidential follow-up, then not too many of us would be pleased to come forward and volunteer.

We have to be very careful to protect confidentiality from a number of points of view, particularly so that if the Hon. Mr Dunn, for example, who is a regular blood donor, should turn out to be one of the false positives, that confidentiality would be protected.

The Hon. J.C. BURDETT: As the Minister said, we wish to expedite the passage of this Bill. This morning I hastily instructed Parliamentary Counsel about the amendment I placed on file. On looking at it, I would like to take further advice. I ask that the Minister report progress, and we can deal with the matter tomorrow.

The Hon. J.R. CORNWALL: This is the first time that I have seen the amendment and I think it would be quite wise if I took informed advice on it. I would be perfectly happy to report progress.

Progress reported; Committee to sit again.

BUILDERS LICENSING BILL

Adjourned debate on second reading.

(Continued from 16 October. Page 1329.)

The Hon. J.C. BURDETT: I support the second reading. I am pleased that after an inordinate delay the Government is at last prepared to do something for homeowners who find themselves in difficulty. In late 1982, I introduced a private member's Bill to provide for a builders indemnity fund. That Bill was taken over by the Government and passed in early 1983, but the relevant parts did not come into operation until a few weeks ago.

In the meantime, hundreds of home owners had been at risk and a large number of home owners were left unprotected after the failure of Challenge Homes. The only relief which these home owners have had has been through the good offices of the Housing Industry Association and its members—not the Government.

The delay of the Government is quite disgraceful and its excuses totally without credibility. When I have raised this matter, as I have on a number of occasions, the Minister has repeated his parrot cry that the Tonkin Government pruned the Department of Public and Consumer Affairs so that it did not have sufficient personnel to prepare the necessary regulations. In my view this is not the reason but, even if that is accurate, it is now almost three years down the track and if it is a fact, which I deny, that the Tonkin Government unduly emasculated the Department of Public and Consumer Affairs, the present Administration has had every opportunity to rectify that situation.

It is very apparent that the failure of Challenge Homes, the activities of the Home Owners Action Group and other disgruntled home owners has forced the Government to appear to do something before the next election. The Bill has every appearance of being hastily drafted and in some respects there are discrepancies between the second reading speech and the Bill itself.

On Thursday of last week the Minister sent his second reading speech of the Bill and the Bill to the Master Builders Association with a letter requesting submissions and requesting that the submissions be made promptly. This is rather laughable. I had previously sent the second reading speech and the Bill to the MBA and had some discussions with it. The problem had been around for a long time and, to ask for submissions after the Bill has been introduced, indicates to me that the Minister is not very serious about getting the Bill through. The point was to get it in so that he could say that something had been done to help home owners before the election.

I strongly support the general thrust of the Bill and regret that it has been brought in in this way at this late stage. I have a large number of queries about the detailed provisions of the Bill, and certainly will be moving some amendments in the Committee stage. Some of these queries I will canvass during the course of this speech, but others I will leave to the Committee stage because they are of a more minor nature.

The general principles of the Bill are good, and this Bill of 50-odd clauses is essentially a Committee Bill. The Bill provides for a new administrative structure. The general administration of the Act is vested in the Commissioner of Consumer Affairs, who will have responsibility for investigation of complaints and other administrative matters.

The commercial tribunal will be responsible for licensing of builders; dealing with applications for resolution of disputes about breaches of statutory warranties; considering disciplinary matters and the granting of licenses in three categories: category 1—building work of any kind, category 2—more limited range of building work, category 3—which applies to any particular classified trade. Every licensee will have to have a registered building work supervisor (who may be himself) to supervise the building work. The supervisor must have the necessary qualifications although the licensee need not have them.

There will be continuous licensing which involves a less cumbersome procedure than at present. This is something which the Liberal Party has advocated for some time in regard to the Builders Licensing Act and generally across the board, where it is appropriate. Persons who have become bankrupt or who have been associated with insolvent companies will not be able to be granted a licence unless they establish special reasons. This has been one of the problems under the present legislation. Builders who have become bankrupt have continued to operate.

If the tribunal considers there are proper grounds for disciplinary action, it may: reprimand; fine; cancel or suspend; or impose conditions. At present, the only way in which a licensee can be disciplined is by complaint lodged with the Disciplinary and Appellate Tribunal by the Builders Licensing Board. Under the Bill, any person may lodge a complaint to the commercial tribunal. This could include any home owner and is a much more satisfactory situation.

