LEGISLATIVE COUNCIL

Thursday 19 February 1987

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

PETITION: PROSTITUTION

A petition signed by 111 residents of South Australia praying that the Council pass unamended the Bill to decriminalise prostitution was presented by the Hon. T.G. Roberts.

Petition received.

MINISTERIAL STATEMENT: CREDIT UNION REVIEW COMMITTEE

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

Leave granted.

The Hon. C.J. SUMNER: I seek leave to table the report of the Credit Union Review Committee.

Leave granted.

The Hon. C.J. SUMNER: In the wake of the Campbell and Martin reports and the receipt of submissions from the Credit Union Association of South Australia, in response to those reports I formed a small committee comprising representatives of Government, the Credit Union Association and the Credit Union Stabilisation Board to review the position in this State. I requested the committee to examine the various submissions made by the Credit Union Association in response to the Campbell and Martin reports along with a consideration of the Victorian Financial Institutions Review, which had just been completed at that time.

I further requested the committee to recommend to the Government the broad policies that it could adopt in respect of credit unions and to indicate what legislative changes should be made to implement those policies. In addressing the above terms of reference, the committee was asked to have regard to the following matters as far as they related to credit unions:

1. Implications of the results and recommendations of the Campbell and Martin committee reports and the Victorian Financial Institutions Review;
2. Implications of the impact on the traditional market role of credit unions as a result of implied greater risks from new activities, technology and any changes recommended by the committee; and
3. The need for prudential controls.

The committee, in the light of these references, has reported to me that a major legislative overhaul of the credit union legislation, in policy terms, is not necessary. The committee's report examines the infrastructure that has been set up by the credit union movement to provide liquidity and technical support to individual credit unions. The committee believes that the credit union industry has been able to adapt to the deregulated financial sector regulatory framework. The committee does, however, make some important recommendations to strengthen the fabric of the credit union movement so that it can continue to provide the financial and social support to its members on the cooperative basis which is the hallmark of successful credit union activity.

The committee believes that it is important that the credit union movement be able to provide the same diversified products to its members as other operators in the financial market and has therefore recommended a relaxation of present restrictions placed on diversification. However, the committee has made ancillary recommendations concerning the powers of credit unions to invest up to 5 per cent of the aggregate of the paid-up share capital and the amount deposited with the credit union.

Secondly, whilst the committee has acknowledged the strengths of the credit union movement, it still believes that the legislation should set parameters designed to strengthen individual credit unions. Therefore, it has recommended that a minimum reserve ratio be achieved by credit unions within a defined period. The committee has followed Campbell committee recommendations in this and also in its recommendations that credit unions be given extended rights to raise share capital.

The third major recommendation of the committee is to recognise interstate trading of credit unions. Additionally the report makes a large number of recommendations to update and clarify provisions of the Credit Unions Act, which as a 1976 enactment is unsophisticated in its treatment of an industry which is competing in today's complicated financial markets.

The South Australian Government is supportive of the aim of maintaining a strong and viable credit union movement in South Australia. The Government believes that there is a role for cooperative bodies with their ideals of promotion of the well-being of groups of people with the same background and interests in the financial sector. I therefore commend the report to members and await with interest the comments of parliamentarians and the general public. Comments on the report should be sent to the Commissioner for Corporate Affairs, Mr Ken McPherson, at the Corporate Affairs Commission, 12th Floor, 25 Grenfell Street, Adelaide.

QUESTIONS

BREATH TESTING

The Hon. M.B. CAMERON: I seek leave to make a short explanation before asking the Attorney-General, as Leader of the Government, a question about breath testing of drivers who are involved in accidents.

Leave granted.

The Hon. M.B. CAMERON: I understand that police have been given a directive by the Assistant Commissioner (Operations) to test the blood alcohol level of all drivers who are involved in vehicle accidents which police attend in the p.m. time period and in the early a.m. hours. Of course, this would be done by the normal means of breath testing. However, I have received information that has disturbed me that this is not always occurring. In fact, I was told that only about 20 per cent of drivers involved in accidents are breath tested. I have no way of checking this figure, but it came from a fairly reliable source.

In one instance I was informed that a man was involved in an accident, but he escaped injury. He was not tested, but he later volunteered to have a breath test with another organisation and he was found to have a blood alcohol reading of 0.16. At a time when the road toll is one of this State's greatest tragedies, it should be compulsory for all drivers who are involved in accidents that are attended by police to be tested, no matter what time of day or night. At the very least, the current directive should be strictly carried out.

Will the Attorney-General take whatever steps are necessary to ensure that the current directive is carried out?

Will he see that the directive is extended to cover every hour of the day (whether a.m. or p.m.), particularly where accidents involving casualties of other people are concerned? At the moment, if a driver or passenger is injured, when they attend at hospital they are automatically blood tested but, if a driver manages to escape St John, and if the accident occurs in the daytime there is a good chance that the driver will not be tested. Apart from being unwise, it is unfair. Will the Attorney-General ensure that, where the directive is not carried out, appropriate action is taken against the officers?

The Hon. C.J. SUMNER: In relation to this matter the honourable member has not put forward any evidence to support his contention. He made an assertion but he did not back it with any substantial verification. I will refer the matter to the appropriate Minister and I will bring back a reply.

NATIONAL COMPANIES AND SECURITIES COMMISSION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about funding for the National Companies and Securities Commission.

Leave granted.

The Hon. K.T. GRIFFIN: This week the Chairman of the NCSC claimed publicly that it does not have the funds necessary to investigate a $13 million fraud and to extradite the perpetrator of the fraud from overseas. At the same time, the Chairman has been asserting that generally the NCSC is underfunded, notwithstanding the $74 million profit made across Australia by the NCSC and State Corporate Affairs Commissions out of private sector fees.

