LEGISLATIVE COUNCIL

Wednesday 24 August 1988

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

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

QUESTIONS

FEDERAL BUDGET

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister representing the Minister of Health in another place a question about the Federal budget.

Leave granted.

The Hon. M.B. CAMERON: On 8 March this year the former Minister of Health highlighted that South Australia urgently needed more money for public hospitals. He was quoted in the press as saying between $7 million and $10 million extra was needed urgently to maintain hospital facilities at a reasonable level. In the *Advertiser* on 23 April, the Hon. Dr Cornwall was quoted as saying the proposed new Medicare plan was less than generous. He said:

> The Commonwealth now proposed a major increase to the Medicare grant, but the Treasury grant (also provided to the States for health) was not guaranteed. It appeared the proposed Medicare grant was substantially less than the combined total of the Medicare and Treasury grants in 1987-88.

On 30 April the *Advertiser* quoted Dr Cornwall as saying South Australia faced major problems because of proposed cuts in Federal health funding. It reported that under new Medicare arrangements, South Australia would get a base grant of $274.4 million or 9.2 per cent of the $3 040 million of the total pool to the States. In fact, South Australia has received $278 million out of the total $3 063 million Medicare States' agreement, while last year it received $361.5 million which was a combination of health grants, the Medicare allocation and hospital waiting list reduction funds. This year the State has received a total of $280 million from those combined grants which is a drop of 34 per cent in real term funding to South Australia. In the 30 April article I referred to earlier it was reported as follows:

> Dr Cornwall said any cut in funding would be a major problem as the State system had been made as efficient as it was possible to make it. We are at a very fragile state. We need more money, not less, he said.

For once I totally agree with the former Minister.

The PRESIDENT: Order! You are not supposed to express opinions, even if agreeing.

The Hon. M.B. CAMERON: That is an opinion that I am sure the Government would find acceptable.

The PRESIDENT: Maybe, but it is still contrary to Standing Orders.

The Hon. M.B. CAMERON: I agree with you totally Madam President. It would appear that a large part of the problem appears to be as a result of the new distribution of hospital funding agreement which is highlighted in the budget papers 1988-89 on page 62 where a chart indicates that South Australia's share has dropped from 12.1 per cent of total funds to 9.2 per cent.

I understand in the other place there has been some indication that new grants will be made and I have carefully examined the question of the budget papers to see what increases have been received by the State and what new funds have been made available. The funds that I have identified are: women's health screening has gone from $145 000 to $337 000; teaching hospital enhancement program has gone from $4 206 000 to $2 080 000 this year; for capital purposes blood transfusion services have gone from $235 000 to $420 000; hospital waiting list reduction money has gone from $2.5 million to $2.3 million; nurse education has gone from $952 000 to $1 888 000; home and community care has gone from $6 349 000 to $8 522 000; for recurrent purposes blood transfusion services have gone from $1 599 000 to $1 648 000; drug education programs have remained almost the same, and there is a new program, health programs grant $12 340 000. That adds up in approximate terms to about $18 million which means that we are $52 million short of last year, which is 19.7 per cent in real terms. My questions are:

1. Is it correct that the total Medicare grant for 1988-89 to South Australia is $280 million, a drop of $81 million from last year?

2. If so, are there any other offsetting grants from the Commonwealth to South Australia for health other than the ones that I have outlined? If not, will the Minister agree that a cut of this proportion, that is, the ones that I have read out, will have a devastating effect on health delivery in South Australia and particularly on waiting lists for elective surgery?

3. What will be South Australia's percentage share of Medicare funds allocated to South Australia in the subsequent four years after 1988-89?

4. Under the new Commonwealth health deal to the States, is South Australia guaranteed Treasury grants for health, as was the case in the past, during this coming five year plan?

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

KANGAROO ISLAND

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question on the subject of the promotion of Kangaroo Island.

Leave granted.

The Hon. L.H. DAVIS: Yesterday, in response to a question, the Minister confirmed that for the past 12 months marketing consultants Honeywill Reid were involved in a campaign designed to promote Kangaroo Island. The Minister advised the Council that the campaign took some three months and included radio and press advertisements and advertising on the side of STA buses. My questions are:

1. How much was Honeywill Reid paid for its work on this project?

2. How much did Tourism South Australia spend in total on the campaign?

3. Is it true that a telephone hotline set up to monitor the response to the campaign took only 15 bookings?

4. Does the Minister believe this particular campaign was successful and does the Minister believe that her department received value for money from the work undertaken by Honeywill Reid?

The Hon. BARBARA WIESE: The Kangaroo Island campaign was jointly funded by industry operators on Kangaroo Island and Tourism South Australia. I have not seen the final figures for the full cost of the campaign, and I will make some inquiries about that matter and bring back a reply for the honourable member. However, during the course of the campaign I understand that about 1 000 of the kits that were prepared giving information about Kangaroo Island were applied for and distributed, and this was either by way of telephone calls to the hotline or by direct inquiry to the Travel Centre. The last figures that I saw—

and this was some time ago, I might add—indicated that about 60 bookings had been made by people who wanted to go to the island within a fairly immediate period of time.

When looking at whether or not the campaign was successful, the important thing to remember about it is that campaigns of this kind aim to elicit an immediate response, and we certainly wanted to see a large number of people indicate immediately that they would travel to Kangaroo Island. However, as with all campaigns, no matter where they are or how good or bad they may be, the fact is that they are often successful in raising awareness and interest in a holiday destination, although that does not almost immediately translate into plans being made to take a holiday. That makes it very difficult, ultimately, to judge immediately the success of a campaign of this kind.

I certainly hope that we find that, as a result of this campaign, South Australians, or Adelaide people in particular, now have a better understanding about Kangaroo Island and some of the attractions that it has to offer.

The Hon. Peter Dunn: Passengers on the *Island Seaway* know all about that—they don't want to go on it.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: No, that is not true. I do not know the exact number of calls received by the telephone hotline, but it was far in excess of 15—

The Hon. L.H. Davis: Eighteen!

The Hon. BARBARA WIESE: No, it was several hundred calls. As I indicated, as a direct result of that campaign, either by way of telephone calls to the hotline or direct inquiries to the Travel Centre, about 1 000 of the Kangaroo Island kits were distributed. That should give some idea of the number of inquiries that were received by the Travel Centre, by one means or another, from people who took an interest in Kangaroo Island as a holiday destination. As I indicated earlier, it is always very difficult to judge the success of these things, because people do not always act immediately on making bookings for a holiday. There are many people in South Australia who already visit Kangaroo Island and who do not necessarily make bookings for accommodation at all. They might be much more interested in travelling to Kangaroo Island to pitch a tent and to have a much more informal style of holiday.

So, generally speaking, I think that the campaign has been successful in helping to raise awareness of Kangaroo Island as a holiday destination and, over time, we will also be able to judge whether that is translated into bookings at accommodation facilities on the island. Finally, I would simply like to say that the campaign has been an enormous success in respect of one very important feature which has been lacking in the past in relation to tourist operators on Kangaroo Island, and that is that, for the very first time, operators on the island came together and cooperated in their participation in a promotional campaign.

One of the problems we have had in the past has been that operators have taken a very individualistic approach to tourism promotion of their island. They have wanted to promote their own businesses at the expense of the island as a destination and the success that was achieved in bringing those operators together to particpate in this campaign is a significant step forward. I am sure that it is a success that Tourism South Australia will be able to build on in future campaigns that might be conducted to promote the island.

SUPPRESSION ORDERS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question about suppression orders.

Leave granted.

The Hon. K.T. GRIFFIN: On 4 August 1987, 12 months ago, Mr Justice Bollen delivered a judgment in which he acquitted a man charged with manslaughter arising out of the death of a young woman in a country hospital. In that case the man elected to be tried by judge alone and not by judge and jury. The judge made a suppression order that was wide-ranging, even to the point of suppressing the occupation of the man who was acquitted subsequently, the name of the hospital, the identity of the young woman who died and even the reasons for the acquittal. The Attorney-General will remember that soon thereafter I raised some questions in this Chamber with respect to the wide-ranging nature of that suppresssion order, and he, too, indicated his concern.

The ABC, I understand, was taking proceedings to have the suppression order lifted or substantially varied. The Attorney-General indicated last year that the Crown would join in that application, and he expressed the hope that this case would be one of two cases to be considered by the Court of Criminal Appeal in order to clarify the law relating to suppression orders with a view probably to limiting the extent to which they could be used. Last year the Attorney-General said that he expected that review by the Court of Criminal Appeal to be undertaken in December 1987. It did not occur then and, I understand, still has not occurred.

The Hon. C.J. Sumner: In one case it has.

The Hon. K.T. GRIFFIN: But not this one.

The Hon. C.J. Sumner: Moyse has.

The Hon. K.T. GRIFFIN: Yes, but not this case, in which a more wide-ranging suppression order was made than any that went before it. A new complication has arisen because I understand that the Coroner has now determined to hold an inquest and that is likely to be held in October this year.

The problem is that the proceedings in the Coroner's inquiry would be covered by the Supreme Court judge's suppression order and that appears to the young woman's family to be most unsatisfactory. They have been campaigning to have the suppression order lifted or at least substantially varied so that at least they are able to talk within the community about what has happened to the young woman. There was a complication also that the Medical Board declined to undertake investigations because of the suppression order, but after some discussions with the then Minister of Health and a senior officer in the Crown Law office that was largely overcome. However, the problem still remains that the very wide-ranging suppression order made in August last year is still applicable and is likely to apply also to the Coroner's inquiry. My questions are:

1. When is the review of the suppression order in this case to be undertaken in the Court of Criminal Appeal?

2. Will the Attorney-General take urgent action, in the light of the prospective Coroner's inquiry, to have the suppression order significantly varied?

The Hon. C.J. SUMNER: I agree that the suppression order made by Justice Bollen in the case of the alleged manslaughter in a country hospital is most unsatisfactory. I have expressed that point of view, and the shadow Attorney-General (Hon. Mr Griffin) has also expressed that point of view. If that represents a legitimate use of suppression orders, clearly the matter has got out of hand.

What I had intended to do late last year when this matter was raised in the Council by the honourable member was

to get the two cases, that is, the country hospital case and the Moyse case (the senior police officer whose name could not be mentioned at that stage), heard in the Court of Criminal Appeal by the same bench at the same sittings. Unfortunately, the ABC appeal in relation to the country hospital suppression order was not able to be proceeded with for a technical reason that apparently the wrong order had been appealed against. As I understand it only an interim order had been appealed against.

In any event, the Full Court was not properly seized of the matter and therefore it did not proceed. Since then I have asked the Crown Solicitor to pursue with the solicitors for the ABC whether they intend to take the appeal to the Court of Criminal Appeal, and I understand that the ABC has decided not to proceed with the matter.

The plan that I had last year of having both those matters heard by the same bench at the same time, with the Solicitor-General intervening on behalf of the Attorney-General, has not come about. The Moyse case was decided but did not really add anything to the law relating to suppression orders. As the honourable member says, probably the country hospital case was the most significant because it was the most wide-ranging suppression order and was probably an unprecedented use of suppression orders. Therefore, it was the one that I had hoped the Supreme Court could use to express some general principles about the use of suppression orders and, in particular, to hone in on whether a suppression order of that kind was a proper exercise of the judge's discretion.

Unfortunately, for the reasons I have outlined, that did not happen, and it looks as though it now will not happen because the ABC, as I understand it, does not at present intend to proceed with its appeal. So, that opportunity to have the Full Court attempt to address the principles has now been lost.

The Hon. K.T. Griffin: But the Crown can apply, can't it?

The Hon. C.J. SUMNER: I think the problem with ours as well as theirs is that it was getting out of time. That is the difficulty. We were not a party to the appeal; we were merely joining the ABC in the appeal which seemed all very well until it got to court and found out that there had been some problem with the paper work. That was not the Crown's—

The Hon. K.T. Griffin: You can make a fresh application to have it reviewed. It is not embedded in concrete.

The Hon. C.J. SUMNER: I suppose the parties could go back before the judge and attempt to get another order and, in the light of what the honourable member has said in relation to the inquest, that can be looked at. But, in relation to the proceedings that have finished, there was really no basis for the Crown to further intervene in the matter given that the parties had decided not to proceed. As far as the Medical Board matter is concerned, I think there in fact was a variation of the order to enable it—

The Hon. K.T. Griffin: Not as I understand it.

The Hon. C.J. SUMNER: Well, there was going to be. Certainly, when I was apprised of this situation I said that the matter ought to be taken back to the judge for an order to vary his original suppression order. If that did not happen, I assume that they got it around the other way. I should also say that there is a decision of Mr Justice Cox, a single judge of the Supreme Court, which says that, in a blanket suppression, such as that which occurred in the country hospitals case, there is no prohibition on the relatives of the victim telling other people about it. In other words, he says the prohibition on publication does not apply to persons publishing it to other persons on a word of mouth basis.

That is a narrower interpretation of the word 'publication' than one is used to in defamation proceedings. Nevertheless, there is a single judge's decision to say that the suppression order in the country hospitals case was not such as to prohibit people talking about the case and telling relatives and friends about it. That is not a decision of the Full Court. It is one of the issues that no doubt could have been addressed by the Full Court, had the case come on, but it did not do so for the reasons that I have outlined.

As to the inquest, it is a situation where the Attorney-General has directed that an inquest be held. The Coroner wrote indicating, as I recollect, that it was an appropriate case, and I wrote and gave permission or directed that the inquest proceed. That was necessary because the matter had already been dealt with in the criminal courts. That inquest is being held at the Attorney-General's direction.

If there is now concern about the extent of the suppression order, given the coronial inquest, I will have to have the matter examined to see whether or not any action can be taken with respect to the suppression order that was made and to see whether it can be amended in any way. I am quite disappointed that the matter did not get before the Full Court because, as I said, I think that that sort of suppression order made by Justice Bollen does extend the principles relating to suppression orders beyond what is reqsonable.

It is unfortunate that the Full Court did not get the opportunity to adjudicate upon that. If that is the law, that those sorts of suppression orders can be made in these circumstances, I consider it to be unsatisfactory and I will obviously look at addressing the matter in some other forum, possibly Parliament, in due course.

The Hon. K.T. GRIFFIN: A supplementary question, Madam President: in the light of the Attorney's response, will he also examine whether or not steps can be taken by the Crown to have the order made in August last year reviewed to limit its scope?

The Hon. C.J. SUMNER: I will have the matter examined, but I do not think that that is possible without perhaps some kind of artificial situation being created, of going back to the court and getting the order reaffirmed—in other words, making an application for it to be lifted. It may be better, as there is the Coroner's inquest proceeding, that that is a new circumstance which may enable the matter to go back before the court.

URANIUM MINING

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General a question about uranium mining.

Leave granted.

The Hon. M.J. ELLIOTT: With the passing of the Radiation Protection and Control Act Amendment Bill yesterday South Australia is now moving rapidly to full scale production of uranium from the Roxby Downs mine. There are a couple of matters brought to my attention from the Legislative Council's report on uranium resources and the minority report, in particular, from Cornwall and Foster—

The Hon. M.B. Cameron: What page?

The Hon. M.J. ELLIOTT: At page 167. Two points were made which need to be read out before I ask my question. Among the conclusions and recommendations were the following:

For both epidemiological studies and long-term workers compensation claims, a national registry of those currently involved

in the uranium industry in Australia should be established as a matter of urgency.