A problem in the past has been that the board has not been able to award damages and that very often a home owner has had to take proceedings both before the board and a court, but the only effective power of the board has been to order the remedial work. Very often remedial work ordered has not been carried out and there are no satisfactory sections in this regard. I have heard numerous complaints from constituents where building work has been unsatisfactory, has been considered unsatisfactory by inspectors of the Department of Public and Consumer Affairs and by the board and where remedial work has been ordered but not carried out.

The home owners have often become completely frustrated, often reduced to tears, and with good reason. They considered that there is absolutely nothing which they can do, and I have found this on many occasions. This kind of situation of course causes particular distress whether the home owner is a disadvantaged person, such as a widow, deserted wife, or so on. The number of quite distressing cases which have come to my notice is very considerable and, as a member of Parliament, I have felt frustrated and distressed that, even using the procedures provided under the present Act and the services of the department, there seems to be nothing which can be done. This Bill continues the ability of the relevant authority, now the commercial tribunal, to order remedial work but it also gives the board power to award damages. This is a new provision, which I think at present is fully justified.

This, incidentally, is one area in which the second reading explanation does not match up with the Bill. The explanation states that the commercial tribunal will be empowered to order rectification work to be carried out by the licensed builder or that some other suitable person be employed to carry out the remedial work. In addition the tribunal will be empowered to award damages if the licensee defaults in carrying out any remedial work. This clearly states that the power to award damages is only if the licensee defaults in carrying out remedial work. Clause 33 (2) provides:

> If, upon an application under subsection (1), the tribunal is satisfied that there has been a breach of a statutory warranty on the part of the builder (in this section referred to as 'the respondent'), the tribunal may do either or both of the following:
>
> *(a)* to the extent to which it is satisfied that it is practicable for the breach to be remedied by the performance of building work—order the performance of remedial work;
>
> *(b)* order that the respondent pay to the applicant such amount by way of compensation in respect of the breach as the tribunal thinks just.

So, the explanation says that the power to award damages applies 'if the licensee defaults'. The Bill says the tribunal 'may do either or both of the following', and there is no condition that an order for remedial work should be made and not complied with first.

As I have said, I believe that the power to order damages is justified because of problems which have arisen in the past. The Parliament should be aware, however, of the rather unusual steps which it is taking. It is unusual to find a tribunal other than a court having the ability to order damages and, according to the Bill, unlimited damages. We should also bear in mind that the commercial tribunal is not bound by the rules of evidence so we have a body, other than a court and one not bound by the rules of evidence, capable of awarding unlimited damages. As I have suggested, I think the problems for home owners have been so serious that these steps are warranted. However, there should be some limitation on the quantum of damages: probably the jurisdictional limit of the local court would be appropriate.

The problems of a body other than the court being able to award damages, even though not bound by the rules of evidence, is ameliorated by the fact that the chairman of the tribunal is a local court judge. The tribunal is also empowered to grant relief where a condition in a contract is harsh or unconscionable or such that a court of equity would give relief. Once again, it is unusual to find a body other than a court able to grant this kind of relief.

However, the problems have been such that I believe that this provision is warranted. Once again, however, I think that there ought to be a jurisdictional limit in regard to the amount payable under the contract. The limit should be the same as the jurisdictional limit of the local court of full jurisdiction.

The Bill provides as to contracts, for example, that they must be in writing and must set out in full all of the contractual terms. In general, I find this part of the Bill acceptable and reasonable. In regard to the contract, which may be the most important contract which many people sign in their lives, there ought to be a considerable measure of specificity. I am pleased that the Government decided to go down this track and to spell out the kinds of things which ought to be set out in a contract rather than providing a fixed form of contract. This latter suggestion had been canvassed at an earlier stage and I think that this course would have been objectionable. I think it is an invasion of civil liberties that, if people purport to enter into a contract, it can only be in a certain fixed form.

Where an exhibition home has been built and persons enter into a contract on the basis of wanting the same kind of home, it is provided in the Bill that the house built under such a contract must be of the same specifications and of the same standard as the exhibition homes they seek to emulate. This seems to be reasonable. There is a cooling off period of five days in ordinary circumstances.