I see from media reports that the Victorian Attorney-General is proposing to take to the Ministerial Council on Companies and Securities a proposal for a levy on takeovers to fund the NCSC, although there are no details as to how that will work. The NCSC says that it is unable to fully investigate breaches of companies and securities laws as a result of the underfunding. The Federal Attorney-General joined the fray and yet again threatened that the Commonwealth would take over the whole area of the law relating to companies and securities, a threat which I vigorously oppose. The cooperative scheme at least gives the States some say in what is happening in the area of companies and securities law. Any takeover by Canberra would result in yet another centrally controlled federal bureaucracy out of touch with what is needed in the real world. My questions are:

1. Is the NCSC underfunded so that it is unable to carry out fully all its responsibilities including investigation of all corporate criminal activity?

2. Does the Attorney-General, as a member of the ministerial council, support the concept of a levy on takeovers to fund the NCSC, and how would it be imposed?

The Hon. C.J. SUMNER: The honourable member has raised once again the question of the appropriate responsibility between State and Federal Governments for companies and securities regulation and has reasserted his strong view that it should remain a cooperative scheme. I point out to the honourable member that the President of his Party in South Australia (Senator Hill) moved in the Senate for an inquiry into the cooperative scheme to be conducted by the Legal and Constitutional Committee of the Senate. At that time he made some remarks about the scheme that were not necessarily complimentary and said that it needed to be examined. The Legal and Constitutional Committee set off on an exercise that has canvassed virtually all of the issues that could possibly come up with respect to the cooperative scheme.

The honourable member may be interested to know that I appeared before that committee with the Commissioner of Corporate Affairs. I think that I was the first Minister of Corporate Affairs, State or Federal, to appear before the committee and I presented a detailed submission that supported the cooperative scheme. It cannot be doubted that the business community in South Australia supports the cooperative scheme but, as I pointed out, there does seem to be some difference of view on the cooperative scheme within the Liberal Party. These days we are not unused to differences of view within the Liberal Party or the ranks of the coalition. Senator Hill raised some questions about the cooperative scheme when he moved his motion to establish a select committee. It is known that, within the conservative ranks, the former Senator Rae was opposed to the cooperative scheme. He spoke in opposition to it in the Federal Parliament. It may be that, now he is a Minister in a State Government, he has changed his tune; I suspect that he probably has. I have no doubt that Premier Gray would have given him a lecture on States' rights and the interests he is supposed to represent.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Davis interjects and says that he is the Minister for Education and the Arts and is very good. That was not the point to which I was directing my attention.

The Hon. K.T. Griffin: It's got nothing to do with the question.

The Hon. C.J. SUMNER: The Hon. Mr Griffin is quite right in saying that the Hon. Mr Davis's interjection had nothing to do with the question.

Members interjecting:

The Hon. C.J. SUMNER: Well, the honourable member wants it both ways. He is prepared to pontificate in his explanation about the scheme itself and indicate his opinion that he strongly supports the cooperative scheme and, when I respond to that aspect of his remarks, he says I am not answering the question.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: One sentence, that is okay. I merely want the Council to know members opposite ought to realise that within the coalition ranks and within the Liberal Party itself there are different views on the cooperative scheme. Nevertheless, on behalf of the State Government in South Australia, I presented a submission to the Senate Legal and Constitutional Committee in support of the scheme. So that is the position of the South Australian Government.

The question of funding is always a matter of some difficulty when we are talking about a regulatory body such as the Corporate Affairs Commission or the National Companies and Securities Commission. No doubt more funds could be provided, but members know that there is a very tight budgetary situation, not just in South Australia but in the Federal Parliament and, indeed, in the other States of Australia. The scheme is funded cooperatively—50 per cent from the Commonwealth and a proportion from the respective States, depending on their populations, and South Australia contributes to that.

Quite frankly, one of the problems with the funding is simply that there are seven governments that have to agree. During my period as a Minister on the ministerial council I have tried to do what I can to streamline the preparation of the NCSC's budget and its presentation ultimately to the

Federal Parliament. I am sure the honourable member would concede that one of the major problems with the cooperative scheme is how it is to be adequately funded, given that seven governments are involved in having to agree on an appropriate level of funding. In more recent times the system has been streamlined and is certainly better than it was when I first joined the ministerial council. No doubt the NCSC's budget will be discussed at the next ministerial council meeting and probably at subsequent meetings as well and a decision will have to be made about the level of funding.

The same will occur with respect to the levy on takeovers or the user-pays principle which has been floated by Mr Kennan, the Victorian Attorney-General. I do not yet have a view on those matters and will consider the issue when it is raised in the ministerial council.

STAGE COMPANY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before directing a question to the Minister Assisting the Minister for the Arts on the subject of the Stage Company.

Leave granted.

The Hon. L.H. DAVIS: On 3 December last year, the Legislative Council passed a motion condemning the State Government for its withdrawal of finding from the Stage Company at the end of 1986. This extraordinary action of the Government came notwithstanding the company's outstanding record of 60 productions in 10 years, mostly Australian plays, with a widely acclaimed production of David Williamson's *Sons of Cain* in a 10 week season at London's West End in mid 1986 and successful productions in Texas and Melbourne also during 1986.

The axe was brought down without the promised consultation between the Stage Company representatives, the Minister for the Arts (the Premier) and/or officers of the Department for the Arts. No attempt was made to contact Mr Bill Spear, a well known Adelaide accountant and financial consultant to the Stage Company about the financial position of the company. Mr Spear was obviously disgruntled by the total lack of communication because he made a press release attacking this failure to consult and also criticised the State Government's decision, which he did not believe could be justified.