Another recommendation (and there were a large number of recommendations) is:

If uranium mining were ever to procced in South Australia it would be essential that concurrent legislation be introduced for long-term workers compensation claims relating to genetic damage and long-term cancer risks. Such claims should extend to spouses and children. A long-term indeminity fund should be established through the State Government Insurance Commission

What made those recommendations so important was the report in today's *Advertiser* headed 'Asbestos danger known'. It is a report of a recent settlement in court where $400 000 in damages was paid to a person who suffered from exposure to asbestos. People have drawn the parallels to me between what happened in the asbestos industry in Western Australia over many years and what we are about to do in South Australia in the uranium mining industry. Therefore, I ask the Attorney General the following questions:

1. Has the Government examined the court ruling in Western Australia in relation to asbestos and its ramifications in South Australia with regard to the mining of uranium and other hazardous materials?

2. Is the State Government doing anything to follow up on the recommendations that I read out earlier about a national registry of people working with uranium and the matter of setting up an indemnity fund for people involved with uranium?

The Hon. I. Gilfillan: Who signed the minority report?

The Hon. M.J. ELLIOTT: Cornwall and Foster.

The PRESIDENT: Order! I point out that the Minister of Tourism represents both the Minister of Health and the Minister of Mines and Energy in another place.

The Hon. M.J. Elliott: This is a question on Government policy.

The Hon. C.J. SUMNER: Madam President, I will have to take those questions on notice. I assume that there has been some examination within the Government, the Health Commission or the Department of Labour about the asbestos case in Western Australia, but I am not sure with what result.

Members interjecting:

The Hon. C.J. SUMNER: I understand the point the honourable member is making. I assume that that case has been examined in South Australia, but I am not aware of what, if anything, has been concluded about it. I will have to take the questions on notice and bring back a reply.

NURSING QUALIFICATIONS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about overseas nursing qualifications.

Leave granted.

The Hon. J.F. STEFANI: Recently, I have received information indicating that we have over 70 resident Australian migrants from various non-English speaking backgrounds, including Polish, Vietnamese and Cambodian, who have overseas nursing qualifications and who are awaiting employment in our public hospitals after accreditation. In an article which appeared in the *Advertiser* on 29 January 1987, minority ethnic communities were expected 'to enjoy better hospital care as a result of the South Australia Health Commision's latest nurse recruitment program'. The article went on to say, 'What a tremendous asset it would be for our multicultral community to have this type of nursing staff graduating and working in our hospitals to fill the cultural gap in our health care system.' My questions to the Minister are:

1. Considering the multicultural mix of our community what resources will the Government commit to ensuring that this sort of discrimination is eliminated and that appropriate equal employment opportunities are provided to all members of our multicultural community?

2. Will the Minister give this Council an undertaking to investigate the efficiency of the accreditation system currently conducted by the South Australian Health Commission and report on the matter accordingly?

The Hon. C.J. SUMNER: I am not sure whether the honourable member will be rapped over the knuckles by his Federal Leader for asking that question. He seems not to be aware that the word 'multiculturalism' apparently has been scrubbed from the Liberal vocabulary.

The Hon. J.F. Stefani: I am not interested in that.

The Hon. C.J. SUMNER: The Hon. Mr Stefani says he is not interested in that. I know you are interested in the question and I am interested in what your Federal Leader has said. The reality is—I have the policy here—that he has scrubbed the word 'multicultural' out of the policy. It does not exist in the policy any more. It has gone. I am pleased to see that the Hon. Mr Stefani still feels he can use the word but I suspect that he had better get over to his Federal colleagues and try to set them right about the circumstances.

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. C.J. SUMNER: All I know is that you have used the word 'multiculturalism' and I am glad you have, but I can tell you what, Mr Howard has not. The Liberal Party has not. They have scrubbed it out of their policy. It is not there. If you can find the word 'multicultural' anywhere in this policy that was released by Mr Howard in the past couple of days, good luck to you but it is not there. We are waiting to hear what the Opposition in this place will say about the motion that was moved and I hope that what Mr Howard has done will be repudiated. The point is that if you look through the new policy of the Liberal Party, the word 'multiculturalism' does not appear and that, I think, is an indication of the approach your Federal Leader is taking to these issues.

The Hon. J.F. Stefani: He is not my Leader.

The Hon. C.J. SUMNER: He is not your Leader? The Hon. Mr Stefani says he is not his Leader. He is the Federal Leader, unless you are not in the Liberal Party.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I hope that the Liberal Party in this place will reaffirm the bipartisan approach that has been adopted to these issues in the past, and which now to some extent seems to have been repudiated by Mr Howard. I am pleased that Mr Stefani is at least still permitted to use the word 'multiculturalism' even though his Federal Leader apparently finds it a word that sticks in his throat.

To answer the questions, the honourable member knows as well as I do that the question of recognition of overseas qualifications in this country has traditionally been a major problem and a problem that has not been handled very well by Australian authorities going back through the 50s, 60s and 70s. While I believe the situation has improved to some extent, I would not say that the issues have been completely resolved in respect of recognition of overseas qualifications. The problem is that you are relying to a considerable extent on an assessment within Australia by professional associations and due recognition in Australia of qualifications that are obtained overseas. Part of the problem is (at least this has been the argument used) that it is sometimes difficult

to get precisely from the source country what is constituted by the qualifications; what training has gone into getting the qualifications. I frankly believe that we have adopted too parochial and too rigid an approach to the recognition of qualifications in this country over the past four decades since mass migration started. The Hon. Mario Feleppa, I am sure, would be able to add something to that comment of mine. So this has historically been a problem which has unfortunately not been overcome.

Certainly a number of things have been done in an attempt to overcome it. There was the Fry Committee of Inquiry back in the early 1980s. We have established, within the Ethnic Affairs Commission in South Australia, an officer to deal with a recognition of overseas qualifications to try to speed up the process. It is not just a matter of the Ethnic Affairs Commission saying 'Well, these qualifications are satisfactory; they will be recognised.' It is a matter for some parts of the professional associations, in the case of the doctors—

The Hon. R.J. Ritson: It used to be a full six years training at one stage. It is down to one now.

The Hon. C.J. SUMNER: Yes; there has been a change over a period of time. I am not sure what the situation is with these particular individuals but I am happy to have the honourable member's question referred to either the Health Commission or the Ethnic Affairs Commission and I will bring back a reply as soon as I can.

RAPE SENTENCE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General a question about an appeal against a rape sentence.

Leave granted.

The Hon. DIANA LAIDLAW: In answer to a question on 11 August from the Hon. Trevor Griffin relating to an appeal against a child abuse sentence, the Attorney-General said:

> There is no doubt in my mind that the sentences being imposed for some serious violent and stranger rapes are too low.

As I agree wholeheartedly with the Attorney-General's sentiments, I draw to his attention the case in the Supreme Court on 29 July last when Justice Mohr granted Xiang Done Wang leave to appeal to the Court of Criminal Appeal against an earlier sentence of 12 years gaol—seven years for rape and five years for five burglary charges. He received an eight-year non-parole period which means he will be out in five years. Wang had pleaded guilty to all the offences.

He admitted he had placed his hands around the throat of a young woman before raping her. He had then tied her wrists and ankles and gagged her with some clothing before stealing jewellery from her. In seeking leave to appeal it was reported that Wang will argue that no serious harm came to the victim and that the sentencing judge should have given credit for the fact that he wore a condom when committing the rape. It is not clear—

The Hon. CAROLYN PICKLES: A point of order, Madam President: I believe the matter is still before the court; therefore it would be *sub judice.*

The Hon. DIANA LAIDLAW: No, I have not asked the question. I do not want to prejudice anybody's case so I did check that it was not.

The PRESIDENT: Has an appeal been lodged?

The Hon. CAROLYN PICKLES: Yes.

The Hon. DIANA LAIDLAW: I can assure you that I am not seeking to prejudice anybody.

The PRESIDENT: That is not the point. If an appeal has been lodged, the matter is *sub judice* and you cannot ask any questions relating to it. I was unaware that an appeal had been lodged.

The Hon. DIANA LAIDLAW: I have simply reported the facts and said what I understood was reported, namely, what the offender will argue in the appeal. My question which I am coming to is whether, in the light of the Attorney's recent statement that he is seeking to find a test case in relation to violent and stranger rape, he has lodged an appeal against the sentence.

The Hon. CAROLYN PICKLES: On a point of order, Madam President, I believe that this matter is a question of being *sub judice.*

Members interjecting:

The PRESIDENT: It was all in the newspapers last week, I know; the question is whether an appeal has been lodged. I am receiving an indication that an appeal has been lodged, in which case it is *sub judice* and should not be referred to in this Parliament.

The Hon. K.T. Griffin: But the honourable member can ask a question as to whether or not the Attorney has lodged an appeal.

The PRESIDENT: She can ask whether or not an appeal has been lodged.

The Hon. Diana Laidlaw: Yes, and I have.

The Hon. C.J. SUMNER: Obviously, the question of the *sub judice* rule is a matter for you, Ms President, to address. But the reason, I understand, that my colleague the Hon. Ms Pickles has raised the issue is that she wanted to ask a similar question and obtained an informal ruling from the President before asking the question, some two weeks ago, as to whether if she asked a question it would be *sub judice.* She received the information that it would be. So, having got an informal intimation from the President that it would be *sub judice*, the Hon. Ms Pickles refrained from asking the question. That seems to me to be a reasonable point upon which to take a point of order. I would indicate to the honourable member that to ask the Attorney whether or not a Crown appeal has already been lodged by the defendant is perfectly legitimate, but to go into the facts of the case may offend the *sub judice* rule, and I do not want to go into that at this stage without having examined the matter in detail. It is obviously a matter for the President to determine.

However, the honourable member has asked me with the preamble that she has got in, anyhow, so I do not suppose there is much we can do about it. The honourable member has asked whether or not there is a Crown appeal in this matter. The Crown has obviously been resisting the appeal by the defendant. To my knowledge, the defendant has not lodged an appeal. As members would know, in these matters I operate generally on the advice of the Crown prosecutors, and I have not received any advice in this matter that it was an appropriate case for a Crown appeal.

Nevertheless, I have instructed them to attempt to find an appropriate case where an appeal can be taken by the Crown to try to get the principles examined by the Full Court. That has already happened with respect to armed robbery, as I think I have outlined to the Council on previous occasions, but we have had less satisfaction in finding an appropriate case. I do not want to go into all the details of what sort of case one must pick, but it is not a case of just going through and taking the first rape sentence and making an appeal. If one wants to get the principles argued properly before the Full Court one has to take a case to the Full Court which will properly throw up the issues that one wants addressed.

The Hon. Diana Laidlaw: I thought this case may be one.

The Hon. C.J. SUMNER: Well, the honourable member thought that it may. I will certainly examine the matter again, but I did not receive any advice from the Crown that this was an appropriate case for a Crown appeal. I do not see all these cases that go before the courts, obviously, but normally when they think there is a matter that ought to be the subject of a Crown appeal they draw it to my attention. However, I will certainly re-examine the matter, but I think that at this stage the Crown's interest would be in trying to ensure that the original sentence was sustained.

FOREIGN EXCHANGE LOANS

The Hon. PETER DUNN: I seek leave to make a brief statement before asking the Attorney-General a question about bank deals on foreign exchange loans.

Leave granted.

The Hon. PETER DUNN: Yesterday's *Financial Review* contained an article about a clause forbidding borrowers to disclose any details to third parties when obtaining special deals for refinancing after people had borrowed money overseas on the foreign exchange. A number of rural people have done this and have had their fingers burnt due to the Australian dollar dropping so dramatically when the Federal Government deregulated the banking industry. To explain this matter in more detail I shall read part of the article that was in the *Financial Review* yesterday. Headed 'Westpac lines up secret loans deal', it states:

> Westpac Banking Corporation has tried to stop clients who suffered losses on foreign currency loans from taking legal action by offering them a strictly confidential settlement package involving refinancing at concessional interest rates. Through its regional managers, the bank has adopted a tactic of targeting potential litigants by letter, with conditional offers of domestic loans at 3 per cent below the prevailing market rate. In standard samples of the letters obtained by the *Financial Review*, Westpac offers clients an Australian dollar domestic loan facility, but in addition the lower interest rate imposes strict terms on borrowers. These include a clause forbidding them to disclose any details to third parties. Should a customer agree to release the bank 'from any claim or cause of action' over a foreign currency loan, Westpac's offer involves a concessional fixed rate of interest for three years at 3 per cent under the market rate on the day the loan is drawn down. The client loan is brought 'back onshore', and his or her capital loss is written off as a tax deduction. In addition to the release from the claim, the client must agree to acknowledge that the decision to refinance is voluntary and has not been taken on the advice of the bank.

My questions to the Attorney are:

1. Can the Attorney tell the Council if this practice is common amongst banking institutions?

2. Has the State Bank of South Australia been involved in advising and assisting clients when obtaining foreign exchange loans?

3. Have they been required to offer refinancing packages—that is, when the client has suffered due to the Australian dollar falling on the foreign exchange? If so, has the State Bank demanded the same criteria forbidding disclosure of the details to a third party?

The Hon. C.J. SUMNER: I will have to refer that question to the appropriate Minister and bring back a reply.

EQUAL OPPORTUNITY REPORT

The Hon. J.C. BURDETT: I seek leave to make a brief statement before asking the Attorney-General a question on the subject of the report of the Commissioner for Equal Opportunity.

Leave granted.

The Hon. J.C. BURDETT: Section 14 of the Equal Opportunity Act provides:

> (1) The Commissioner shall, not later than the thirty-first day of December in each year, report to the Minister on—
>
> *(a)* the operation and administration of this Act; and
>
> *(b)* the work undertaken by the Commissioner pursuant to sections 11, 12 and 13, during the previous financial year.
>
> (2) The Minister shall cause a copy of a report furnished to him under subsection (1) to be laid before each House of Parliament within fourteen sitting days of his receipt of the report if Parliament is then in session, but if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament.

The report for the year ended 30 June 1987 was tabled on 14 April 1988. The report for the year ended 30 June 1986 was tabled on 14 April 1987. There has clearly been a breach of the Act by someone, either by the Minister or by the Commissioner for Equal Opportunity. My questions are:

1. When was the report for the year ended 30 June 1987 made to the Minister?

2. When was the report for the year ended 30 June 1986 made to the Minister?

3. Why was the tabling of the reports delayed for so long, and delayed beyond the period required by law?

4. What steps—

The Hon. C.J. Sumner: You don't know that it was.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: It is perfectly clear if you look at section 14. The report has to be made to the Minister by 31 December each year and the Minister has to table it 14 days thereafter.

The Hon. C.J. Sumner: You can't do it if you haven't got it.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: I am saying, 'Who is at fault—you or the Commissioner?' What steps will the Minister take to ensure that the law is complied with in this respect in future?

The Hon. C.J. SUMNER: I will have to ascertain the facts in this matter and bring back a reply.

LEGISLATIVE COUNCIL COMMITTEE SYSTEM

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to asking the Attorney-General a question about the Legislative Council committee system.

Leave granted.

The Hon. R.I. LUCAS: Over recent years a number of members in this Chamber have argued for a more substantial committee system of the Legislative Council. In the past two years it has come back to a debate on whether the budget can afford either one or two standing committees of the Legislative Council. The most recent statements after the general argument between the Attorney-General and the Opposition over who was to blame over the last attempt to get a committee system were that the budget prevents the establishment of a standing committee of the Legislative Council, but that perhaps at some time in the future that might well change. Given that the State budget is imminent, is the Attorney in a position to indicate whether a standing committee of the Legislative Council in the next financial year is a possibility?

The Hon. C.J. SUMNER: The budget has not yet been brought down, but it is probably fair to say that, if the Legislative Council wants to establish a more elaborate committee system than it has already got, it would have to be done within existing resources and by some reallocation. I do not want to rehash the history of this matter, which is

a sad one, but the reality is that there has never been any enthusiasm from members opposite for a committee system.

The Hon. R.I. Lucas: That is not true.