I propose to make some comments about the detailed provisions of the bill, although it is essentially a Committee Bill and I will be taking these matters up in more detail at the Committee stage. There are some matters on which I would like a response from the Minister in his reply before determining whether or not to move amendments. The first is clause 4 (1) *(d)*. The effect of this in the context of clause 4 (1) is that the term 'builder' does not include any person performing building work as referred to in paragraph *(b)* if all the building work is performed on the person's behalf by persons licensed under the Act to perform such building work.

This means that any person may supervise the construction of a building for sale using persons holding category 3 licences—tradesman licences—for the performance of various trade work and not be subject to the provisions of the Act. We would have thought that such a provision opened the door to outright abuse and undermined the whole philosophy of the licensing of general builders.

Why bother to get a licence if you intend to operate only as a 'spec builder'? You can supervise the building work, utilise the services of licensed tradesmen, and avoid any future obligations under the Act. Is the Commissioner going to chase each individual sub-contractor who performed work on the job if there are any defects in the building work? If he is, then there will have to be a very substantial change in the operation of the Department of Public and Consumer Affairs, which has not been in the slightest interested up until now in the activities of individual sub-contractors where they have performed building work under the supervision of others.

I would ask the Minister in his reply to respond to these suggestions and to ask whether this provision is really what he intends. The definition of building work does not include demolition and, because of the importance of demolition work, particularly in regard to adjoining owners, I question whether this should be included.

Clause 5 (2) says that the Act does not apply in relation to registered architects acting in the ordinary course of the profession of architecture. As a matter of clarification, I think that there should be added the words 'but does apply to an architect in respect of any work which he undertakes as a builder', or similar words. Some architects do also operate as builders and I think it ought to be made clear that, where they do operate as builders, they do not escape the provisions of the Act just because they are architects.

I refer to clause 8, which provides the various categories of licence. It is very difficult to comment upon this clause without seeing the proposed regulations. Clause 8 *(b)* is worded negatively—the regulations could be used to prevent a category 2 licence holder from doing almost any building work at all. The Minister suggests in his speech that there will be tighter control upon the granting of licences, as follows:

> . . . to give recognition to the varying degrees of skill and competence required to carry out different types of building work.

The Bill does not specify how this is to be done. Nothing, as it currently stands, achieves that aim—all currently licensed general builders are to receive a category 1 licence. If we are to understand that at some time in the future a licence will be granted with certain restrictions as to the type of general building work that will be performed by that licensee, then such provisions should be specified in the Bill. I consider that clause 8 *(b)* should be expanded to express whatever may be the Government's intention in the matter.

Clause 10 (2) of the Bill provides that an application for a licence must furnish the tribunal with such information (verified if the tribunal so requires by statutory declaration) as the tribunal may require. I suggest that this is far too wide. The tribunal could demand all sorts of information such as how many mistresses the applicant had or what he had for breakfast. While this may be fanciful, the tribunal could act quite oppressively and require all sorts of detailed and scarcely relevant information. I would suggest that the information ought to be prescribed by regulation and subject to the scrutiny of Parliament, rather than whatever the tribunal may require.

Clause 10 (9) provides that an applicant must be a fit and proper person. While this applies at the present time, it is worth noting that a licensee as opposed to a building supervisor is now specifically not required to have any building qualifications or expertise. What else is comprehended under the term 'fit and proper person'? Perhaps the Minister can clarify this when he replies.

Clause 10 (9) *(c)* refers to sufficient financial resources. This definition exist in the present Act. It is totally useless and places the applicant at the mercy of the tribunal without any guidelines to follow. What may be sufficient financial resources for a builder to build 10 houses per year may not be sufficient to build 100 and will not be sufficient to build a 15-storey building. I suggest that it is imcumbent upon the Government to provide some statutory criteria in order to avoid unnecessary confusion and litigation. A formula could be prepared, perhaps in regulations, to define the financial resources in terms of money by reference to volume and height.

The definition of 'director' in clause 10 (1) appears to be in direct conflict of the requirements of the Companies Code, which places very strong controls upon directors. If a change is needed, this Bill is not the place to change it. The definition of 'director' should be deleted. Clause 12 (7) provides that a licensee may with the consent of the tribunal surrender the licence. Why should not a licensed builder be able to surrender a licence without the consent of the tribunal? If he has done anything that may call for disciplinary action or the exercise of the powers of the tribunal before the time of surrender, he would still be responsible, notwithstanding the surrender of the licence. A licensee should be able to surrender his licence at any time and I propose to address this by amendment in the Committee stage.