But the Stage Company's last production, Steve Spears' musical *Those Dear Departed*, was severely hampered by two factors: first, rehearsals and production arrangements were delayed for several weeks as the Government toyed with the future of the company, and that, obviously, affected the quality of the final production; and, secondly, the battle for the Stage Company became public and was raging at the time of the production. At that time the many people, including me, who were fighting for the Stage Company were aware that our stand could have an adverse effect on the box office. A theatre company which has lost public funding has the smell of death. That is hardly a plus for the box office. Therefore, not surprisingly, the deficit on *Those Dear Departed* was greater than budgeted.

The Minister would be aware that more than a few people in theatre circles were outraged at the State Government's shoddy treatment and assassination of the Stage Company without consultation or an overall review of Government funding to theatre companies in this State. I am also appalled to hear that there has still been no contact with Mr Bill Spear, the Stage Company's financial consultant. Mr Spear provided the Stage Company's financial accounts for the six months ended 31 December 1987 to the Department for the Arts in early January. He finds it remarkable that still no contact has been made with him. My questions to the Minister are as follows:

1. Does the State Government intend to conduct a full review of its funding of theatre companies and, if not, why not?

2. How can the Minister for the Arts and/or the Department for the Arts make judgments and comments on the financial position of the Stage Company without any consultation with the financial adviser to the Stage Company?

The Hon. BARBARA WIESE: First, with respect to the Stage Company, I believe that the results of the final production of the company in 1986 fully vindicated the decision that was taken by the Government last year to cease the funding to the Stage Company until some further review could be undertaken of its operations, because not only did the production come in under budget on the box office but also it was over budget on production costs, as I understand it. That, of course, has worsened the financial situation for the Stage Company.

The Hon. L.H. Davis: The Government can take great credit for that.

The Hon. BARBARA WIESE: On the contrary, I would have thought that the fact that there was publicity about the Stage Company and its financial difficulties would have boosted audience numbers, if there was the level of support in the community for the company that the Hon. Mr Davis has been telling us, in a monotonous monologue over many months, existed.

The Hon. L.H. Davis: What does that mean?

The Hon. BARBARA WIESE: It means that far from turning people away, as the honourable member is suggesting, I would have thought the public of South Australia would rally to the cause if there was, indeed, the level of support for the Stage Company within the South Australian community that the honourable member has indicated. But, that aside, the fact is that the State Government, as indicated last year (and I repeat), through the Department for the Arts, will be having discussions with the Stage Company in the coming months preceding budget deliberations, and decisions will be made as appropriate as to whether funding can be continued in the next financial year.

With respect to funding for other arts organisations, the State Government as an ongoing process reviews the companies to which it provides funds and makes assessments as to their viability and other factors before funding is made available to them, and this year will be no different. We will do that once again.

The Hon. L.H. DAVIS: I wish to ask a supplementary question. Will the Minister answer the second question? Why has the Minister not consulted with Mr Spear?

The Hon. BARBARA WIESE: I have answered that question. He will be consulted.

PSYCHOLOGICAL PRACTICES

The Hon. R.J. RITSON: I seek leave of the Council to make a brief explanation before asking the Minister of Health a question on the subject of psychological practices.

Leave granted.

The Hon. R.J. RITSON: There is an organisation called the MDP (Mood Disorder Prevention) group—a very prestigious group, patronised by the former Chairman of the Health Commission, Professor Gary Andrews. I received a complaint from its director, Mr Richard Woon, concerning a company which markets psychology for self improvement

purposes. The complaint was to the effect that at least two people had been precipitated into psychotic episodes as a result of some of the psychological techniques used. I do not intend to name the company under privilege, as this is just one part of a general problem that has existed over the years of various commercialisation of psychology by people who are not registered psychologists.

The Psychology Board is a somewhat toothless organisation due to the defects of the Act under which it labours and it seems to exist principally to register people in order to collect fees from them in order to maintain the register. As long ago as 1984, the Hon. Dr Cornwall said in this Council that he would bring the Act back into Parliament to remedy some of its deficiencies. I am very well aware of the great drafting difficulties involved in trying to catch various malpractices without catching various acceptable and desirable forms of counselling and religious practice but, nevertheless, if it is too hard then perhaps the Government ought to say that that is the case. If the Government is going to review the Act, I ask the Minister when we are likely to see the Act back in the Parliament for review?

The Hon. J.R. CORNWALL: My recollection is that there is a draft Bill, probably with the Psychologists Board at this very moment. There are a number of other organisations, of course, concerned with psychology, and I am talking about the professional organisations who will need to be consulted as a matter of courtesy. I discussed this matter with one of my senior officers as recently as this morning. It is possible that that Bill will see the light of day within this session. I intend to try to introduce it in time to allow adequate debate: it would be a pity to bring it in during the dying hours, and to sit all night. It is also the fact that I have to be at the Health Ministers' conference and at the Ministerial Committee on Drug Strategy in Fremantle during the last week that this Parliament is scheduled to sit, so I do not really want to have anything contentious before the Council that cannot be attended to before the end of the previous week. That restricts me somewhat. However, I do hope, as I say, that we might be able to bring in the Bill during this session. Members opposite who have wanted to prescribe certain practices, by arriving at a definition of 'psychology' to be written into legislation, will be disappointed.