The Hon. C.J. SUMNER: That is true on the whole. It may not be true of some individual members, but it is certainly true of the Liberal Party as a whole because of the approach that was adopted by it from 1982 onwards when I made a genuine attempt, without success, to get a committee system established. I still support an improvement in the committee system of the Parliament. There are obviously budget implications and to do it, even on a more limited basis, would have significant financial implications.

If the Council wishes to establish a more elaborate committee system, some thought will have to be given to the reallocation of resources to enable that to happen. Despite the fact that there has not been an increase in the number of standing committees, the Legislative Council does not seem to have any qualms about establishing numerous and varied select committees on all sorts of topics, many of which are not really seeking information but are designed basically as political exercises. That is the position as far as the committee system is concerned at the moment.

The Hon. R.I. LUCAS: By way of supplementary question, will the Attorney-General bring back a reply in due course as to what would be the required additional cost for the Legislative Council, if it so chose, to establish one standing committee?

The Hon. C.J. SUMNER: I do not have those figures. If I can provide any further information for the honourable member I will.

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

In Committee.

(Continued from 23 August. Page 406.)

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Honourable members will recall that yesterday when we were discussing this issue it became evident that the second reading report on this Bill had not adequately reflected the reason for the Bill. It was discovered by the Council that a transitional provision in the Criminal Injuries Compensation Act, which had dated from 1978 and which had applied on each occasion that the maximum sum of compensation was increased, had in fact been repealed by the 1987 amending legislation. That led to a judge of the District Court raising the question whether it meant that Parliament had a different intention with respect to the application of increases in the maximum compensation.

As a result, I am aware of one case where an argument is before the court that, although the cause of action had arisen prior to 1 August 1987, nevertheless the claimant was entitled to the full amount of $20 000 rather than $10 000 maximum which applied when the cause of action arose. As a result of the information elicited during the course of debate during the second reading and Committee stages, I indicated that I would further consider the Bill. The Liberal Opposition had originally intended to oppose the Bill but, on the basis of the new information, I can indicate that we withdraw our opposition to the Bill.

According to the information given by the Attorney-General, some 300 cases of compensation have been resolved since 1 August 1987, when the 1987 amendments came into effect, and a lot of those causes of action would have arisen prior to that date.

The Hon. C.J. Sumner: No, almost all of them.

The Hon. K.T. GRIFFIN: Almost all of them—and he indicated that about 5 per cent of those probably would have been contentious or at least resolved by the courts. Also, the Attorney-General indicated that the Crown Law officer handling criminal injuries compensation matters is not able to identify any case where it has been argued that the new maximum applies to old cases. In that context I am happy to indicate that the Opposition will now support the Bill. Also, I had discussions with the President of the Law Society on this issue and, while not necessarily speaking for the Law Society on a formal basis, he indicated that he could see no objection now to the Bill passing.

There is one other matter, namely, the issue that I raised by way of interjection. It relates particularly to the case that is currently before the court where, undoubtedly, additional costs would have been incurred as a result of having to argue the question of law. I did ask for an undertaking from the Attorney-General that an *ex gratia* payment to cover those additional costs incurred by the parties would be made, and he indicated that he was prepared to give that undertaking. In all those circumstances my earlier indication of opposition is withdrawn.

The Hon. J.C. BURDETT: I support the position taken by the Hon. Mr Griffin and was pleased to note the very ready undertaking that was given yesterday by the Attorney-General to meet those costs. I am informed that the costs in that case would have been quite considerable, because not only after the senior judge had raised the issue was counsel obliged to argue the question but also several adjournments were taken by Crown counsel on the understanding that this Bill was before the Parliament.

Of course, the applicant's solicitor was involved in a number of attendances, telephone attendances, and so on, for the client and other people. So, I am pleased to note the Attorney's ready agreement to accept the fact that there will be a Government *ex gratia* payment of costs. While I have been talking I have noted that the Attorney has been nodding his head, obviously indicating that a reasonable and fair scale of additional costs will be met.

The Hon. C.J. SUMNER: I thank members for their indication. Once again I apologise that the second reading explanation was not adequate to explain what had happened and the reasons for the Government introducing the Bill. I think that the debate has, on this occasion, achieved a result, and that is a result where all members have agreed that the course of action is reasonable. I reaffirm the undertaking I made that the reasonable costs will be met by the Government, and those costs, whatever they are, will be certified by the Crown Solicitor. They would be the costs over and above those which have been incurred but which would not have been incurred had there been a normal application.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

SUPPLY BILL (No.2)

Adjourned debate on second reading.

(Continued from 17 August. Page 291.)

The Hon. L.H. DAVIS: This is the second Supply Bill that has come before the Council in calendar year 1988. In fact, it is customary for two Supply Bills to come before the Council. A Supply Bill formally provides money to allow

the Public Service to carry on its activities. In the case of this Bill, an amount of $995 million is to cover the period through until early November. By that time the Appropriation Bill, which accompanies the State budget (which will be presented in another place this week), will have been passed.

This Bill contains an increase of some $120 million over the amount in last year's Supply Bill. The second reading explanation indicates that $75 million of this amount covers increases in wages, salaries and other costs, and the remaining $45 million represents Government contributions towards superannuation pensions for the first four months of 1988-89. It is a reminder to us that it was in this Council some years ago now that concerns were expressed about the public sector superannuation scheme which, of course, led to the Government establishing an inquiry to review it.

It is pleasing to note the new scheme is now up and running and that it is much more in line with private sector schemes in terms of its costs and the contribution of the employer—the Government *vis-a-vis* the employees—and it is a much less generous scheme than its predecessor. However, it should not be forgotten that the old scheme is still in existence (certainly, it was frozen as at the end of May 1986), and it needs to be kept under close review. I will be interested to see, in the budget papers, what progress has been made with both the new scheme and the ongoing costs of administering the old scheme.

It is not customary to dwell at great length on economic matters in dealing with the Supply Bill. It is a formality. However, I flag that the Opposition in the Legislative Council will be debating with great enthusiasm and conviction the Appropriation Bill when it comes before us in some weeks. I place on record my continuing concern about the state of the South Australian economy. There are economic statistics which do not lie and which show that the South Australian economy is very flat.

I have a great respect for Mr Tim Marcus Clark, the Chief Executive Officer of the State Bank of South Australia, but I think even he was stretching a long bow when he claimed not so long ago that a dramatic economic recovery was taking place in South Australia. In fact, he made those comments in the same week that he said that South Australia was a terrible place in which to invest—

Honourable members: That is not what he said.

The Hon. L.H. DAVIS: Wait a minute; I have not finished yet—for certain developments, given the hurdles and barriers that people had to face, and he called for a summit to discuss that point. I do not want to canvass that issue, but I will reflect briefly on a few statistics. First, unemployment in South Australia for the past two months has been the highest of all States in Australia. Also, youth unemployment for some time has been the highest in Australia. Nearly one in four of our young people in the age group 15 to 19 has been unemployed. Bankruptcies continue to be a concern, for month after month a new record has been set in bankruptcies, to the point where about 18 per cent of Australia's bankruptcies are recorded in this State, which boasts only 8.5 per cent of the nation's population.

Finally, a matter of great concern which has had some publicity in recent days is the crisis of confidence in the South Australian retail industry.

The PRESIDENT: Order! I ask that perhaps the honourable member could explain the relevance of this to the Bill before the Council. Sometimes it can take a while for the relevance to be established, but I hope that that will happen.

The Hon. L.H. DAVIS: It will, Madam President. South Australia's monthly growth in retail sales has been the lowest of all six States from a record 22 of the past 23 months. The latest figures available, for June, indicate that there was an increase over the previous corresponding period in 1987 of only 1.8 per cent in the value of retail sales in South Australia, compared with a national average of 7.4 per cent.

In May, the increase in retail sales was only 2.7 per cent compared with the national average of 7.7 per cent, and in April it was 3.5 per cent against a national average of 7.9 per cent. It is interesting to note that Queensland, with the benefit of Expo, has been recording well into double digit increases in retail sales growth over the past three months, averaging about 15 per cent. For 33 consecutive months South Australia has recorded growth in retail sales below the national average.

This trend commenced in October 1985, at the same time as the Government was trumpeting the slogan 'South Australia: Up and running!' The fact is that many retailers in South Australia have their backs to the wall and are battling for survival. Our retail sales figures, along with other indicators mentioned, point to grim economic facts in South Australia that need immediate attention.

There is not a dramatic economic recovery taking place in this State. I look forward to the opportunity of more fully canvassing that in the course of the Appropriation Bill. Having said that, and having neatly tied my remarks to the Supply Bill, I indicate that the Opposition supports its passage.

The Hon. R.I. LUCAS secured the adjournment of the debate.

RACING ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 August. Page 360.)

The Hon. J.C. IRWIN: The Opposition supports this amending Bill, and indeed the arguments and the amendments put forward in this Bill are similar to those relating to the Lottery and Gaming Act Amendment Bill, also on the Notice Paper. This Bill seeks to increase penalties for illegal SP bookmaking in this State from $8 000 to $15 000 for the first offence, while increasing the penalty for a second or subsequent offence from $15 000 to $40 000.

In South Australia estimates of illegal betting turnover range from $50 million to $200 million annually. The Costigan Royal Commission confirmed that there are significant connections between betting and organised crime. Madam President, there has always been betting on horse races and almost inevitably crime is associated with betting of any form. Crimes against a fair game in the racing industry can be in the form of doping or pay-offs to jockeys, trainers and owners' etc., for rigging results of a race in one way or another and manipulating the betting payouts.

It is true to say that over a great many years various laws have been passed to tighten up the manipulation of racing, and these laws apply to all codes of legal racing: galloping, harness and dog racing. While various laws were being enacted to protect the public from unfair practices, racing clubs and the State Government were seeking to protect the revenue base of racing and redistributing various moneys due to governments collected as taxes on the industry betting turnover.

At the same time as the racing codes with governments were developing laws to protect the industry and redistributing some tax percentage back to the codes, the various

forms of betting were changing and new technology was enabling the betting dollar to be invested differently. There is no doubt that as technology increases the scope for laying a bet, the same technology can be and is used to manipulate race results and payouts etc. There is an ever increasing need to be vigilant about the whole range of illegal activities, possibly where legal racing takes place. Costigan, Fitzgerald and others have alluded to the changes and we must never forget them.

SP bookmaking is probably the second oldest profession. I understand that it has been around since the year dot (although I was obviously not there then). No matter what we do in this place, we can never completely get rid of SP bookmaking. Penalties have been increased regularly over the years, as noted by people interested in the matter. The member for Gilles, the former Minister of Recreation and Sport, recalled recently in the debate in another place increasing penalties twice in his time as a Minister. The Hon. Michael Wilson as then Minister increased the penalties once and we are again increasing the penalties in this Bill.

Judging from the records of convictions, there has not been active policing of SP bookmaking in the past. However, the Minister in another place has indicated that over the past five months, 18 prosecutions have been launched by the Gaming Squad against people operating as SP bookmakers. Over the same period, 11 prosecutions have been successful, one involving a fine of $10 000, and I wonder why it is only over the past five months that there has been some activity in the pursuit of SP bookmakers. I have already pointed out, as did the member for Gilles, that during his time as Minister some years ago little was done in the pursuit of SP bookmaking, particularly in hotels. As the Minister indicates, it shows that the police have been active in the past five months in trying with reasonable success to stamp out illegal gambling. Certainly, the Government and the police must be encouraged to continue this process of identifying SP bookmaking and eliminating it. There is no point in having heavy penalties but not doing anything about it.

This amendment will be worthless if there is not proper policing, just as the law about under age drinking in hotels is worthless because it is not policed; certainly it is not policed adequately. Judging by the Queensland experience, illegal bookmaking is costing its industry $2 million to $3 million in turnover tax. Of course, the turnover tax is only a percentage of the total turnover that is lost through the existence of SP bookmaking in Queensland. While that may not represent a great percentage of turnover or dollar returns to the industry in this State, it is nevertheless a significant amount and the Queensland experience with racing, as far as turnover activity is concerned, is similar to the situation in South Australia. It is also significant when considering the effects on legal on-course bookmakers.

Their income has been falling since 1983-84 in real dollar terms. In that year it was $208 million. Skychannel, as members know, is beamed directly into the hotels, associations or clubs that want to buy access to it and people can watch live racing all over Australia and bet on it. Since the advent of Skychannel in 1986-87, the expected turnover from legal bookmakers will be only about $185 million in the 1987-88 year. So, in less than five years, that turnover has gone from $208 million in 1983-84 dollar terms to $185 million, which is a $23 million drop in that four to five year period. That is not in the same dollar terms, so it is worse when you look at it that way.

The Opposition and I have great regard for the part played by on-course bookmakers. They are very much part of the racing colour and the tradition of racing and we do not want them to disappear from the scene. On-course telephone facilities would, in the present climate, be an asset for bookmakers and we, as an Opposition, encourage the Government to look seriously at that possibility. That has been said more than once here. There is no logical reason why on-course bookmakers should not have telephones on course. TAB facilities have telephones and telephone arrangements. So we believe bookmakers should have exactly the same facility. This would be one more innovation that would make it more difficult for SP bookmakers to thrive in South Australia.

Another move to make life more difficult for SP bookmakers is to encourage TAB facilities to be installed in every hotel. They are certainly in some now and the spread should continue. I hasten to add that the Opposition in this amending Bill is not debating the merits or demerits of gambling but, rather, is supporting the Government in its move to stamp out illegal bookmaking by reducing the level of illegal activity which, like it or not, surrounds gambling. We are trying to give those dedicated people who now run racing and the people who love racing a fair return for their investment in the future so that can be reinvested in their industry. I support the Bill.

The Hon. M.J. ELLIOTT: I want to make a brief contribution to this debate. Certainly, I believe that this is a positive move to further stamp out the illegal operations of SP bookmakers. We would be rather foolish to believe that getting rid of them (which we will probably never do entirely) would remove all corruption. Rails bookmakers interstate have been linked with race fixing. There is no reason to believe we will not have a bad egg or two in this State as well. Let us not kid ourselves that we are getting rid of corruption, but at least corruption might be reduced. I was concerned by the statement made by the Hon. Jamie Irwin—I never thought it would come from him—that he would like to see the TAB spread to further hotels in South Australia.

An honourable member: They are there now.

The Hon. M.J. ELLIOTT: I know they are there now, and I have been steadfastly opposed to that move. I am gravely concerned about what is happening in this State in relation to gambling. I do not have a wowser attitude towards gambling because I probably have a bet on the races about once a year, often the Melbourne Cup. I buy the odd lottery ticket, too. I do not mind people gambling nor do I judge people for gambling. What concerns me is what this State is doing in terms of encouraging gambling. It is worth noticing that, in the Auditor-General's Report of 30 June 1987, this State took a net profit of $71 million into revenue. When you consider the cost involved, the number of dollars that must have been taken out of some South Australian pockets that could not afford it is most concerning.

In fact, of non-Commonwealth revenue for this State, 4 per cent came from gambling, a significant level, and it has been increasing rapidly over the past couple of years. It is one thing to argue that people have the right to make up their own mind about whether or not they wish to gamble. What this Government is doing unashamedly is encouraging people to gamble. When a particular lottery game starts selling less tickets and the revenue slows down, the Government does not see that as a healthy sign that some people are losing less money in this way; the Lotteries Commission comes up with a new game. When doubles were not selling particularly well for the TAB, it introduced a quadrella and then the quinella and every multitude of new way of betting one can think of. It introduced betting on cricket, football,

the Grand Prix, and the like. I do not believe that we have made a better State by these moves, but it has been simply crude revenue-raising. People would have bet on those sorts of things before, but the State Government has done everything it can to encourage people to do so.