Clause 13 (11) provides that, in the event of the death of a licensee, an unlicensed person may continue to carry on the business for a period of 28 days and thereafter for such period and subject to such conditions as the tribunal may approve. This should be changed to provide that an unlicensed person can continue to carry on the business for a period that is necessary to complete any contract entered into and also commenced by a deceased licensee, notice of which contracts should be given to the tribunal.

Clause 14 again relates to the limited category of licence and the same comments apply as I made in regard to clause 8. Clause 15 (1) requires that 'all building work performed in pursuance of the licence is properly supervised by such a registered building work supervisor'. First, building work is performed 'in accordance with a licence' and not 'in pursuance of a licence', it is performed 'in pursuance of a building contract'. These changes should be made in Committee.

Secondly, what is 'proper supervision'? Does this mean that every supervisor employed by a builder must be a registered building supervisor, or is it sufficient if there is one registered building supervisor (in the position of the

'manager' under the previous Act) who supervises the other supervisors? If that is not so, how is a person to learn to be a building supervisor—that appears to be the current favoured method of the Builders Licensing Board to ensure that an applicant for a general builders licence has had sufficient building experience to justify the granting of such a licence?

I understand the intention of the draftsman, but he appears to have precious little understanding of how a builder conducts his business. This provision would render the operations of the large civil contractors and the volume house builders (such as Jennings Industries Ltd) impossible. The bulk of building work would cease overnight following the commencement of the new Act if the latter interpretation of 'proper supervision' was correct.

Clause 15 (2) appears to contain a backdoor disciplinary method—if the tribunal decides that a licensee is not properly supervising the building work, and that lack of supervision continues for 28 days, then the licence is automatically suspended. That may have drastic consequences for builders and consumers that are not contemplated by the draftsman. Is this provision necessary where disciplinary powers are provided in Part IV of the Bill?

Clause 10 (3) does not cure the above problems. If the tribunal considers that a person is sufficiently competent to perform the function of supervision, then why not grant a licence as a registered building supervisor to that person any way? It looks like the cat chasing its tail! Perhaps the way out of this is that a building supervisor should be responsible but not necessarily have to carry out all the supervisory work himself.

Clause 16, once again, refers to information required by the tribunal. It should be prescribed by regulation. Under clause 17 a building supervisor as a licensee should be able to surrender his licence whether or not the board consents.

Clause 18 (5) creates problems. Does this subclause mean that a building supervisor can be registered only in respect to one licensee? That is what it appears to mean. Does this provision mean that a small builder who holds a general licence but is not building will have to relinquish his licence if he desires to work for another builder? Does it mean that a person who is registered as a supervisor for one licensee will not be able to work as a supervisor for a related company in the same corporate group which also holds a licence (a situation which is quite common) without having to waste community time and resources obtaining approval?

I cannot see what the evil is that the clause is designed to eliminate. If it is designed to prevent the risk of the 'lending or hire' of a licence (and it may be), then I believe that there are other more acceptable ways of eliminating that risk.

Subclause (5) (c) refers to 'any other ground that the tribunal considers a proper ground'. Again, this is terribly vague, and does not provide the tribunal or the industry with any guidance whatsoever. What is 'any other proper ground'?

Clause 19 (5) provides that, where the tribunal decides to hold an inquiry, the tribunal shall give the person to whom the inquiry relates reasonable notice of the subject matter of the inquiry. I think a specific period of notice ought to be provided and the tribunal should be required to provide the respondent with a copy of the complaint and copies of all documents, reports and so on in the possession of the Commissioner relating to the complaint.

Clause 19 (11) provides that it shall be a proper cause of disciplinary action if the respondent has been guilty of conduct which breaches any other Act or law. Does this apply to a speeding offence? I think that the Bill ought to be redrafted to restrict offences to those of a relevant kind.

I refer to clause 19 (13): this subclause may well be so numbered, because it is rather draconian. It provides that the powers conferred by this clause may be exercised in relation to any conduct or circumstances whether occurring before or after the commencement of this Act. Thus, it is retrospective in its action. The powers conferred are in regard to disciplinary action. I acknowledge that, because of the problems which home owners have had, there may be some justification for this, but I have some reservations about subjecting builders to disciplinary action in respect of acts or defaults which occur before those disciplinary powers existed.