There will be no definition of 'psychology' in the Bill that will come to this place. There are very good reasons for that. It is a matter that has caused some vexation over a period of more than a decade and far greater minds than mine have been unable to reach a satisfactory definition. The difficulty, as the Hon. Dr Ritson knows, is that once we try to define in law what are psychological practices we are on a very slippery slope indeed. It is entirely possible that we would catch up the mainstream churches. All ministers of religion who are practising their profession adequately could be said to impinge, to a greater or lesser extent at some stage of their perfectly legitimate activities, on the practice of psychology. In many other professions this happens. My advice at this stage is that we should not accurately define 'psychology' but tend to go more down the path of defining what are appropriate qualifications for the practice of psychology. The brief answer to the question is that I would hope to have a Bill in here within the next three to four weeks.

CHILD SEXUAL ABUSE

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General a question on child sexual abuse.

Leave granted.

The Hon. J.C. IRWIN: I refer to the report of the South Australian Government task force on child sexual abuse published in October 1986. I and others have noted a comment made by the task force on page 14 under the heading 'Pornography and prostitution' which states:

> While there is no doubt that the involvement of children in the production of pornographic material and in prostitution is sexually abusive, the task force decided early in its deliberations that detailed consideration of either topic would not be possible, given time and resource constraints.

I can find only one reference to pornography in the bibliography details in the report among the approximately 171 listed. I can find only one reference to pornography on page 262 headed 'Pornography and Sexual Aggression' with no recommendations. In the letter to the Minister in the front of the report the Chairperson says:

> The report contains recommendations which should provide the Government with a comprehensive framework for action to alleviate and prevent child sexual abuse.

The task force has done massive work, I acknowledge, and made many recommendations. I will refer to the terms of reference for the task force from point 2 onwards as follows:

> 2. Examine and make recommendations related to health, welfare, police, education and legal services involved in dealing with child sexual abuse . . .
> 3. Examine and make recommendations on training of personnel who are involved with victims of child sexual abuse . . .
> 4. Investigate and make recommendations on education programs or strategies which will equip children and the general community to recognise and report incidents of child sexual abuse.
> 5. Examine South Australian laws relevant to the sexual abuse of children and make appropriate recommendations in relation to:
> (a) reporting of child sexual abuse;
> (b) investigate procedures upon reporting of child sexual abuse;
> (c) the substantive and procedural law relating to prosecution, trial and disposition of cases of child sexual abuse.
> 6. Recommend mechanisms to monitor the implementation of Government policies . . .

I refer to the first recommendation, which states:

> 1. Investigate and make recommendations on strategies to prevent or alleviate the incidence of child sexual abuse.

For the life of me I cannot locate in the report recommendations to alleviate and prevent the primary causes of child sexual abuse. I do not criticise the report for what is in it—but rather for what is not in it. Amongst the prime causes which must be investigated is pornography. There would be others, such as alcohol and drug abuse, film and video influence, of equal importance.

The Minister and the Government have made a very strong stand on the health and community costs associated with tobacco and smoking. There would be very considerable public support for the Government to investigate and take action on the effects of pornography, drug and alcohol abuse, film and video influence, not only on child sexual abuse but on the public in general. In relation to the quote from the task force regarding pornography, prostitution and lack of resources, I ask the Minister:

1. Does the Minister agree that the production of pornographic material involving children and the involvement of children in prostitution are sexually abusive?

2. If he does agree, does he also agree that the report is incomplete without detailed consideration and recommendations being given on these matters?

3. Will the Minister request the task force to provide a supplementary report, particularly in the areas I have nominated, so that the alleviation and prevention of the primary causes of child sexual abuse can be considered in depth? This is not only the involvement with the production of pornographic material but how pornographic material, alco-

hol, drugs and films affect parents and children and are manifested amongst other things in child sexual abuse.

The Hon. C.J. SUMNER: The reason, I suspect, that the task force did not deal with the question of pornography and children is that no evidence exists to suggest that children are involved in South Australia in the production of pornographic material. The State Government for many years has taken a very strong line against child pornography. South Australia was one of the first States in the late 1970s to raise the question of child pornography at the national meeting of Ministers on censorship and to get it dealt with by a refusal to classify. The law in South Australia is that material involving child pornography will not be classified. It is illegal to circulate material involving child pornography. It is illegal to produce pornographic material in South Australia involving children.

The honourable member probably does not recall, but other members will, that some three years or so ago a Bill was introduced into this Parliament by the Government to tighten up even further the potential production of child pornography in this State. There is simply no evidence that child pornography is being produced in South Australia; secondly, if it were to be, it is illegal to produce and distribute child pornography in this State. Furthermore, the honourable member may or may not recall that some three years or so ago distribution of X-rated videos was banned not only in South Australia but throughout Australia except the Australian Capital Territory and the Northern Territory where X-rated videos are still available.

There was, therefore, no basis for the Child Sexual Abuse Task Force to address those issues. The general issues that the honourable member raised, at least with respect to videos and films, are being addressed by a joint select committee of the Federal Parliament on video censorship. That committee has been meeting now for some two years but has not yet produced a report. I am sure that when the report does come down it will canvass some of the issues that the honourable member has raised. That report will then be in the public arena for comment. No doubt it will deal with the reports done on the topic in the United Kingdom such as the Williams report or the recent report of the Attorney-General's committee in the United States. I am sure that those matters will be addressed insofar as they relate to X-rated videos and the like and I am sure that the question of children in respect of such matters will be addressed. There was really no case for the Child Sexual Abuse Task Force to address that issue.

The honourable member has raised other issues. With regard to drugs and alcohol, this Government has taken a very strong stand against trafficking in and possession of hard drugs by way of legislation passed through the Parliament. The Federal Government has launched a major drug strategy and the Minister of Health is a member of the National Ministerial Council on Drug Strategy.