I visited for the first time the TAB operation under the railway station and I was horrified by the structure of the operation there—a very crude operation which is a mix of alcohol and gambling of the worst kind. It has been placed there for one purpose only—not to serve the people but to milk them. I criticise and condemn the Government most strongly for that. It is totally inconsistent with the sort of stand that it took with tobacco. I supported the Government on that occasion. We accept that people smoke but we do not believe that people should be encouraged to do so. That is why we banned the advertising of tobacco products, because it is wrong to encourage people to do something which is known to be harmful. Gambling is in exactly the same position. If people want to gamble let them do it but the State Government should not be encouraging them to do so and it stands condemned for doing so. The Democrats support the Bill.

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

LOTTERY AND GAMING ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 18 August. Page 361.)

The Hon. J.C. IRWIN: As I indicated at the beginning of the previous debate, this Bill is consequential on that Bill. It contains the same amendments as the Racing Act Amendment Bill, and the Opposition supports it.

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

CONSTITUTIONAL REFORM

Adjourned debate on motion of Hon. C.A. Pickles:

That this Council applauds the Federal Government for its commitment to constitutional reform as shown by the establishment of the independent Constitutional Commission; that this Council acknowledges that the involvement of the community in the work of the commission sets it apart from all previous attempts to reform the Constitution; that its work, as reflected in the reports of the commission and its advisory committees, establishes the blueprint for the future of constitutional reform. Further, that this Council urges all members to work with all other Australians committed to the principles embodied in the four referendum questions relating to four year terms and concurrent elections for both Houses of Parliament; fair and democratic elections; constitutional recognition of local government; extended guarantees of trial by jury; religious freedom and fair compensation to ensure they are approved at the referendum on 3 September 1988.

(Continued from 17 August. Page 257.)

The Hon. DIANA LAIDLAW: I support the remarks made by the Hon. Trevor Griffin in what I believe was a well argued and well researched rejection of the motion moved by the Hon. Ms Pickles. In part, the motion calls for honourable members to congratulate the Federal Government on establishing the Constitutional Commission, and to endorse the work of the commission. This body, however, was not elected by the people of Australia to represent our interests or to recommend on our behalf fundamental changes to the Australian Constitution. Rather, the members of the commission were hand-picked by the Hawke Government. The Federal Attorney-General (Mr Bowen) did not even deign to consult the leaders of the Liberal Party, and I suspect that he did not consult the leaders of the Australian Democrats or the National Party, to seek their nominations or their endorsement of the individuals to be appointed to the commission.

Had the Federal Attorney-General undertaken such a process of consultation, perhaps the initial announcement of the commission's membership would not have attracted such heated or prolonged discussion or criticism as to the almost non-existent or paltry representation of women on that commission. I am sure that the Hon. Ms Pickles would remember the concern amongst women's groups at the time that the commission membership was initially nominated. In my view, this oversight—and I use the word 'oversight' with the kindest possible reflection on the distorted male/female—

The Hon. K.T. Griffin: Being generous.

The Hon. DIANA LAIDLAW: It is a generous reflection on the distorted male/female ratio of the commission, which I believe was not acceptable and therefore I see no reason why today I should endorse the commission and its activities. Over a number of years the commission has recommended some 80 changes to the Australian Constitution. The Government, however, has elected arbitrarily to put only four questions to the Australian people on 3 September. Of those four questions, two do not even correspond to the wording of the commission's recommendations. In fact, the questions that we are to be presented with on Saturday week distort the commission's original intention, and for that reason, also, I see no reason why I should now support the motion.

On 3 September I intend to vote 'No' to all four referendum questions. Essentially, I object most strongly to the simplistic and selective manner in which the Hawke Government has presented four very complex questions. I object also—

The Hon. I. Gilfillan interjecting:

The Hon. DIANA LAIDLAW: Perhaps I have thought more than the Hon. Mr Gilfillan on these matters. I object also to the Government's resort to the spirit of our bicentennial year to camouflage its goal of undermining the diffusion of power or the checks and balances that are the mainstay of our democratic system of government in this country. Further, I object to the hypocrisy of Labor members, both Federal and State, who would have us believe that the four questions would help guarantee individual liberty, when in fact the proposals, in my view, insidiously wear away the features of our Federal system that guarantee these liberties.

In addition to these broad concerns, I have specific objections to each of the four questions. However, I do not intend this afternoon to canvass all of those objections or, indeed, all four questions. Rather, I shall focus my remarks on the questions relating to constitutional recognition of local government and religious freedom.

In respect to the local government question, I did not see a need to contribute to the debate on that matter until I heard what I believed was the most patronising and pompous response by the Minister of Local Government (Hon. Barbara Wiese) to a question on this subject asked of her in this place by the Hon. Ms Pickles on 10 August. At that time the Minister endeavoured to suggest that, because the ALP in this State and federally supported question No. 3 in the referendum, the ALP had alone tended to the aspirations, the interests and needs of local government in this State and elsewhere. It is my strongly held view that such a suggestion is preposterous. The present Government and

Minister of Local Government have, as has been the case in the past, been prepared to impose amalgamation upon unsuspecting councils. It is also this Government and this Minister which sought to abolish minimum rates, against the stated wishes of local government, and it is also this Government and this Minister which have sought to impose human service contracts on councils, again, against their wishes.

Also, I remind honourable members that just last year on 30 October 1987 at the annual general meeting of the Local Government Association the Minister of Local Government could not bring herself to make one positive reference to local government—a fact that was initially pointed out to me by representatives of local government who attended that annual general meeting, and it was one that I was able to confirm later after reading her address. There was not one reference in relation to recognition of the enormous and invaluable contribution which the 124 councils in South Australia make to the economic and social well-being of the people and the prosperity of this State. Rather, in my view, the Minister elected to arrogantly chastise local government. I shall quote just a few references from her speech to highlight this point. First, she stated:

It is perfectly proper for local government to call for greater flexibility, less regulation, wider scope for local action, and so on, but local government must recognise that it derives its power and authority from the legislative acknowledgement of the State and that, ultimately, the State is responsible for its performance.

Further, she stated:

Strident calls of 'undemocratic' and 'interference' wherever the State exercises its responsibilities are unrealistic rhetoric and do not help the cause of local government. There are problems in local government which still need to be addressed. We must do something about those councils whose performance is unacceptable. Examples of inefficiency, poor decision making, insensitivity, poor public relations, ineptitude, or worse, reflect on councils which do perform well and make it most difficult to convince Parliament and the community—

and the Minister perhaps should have added that this relates particularly to her own Party colleagues—

that local government is sufficiently responsible and competent to exercise the flexibility and freedom I have talked about today.

A month after the Minister gave that critical address to the association's AGM in November 1987, she introduced a Bill to amend the financial provisions of the Local Government Act which, I have no doubt, honourable members will recall was damned by both the executive of the Local Government Association and local government across the State for the excessive number of provisions that required either ministerial approval, consent, investigation or some action according to conditions that the Minister saw fit. A number of those provisions were defeated or amended subsequently at the request of the LGA and councils generally. Therefore, when it came to a matter of substantial importance to the status and viability of local government in South Australia, it was the Liberal Party, together with the Australian Democrats, that defended the interests of local government against dogged resistence from the Minister and the Government. Yet, the Minister now has the audacity to pose as the champion of local government. I find her hypocrisy nauseating.

Honourable members may recall also that when the Minister introduced the Bill to amend the financial provisions of the Local Government Act, she placed great stress on the fact that 'local government in Australia is subordinate, not sovereign'. In respect to that statement, I repeat part of the remarks I quoted earlier from her address to last year's LGA Annual General Meeting when she said that local government must recognise that it derives its power and authority from the legislative acknowledgment of the State and that ultimately the State is responsible for its performance.

The Liberal Party would not choose the Minister's heavy-handed words to explain the relationship in this State between local government and the State Government. Rather, we prefer to respect local government not as an agent of the State Government but as a vital component in our democratically elected system of government. It is for this reason that in June 1980 the then Minister of Local Government, the Hon. Murray Hill, on behalf of the Tonkin Liberal Government introduced a Bill to amend the Constitution Act to recognise local government. That measure was supported by honourable members opposite. Today four of the six State Governments in Australia recognise local government in their State's constitutions—South Australia, New South Wales, Victoria and Western Australia. As elected local government bodies are constituted by the powers of the State Parliament, the State Constitution in my view and that of the Liberal Party generally is the best and most appropriate legislative framework for the recognition of the continuance of local government in this State. Certainly, this was the view of the constitutional convention held in Hobart in October 1976. At that convention the following motion relating to local government was passed unanimously:

That this convention, recognising the fundamental role of local government in the system of government in Australia, and being desirous that the fulfilment of that role should be effectively faciliated—

(a) invites the States to consider formal recognition of local government in State Constitutions;

(b) invites the Prime Minister to raise at the next Premiers' uestion Conference the of the relationships which should exist between Federal, State and local government; and

(c) requires Standing Committee 'A' to study further and report upon the best means of recognition of local government by the Commonwealth.

In respect of part *(c)* of that motion, the commission studied and reported upon the best means of recognising local government by or within the Commonwealth constitution. It recommended such recognition but did not, as is proposed in the third of the four referendum proposals, make reference to 'a system' of local government. The inclusion by the Hawke Government of the words 'a system' essentially fiddles with and distorts both the intention and the specific wording of the recommendation forwarded by the constitutional convention. Certainly the local government proposal on which we are being asked to vote on 3 September, if agreed to, would leave the way open for any future Government to depart from the form of local government that has served local residents and the States so well to date.

The special strength of local government today is that it is the form of government closest to the people and therefore the form of government most able to respond to the needs and hopes of local residents. If agreed to, question No. 3 may encourage future Governments of any persuasion to amalgamate local government against the wishes of various councils to form a system of regional government. This proposition is not far-fetched and I draw honourable members' attention to a speech by the Federal Minister of Local Government, Senator Margaret Reynolds, to the State conference of the Women's Agricultural Bureau of South Australia on 3 August last. She opened her address by stating, 'I wish particularly to discuss issues such as rural and regional development.' She went on to say:

I do not want to restrict my comments to women living in remote communities. Rather, I would like to use a broad definition of rural that incorporates provincial cities. The reason for this is the close interdependence between regional centres and

more remote communities often reliant on agricultural and mining activities.

She further stated:

Without strong and diverse regional economies many in farming and mining communities and remote areas would find it difficult to survive. As Minister for Local Government with responsibility for regional development, I am well aware that governments provide only the context in which communities can thrive.

She continued:

The likelihood of strong and diverse regional development in the future, however, is very much dependent on the 'will' of communities.

On page 3 of her speech she states:

Similarly in regional and rural areas the Government can provide a vehicle for change but the community will provide its engine.

All those references to regionalism come within the first two and a half pages of the Minister's 10 page speech. I do not intend to go through all references to regionalism, but the so-called Federal Minister of Local Government did not see fit to mention local government once, yet I counted 56 references to regional centre, regional development, regional growth or regionalism. I highlight those points because it is important that people realise the potential of the question we are being asked on 3 September and the potential for the hidden agenda in the question by the Hawke Government's inclusion of the words 'a system' of local government—words which were not recommended by the constitutional convention itself.

I also believe that it is important for people in South Australia—a State that places great emphasis on heritage—to remember that the City of Adelaide was the first local government corporation to be established in this country. I find it most surprising, as I have said to the Lord Mayor, that he would so openly embrace this proposal. I sometimes wonder whether he has been so distracted by Whitmore Square and a number of other issues that perhaps he has not had the time to think through the significance of this proposal as I would hope he would do as a leader of local government in this State. He has a great responsibility in his position as the current Lord Mayor of the first council in this country and I think that it would be wise for the Adelaide City Council to rethink its position on this point.

I also point out to honourable members that, beyond the fact that there is no definition of what is meant by a 'system of local government', the question contains no proposal to prevent the wrongful dismissal of local councils, the abolition of local government in some parts of the State, the forced amalgamation of local government areas and local governments being required to take greater responsibilities without corresponding and adequate increases in financial support. In truth, the proposal for recognition at the Commonwealth level does not give local government any more legitimacy than it presently has; but it does open many opportunities for a future Federal Government to change beyond recognition the system of local government that now operates in this State. It also opens up many uncertainties which could be left to the High Court of Australia to determine.

In this respect I name just a few of the uncertainties that were highlighted in a letter written by a former Supreme Court Justice of South Australia, Andrew Wells, which was sent to the Commonwealth Attorney-General, the State Attorney-General and others on 11 August. He states:

If a local government body claims that its powers are not sufficient or apt to enable it properly to 'administer' its area, will it be able, by taking appropriate proceedings, to challenge the State in the High Court, to have the State condemned, by declaratory decree, for its failure? Could a local government body, in like manner, successfully claim in the High Court that the State has not given it adequate revenue-gathering powers to enable it to maintain 'continuance' of the 'system' in its area? If these and similar questions arising from section 119A were made the subjects of ultimate challenges of the State in the High Court, would that court not find itself obliged, in spheres of political theory and practice, to make its own decisions of value, fact and degree?

Would not the High Court be thus constrained to entertain and determine some causes and matters of controversy that have hitherto been committed to, and dealt with and through, each State community's democratic process, more especially each State Parliament?

I now turn my attention to why I cannot and will not support the proposed question in relation to the extension of freedom of religion. The proposal, as all members should be aware, has created concern amongst the Catholic bishops of Australia, the New South Wales Council of Churches (comprised of the main Protestant denominations) and the Australian Parents Council, which represents the parents of 800 000 children at non-government schools.

All these respected associations and organisations have stated that they strongly support the principle of freedom of religion but that they are content that the existing protections safeguard this principle. However, each body is alarmed that the proposed alteration to section 116 of the Constitution could re-open the divisive debate on State aid to religious schools and invite a High Court challenge. The Council of Churches has stated that freedom of religion is not under threat and that the referendum question was 'more concerned with extending freedom from religion than freedom to practise religion'. All bodies have recommended a 'No' vote to the proposal. The Attorney-General, Mr Bowen, has rejected all the above concerns. However, the fact remains—

The Hon. Carolyn Pickles: Quite right, too.

The Hon. DIANA LAIDLAW: Well, the Hon. Ms Pickles suggested that he is quite right. Perhaps she can guarantee to all these people—and she nods. When she nods it shows that she has an inflated opinion of her position. Certainly the Federal Attorney-General knows that he cannot guarantee that there is no reason for concern because he knows that whenever there is a challenge to the law, or in this case a change to the Constitution of Australia, avenues are opened up for challenging to the High Court of Australia in order that lawyers and others can seek to define what is meant by those changes.

The Federal Attorney-General certainly cannot guarantee to those who are concerned that the changes that he proposes will not be open to challenge and will not lead, in the future, to a challenge to State aid to private schools. Perhaps the Hon. Ms Pickles has some crystal ball that nobody else in this country is privileged to.

The Hon. Carolyn Pickles: Alice in Wonderland.

The Hon. DIANA LAIDLAW: Well, it is not Alice in Wonderland. As I say, the Federal Attorney-General cannot guarantee answers to those questions and he knew that they were legitimate questions. It is not crystal ball gazing. Not only does the fourth referendum question, if agreed to next month, have the potential to threaten the choice of private school education by many Australian families but also a successful High Court challenge could result in State defunding of religious groups for welfare and community work. Bodies like the Salvation Army, St Vincent de Paul, the city missions, and the Anglican Social Welfare and Catholic Family Welfare currently receive Government funds to assist in their work on behalf of needy individuals and families in our community.