Clause 20 provides that, where a person is disqualified from being licensed or registered, he cannot, without the prior approval of the tribunal, be employed or otherwise be engaged in the business of a licensed builder.

Does this mean that a person who has lost his building licence cannot work in any capacity whatsoever for a builder? Many general builders are former tradesmen and, if the builder has become bankrupt and lost his licence, does this mean he cannot obtain work with a builder in his former trade? Why should it be necessary to waste everyone's time and money with applications for approval? Perhaps the Minister could refer to this matter when he replies.

Does clause 25 mean that an owner is now prevented from requesting a builder to perform variations to a building contract? It appears to do that. My reading of the Bill indicates that this is so, as the owner and the builder will not be able to comply with the provisions of subclause (5), became neither builder nor owner will be able to specify the nature of the variation at the time of signing the contract. If they could, then the work would be included in the contract, and there would be no need for a variation. It seems to me that an amendment is necessary so that, if during the course of building some variation is required by the owner and if the builder is prepared to comply with it, a variation in writing, duly signed by both parties, ought to be allowed and should be binding.

Clause 26 prevents a builder from being able to recover payment for work properly performed in the preparation of plans and so on in the performance of a building contract. Why should he not be able to recover this? He should be able to recover if the charge is separately specified and if there is an agreement in writing to this effect.

Clause 32 provides for a cooling off period of five business days. This may be necessary, having regard to the importance of the contract, particularly from the home owner's point of view. It does seem a little inconsistent that, where a person buys their first or only home from a land and business agent, the cooling off period is two days, whereas, if they have that home built by a builder, the cooling off period is five days. Does the Minister think that there is any adequate reason for the difference—the apparent inconsistency?

Clause 33 provides that the tribunal may, upon application by any person entitled to the benefit of statutory warranty in respect of domestic building work performed by a builder, determine whether there has been a breach of a statutory warranty on the part of the builder. This is very necessary in order to protect the interests of the home owner. It will also overcome some of the problems which apply at the present time where there is an argument about the standard of workmanship. It will be possible for the home owner to go to the tribunal and have the matter determined; that is not possible at present. However, I find it quite amazing that the ability is given to the home owner to apply to the tribunal to have the matter determined but the same ability is not given to the builder. Surely in the interest of fair trading and even-handedness the builder

ought to have the same ability to apply. The same consideration applies in regard to clause 34.

Clause 43 provides that an authorised officer may enter upon land on which building is being performed and make an inspection. That is obviously very necessary but, in the interests of an even-handed approach, which the Bill generally seems to be trying to achieve, I suggest that the clause be amended to provide that reasonable notice be given to the builder and that such inspection be at a time reasonably convenient for all parties.

If the builder does not attend, the inspector ought to proceed. This is one of the problems at present: that often inspectors make requirements and the builder has not been involved at all. I suggest that it is much more satisfactory for the builder to be required to be involved at that stage because, before one gets to proceedings before the tribunal or that sort of thing, it is often much easier to resolve the disputes when they are still in a fairly low key.

As I have said, I support the general thrust of the Bill. I am pleased to see that even at this late stage the Government is prepared to at least introduce a Bill and do something to solve the problems of home owners. I trust that it will also be prepared to address the many matters that this hastily introduced Bill leaves unresolved. I support the second reading with some enthusiasm, but will raise the above and other matters in Committee.

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

STATUTES AMENDMENT (ENERGY PLANNING) BILL

Third reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a third time.

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition intends to oppose the Bill at this stage. I trust that the fears that I have expressed will not come to pass in the short term and that in the very short term we will exercise the powers that the Government seeks for itself under this Bill. That position may occur very shortly indeed.

The Hon. FRANK BLEVINS: To a great extent, the Hon. Martin Cameron has trivialised this issue. The issue of ministerial responsibility is very serious. On such a basic necessity, as power—

The Hon. M.B. Cameron interjecting:

The Hon. FRANK BLEVINS: The honourable member should not have said anything. For the power utilities in the State not to be under the control of the Minister is absurd when the reality is that the Government has to have considerable influence on these utilities. There is no excuse whatsoever for them not to be under the control of the Minister, and with that control comes responsibility, which is as it should be. If Governments behave in the way in which the Hon. Martin Cameron seems to think they will behave, the Governments are answerable to the electorate and can be dealt with accordingly. There is absolutely no argument, as there was not for the Deputy Leader of the Opposition (Hon. Roger Goldsworthy) when he stated last year that ETSA—if not the Pipelines Authority, which was not under discussion at the time—should be under ministerial authority. I cannot understand the arguments of the Hon. Martin Cameron, and I urge the Council to support the third reading.