The honourable member mentioned alcohol as being a problem. Again, there is no doubt that the over consumption of and indulgence in alcohol is a major problem with respect to the crime rate and, in particular, with respect to some crimes such as street offences, those involved with domestic violence and no doubt with respect to child sexual abuse, but facilities are available in South Australia (and no doubt the Minister of Health could comment on this) to deal with drug and alcohol abuse. Last year, the honourable member voted for legislation introduced by the Government which was designed to curtail, to some extent, alcohol abuse by placing restrictions on the consumption of alcohol. In one way or another those matters are already being addressed.

It is illegal for children to be involved in prostitution. Even if there is a general change to the law with respect to prostitution, that matter is very strongly addressed in a private member's Bill which is being debated. I trust that gives the honourable member a comprehensive picture of the situation. With respect to child pornography, it is not legal in South Australia, nor has it been for many years. There are very tight laws governing that matter. If there is any suggestion by any members that child pornography is being produced or circulated in South Australia, I would be anxious to hear about it and I will refer it to the police for prompt investigation.

COUNCIL RATES

The Hon. DIANA LAIDLAW: When will the Minister of Local Government introduce a Bill to address the financial aspects of the Local Government Act, and what was the outcome of talks held yesterday between the Local Government Association and the Director of Local Government in relation to the proposed abolition of minimum rates?

The Hon. BARBARA WIESE: The drafting of the legislation to amend the rating and finance provisions of the Bill has been undertaken and the meeting that took place yesterday was convened for members of the Local Government Association and the Department of Local Government to get together and to go through that draft Bill to ensure that it faithfully records the agreements that have been reached on the various parts of the rating and finance provisions of the Bill.

In the negotiations that took place last year on the various rating and finance provisions agreement was reached on all issues other than the minimum rate. Yesterday's meeting looked at the Bill as well as discussing the question of the minimum rate. Certain ideas were put forward at the meeting. The representatives of the Local Government Association undertook to consult other members of their association about those matters.

In relation to whether or not it would be possible to continue negotiations in an attempt to reach a resolution on the impasse which we have relating to the question of minimum rates, I understand that the executive of the Local Government Association met today. At this stage, I do not know the outcome of those discussions. I will certainly have information at the end of the day relating to that matter. I hope that the outcome of that meeting will be that the executive will agree that negotiations should continue and, if that is so, it should be possible for us to reach agreement very shortly on that last crucial issue. Once that has been resolved, I will move as quickly as possible to introduce the amending Bill.

The Hon. PETER DUNN: I seek leave to make a short explanation before asking the Minister of Local Government a question about minimum rates.

Leave granted.

The Hon. PETER DUNN: There has been a lot of discussion about minimum rating, particularly in the northern towns of Spencer Gulf. I understand that a reasonable portion of rates for towns in that area are included in the minimum rate system, because of the number of Housing Trust homes as well as some pensioners in those areas. The initial surveys conducted by some of those councils indicated that, should the minimum rate system be abolished, there would be a substantial change in the money raising system. The effect is that there will be a considerable benefit

to the State Government if the minimum rate is abolished. My questions to the Minister are: first, can she confirm that there will be a substantial saving to the State Government at the expense of local government; and, secondly, just how much does the Minister's research show (and I presume that the Minister has done research on this subject) that the State Government will save if minimum rates on local government assessments are abolished?

The Hon. BARBARA WIESE: Extensive research has been conducted concerning the use of the minimum rate and the way that its use affects local government and State Government finances. It is no secret that, if the minimum rate were to be abolished, the State Government would certainly save money, because the effect of the use of the minimum rate in some areas, particularly relating to the pensioner concession scheme and South Australian Housing Trust costs, has proved to be quite extensive. The growing use of the minimum rate largely as a mechanism for raising revenue has been of considerable concern to the State Government and to some people in local government circles.

If the minimum rate were to be abolished, the effect on some councils would be more pronounced than in other areas, but other contributing factors as to why that would be so must be considered. For example, some of the Spencer Gulf cities that use site values for their valuations would be more seriously affected than some other council areas where the capital valuation system is used. I do not believe that that is a reason for continuing to use the minimum rate system.

Should the minimum rate be abolished, other remedies would be available to councils in order to compensate for some of the money that would be lost as a result of that abolition. There is a certain amount of flexibility available to councils. For example, there is the differential rate. Perhaps they could change their method of valuation, and new revenue raising powers included in the new provisions of the rating and finance Bill will allow councils to employ a whole range of new methods for rearranging their finances and revenue raising. If the minimum rate were to be abolished, it is very difficult to talk in black and white terms about the effects one way or the other.

I do not wish to engage much further in discussion about the minimum rate at this stage because negotiations are currently under way with the Local Government Association. It is a very delicate matter, as honourable members would be aware. The State Government and the Local Government Association are right in the middle of discussions on this issue. It would be unwise for anybody, including members opposite, to attempt to upset in any way the negotiations that are currently taking place.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: As I have said—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! Mr Lucas, I have called for order.

The Hon. BARBARA WIESE: As I have indicated on a number of occasions, the use of the minimum rate has been applied wrongly in some areas and something must be done to alleviate what has occurred in many parts of the State. It is highly desirable that we resolve this situation as far as reaching an agreement with the Local Government Association is concerned, as we have on every other issue in this matter, before a Bill is brought to Parliament, if that is possible. On some occasions that has meant that the Local Government Association has had to compromise on issues affecting this legislation. On other occasions, the Government has had to compromise and that is what good legislation and good government are all about.