Today the services provided by each of these groups are vulnerable because they do not enjoy a strong, sound funding base and yet each faces a massive demand for help from an ever increasing number of people. Members may not

appreciate that in South Australia today we have the highest proportional number of families living below the poverty line—over 100 000 families or one in four, according to recent figures from the Australian Bureau of Statistics. At such a time we need to guarantee, not threaten, the existence of the religious based welfare services that aim to help these families in poverty. Yet, this fourth referendum question on freedom of religion has the potential to jeopardise this funding viability and the existence of such services if a High Court case was successful in challenging Government funding to religious and charitable organisations.

Extreme groups who wish to proceed, and have proceeded in the past, in this manner have indicated that if this proposal passes on 3 September (to extend religious freedom) then they will undertake such a challenge in the High Court. I cannot believe that members opposite would be prepared to condone such a situation or make religious bodies, particularly charitable and welfare organisations, potentially vulnerable as a consequence of such a challenge. For all the reasons I have outlined today and for other reasons that I do not wish to mention because it would take up the time of the Council, I oppose the motion moved by the Hon. Ms Pickles.

The Hon. J.C. IRWIN secured the adjournment of the debate.

GRADUATE TAX

Adjourned debate on motion of Hon. R.I. Lucas:

That this Council—

1. Expresses its opposition to the proposed graduate tax;
2. Calls on the Federal Government to consider alternative ways of funding any required expansion of higher education; and
3. Requests the President of the Legislative Council to convey this resolution to the Prime Minister,

to which the Hon. C.A. Pickles has moved the following amendment—

Leave out all words after 'proposed graduate tax;' in Part I and insert the following—

2. Expresses its opposition to the previously announced policy of the Federal Opposition calling for extra places in higher education to be funded by fees and calls on them to announce their present response to the funding of higher education places;
3. Calls on the Federal Government to use alternative ways of funding expansion of higher education that is needed for the economic and social development of this country. Furthermore, these alternative methods of funding should ensure that there is both increased access to higher education and a broader social mix in the intake into higher education (i.e. improved equity of access);
4. Supports the State Government in its call for the Federal Government to implement the recommendations relating to Austudy contained in the Report of the Committee on Higher Education;
5. Requests the President of the Legislative Council to convey this resolution to the Prime Minister and the Leader of the Federal Opposition.

(Continued from 17 August. Page 267).

The Hon. DIANA LAIDLAW: On this matter, I am heartily in agreement with the honourable member. Indeed, it is amazing how one can swap views so suddenly. Initially, I commend the Hon. Mr Lucas for moving the motion, which calls on the Council to express its opposition to the proposed graduate tax. It calls on the Federal Government to consider alternative ways of funding any required expansion of higher education. Further, I acknowledge the contributions—well argued and well researched—by the Hon. Carolyn Pickles and the Hon. Mr Elliott.

In addressing this motion, I stress at the outset that I recognise the need—in fact, the almost desperate need—in this country for a more skilled work force. Within the forums of my Party over a number of years and beyond those forums I have argued for various options to be explored by which we can achieve this objective.

Last night, during the delivery by the Federal Treasurer of the Commonwealth's 1988-89 budget I was aghast to hear the Hawke Government's rationale for pressing ahead with the introduction of a graduate tax. As an aside, it is important for members who may not have seen the television broadcast of Mr Keating's speech about the introduction of the graduate tax to know that it was met with a deafening silence by Government members. In my view, this silence was all the more profound compared with the excitement with which Government members greeted his announcement about the reduced sales tax on beer.

The Hon. G. Weatherill interjecting:

The Hon. DIANA LAIDLAW: The camera was not focussed on the Opposition at the time. Perhaps they also contributed to the excitement. Certainly, the camera was only on Government members. I refer to the contrast between the deafening silence in respect of the graduate tax and the excitement about the decrease in sales tax on beer. It reflected a most amazing set of priorities. There was no doubt, having seen Commonwealth Government members in their seats, that they were most uncomfortable with the initiative that Mr Keating outlined on behalf of the Hawke Government. I will read part of Mr Keating's comments now so that the Council will know the reason for the unease of Federal Government members. Mr Keating stated:

> Madam Speaker, from the outset this Government has placed the highest priority on education and training.
>
> If our nation is to compete effectively in the international market place we must have an even more skilled workforce.
>
> Sadly, in the past, we let ourselves down on that score.
>
> However, since 1983 there has been a dramatic turnaround in the number of our young people staying on at school and in the number going on to higher education.

Notwithstanding those general statements of fact, certainly of the situation about which I do not disagree, the Treasurer went on to say:

> It is essential that we maintain this momentum. At the same time the present system of funding university education is unfair.
>
> All taxpayers fund the education of a minority who, by virtue of their qualifications, enjoy a higher income throughout their working life.
>
> It is doubly unfair that most university students already come from relatively better-off backgrounds.
>
> We need to change the system in two ways. First, the nation needs more graduates. But at the same time we need to open up the system to talented students who are not so well-off.
>
> We have therefore decided to introduce from next year a higher education contribution scheme which will require students to pay back about one-fifth of the cost of their courses.

I understand that this is about $1 800 a year. The Treasurer continued:

> This will be payable only when the income of each individual student has risen to a level comparable to average earnings in the community. All the proceeds of this measure will be devoted to expanding the number of student places and providing increased study assistance for the not so well-off . . . The introduction of the new scheme will enable us to abolish the $263 administration charge.

In that regard I point out that the administration charge, when introduced only a short time ago, started at $250 and has already increased to $263. No wonder there is disquiet among current and prospective students that the level set today of $1 800 for each year of study will not remain at that level for long.

In common with members who have contributed to the debate on the motion already, I, too, take issue with a number of Mr Keating's unqualified assertions in his budget speech last night. First, I do not support the view that 'the present system of funding university education is unfair because it funds the education of a minority'. Not only does

this argument introduce an ugly element of 'them and us', but also it fails to appreciate that all of society benefits from an educated and well-trained work force.

The benefits do not flow only to the person who has undertaken higher education and that person's family. As the Hon. Ms Pickles argued, education is an investment in our future and, as such, we share a common responsibility for ensuring that everyone—regardless of background—has equal access to its benefits. It is not, as the Hawke Government would have us believe, a 'them and us' situation—a privileged minority against a hard done by majority. Also, I take issue with Mr Keating's contention that the current funding system is unfair because most university students come from relatively better-off backgrounds.

If the Hawke Government believes that this fact renders the system unfair, the introduction of a graduate tax will ensure that the system that they propose in the future will be grossly unfair. However, that argument also blindly ignores substantial changes that have occurred in the mix of students in higher education since the Whitlam Government abolished fees in 1974. Research undertaken by Dr Don Anderson of the Australian National University identified that between 1974 and 1979 the lowest one-third of the social order gained ground in terms of entrance to higher education compared to the upper one-third.

In analysing these important results, Dr Anderson highlighted—and this point was stressed by the Hon. Mr Lucas in his contribution—that these results were all the more significant because they occurred notwithstanding the fact that tens of thousands of lucrative education scholarships were phased out over the same period and that traditionally such scholarships were awarded to students from families with no previous association with higher education.

The Hawke Government has selectively overlooked this fact, and likewise it has selectively overlooked the fact that between 1974 and 1979 the proportion of students whose fathers worked in manual or trade occupations rose from 14 per cent to 19 per cent in universities and from 18 per cent to 26 per cent in colleges of advanced education. Whilst there is no formal analysis or research that I have been able to discover since that time, sources at university confirm that that positive trend has continued.

These improved participation rates by students from poorer backgrounds represent a significant improvement in a situation that prevailed prior to the abolition of fees. I would argue that the abolition of fees would have given rise to even better results for students from poorer backgrounds if other barriers to their participation had been addressed at the same time, and I name briefly the lack of child care in our community, the expense of long distance travel and housing (particularly rental accommodation), and the fall in value and availability of income support for students. However, instead of minimising those obstacles to access to which I have just referred, the Hawke Government has made them worse over time with budgetary cuts and record levels of taxation from PAYE earners.

In these circumstances it is tragically ironic that the Hawke Government is now using the supposed failure of free tertiary education as one reason to introduce a tertiary tax. Students from low income families will not be the only losers as a result of the introduction of a tertiary tax. Many organisations and senior academics, including the Vice-Chancellor of the University of Adelaide, have highlighted that women and girls also will be big losers. The Vice-Chancellor stated in May this year that the tax would deter working class people from attempting tertiary studies because such groups traditionally study teaching, nursing and social work and professions in which they would eventually earn about $23 000 per year. 'Women have traditionally dominated the teaching, nursing and social work professions,' he said.

In 1986 the Australian Bureau of Statistics Census on occupational status revealed that 64 per cent of the total number of school teachers in South Australia were women, (they numbered 12 850), and that 90 per cent of nurses (numbering 12 742) were women. Likewise, the number of women in the community services work force in the State, which includes social workers, is significantly higher than in any other industry. In this respect, the occupational and industrial segregation of the workforce has been reinforced in recent years despite efforts to encourage women and girls to pursue non-traditional employment.

In the light of those figures and facts, the Vice-Chancellor of Adelaide University argued that a tertiary tax would be a major deterrent to women attempting tertiary study and, if implemented, the tax would compound the disadvantages already faced by women seeking to enter the work force. These comments from the Vice-Chancellor of Adelaide University are all the more relevant when one reads them in the context of the Wran report on higher education funding, which on page 7 noted:

> That the most notable recent change in patterns of participation has been the increase in the proportion of women in higher education. In 1987, 50.1 per cent of higher education students were women, compared to 29.9 in 1970.

There is also major concern on campus and among women's organisations in this State about the impact of the tertiary tax on entry of mature age students. I am advised by Helen James, President of the Mature Age Students Association, that 3 500 out of 10 000 students at South Australian universities are of mature age and that of this number the largest proportion are women. She has indicated to me that these students see themselves as providing for their own wellbeing as well as the future education of their families. The Mature Age Students Association is most concerned about mature age women students who are trying to improve their circumstances and those of their families and who are hoping to promote future employment opportunities for their children, but who will find when they graduate, that they will have to pay this tax. The Mature Age Students Association believes that this is highly discriminatory against people who are on lower incomes and who are trying to get off supporting parents benefits to provide for themselves, to save the taxpayers expense and to provide better opportunities for their children in the future.

These people certainly believe that the tax will seriously affect the ability of mature age students (male or female) to pay for their retirement, because one must consider the fact that mature age students have a shorter time in the paid work force when they do graduate. The repayment of such a tax when they do eventually find work, on top of endeavours to make some contribution to superannuation, will restrict and penalise mature age students in these circumstances.

It is important also to recognise that students undergoing higher education forgo access to paid employment during their period of study. I believe that the Hon. Carolyn Pickles highlighted research which indicates that it takes a student 10 years of paid work after graduating to make up the income that has been forgone over that period.

A number of general points were made by honourable members which I strongly support and on which I will not elaborate. I refer, for instance, to the Hon. Mr Lucas's argument that, if a Government can convince itself that a tax on higher education is acceptable, why will the Government not seek to introduce a tax on all post compulsory education, that is, from years 11, 12 and above. I also make

the point referred to earlier that there has certainly been no guarantee (and even if there were, one would question such a gurantee) from this Government that the $1 800 will remain at that level. We have all experienced the increase in the Medicare levy despite firm promises that it would not rise above the level at which it was initially set.

Administrative concerns are a major factor and they certainly have not been addressed adequately by the Government. There is no doubt, also, that for many younger students, who may have deferred marriage and buying a home, the tertiary tax will come at the worst time for them. There is also the disincentive associated with this tax for people who wish to go on and improve their professional development, even though they might not earn a greater salary as a consequence of undertaking retraining and further training courses.

I strongly oppose the introduction of this tax. I am not convinced by the arguments that have been presented to date, and I fear that the Government has overlooked a number of the pitfalls associated with the administration of the tax, the matter of the current mix of students in higher education and the disincentives that the tax will have on producing greater equity for more students participating in higher education in future. I commend the Hon. Mr Lucas for introducing this motion, and I heartily support it.

The Hon. L.H. DAVIS: I have no hestitation in supporting the very clearly expressed motion of the Hon. Robert Lucas, which calls on this Council to express oposition to the proposed graduate tax. My colleagues, the Hon. Mr Lucas and the Hon. Ms Laidlaw, have already outlined in detail cogent reasons why a graduate tax should be opposed. I do not want to speak at great length on the motion, except to say that there are two reasons why I believe that the graduate tax is an unfair and inequitable tax. The first is that, essentially, the tax is a tax on success. It is a tax that is imposed on people who have graduated. It means that someone who has worked for four or five years at university and who graduates with a degree will be taxed a minimum of $1 800 per annum in the few years immediately after graduation. On the other hand, someone who may have spent that same amount of time at university, placing the same demands on academic staff, library resources and other university facilities, and who may have failed because of lack of study and application may not be taxed at all. I believe that a tax on success is inequitable.

The second point concerns the administrative difficulty of collecting the tax. It is well known that graduates travel widely after they have passed their university exams. Many go overseas or travel interstate. It is already obvious from the many convocations around Australia that there is great difficulty in keeping up with graduates. I am sure that the Taxation Department will work very hard on closing the loophole, but I see the job of chasing students after they have graduated to collect taxes as being a very difficult task.

It is also worth pointing out that the Hon. Ms Pickles is herself opposed to the graduate tax. Presumably, we will see the whole of the Labor Party in the Legislative Council voting to oppose a graduate tax, which has been proposed only last night in the Federal budget, a graduate tax that was dealt with at some length by the Federal Treasurer (Hon. Paul Keating) and second in the pecking order, in effect, to the Labor Prime Minister, Mr Hawke. So, we have the spectacle of the whole of the Labor Government in the Council in South Australia being in public opposition to a proposal that was given great prominence only last evening in the Federal budget. Of course, it is not only that members opposite are opposing their Federal colleagues so fundamentally but they are also opposing their Premier, John Bannon, who only a week or so ago at the Labor Party convention spoke very publicly and vehemently in favour of the graduate tax.

With the vote on this motion we will see a very public spectacle of all Labor Government members in the Legislative Council in South Australia publicly thumbing their nose at the Federal Government, and also publicly thumbing their nose at the Labor Premier of South Australia. Now, that is some quinella for this tight and disciplined Labor Party, so called, the members of which are threatened with expulsion if they dare to speak out publicly. It just shows what a dogsbody we have in the Labor Party in South Australia, with members coming out and publicly flaying the whole of the Labor Party federally and their Premier. It is interesting to see that the Left Wing at least carries a fair bit of weight in the Council, and it is interesting to see how deeply buried is the Attorney-General's head while this motion is being debated. I am pleased that the Council has had the opportunity to debate this motion. I commend the Hon. Robert Lucas for putting it on the notice paper.

The Hon. M.S. FELEPPA: I shall speak only briefly in endorsing the motion moved by my colleague the Hon. Carolyn Pickles, and I do so with some pleasure. I am disappointed that the Federal Government has chosen to introduce a form of graduate tax to assist with its planned expansion of the higher education system. While I applaud the Federal Government's decision to provide an extra 40 000 places in our higher education institutions over the next three years, I question the wisdom of the funding mechanism. In my recent Address in Reply speech, made in this Council on 9 August, I indicated my support for the Prime Minister undertaking to eliminate child poverty in the years ahead.

I pointed out then that poverty, especially child poverty, needs to be eliminated within a few years by providing our children with the opportunities to expand their knowledge and thus expand their ability to enter into productive and satisfying employment. As I also said in my Address in Reply speech no welfare payment will reduce poverty without there being an equal emphasis on providing opportunities for our young people to expand their knowledge and their skills. Anything that discourages young people, especially young people from disadvantaged backgrounds, from entering into higher education, is socially irresponsible.

The Federal Government's decision to introduce a form of graduate tax has come about following the recommendations of the report of the Committee on Higher Education, or the Wran report as it is better known. The Wran Committee was limited in its terms of reference to:

> ... develop options and make recommendations for possible schemes of funding which could involve contributions from higher education students, graduates, their parents and employers.