The Council divided on the third reading:

Ayes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, and Barbara Wiese.

Noes (8)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons C.W. Creedon and C.J. Sumner. Noes—The Hons R.C. DeGaris and K.T. Griffin.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

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

The Hon. J.R. CORNWALL (Minister of Health): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Bill provides for five amendments to the principal Act, the Parliamentary Superannuation Act 1974. Two of the amendments deal with unusual cases which have arisen in the operation of the Act, while another deals with annual reporting. The remaining two are the most significant in that they deal with what has colloquially been termed "double dipping".

Both of the amendments concerning "double dipping" are designed to prevent the proper operation of the scheme being circumvented by the payment of superannuation benefits in lump sum form. One of these amendments concerns commutation of a South Australian pension where a member moves to another Parliament. Under the present Act, where a member of this Parliament resigns to contest an election for the Parliament of another State or the Commonwealth, and he is elected to that other Parliament, he is deemed to have retired involuntarily. He is therefore entitled to a pension, the payment of which is suspended whilst he is a member of the other Parliament. The present Act, however, allows such a former member to commute a percentage of his pension as set down in the Act.

The effect of this provision is that if he remains in the other Parliament long enough he could receive full benefits from the superannuation scheme of the other Parliament as well as having the benefit of a large lump sum from South Australia. The amendment proposes to change the scheme so that commutation is not available at the time of moving to the other Parliament. A right of commutation of the South Australian pension would, however, be available when the former member eventually leaves the other Parliament, but only if his superannuation benefit from that Parliament's scheme does not include any allowance for South Australian parliamentary service. This amendment could save the Government a considerable amount of money on occasions.

The other amendment that concerns "double dipping" covers supernnuation payments from a prescribed organisation (for example, another Parliament). If a South Australian Parliamentary Superannuation Fund pensioner joins a prescribed organisation, his pension is reduced by the amount of salary payable by that organisation. Then, when he retires from that organisation, his South Australian pension is reduced by the amount of any pension payable from

that organisation's superannuation scheme. The present Act contains these provisions to ensure that a former member cannot receive double superannuation benefits.

However, the present Act does not encompass the payment of lump sums from the other superannuation scheme. By commuting that scheme's pension, a former member could achieve double benefits. The amendment will ensure that lump sum payments as well as pensions are taken into account in determining any reduction in the South Australian pension. Thus, Government costs will reduce in such cases.

One of the amendments dealing with unusual cases concerns elections subject to a decision of the Court of Disputed Returns. Where a member of the Parliament loses his seat at an election but regains that seat as a result of a declaration of the Court of Disputed Returns, or as a result of a subsequent by-election ordered by the Court of Disputed Returns, that member presently loses service for the purposes of the Parliamentary Superannuation Act. Such a situation can affect a member's retirement pension entitlement under the Act.

The Bill seeks to correct this situation by granting "notional service" in respect of the period that the member was unable to resume his seat. Contributions covering the period are to be paid to the fund, and any benefits paid, if any, to the member must be repaid to the fund. The amendment makes the change retrospective to 1 July 1979, to cover a case which arose in 1979. Only minor costs to the Government can arise from this amendment.

The other amendment dealing with unusual cases concerns higher offices the salary level of which has been reduced. The scheme provides that retirement pensions are based on the salaries at retirement and take into account the salaries of any higher offices that a member has held during service.

At present, a member's retirement pension is affected if the salary of a higher office that he previously held has been reduced, in comparison to other higher office salaries, since the time when the member held the office. The Bill seeks to amend the Act so that a member's retirement pension cannot be prejudiced by a reduction in the relative salary of the offices he held. Such a situation does not come about very often, but, where it does, the effect of this provision will be to ensure that a retiring member is paid a pension appropriate to the level of responsibility that he previously held. This amendment could increase Government costs, but only to a minor extent.