The Hon. L.H. Davis: You told me in October 1985 that minimum rating was all right.

The Hon. BARBARA WIESE: And I told you why I changed my mind, as well. I changed my mind for very good reasons. The Local Government Association assured me prior to that point that it was possible to provide figures that would make up a reasonable composition upon which to base a minimum rate. However, the Local Government Association was unable to provide that information, which led to my decision which I announced last year. It was a very proper decision.

We are now undertaking very proper and very cooperative discussions, I might say, with the Local Government Association and, as I have indicated, I certainly hope that we will be able to reach agreement and, if we do, we will be able to bring to this Parliament a complete package that has been fully agreed to by the Government and the association. Given the complexity of the issues to be addressed in the rating and finance provisions of the Bill, that will be quite an achievement.

The Hon. PETER DUNN: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order! I draw the attention of the Council to the fact that repeated interjections are out of order. I always allow a certain number of interjections before I call for order, but when I call for order I expect interjections to cease and to cease from everybody, not for one or two people to regard themselves as exceptions and to continue with their interjections. If that persists, I will be forced to name the individuals concerned. The Hon. Mr Dunn has the call for a supplementary question and I remind him that a supplementary question cannot have an explanation; it is a question only.

The Hon. PETER DUNN: The Minister in her reply said—

The PRESIDENT: Order! That is not a question. Would the honourable member ask his question?

The Hon. PETER DUNN: Would the Minister answer the second half of my question, which was: how much does the Minister's research show that the State Government will save if she abolishes minimum rates on local government assessments?

The Hon. BARBARA WIESE: It is not possible to quantify it in its entirety.

The Hon. Peter Dunn: Try $30 million.

The Hon. BARBARA WIESE: That is ridiculous.

The Hon. Peter Dunn: If that is ridiculous, what is the amount? Try $20 million.

The Hon. Diana Laidlaw: Or is it 10?

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I find the line of questioning quite extraordinary. It seems to me that the implication that is being made is that, if the Government were to save money by taking a particular step, somehow that would be a reprehensible way of going about business. That is a most peculiar state of play, because the sort of money that we are talking about is money that is currently paid by the South Australian Housing Trust. The Housing Trust provides housing for people on low incomes, by and large, and they are the very people who we are trying to assist with the minimum rate provisions that we are talking about. If members opposite are not interested in alleviating the tax burden for people on low incomes, they are not interested in most of the people in our community, and I do not apologise for the action that I am taking in this regard.

The Hon. M.J. ELLIOTT: My supplementary question is: could the Minister give one example of a council that has abused the minimum rate?

The Hon. BARBARA WIESE: I do not wish to name individual councils which charge minimum rates that are beyond what might be considered reasonable. All I wish to say is that something like six councils in South Australia charge a minimum rate somewhere between $300 and $400. Something like 69 councils in South Australia charge over $200 for minimum rates and, in something like a quarter of the councils in South Australia, more than 50 per cent of ratepayers are being charged a minimum rate. The use of the minimum rate over the past few years has grown quite considerably and, in some cases, the rate charged by numerous councils during that period has escalated quite alarmingly. For that reason it is important that we address this situation, and I hope that the discussions that are currently taking place with the Local Government Association will enable us to reach a satisfactory compromise that will satisfy both the State Government and local government.

The Hon. DIANA LAIDLAW: I have a supplementary question. In responding to an earlier question from the Hon. Mr Dunn, was the Minister suggesting that, if no compromise, or to use her words no 'satisfactory agreement', was reached between the department and the Local Government Association on this matter of minimum rates, the Government will not proceed with the Bill?

The Hon. BARBARA WIESE: I certainly did not say that and I do not wish to indicate at this stage what the next course of action might be. We are in the middle of negotiations. I would have thought that the daughter of someone who understands negotiation in the way in which her father does might have learned one or two lessons from him about the nature of negotiation. I am not prepared to say any more than I have said today about this issue of minimum rates because we are currently negotiating with the Local Government Association. It would be quite improper for me to prejudice those discussions in any way.

CHIX RESTAURANT

The Hon. R.J. RITSON: I seek leave to make a brief explanation before directing a question to the Attorney-General about the Chix Restaurant in Gouger Street.

Leave granted.

The Hon. R.J. RITSON: A very prominent Adelaide citizen received a notice in the letterbox which was, in fact, collected by that citizen's child. The notice is put out by the Chix Restaurant, 122 Gouger Street, and it reads:

> Topless service and professional striptease featuring duo lesbian. Luncheon, Tuesday to Friday.

This citizen was affronted that that material should be virtually put in the hands of children through letterboxes. Will the Attorney-General say whether, to his knowledge, there is any head of law which can prevent this sort of practice?

The Hon. C.J. SUMNER: If it is a publication which is obscene or indecent then—

The Hon. R.J. Ritson: I think nothing is now, is it?

The Hon. C.J. SUMNER: That is not true; there is a lot of material that is considered to be obscene and indecent and prosecutions are taken under the Summary Offences Act. If it fell within that category, then it is possible there would be a breach of the Act. If the honourable member wants me to examine it, I will undertake to do that.

The PRESIDENT: I would point out to the Council that it is contrary to general practice to ask questions seeking legal advice. Traditionally, questions are for Ministers or for other members concerning their responsibilities to the Parliament and not to gain legal advice which could be obtained from any legal source. That is the tradition of parliamentary Question Time in the Westminster system.

RETIREMENT VILLAGES BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 2943.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. I also support the principle of providing appropriate protection for aged persons who invest substantial sums of money in retirement villages. I refer to clause 3 of the Bill, the definition clause. I find the definition of 'administering authority' rather oddly expressed. It is provided *inter alia* that such an authority includes a person who is not a resident. I find this an odd way of expressing it.