This, of course, limited the committee's scope to basically look at ways of extracting funds from current students and graduates. The Wran report fairly well ignores the concept of a parental contribution to the cost of tertiary education, as suggested by terms of reference. The parental contribution to the maintenance of students and the indirect contribution they make through the income tax system understandably excludes them from any further imposition of levies or taxes to fund the education of their children.

The report also, unfortunately, is almost dismissive in its treatment of employers as a source of funding growth in further education. The report states:

> The committee believes that firms which benefit from higher education should make a contribution towards the cost of its provision. However, the issues are complex and the question of

industry contributions to higher education must be considered in the broader context of the entire education and training system.

The report goes on to recommend that a tripartite body should be established to develop education levy arrangements for Australian industry. This is a disappointing response by the committee, in my view. I would think that the Wran committee, given its terms of reference, should have been the appropriate body to at least make recommendations to the Government on the form of industry contribution that could be applicable. Unfortunately, the committee opted to ignore its responsibilities to make recommendations on this matter. Therefore, the committee left itself with the task of sorting through the options available for obtaining a contribution from either students, graduates, or both. The committee considered options such as voucher schemes, fees with loans, lifetime tax surcharges, and schemes such as that included in last night's budget.

The committee quite rightly rejected any question of reimposing up-front fees, which is I believe the current policy of the Federal Liberal Party, on the grounds that such a scheme would be discriminatory and regressive. Unfortunately, the committee opted for a proposal where users of tertiary education, regardless of whether they graduate or not, and regardless of their socio-economic background, will be liable to pay part of the cost of their education through a levy on their taxable income, once that income goes above a certain level.

The Wran committee believed that this proposal was the least regressive of those proposals that it considered. This is hardly a sound philosophical base to begin with—find the least regressive manner to introduce a user pays system for tertiary education! To justify its conclusions, the committee made a number of statements, under the heading of 'who uses higher education and who benefits', which are simplistic and poorly thought out. It claims that most taxpayers gain no benefit from the higher education system, while considerable private benefits accrue to those who have the opportunity to participate. Whilst it is true that most Australians do not have the benefit of a higher education, it is not true to say that most Australians do not benefit from having tertiary educated professionals. It is nonsense to suggest that Australia does not get value for the money it spends on educating our young people, and to claim that a higher education automatically gives entrance to a higher income has been shown to be an illusion by figures quoted by the Hon. Carolyn Pickles when proposing the amendment.

A tax on graduates and students will undoubtedly assist the Federal Government to fund its expansion of higher education, but such an expansion does not necessarily mean that the numbers of students from disadvantaged backgrounds will increase in our higher education institutions. More needs to be done at both secondary and primary schools to encourage students from disadvantaged backgrounds to take the next step to higher education. Extra tertiary places and tertiary taxes do nothing to encourage a change in the student mix in our tertiary institutions.

The Wran committee and the Federal Government are on the right track in recommending and implementing improvements in student allowances for students from disadvantaged backgrounds. The commitment to increased allowances announced in last night's Federal budget is a progressive measure that should be acknowledged as an encouragement to disadvantaged young people to enter tertiary education. However, I urge the Federal Government to investigate more fully alternative methods of funding its proposed expansion of tertiary places and the increases in student allowances. The Government should also look more closely at implementing programs that will encourage young people from disadvantaged backgrounds to enter into higher education. For that reason, I urge members to support the amendment.

The Hon. I. GILFILLAN: I rise to support the motion and to move an amendment that is slightly at variance to that circulated. I move:

Leave out paragraph 2 of the Hon. Ms. Pickles' amendment and consequentially renumber remaining paragraphs.

The Democrats support the motion and the majority of the paragraphs in the amendment moved by the Hon. Ms Pickles. However, there does seem to be some confusion. I listened intently to the remarks made by the Hon. Legh Davis that it is a tax on success. From media reports, it appears that it is a tax on success or failure in that a student who does not complete the course is liable to a tax to recoup the cost of whatever portion of the course the student completed. That will be extracted from that person's taxable income. Therefore it is not accurate to describe it as a tax on success: it is also a tax on failure.

The other spurious aspect which has shown up in the discussions that I have heard on this measure is that it is portrayed as being a guarantee of funding to provide additional places for tertiary education. All members realise that special purpose funds, or those that are dedicated to a particular purpose, have a 100 per cent failure record in being applied to that purpose. The Democrats are not confident that, even if those moneys are raised, they will go directly to the cause purported in the budget.

The Democrats are opposed to paragraph II of the amendment moved by the Hon. Carolyn Pickles for the reasons of goodwill and equanimity in this place. We are no more supportive of the Federal Opposition's scheme to provide additional places, which appears to discriminate between those who are lucky enough to get in on the free list and those who have to pay. The same sort of criticism could be levelled at the Federal Opposition's policy for expanding the numbers in tertiary education as could be levelled at the Government's tertiary tax. However, it is essential that from this Chamber we make a clear and strong expression of rejection of the principle of a tertiary tax.

I congratulate the Government which, to this stage at least, has indicated support for this motion. It shows courage and honesty, which does the status of this place credit. The amendment that I have moved removes any vestige of Party politics from a motion which will be significant as a united voice from all members of this Chamber showing absolute rejection of and disgust for a policy which is abhorrent to those who believe that everyone should have fair and equal opportunity in education in this country.

The Hon. R.I. LUCAS: I thank the Hon. Mr Gilfillan and other members who have spoken in this debate. I, too, welcome the fact that, after three or four votes, we will come to agreement as all members in the Legislative Council—from the Labor Party, the Liberal Party and the Australian Democrats—on a form of words expressing opposition to the proposed graduate tax.

I indicate to the Hon. Mr Gilfillan that the original motion moved by me does two things. First, it expresses opposition to the proposed graduate tax. Certainly, there is no vestige of Party politics in that; there is a graduate tax and we are expressing opposition. Secondly, it calls on the Federal Government to consider alternative ways of funding any required expansion of higher education. Again, if we are to call on anybody to do that, we have to call on the Federal Hawke Government.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Whether we say 'Federal Government' or 'Federal Hawke Government', it is the Federal Hawke Government whatever we call it. We have to call on someone to consider alternative ways, and there is just one—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: We did refer to 'the Hawke Government', and there was some objection to it. All I am saying is that, if there was an inference of Party politics when we called the Federal Government the Federal Hawke Government, I humbly apologise. That certainly was not the intention in relation to the use of those words. However, my speech might have had political content, but the intention always, in relation to the drafting of the motion, was to encourage, as I think we have, all members in this Chamber from all Parties to support the motion. Given that we have a number of amendments before us, and to possibly expedite the proceedings in this Council, I indicate that I will support the amendment moved by the Hon. Mr Gilfillan on behalf of the Australian Democrats which agrees with the principal aim of this motion, that is, that it expresses this Council's opposition to the proposed graduate tax.

What it will do, together with the Hon. Carolyn Pickles' amendment, is leave us with a form of words which is an expansion of the form of words in my original motion in relation to calling on the Federal Government to consider alternative ways of funding any required expansion of higher education. In that, the form of words that the Hon. Carolyn Pickles has moved will add some further requirements, that is, that we should look at increasing access to higher education and a broader social mix in the intake into higher education (that is, improved equity of access).

Therefore, it is an expansion—an elaboration—of the second part of my motion. For those reasons I am quite happy to support the amendments of the Hon. Carolyn Pickles and the Hon. Ian Gilfillan. The amendment proposed by the Hon. Carolyn Pickles also includes a paragraph which states:

> iv. Supports the State Government in its call for the Federal Government to implement the recommendations relating to Austudy contained in the Report of the Committee on Higher Education.

I make two or three comments. I am quite happy to support that. This is the first opportunity I have had to speak to this part of the amendment. Not only the State Government but also the Federal Liberal Party, the State Liberal Party, and quite a number of other people in the academic community have called for the implementation of the recommendations relating to greater access to Austudy. If I had my preference—but I will not try to amend it—I would say that a number of groups, including the State Government, the Federal Liberal Party, the State Liberal Party and various academics and universities, have called for the loosening up of the provisions to allow greater access to Austudy.

I do not begrudge our supporting the State Government, but I would like to place on record the fact that, in doing so, members are aware that the State and Federal Liberal Oppositions have called on the Federal Government to do the same. The only other comment I make in relation to the fourth part is that it is my understanding—and some members may well have a different understanding—that the Federal Government last night implemented the key recommendations relating to Austudy.

The Hon. I. Gilfillan: We are not sure.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan says he is not sure. My understanding is that it has. On my reading there was a $100 million package—a very good package in my view.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: I am not sure about the assets test. I am not sure whether there was much detail in the Federal budget last night about the assets test. This motion does not actually oppose the assets test. If we want to talk about that, we can do it in terms of a different motion.

All I am saying is that there has been increased access for Austudy. The increasing of Austudy payment to the level of the unemployment benefit for a good number of students is a key recommendation. There are two or three other key recommendations in the Austudy arrangements which, from last night's budget, I support and which obviously, from what has been said before, the Labor Government and the Australian Democrats also support.

I am not trying to make any point on that. I merely say that we support it. However, I understand that much of what we are calling for was done last evening. I will leave it at that and say that I welcome the support that my motion will receive from all members in this Chamber. It appears to involve general support for all the provisions of this motion as amended by the Hon. Carolyn Pickles and subsequently by the Hon. Mr Gilfillan.

The Hon. Mr Gilfillan's amendment carried.

The Hon. Carolyn Pickles' amendment, as amended, carried.

The Hon. Mr Lucas' motion, as amended, carried.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 17 August. Page 270.)

The Hon. C.J. SUMNER (Attorney-General): The Government opposes the Bill, which is the same as or at least similar to that introduced by the Hon. Mr Cameron on two previous occasions. On those occasions, the Government opposed the Bill for the reasons that I stated then. As this Bill is the same or at least similar, I have nothing to add to the reasons given at that time. However, the Government has done considerable further work on the proposal that I announced when this matter was debated previously on access to records for individuals as well as on the question of privacy generally.

I would like to take this opportunity to reaffirm the Government's intentions in this area and to outline to the Council the action that is being taken on the question of access to information held on individuals by Government and privacy in general. On 21 December 1987 Cabinet gave its approval in principle to the 24 recommendations of the Privacy Committee in its final report to the Attorney-General. Among other things, Cabinet approved in principle an administrative scheme under which all agencies in the public sector will be required to implement, maintain and observe 11 information privacy principles in respect of their data handling applications; and an administrative scheme under which all agencies in the public sector will be required to implement, maintain and observe the right of access of persons to their personal records held by agencies.

The administrative scheme of access to personal records will be confined to access by persons to records concerning themselves and their affairs or those of their children or deceased relatives. The right of access will be subject to the types of exemptions that apply in the Commonwealth and Victorian freedom of information legislation. For example, Cabinet documents and documents protected from disclosure under rules of legal professional privilege, and so on, will be generally exempt from disclosure.

Since Cabinet's decision later last year, a small working group comprising representatives of the Department of Personnel and Industrial Relations, Treasury and the Attorney-General's Department has been preparing full cost and staffing implications of implementing the Privacy Committee's recommendations for the purposes of the 1988-89 and subsequent budget processes. Other relevant recommendations that need to be costed include the establishment of a permanent part-time privacy committee for this State, part of whose terms of reference and functions would be to oversee and monitor progress in the implementation, in the public sector, of the administrative schemes already referred to.

It should be noted that it is presently intended that the schemes will be shortly established by Cabinet by virtue of two administrative instructions: one dealing with 'information privacy principles' and the other with 'scheme of access to personal records'. It will commence full operations on 1 July 1989 and will apply to administrative units, agencies and instrumentalities that fall within the purview of the Government Management and Employment Act 1985 and, if that is not the case, to any agency or instrumentality that is subject to the control or direction of a Minister of the Crown. If an agency etc. seeks to be exempted from compliance with the scheme, the decision as to whether or not this will be the case will be made by Cabinet.

In April 1988 I forwarded to all Ministers and Chief Executive Officers a detailed request for information on resource implications for agencies. In addition, I conducted a briefing session on 13 May 1988 for a number of Chief Executive Officers (or their representatives) from agencies which can expect the most significant number of requests for access to personal records.

In addition, copies of a draft of a proposed handbook have been distributed to these agencies. The handbook is still being finalised by the Attorney-General's Department. It will give concrete guidance to Chief Executive Officers and others in the day-to-day administration of the two sets of Cabinet administrative instructions. Copies of the (final, settled) handbook will be distributed by me after Cabinet has given its final approval to implementation of the two schemes which, it is anticipated, will be within the next two months. At the same time Cabinet will be asked to consider the establishment of the permanent part-time privacy committee to which reference has already been made.

Until 1 July 1989, the process of teaching officers in the public sector about the schemes will continue. Indeed, following earlier briefings, agencies are using the lead-time to familiarise themselves with the schemes with a view to their full implementation.

I mentioned at the outset that on 21 December 1987 Cabinet gave its approval in principle to recommendations of the Privacy Committee in its final report to the Attorney-General. That decision and report were made public. However, my recollection is that one of the recommendations which Cabinet did not accept related to the privacy of material which may be relevant to criminal proceedings. As I recollect, the Privacy Committee said that the privacy considerations should apply to that material. However, Cabinet did not agree with that and accepted the propositions which I think have been accepted by the Federal Government in that regard.

I take the opportunity in opposing this Bill, which would give legislative basis to freedom of information, to indicate that the Government has made considerable progress in establishing its administrative scheme of giving citizens access to their personal records as part of the privacy principle. This proposal will cater for what has applied in Victoria and the Commonwealth, which are the only other jurisdictions where there is freedom of information legislation, namely, that the majority of requests for access to information are made by individuals in relation to their personal records. I consider that this is a significant step by the Government and is, as I said, at the present time very much in the process of being implemented.

The Hon. R.I. LUCAS secured the adjournment of the debate.

CONSTITUTIONAL REFORM

Adjourned debate on motion of Hon. C.A. Pickles:

That this Council applauds the Federal Government for its commitment to constitutional reform as shown by the establishment of the independent Constitutional Commission; that this Council acknowledges that the involvement of the community in the work of the commission sets it apart from all previous attempts to reform the Constitution; that its work, as reflected in the reports of the commission and its advisory committees, establishes the blueprint for the future of constitutional reform. Further, that this Council urges all members to work with all other Australians committed to the principles embodied in the four referendum questions relating to four year terms and concurrent election for both Houses of Parliament; fair and democratic elections; constitutional recognition of local government; extended guarantees of trial by jury, religious freedom and fair compensation to ensure they are approved at the referendum on 3 September 1988.

(Continued from 24 August. Page 478.)

The Hon. J.C. IRWIN: I reject the proposition set out in the motion moved by the Hon. Carolyn Pickles. In doing so, I commend to honourable members and anyone else following this debate the contribution made by my colleagues the Hon. Trevor Griffin and the Hon. Diana Laidlaw. The Hon. Trevor Griffin's contribution was clear, concise and backed up by numerous legal opinions from very eminent independent legal experts, who have no axe to grind one way or the other.

It is not my intention to restate the many points made by the Hon. Trevor Griffin and others of my colleagues. Rather, I would like to add new information to some of the points made by him and others, and to go on to make some other observations. First, let me say that I hold the very highest regard for the Australian Constitution—indeed for any constitution. I recall that it was not until I was involved in my first community committee (in fact, with the local kindergarten) that I even knew what a constitution was. Since then, of course, I have been involved with many local organisations, as I am sure many members in this House would have been, some more significantly than others. All of them have a constitution as their bible. Of course, I have been made well aware of the Federal Constitution and the State Constitution.