The fifth amendment concerns annual reporting to Parliament. Under the present Act the trustees of the Parliamentary Superannuation Fund are not required to produce an annual report. Whilst the trustees produced an annual report for the 1983-84 financial year, which has been tabled in Parliament, the Government believes that it should be a requirement that all public sector superannuation schemes report to their Minister. A copy of the report should then be tabled in the Parliament. The Bill also contains a number of consequential and other technical amendments which are spelt out in the explanation of the clauses.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the commencement of the Bill. Subsection (3) provides that clause 10 *(c)* and *(d)* will come into effect retrospectively. These amendments to section 36 are intended to cater for the type of situation that Mr. G. J. Crafter found himself in after the 1980 by-election in the seat of Norwood. The retrospective operation of the provision will ensure that the Hon. Mr Crafter benefits from the amendment.

Clause 3 replaces subsection (2) of section 11 with a provision in the modern form. The existing requirement that the Auditor-General must report is not included. However, by new section 11a (2) the Auditor-General may require the trustees to include his comments in their report which will be tabled in Parliament.

Clause 4 inserts new section 11a, which requires the trustees to report to the Treasurer annually and to incorporate the audited accounts in the report.

Clause 5 amends section 17 of the principal Act. Paragraphs *(a)* and *(b)* of new subsection (2a) replace the substance of existing subsections (2a) and (2b) respectively. New subsection (2a) *(c)* provides for a problem that the present Act does not address. Because, in calculating entitlements under the Act additional salary is included at the levels applying immediately before retirement, an injustice may occur if the prescribed office concerned had been downgraded in salary in comparison to other prescribed offices since the member pensioner held that office. The new provision allows such an injustice to be redressed.

Clause 6 replaces section 19 of the principal Act. Subsections (1), (2), (3) and (7) of the new provision replace subsection (1) of existing section 19. The new subsections are more comprehensive than the existing provision. Not only do they reduce the South Australian pension where a pension is received from another jurisdiction but they also reduce it if the entitlement or part of the entitlement from the other jurisdiction is received as a lump sum. New subsections (4), (5) and (6) replace existing subsection (2). These provisions allow for a return of contributions where the extent of the reduction under previous subsections results in beneficiaries receiving nothing or an amount that is less than the contributions made by the member. Existing subsection (2) enables a member pensioner to make this claim, but does not entitle his spouse or children to make it. The new provisions allows this to be done.

Clause 7 amends section 21 of the principal Act. New subsection (la) provides that a member pensioner who has retired unvoluntarily by reason of having been elected to another Parliament may commute his South Australian pension only if he is not entitled to superannuation or a retirement allowance by virtue of his years of service in the other Parliament. Subsection (lb) provides for a payment in the nature of a commutation of pension if the member is entitled to superannuation or a retirement allowance from the second Parliament no part of which is attributable to his years of service in the South Australian Parliament. In such a situation section 19 may well operate to reduce the member's South Australian pension or to eliminate it completely. It would therefore be incorrect to refer to this payment as a commutation of the pension since it is impossible to commute a pension that does not exist. The amendments made by the other paragraphs of this clause are consequential.

Clause 8 amends section 24 of the principal Act, which provides for payment of a pension to the spouse of a deceased member pensioner. The amendments made by paragraph *(c)* of this clause correspond to the amendments made by clause 5 to section 17 of the principal Act.

Clause 9 amends section 30 of the principal Act. This section refers to an amount payable "by way of child benefit under this Division". However with the amendment to section 19 a payment may be made (under subsection (4)) to a child, which is neither by way of child benefit nor under Division II of Part V. The most convenient solution has been to rewrite the section.

Clause 10 amends section 36 of the principal Act. Amendments made by paragraphs *(c)* and *(d)* cater for the situation where a Court of Disputed Returns declares a former member who has lost his seat to be duly elected or a former member is re-elected at a by-election after a Court has declared the election of his opponent to be void. If he pays

to the fund the contributions that he would have paid if he had continued to be a member, together with any amount paid to him under the Act after the loss of his seat, his period of service will include the period of interuption to his membership of Parliament. Paragraphs *(a)* and *(b)* make amendments consequential on the amendments to section 21 made by clause 7.

Clause 11 makes a consequential amendment to the second schedule.

The Hon. M.B. CAMERON secured the adjournment of the debate.

ADJOURNMENT

At 5.30 p.m. the Council adjourned until Wednesday 23 October at 2.15 p.m.