The definition of 'contract' is defined as including an arrangement or understanding. I find it a little alarming to extend the concept of contract, which has been well defined by the courts and is clearly understood in this way. 'Retired person' is defined as meaning:

> ... a person who has attained the age of 55 years or retired from full-time employment.

Early retirements are common these days, so does that include a person who has retired at 50, 45 or 40? The spouse of such a person is also included, although the spouse could be 20.

The definitions of 'retirement village' and 'retirement village scheme' are very wide indeed. The definition of 'retirement village scheme' reads:

> ... a scheme established for retired persons or predominantly for retired persons under which—
> (a) persons are admitted to occupation of residential units owned by the administering authority of the scheme;
> or
> (b) residential units are purchased from the administering authority subject to a right or option of repurchase by the administering authority.

There is a further 'including' part which I will not read.

From the second reading explanation and from discussion over the years about the kind of protection this Bill is aimed to provide, it would appear to me that the kind of scheme to which the Bill is directed is the private resident funded scheme where the resident pays something in excess of $50 000, often his life savings or the proceeds of sale of a house, for a licence to occupy a unit for the remainder of the resident's life or until the resident has to seek a more intensive form of care.

The resident also has the right to use the facilities such as a lounge, a dining room, recreation rooms and grounds of the premises. Upon the resident's death or inability to continue to use the licence something like 85 to 90 per cent of the fee paid for the licence is refundable. Sometimes the ingoing fee is expressed in the form of a loan or donation. Of course, there is a need to protect the resident in case the contract is not honoured or in the case of the bankruptcy or liquidation of the owner.

I do not think anyone has any argument about that. However, a retirement village scheme, as defined, is very much wider than the concept I have just outlined. In the first place, it includes not only privately operated schemes,

but also schemes run by church and charitable organisations. It includes non-resident funded schemes, and, where the wide definition fits, it includes independent living units and hostel units. Its application to nursing homes may be debatable but at least in cases where the resident or a resident couple occupy a specific room it is arguable that in such cases nursing homes are also included. The Bill is largely aimed at future schemes but has consequences for existing schemes, which I shall refer to at the appropriate time.

Having referred to the very wide definition of 'retirement village scheme', I acknowledge that clause 4 enables the Minister by notice published in the *Gazette* to confer exemptions from the Act or from specified provisions of the Act in relation to a specified retirement village or retirement villages of a specified class. While an exemption provision is necessary, I do not believe that it is a substitute for appropriately tailoring the definition in the first place to catch only the kind of scheme where protection is necessary. I refer now to clause 7 (3), which provides:

The administering authority of a retirement village is not entitled to terminate a resident's right of occupation on the ground of a breach of the residence rules unless—

(a) a notice is given to the resident—

(i) specifying the breach;

(ii) informing the resident that if the breach is not remedied within a period of at least 28 days specified in the notice the administering authority will terminate the resident's right of occupation;.

This is merely a drafting matter, but the words 'at least' ought to be struck out. It should state 'within a period of 28 days'. In a sense it means 'within a period of, at most, 28 days' not 'at least 28 days'. Clause 7 (7) provides:

The Supreme Court may, on the application of the administering authority of a retirement village, make an order for the ejectment of a resident who has not vacated a unit at the expiration of the period referred to above.

Whereas the second reading explanation gives this power to the District Court, the Bill gives it to the Supreme Court. I should have thought that the District Court was more appropriate and I appreciate that, obviously, this Bill was put together in some haste to enable it to lie on the table to be subject to scrutiny and comment during the recess. However, I always feel somewhat alarmed when the second reading explanation does not match up with the Bill. I refer to clause 8, which was also referred to by the Hon. Trevor Griffin. Clause 8 (1) provides:

A premium paid to the administering authority must be held in trust (in a bank account designated as a trust account) until the person by or on whose behalf the premium was paid enters into occupation of a unit.

I can see the protection to the resident implicit in this provision, but the premium may very well be required to complete the building program. One of my main reservations about this Bill is that, while it is necessary to protect residents, this scheme may backfire on elderly people by giving a disincentive to owners to provide this kind of accommodation. There is a very considerable demand for this kind of accommodation at present and it would be counterproductive to the interests of people who need that accommodation if the legislation ended up in such a draconian form that this kind of accommodation was not provided. I would suggest that this clause could be expanded to enable payments to be made from the trust fund to complete the building program or on the occupation of the unit. Clause 8 (2) provides:

If the prospective resident does not enter into occupation of a unit, the premium must be repaid.

What about the case where the prospective resident is in breach of contract and does not enter into occupation of the unit because of their own breach of contract? In such cases I would suggest that it is not proper that the premium be repaid without some further provisions to assess the justice of the particular case. Clause 9 (3) provides:

If there is a divergence between an oral understanding, and a written agreement, between the administering authority and a resident as to the refund of a premium or part of a premium, the resident is entitled to rely on whichever is the more favourable to the resident.

I cannot see the equity of this. The inquiry ought to be as to what the agreement was, and that should be abided by. I refer now to clause 10 (4), which provides:

At an annual meeting, the administering authority must present—

(a) accounts showing the gross income derived from premiums and recurrent charges during the financial year, the manner in which that income has been applied, and such other information as is prescribed;.

The premiums (that is, in-going funds), of course, are not income: they are capital. This subclause should be corrected to provide for a full set of accounts, separating income from capital. Clause 10 (6) provides:

Recurrent charges cannot be increased beyond a level shown to be justified by estimates of expenditure presented to a meeting of residents under this section.