I have vigorously defended Constitutions and have recommended changes to them. They are living documents and should be changed to reflect the wishes of the Australian people, whether they be State, Federal or local Constitutions. The wording of every Constitution with which I am familiar has the means by which to achieve change. Any change must then reflect, so far as the Federal Constitution is concerned, a majority of the Australian people supporting a change and a majority of the States supporting the change. Therefore, it is difficult to change the Federal Constitution and that is as it should be, because the original Constitution has served the Australian people very well indeed.

As a conservative person, I need to be convinced that change is not proposed for the sake of change and very good reasons must be advanced to support change, no matter which political Party proposes the change. I am simply

not convinced by any of the arguments in support of the four questions relating to 33 changes to the Federal Constitution. I am honestly alarmed by the complacency of people to whom I speak about the proposed changes. Some highly intelligent people are daunted by the complexity and magnitude of the questions. Emeritus Professor Rufus Davis stated:

> Never before in the history of referenda have complex issues been put before the Australian public in a more simplistic and misleading way . . . plainly, no ingenuity has been spared in devising a simple form of words that pretend to be what they are not . . .

That is what I meant when I said earlier that people are daunted by the complexity and magnitude of the questions. I doubt whether a great many people will ever truly understand why they will vote 'Yes' or 'No'. I put to the Council that this is a great pity, because I tell everyone who asks, 'This is your country and this is your Constitution. You should consider all the facts discussed, dismiss the propaganda and make an honest judgment.' The collective wisdom of the people of this country is far greater than any opinion of any member of this Parliament or any other Parliament. The safest and easiest course is to vote 'No' and that is a great pity, but changes which, in the end, may be advantageous need proper consideration.

Australian people are not as blinkered in their views as perhaps we, as members of Parliament belonging to a particular Party, could be. If the Australian people can judge the validity of the arguments put to them, they may well be able to do that better than we can. Nevertheless, it is our responsibility to put those arguments to the people. The Australian people are clamouring more and more for a direct say in the running of the nation, because they perceive that we, as politicians, have let them down and we do that principally because we buy popularity. Our decisions are based on Party lines and we do not always make decisions which are favourable to the majority of Australians.

Every honourable member would be aware of the public discussions on the citizen initiated referenda proposals. Already in Queensland, one State seat (that of the former Premier, Sir Joh Bjelke-Petersen) has changed hands on the one platform of more say by the people in State parliamentary decision-making. Any honourable member's judgment on that issue and the extent to which it affected that man's election results is as good as mine, but I listen seriously to the points being made by the people. The people will have their chance on 3 September. We can only hope that they vote wisely and vote 'No'. I now return to the deception outlined by Professor Rufus Davis, because deception and bias are all ingredients of the referendum debate and we must seriously ask why.

An article in the *Age* of 16 August contains the following comments:

> Or, again, Melbourne barrister, J.K. Bowen, formerly a noteworthy opponent of that other exercise in doublespeak, the Bill of Rights: 'All the referendum questions are expressed in language calculated to mislead.' Or yet again, Mr Gary Morgan, of the Roy Morgan Research Centre (cited in the Senate, 23 May): 'There is no doubt that the proposed referendum questions are biased, to try to obtain a 'Yes' vote...the questions do not honestly convey the issues...any public opinion polling company who asked questions as blatantly biased as the Government proposals would completely lose credibility.'
>
> These fundamental criticisms are typical of many before us. Now we have additional exposure of the Federal Government's attempted brainwashing with the High Court ruling that two of the Government's proposed advertisements for this month's polling are illegal in that they seek to promote a 'Yes' vote. Why is the Government so eager to have its way? Not, you may be sure, because it wants to place more power in the hands of the people and the States, whose qualified independence is a pillar of freedom and democracy in Australia. That would be the antithesis of the doctrine of all-powerful centralist government pursued by Mr Whitlam and now by Mr Hawke (see Boyer lectures).

I cite the extraordinary guidelines for scrutineers issued by the Commonwealth Electoral Commission, as if the illegal and biased television advertisements were not enough, and the extraordinary layout of the 'Yes/No' boxes in the 'Yes/No' cases written by the majority parties, but published by the Commonwealth Electoral Commission, were not enough. How childish of the Commissioner to tell us that he did not write the case for or against the four questions. His department was most certainly responsible for the publication and the layout. How far is the Commonwealth Electoral Commission implicated in the deception of the people, or am I in some sort of dream world?

My honourable friend, Mr Griffin, stated in a press release on 15 August, headed 'Bizarre guidelines on referendum':

> A document issued by the Commonwealth Electoral Commission ruled that ticks in squares would be counted as 'Yes' votes, but that four crosses would be ruled invalid. It is quite bizarre that the Attorney-General's office has agreed to allow the use of ticks and crosses at all, given the seriousness of the proposal on which Australians are required to vote. But there is absolutely no sense of fair play in the guidelines drawn up by the Electoral Commission after consultation with the Attorney-General. The document reveals that four ticks will be counted as four 'Yes' votes and a mixture of ticks and crosses will be counted as 'Yes' and 'No' votes. However, four crosses will render a ballot paper invalid. I do not believe that it is at all appropriate for ticks and crosses to be accepted in place of the words 'Yes' or 'No'. There is a real danger that different people will have a different interpretation of what a tick or a cross may signify—particularly those from other countries where ticks and crosses may both be used as a mark of endorsement. But it is blatantly wrong for the Attorney-General's Department, which is sponsoring the 'Yes' case, to draw up rules which so clearly favour one case against another.

I agree with that statement, which was accompanied by a photocopy of the guidelines for scrutineers, just in case anyone questioned the validity of those comments. It is very clear from those guidelines exactly what the Hon. Mr Griffin was getting at. What fun the courts may have sorting out the Government-made problems associated with this referendum!

Next I turn to a point arising from referendum questions 1 and 2. I will not debate the whole of these questions, except to say that there is no doubt that if the 'Yes' vote is achieved for both questions the Senate as a State representative House will eventually be irrelevant. It would be rendered irrelevant even with the passage of the first 'Yes' vote, but going even further down the track I believe that it would be totally irrelevant. There is no question that once the principle of one vote one value was applied to the Senate, having 12 Senators from each State, no matter what the size of the State, would have little logic to support it. The larger States of New South Wales and Victoria would dominate the Federal Parliament, in direct contradiction of the original Constitution.

Proposal No. 3, to recognise local government in the Australian Constitution, appears to be a symbolic gesture designed to enhance the status of local government. It appears merely to give constitutional recognition of the present situation, for which the Australian Local Government Association has been pressing for years. However, local government has no place in the Australian Constitution, which is the foundation document, setting out the respective spheres of authority of the Commonwealth and the States in our federation. Our Australian Constitution should not be cluttered with tokens which would distract attention from its proper function. As some members would remember, a similar referendum proposal was defeated in 1974, in all States except New South Wales. Local government should be recognised in State Constitutions, because like State

Supreme Courts, local government is created by legislation of State Parliaments. There is no doubt that as far as South Australia is concerned that was achieved under the leadership of David Tonkin and Minister Murray Hill.

There is no reference to State Supreme Courts in the Federal Constitution. Local government is already recognised in the State Constitutions of New South Wales, Victoria, South Australia and Western Australia, and the State Governments of Tasmania and Queensland are currently considering recognition of local government in their State Constitutions. The referendum proposal is misleading, because it goes beyond simple recognition of local government. Canberra barrister, Dr David Mitchell, points out that the proposal could automatically repeal the recognition of local government in State Constitutions and give the High Court power to interpret what is meant by the establishment and continuance of a system of local government. Professor Cooray, of Macquarie University, suggests that the High Court, which has expanded Commonwealth powers at the expense of the States in several recent judgments, could interpret a provision recognising local government to expand Commonwealth powers in that area. I would also add that former Chief Justice Sir Harry Gibbs has said that he does not know what is meant by 'the establishment and continuance of a system of local government'.

While future decisions of the High Court cannot be predicted, this proposal might allow future Federal Governments expanded rights to intervene in local affairs. It might pave the way for a Federal Government to force amalgamations of local councils against their wishes, and reincarnate Whitlam's dream of bypassing the States through powerful regional bodies controlled from Canberra. This apparently innocuous proposal could turn out to be the undoing of local government as we know it.

Further, it is certainly not beyond doubt that external affairs powers could be used to bypass the deliberations of Local Government Associations and individual councils. If that ever happened, the people in my home town, for example, and in many other towns around South Australia would be governed by external affairs powers and not by the people of their own areas. I believe that it was with every good intention that local government took off on its path of support for the third proposal but that was before sufficient evidence was available to make an absolutely considered opinion. It got on the band wagon even before the Constitutional Commission had reported. Only in the past few weeks we have received expert legal opinion as to the local government question and other questions in the referendum proposals. The arguments for question No. 3 do not convince me. There is still a reasonable doubt about the course that local government wants to take, and so I cannot support proposal No. 3.

The Hon. Mr Griffin pointed out, in reference to question No. 4, that the people are being asked three questions and not one. The question is, 'Do you approve of an Act to alter the Constitution to extend the right of trial by jury'—one question—'to extend freedom of religion'—the second question—'and to ensure fair terms for persons whose property is acquired by any Governments?'—the third question. It is not one question but three questions. What a blatant piece of deception. It is fairly obvious who perpetrates that deception. How on earth can we expect anyone to answer three questions with one 'Yes', one 'No', one tick, one cross or whatever. It is beyond my comprehension.

Further to the comments made by the Hon. Mr Griffin regarding question No. 4, subquestion No. 2, to extend the freedom of religion, I wish to record further comments regarding the DOGS case which had a direct bearing on State aid to religious schools.

In the DOGS case the High Court held by majority, Murphy J. dissenting, that State aid to religious schools was not struck down by section 16 of the Constitution and that the words 'Any law for establishing any religion' were confined to laws entrenching a religion as part of the body politic or adopting it as part of the Commonwealth establishment. A Sydney barrister, David Bennett, has given an opinion which should interest honourable members on two questions relating to the DOGS case and referendum question No. 4, subquestion No. 2. In conclusion he states:

> Would the proposed amendment give rise to any doubt beyond that presently existing that the decision in the DOGS case no longer be applicable?

The answer is:

> Yes. In other words there would be a doubt as to whether grants of State aid to church schools would continue to be permissible under the Constitution.

As to question No. 2 he states:

> What would be the effect of the decision in the DOGS case being held no longer to be applicable, beyond the effect such a determination would have if the proposed amendment were not passed?

The answer is:

> A prohibition affecting only Commonwealth statutes is significantly narrower in its operation than a prohibition affecting not only State statutes but also State and Commonwealth administrative activities. The effect of a reversal of the DOGS case and the adoption of the view espoused by Murphy J. and applied in the United States would necessarily be significantly wider if the proposed amendment were enacted than if it were not.

For the benefit of honourable members, I will quote directly from the dissenting view expressed by Mr Justice Murphy, taken from the Commonwealth Law Report of the High Court of 1981 at pages 623 and 632, as follows:

> Establishing any religion
>
> Three meanings of "establishing" in s. 116 have been advanced. The first and narrowest means establishing one national church or religion. The second ("preferential") means preferring, by sponsorship or support, any religion over others (and therefore includes the first). The third ("separation") means any sponsorship or support of religion (and therefore embraces the first two). These meanings are therefore not mutually exclusive. The separation interpretation of the clause means that it forbids not only a national church, and any preference to one religion over others, but also sponsorship or support (including financial support) of any religion. The ordinary principle that constitutional provisions should be read not narrowly, but 'with all generality which the words admit', strongly supports the adoption of the more general reading, that is, the seperation interpretation.

The United States decision on the establishment clause should be followed. The arguments for departing from them based on the trifling differences in wording between the United States and the Australian establishment clauses are hairsplitting and not consistent with the broad approach that should be taken on constitutional guarantees of freedom. Justice Murphy continued:

> I conclude with a brief comment regarding the background to reform being followed by the present Federal Government. Fabian socialists see the Australian Constitution as a major obstacle to the transformation of Australia into a socialist state in which there would be collective ownership and Government control of the economic resources of the community. This obstacle exists because our Constitution denies to the Federal Government complete control over the affairs of State and local governments. Fabianism holds to the inevitability of gradualness. The aim is to dress radical change in moderation.

In his speech to the Fabian Society centenary dinner in Melbourne on 18 May 1984, the Prime Minister (Mr Hawke) affirmed his Party's commitment to changing Australia by the use of Fabian socialist techniques. He said:

> Let me insist on what our opponents habitually ignore and, indeed, what they seem intellectually incapable of understanding, namely, the inevitable gradualness of our scheme of change. The

very fact that socialists have both principles and a program appears to confuse nearly all their critics.

The Prime Minister went on to make the following statement:

If our Government is to make really great and worthwhile reforms—reforms that will endure, reforms that will permanently change this nation—then it is not enough simply to obtain a temporary majority at an election, or even successive elections. For our reforms to endure, the whole mood and mind and attitudes of the nation must be permanently changed.

That remarkably frank speech by the Prime Minister provides us with a disturbing insight into the Fabian socialist agenda for Australia, and it is not the first time that it has been quoted. Commenting on the Fabian technique for changing Australian society, Professor Mark Cooray of Macquarie University said:

The consequence of moving by stages is that the extent of the change at any particular moment is not, or does not appear to be, significant. When the total extent of the change is perceived, it is too late for those who are opposed to rally.

Having regard to their methods, Australians should not be surprised to learn that the emblem of the Fabian socialists, which was suggested by George Bernard Shaw, is a wolf in sheep's clothing, and I seem to have heard the Hon. Mr Griffin say that. I urge honourable members to reject the motion proposed by the Hon. Carolyn Pickles. More importantly, I urge the people of South Australia to reject and vote 'No' to all four questions on 3 September.

The Hon. M.J. ELLIOTT: On the referendum questions, the Liberal Party has used the technique, which it is using with increasing frequency, of making up its mind first and gathering evidence afterwards, making the evidence fit the decision. It has joined the loony Right, which opposed the Bill of Rights, the Australia Card and the referendum. The Democrats opposed the Australia Card for very good reasons but we pick and choose what we do. We do not make up our mind first and then look for plots and other explanations to oppose everything in sight. Simply, the Liberals oppose the referendum because it is a way of creating uncertainty in the electorate. If they can manage to get up a few of the 'No' cases, they will see that as an electoral boost and that is why they have decided to oppose it, and for no other reason. There is no doubt about it. That has been the prime motivating force in the Liberal Party's stand on the four referendum questions.

The Liberals made a decision that this was all a Socialist, atheistic plot. They set about creating as much uncertainty in the community as possible. It is sad to see that they have dragged in the Catholic bishops. What the Liberals have done, already with some degree of success, is to create a level of uncertainty. That is what it is all about. As the Hon. Mr Irwin said, people are daunted by complexity. If one makes things sound complicated, people will do the safest and easiest thing, and that is to vote 'No'. That is exactly what the tactics have been—to create sufficient doubt so that people will vote 'No' regardless of the real merits of the case. That aside, let me refer to the questions.

The Hon. R.I. Lucas: Hear, hear! None of this rhetoric.

The Hon. M.J. ELLIOTT: You guys have been doing it for some hours; I now have a chance for a few minutes. Question 1 concerns the maximum term for the Houses of Parliament. At present members of the House of Representatives are elected for three years and Senators are elected for six, with half the Senate elected at alternative elections unless there is a double dissolution. The amendment proposed in this Bill (which set up this question) abolishes the complex system that we have now and provides that the House of Representatives and the whole Senate be elected for a maximum term of four years. Regrettably—and the Democrats do regret this—the Bill does not set a minimum term and the Prime Minister can still call an election before the four year term expires.

However, we see it as a step in the right direction. Longer terms are desirable for stable and more effective government and a formally acknowledged four year term will put pressure on the Government of the day to reduce the frequency of elections. If one looks at the length of terms that Senators have had lately, one will see that Janine Haines has been elected for three six-year terms in the past six years.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: And who called double dissolutions before that? A man by the name of Malcolm Fraser was rather good at calling double dissolutions himself. The simple fact is that the average term for the Lower House has been something less than two years for about the past 15 or 16 years, and the Liberal Party has been as guilty as the Labor Party for calling those early elections. Many of those elections have involved double dissolutions. When the Liberal Party talks about guaranteed six-year terms, we know that that is an absolute lie.

Question No. 2 relates to fair and democratic parliamentary elections. This Bill is based on a Bill that was initiated by the Australian Democrat Senator Michael Macklin in 1987 and is designed to stop gerrymanders which are now allowed to continue in some States and which, I might add, were largely set up by Conservative Governments. Unless electorates have approximately equal numbers of voters, a parliamentary representative could be elected with far fewer votes in one electorate than a representative in the adjoining electorate. Since the Party strength will vary geographically this can lead to a Party's gaining more seats than its total number of votes justifies.

This also means that the vote of a person in a larger electorate is worth less than the vote of a person voting in a smaller electorate, hence one vote one value. The Commonwealth and most States have legislation in place which ensures that electorates have approximately the same number of voters with a maximum variation of 10 per cent above or below the average number of voters for each electorate. This amendment will ensure that all States are obliged to introduce legislation which will eliminate gerrymanders. It is noticeable that the Liberal Party has given a dispensation to its Queensland organisation to support the 'Yes' case while it will oppose it in every other State. That is gross hypocrisy.

Question No. 3 concerns the recognition of local government. Once again, it is worth noting that the Liberal Party has given dispensation to Sally Anne Atkinson to vote for the case while elsewhere the Party campaigns against it. It is also noticeable that something like 95 per cent to 96 per cent of all local governments are supporting the 'Yes' case, and that should be enough in itself to resolve any doubts as to whether or not that is worth—

The Hon. C.J. Sumner: I bet I know which way Steele Hall will vote at the referendum.

The Hon. M.J. ELLIOTT: I think we can be pretty sure on that.

The Hon. C.J. Sumner: Do you think he will vote along Party lines?

The Hon. M.J. ELLIOTT: I doubt it very much. The measure in relation to local government is designed to update the Constitution to reflect present realities of Australian political life, that is, that local government fulfils an important role in the political system and deserves to be recognised for this.

The Australian Local Government Association is actively supporting the recognition of local government in the Constitution and has expressed extreme disappointment that the Opposition is opposing the question. Most States already have constitutional recognition of local government, but I might add that it is by way of an Act of Parliament that can just as easily be revoked. This Bill proposes a constitutional change to ensure that local government has status at the Federal level as well.

Moreover, this legislation clearly keeps State Government at the same position in its relations to local government as now applies. It does not provide for any aggregation of power in the hands of Federal or State Parliaments at the expense of local governments. Local government deserves to be recognised in the Constitution, not least because of its important role in Australian political life. This is a largely symbolic act, the sort of symbolic act that people make when they exchange rings at a wedding; it confers no more power than that.

The fourth question involves rights and freedoms. The Bill which set this up seeks to enshrine rights in the Constitution which are central to our political democracy. Specifically, it concerns the right to trial by jury, the right to extend freedom of religion, and the right to ensure fair compensation for persons whose property is acquired by any Government.

As to the question of freedom of religion, under section 116 of the Constitution, an individual's right of freedom to worship is protected against interference by the Commonwealth Government. This Bill extends the protection to one's right to freedom of worship against acts of State Governments. We need to look no further than what happened in South Australia four years ago. In the 1984 case of *Grace Bible Church v. Reedman*, the South Australian Supreme Court ruled that the common law did not provide sufficient protection against a State Parliament which wished to infringe on the religious freedom of the State's residents. In other words, the common law has never contained a fundamental guarantee of the inalienable right of religious freedom of expression, nor had such a right ever been created in South Australia. Even if it had, such a right could have been invaded by Act of Parliament of the State. This illustrates the importance of having the right to expression of religious freedom enshrined in the Constitution.

As to the question of acquisition of property, currently section 51 (xxxi) of the Constitution provides for the Commonwealth Government to acquire property on 'just terms'. Although States have legislation in place dealing with compensation rights for acquired land, they are not obliged to provide such compensation and there is nothing preventing the States from repealing this legislation. I refer to an example of this. The NSW Coal Acquisition Act 1981 has been strongly criticised for its failure to effect a fair compensation payout to those whose land was affected, and because there was no mandatory provision in the Act which governed compensation. Therefore, there was no obligation placed on the NSW Government by the Act to pay any compensation at all. In fact, in that instance the land was seized under a Labor Government, and no compensation was granted, yet the present Liberal Government has no intention of paying compensation. This legislation is a clear example of the need for a guarantee of 'just terms'. The proposed constitutional amendment would provide a guarantee that States would grant fair compensation for the deprevation of property rights.

I would have thought that the Hon. Mr Irwin would be interested in this matter in the light of what happened to farmers when land was seized under the Native Vegetation Act. Essentially, the land was seized because farmers have been denied the right to farm it. I would have thought that a change in the Constitution would have given farmers far more rights than they currently enjoy.

As to the final part of that question, trial by jury, section 80 of the Constitution currently provides that the trial on indictment of any offence against any law of the Commonwealth shall be by jury. However, the security provided by this section can still be avoided.

This Bill seeks to guarantee trial by jury throughtout Australia to any person, except in certain exceptional cases, who is facing a very severe penalty of imprisonment for more than two years, or any form of corporal punishment. This proposition does not give Governments of the day additional powers or influence. Rather, it denies them powers which are currently available and which may be subject to abuse.

In any democratic country, the rights of trial by jury, freedom of religion and fair compensation for Government acquisition of property are held fundamental to the effective operation of the political system. The Australian Democrats will be supporting all four questions in this referendum and urge the Australian public to do likewise. We support the motion.

The Hon. C.J. SUMNER secured the adjournment of the debate.

SUMMARY OFFENCES ACT AMENDMENT BILL

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

That the Summary Offences Act Amendment Bill 1988 be restored to the Notice Paper as a lapsed Bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Births, Deaths and Marriages Registration Act 1966. Read a first time.

The Hon. C.J. SUMNER: 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

It proposes three amendments to the principal Act. First, it gives the principal registrar (who is responsible to the Minister for the general administration of the Act) authority to delegate any of his powers, functions and duties under the Act to the deputy registrar or to any other officer of the registry. Similar authority is given to district registrars. The move should lead to increased effectiveness and efficiency of registry operations.

Secondly, section 21 of the principal Act provides that the parents of a child may nominate either of their own surnames or a combination of those surnames as the child's surname to be entered in the register of births. In default of any such nomination by the parents, the principal registrar is authorised to register the child's birth with the father's

surname, if the child was born within lawful marriage, or the mother's surname, if the child was born out of lawful marriage.

The Commissioner for Equal Opportunity has pressed the opinion that the latter provision is discriminatory, and the Bill proposes to meet the Commissioner's objection by empowering a local court of limited jurisdiction to direct which surname shall be entered on the register of births, in default of a nomination by the parents.

Thirdly, section 28 of the principal Act requires the Master of the Supreme Court to inform the principal registrar of orders made by the Supreme Court dissolving or nullifying marriages, and for the principal registrar to endorse details of the orders on the register of marriages. This provision ceased to have effect when the Family Court assumed the divorce jurisdiction in 1976, and the principal registrar ceased endorsing dissolution orders from the Family Court on the register of marriages shortly afterwards. The registries in New South Wales, Victoria and Queensland likewise do not endorse dissolutions of marriage on their marriage registers.

The Family Court will shortly have available a computer generated cumulative index of all dissolutions granted since 1976, and the principal registrar will continue to endorse the register with orders of dissolution from other jurisdictions and all decrees of nullity of which he is informed, as a matter of administrative practice. In these circumstances, it is appropriate to strike section 28 from the Act. In addition, the opportunity has been taken to update penalties for offences under the Act, using the provisions of the Statutes Amendment and Repeal (Sentencing) Act 1988 and to correct a drafting error in section 19.

Clause 1 is formal. Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation. Clause 3 removes from section 6 of the principal Act a provision authorising the Deputy Registrar of Births, Deaths and Marriages to exercise powers of the principal registrar as directed by the Minister. This amendment is consequential to new delegation provisions proposed to be inserted by clause 4.

Clause 4 inserts a new section 11 relating to delegation. Under the proposed new provision, the principal registrar is authorised to delegate powers, functions or duties to the holder of the office of deputy registrar or the holder of any other office or position and a district registrar is authorised to delegate to the holder of the office of assistant district registrar. The principal registrar is to be bound by directions of the Minister requiring or relating to such delegations and a district registrar is to be similarly bound by directions of the principal registrar. Clause 5 makes a drafting correction only to section 19 of the principal Act.

Clause 6 amends section 21 of the principal Act which deals with the name to be entered in the register of births as the surname of a child. Under the section in its present form, the name that may be registered is the surname of the father, the surname of the mother, or combination of the surnames of both parents, as nominated by the parents. If a nomination is not made by the parents, the section presently provides that if the child was born within lawful marriage, the name is to be the surname of the father, or, if born outside lawful marriage, the name is to be the surname of the mother. The clause amends the section, as it relates to any case where a nomination is not made by the parents, so that instead the matter is to be determined by a local court of limited jurisdiction on the application of a parent or the principal registrar. The clause provides that, in making such a determination, the welfare and interests of the child must be the paramount consideration of the court.

Clause 7 provides for the repeal of section 28 of the principal Act which requires the Master of the Supreme Court to notify the principal registrar of orders of dissolution of marriage or decrees of nullity made by the Supreme Court. Jurisdiction in this area passed from the Supreme Court to the Family Court in 1976. Clauses 8 to 14 increase penalties under the principal Act. Penalties presently fixed at $20 are increased to a Division 9 fine ($500 under section 28a of the Acts Interpretation Act); penalties presently fixed at $40 are increased to a Division 8 fine ($1 000). Penalties under the Act have not been increased since its enactment in 1966 and in most cases remain at the levels fixed by the earlier Act of 1936.

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

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly intimated that it had appointed Mr M.R. De Laine to fill the vacancy on the committee caused by the resignation of Mr K.C. Hamilton, and that it had appointed Mr P.B. Tyler to be the alternate member to Mr De Laine.

ADVANCES TO SETTLERS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes an amendment to the Advances to Settlers Act 1930, that was enacted to provide loans to settlers on Crown land. In 1986, the Act was amended prohibiting new loans as from 30 June 1986. Existing loans under the Act are administered by the State Bank as agent for the Government. The purpose of the Bill is to make several minor amendments to the Act to allow the regulations under the Act to expire on 1 January 1989.

The existing regulations under the Act were made in 1953 and subsequently amended in 1958. An amendment to the Subordinate Legislation Act in 1987 enacted a provision for regulations made prior to 1 January 1960, to expire on 1 January 1989. The 1958 amending regulation, which deals only with fees payable in respect of new advances, no longer has any application given that no further loans can be made under the Act.

The remainder of the regulations only have limited application, dealing with collateral or substitute mortgages, the need for which may still arise in the event of a division of land in which the bank has an interest. Sections 10 (5) and 11 (1) of the principal Act both require the form of mortgage documents to be prescribed by the regulations. By deleting these references and thereby allowing the bank to determine the form of any future mortgage documents, the whole of the regulations will have no further application and so can be allowed to lapse on 1 January 1989.

Clause 1 is formal. Clause 2 amends section 10 of the Act by removing the requirement in subsection (5) that mortgages executed under that section be in the form prescribed by the regulations. Clause 3 amends section 11 of the Act by removing the requirement in subsection (1) that a mortgage executed under that section be in the form prescribed by the regulations.

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

RURAL ADVANCES GUARANTEE ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this amendment is to transfer to the Director-General of Agriculture certain responsibilities presently carried out by the Land Board. The change is being proposed because the Rural Assistance Branch of the Department of Agriculture administers most other State Government measures relating to farm lending and has greater relevant expertise and experience.

The Rural Advances Guarantee Act empowers the Treasurer to guarantee the repayment of loans for the acquisition of land for rural production. Since 1963, 212 guarantee applications have been approved, of which 33 are still current.

Prospects for farming are such that new loans are now rarely made. Activity under the Act is limited almost exclusively to the consideration of applications for the deferment of loan repayments.

At present the Act places responsibility upon the Land Board to advise the Treasurer with respect to the valuation of properties and the ability of the borrower to undertake the business of rural production. The board is also required to furnish reports to the Treasurer in relation to guarantee applications and proposals for deferment of loan repayments.

The Act requires the Director-General of Agriculture (or a person nominated by the Minister of Agriculture) to furnish the Treasurer with a report on the adequacy of the land in question to maintain the applicant and his family after meeting all reasonable costs, including loan repayments.

In practice, the Land Board has, for some time, accepted advice from the Rural Assistance Branch of the Department of Agriculture prior to fulfilling its statutory role. The legislation seeks to formalise these arrangements. Clause 1 is formal. Clauses 2 to 5 are self-explanatory.

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

UNAUTHORISED DOCUMENTS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to provide protection against the unauthorised use of a distinctive South Australian commercial logo based upon the well known J150 logo.

During our Jubilee Year the J150 Board adopted a logo devised by Lyndon Whaite. This comprised a stylised piping shrike in black, gold and blue with the number 'J150' in the top left corner and a title at the base comprising '1836 South Australia 1986'. The device proved to be popular and the J150 Board raised money by licensing manufacturers and others to use the logo commercially for a fee.

There is a steady flow of requests to use the State badge comprising the piping shrike against a golden orb which depicts the sun. Where such requests come from associations representing the State of South Australia in non-commercial ways or in sporting contests or requests come from manufacturers of acceptable souvenirs, permission may be granted.

Requests to use the State badge are refused where its use might imply Government authority; for example, jackets with a State badge shoulder patch or chest decoration, badges on wine labels and letterheads of private bodies. Nevertheless, there may be some advantage in such applicants being able to obtain access to a distinctive South Australian label without official connotations. Whilst the Sturt pea and wombat are available, floral and faunal emblems are not depicted in a standardised form and are not widely known in South Australia and still less interstate.

An opportunity therefore exists for the State to capitalise on the established recognition of the J150 logo by amending it by deleting the numbers and words and replacing them with 'South Australia' in the top left corner. In a coloured version the black areas will become dark blue to coincide with the other State colours of red and gold already used. The State will charge a licensing fee for the use of the commercial logo which will be protected from unauthorised use by amendments to the Unauthorised Documents Act contained in this Bill.

Clause 1 is formal. Clause 2 provides for operation of the amendments from a date to be proclaimed. Clause 3 provides an offence for unauthorised use of the State commercial emblem. Subsections (2) and (3) authorise the Minister to grant permission to use the emblem for a fee and revoke it. Based on J150 experience it is anticipated that this will yield sufficient to cover the cost of administration plus a small profit.

Subsections (4) and (5) provide for compensation and injunctions if breaches of the section occur. In subsections (7) and (8) power of seizure of suspect goods is provided with the proviso that owners may recover the goods or their market value if a successful prosecution does not eventuate. If there is a conviction the goods are forfeited to the Crown. Subsections (10) and (11) provide a definition and means of establishing a 'State Commercial Emblem'. There is the possibility that other such emblems would be authorised at some time in the future although this is not presently envisaged.

Subsection (12) preserves the right to institute civil or criminal proceedings and for continuance of any existing rights.

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

OMBUDSMAN ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 6.10 p.m. the Council adjourned until Thursday 25 August at 2.15 p.m.