My question is, 'Who decides whether or not the increase has been justified and, if the meeting of residents decides that it is not justified, is that binding?' Clause 13 provides for residents' committees and sets out the constitution, membership, removal from office, and so on. What are the powers of a residents' meeting and what are the powers of the committee, because that is not referred to in the Bill in any form at all? I refer now to clause 16, which provides:

(1) A District Court may, on the application of the administering authority of a retirement village, excuse the authority from the consequences of non-compliance with a provision of this Act.

(2) Any resident whose rights may be affected by the non-compliance must be given an opportunity to be heard on any such application.

(3) An application may not be made under this section after proceedings for an offence relating to the non-compliance have been commenced against the administering authority.

That should not be expressed in such an absolute form. In the form in which it is expressed, even if the proceedings for an offence led to establishing the innocence of the authority, an application could still not be made, and that is quite unjust. It is obvious that, if proceedings for an offence are undertaken and are resolved in favour of the administering authority, an application still ought to be made. I might add that I referred, in regard to clause 7 (7), to the judicial authority being the Supreme Court under the Bill whereas the judicial authority is the District Court according to the second reading explanation. In regard to clause 16 the authority is the District Court, and I suggest that the appropriate authority in cases such as this would be the District Court throughout.

Clause 19 is the regulation making provision. Clause 19 (2) *(c)* states that the regulations may provide for determination of disputes by arbitration or other means between residents of a retirement village or between residents and the administering authority. I suggest that that is far too wide. The Bill refers to 'by arbitration or other means' but what are the other means? Is the arbitration pursuant to the Arbitration Act? Presumably the decision of the arbitrator will be binding: one presumes that from the provision in the Bill.

Can the power of the courts be excluded by regulation? From the wording of the provision in the Bill, one might reasonably presume that that is so. This is all quite unsatisfactory. If one is to provide for a procedure to determine disputes, and if it is going to be binding it ought to be spelt

out in the Bill. It should not be left to regulation in a very open-ended way. Clause 19 (3) *(b)*) provides that the regulations 'may leave any matter to be determined according to the opinion or discretion of the Registrar-General or the Commissioner'. This is far too wide: it means that any matter at all in relation to the general purview of the Bill—regulations could be made, leaving most major matters to be determined according to the opinion or discretion of the Registrar-General or the Commissioner. I find that quite unsatisfactory.

Clause 19 (3) *(c)* provides that the regulations 'may incorporate, adopt or apply, with or without modifications, any document formulated or published by any body or authority (as in force at a particular time or from time to time)'. I find that quite unsatisfactory in a Bill of this kind. That kind of provision is found in Bills relating to standards to adopt, say, trade standards or the Standards Association standards, or something of that kind. In a Bill of this kind I do not really know what it means or what it refers to, and I find that provision unsatisfactory. I think that the matters to which I have referred, and perhaps others which are left to regulation, ought to be spelt out in the Bill.

I reiterate that there is a need to protect persons who perhaps put their life savings or the proceeds of the sale of their house into a retirement village. Therefore, I support the second reading. I think it is necessary to see that the Bill goes only as far as it needs to go and I think it is necessary to see that the Bill does not have the effect of discouraging people who want to build such units from building them if the demand exists.

Clause 14 of the Bill provides for endorsement on the relevant certificate of title the fact that a retirement village is involved. The owner must make an application. This applies to existing retirement villages, as defined, as well as future ones. I point out that hostel or nursing home operations (and I have suggested that nursing homes may be caught, at least in some cases) have, because of policies of the Commonwealth Government, become marginal operations financially and the requirement of applying to have registration placed on the title will be an added expense. It is a further piece of grinding Government regulation. This clause, which requires registration to take precedence over subsequent endorsements on the title, may have the effect of making the obtaining of finance difficult and may further provide a disincentive to people who want to provide this kind of accommodation for retired people where there is a demand for it.

It appears that the requirement of registration would not affect the rights of mortgagees, but it remains to be seen whether banks and building societies will lend when the registration of their mortgage will be subsequent to a registration of the retirement village. Because, quite properly, banks and building societies and other lending authorities have traditionally been conservative and have not taken risks, I just wonder whether they will be prepared to lend money when registered on the title there is a prior registration to the effect that the scheme is a retirement village scheme. So, I think these are matters that have to be addressed but, as I have just said, I acknowledge the need for protection and I indicate my support for the second reading of the Bill.

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

STATUTES AMENDMENT (TAXATION) BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2910.)

The Hon. L.H. DAVIS: I indicate the Opposition's support for this measure. The Bill provides for a similar amendment to several taxing measures, namely, the Business Franchise (Petroleum Products) Act, the Financial Institutions Duty Act, the Land Tax Act, the Pay-roll Tax Act and the Stamp Duties Act. This Bill provides for the insertion of an additional provision in each of these Acts which provides for secrecy of information. It provides that:

> A person shall not divulge or communicate information acquired in, or in connection with, the administration of this Act, except—
> *(a)* with the consent of the person from whom the information was obtained; or
> *(b)* in connection with the administration of this Act.

It also provides that such information can be divulged to the Commonwealth Commissioner of Taxation or an officer in a State or Territory employed in the administration of tax laws or to the Commissioner for Corporate Affairs. So, this provision strikes the necessary balance between providing for secrecy in sensitive areas of taxation while at the same time preserving the need to impart information to officers interstate or in other Territories, as the need may arise. As I have indicated, the Bill has the support of the Opposition.

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

ADJOURNMENT

At 4.47 p.m. the Council adjourned until Tuesday 24 February at 2.15 p.m.