LEGISLATIVE COUNCIL

Wednesday 5 October 1988

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

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

OMBUDSMAN'S REPORT

The PRESIDENT laid on the table the 16th annual report of the Ombudsman for the year 1987-88.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Metropolitan Taxi-Cab Board—Report, 1987-88.
Department of Transport—Report, 1987-88.
State Transport Authority—Report, 1987-88.

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

Pursuant to Statute—

Medical Board of South Australia—Report, 1987-88.
Dental Board of South Australia—Report, 1987-88.

QUESTIONS

NATIONAL CRIME AUTHORITY

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

Leave granted.

The Hon. K.T. GRIFFIN: It follows from the Government's decision to seek the establishment of a National Crime Authority office in Adelaide that it has rejected recommendations by the Police Commissioner, in his proposal for an anti-corruption strategy tabled in Parliament on 16 August, that the Police Force should be the main anti-corruption institution in South Australia and that the role and operation of other organisations such as the National Crime Authority should be complementary to the police role and should not displace crime investigation by police. My questions are:

1. Was the decision to seek the establishment of a National Crime Authority office in Adelaide made by the ministerial committee comprising the Minister of Emergency Services, the Attorney-General and the Police Commissioner?

2. Was it a unanimous decision of the committee?

3. If it was unanimous, why has the Police Commissioner changed his mind?

The Hon. C.J. SUMNER: The answers to the first two questions are 'Yes'. Because we have decided to ask the National Crime Authority officially to establish an office in South Australia does not necessarily mean that the police will not continue to be the main anti-corruption investigation authority in this State. As I explained yesterday, the ministerial committee is in the process of deciding the structure of the anti-corruption unit and the details of the anti-corruption strategy. When the officers committee, which reports to the ministerial committee, brought together all the information after discussing the matter with Mr Fitzgerald QC in Queensland, authorities in New South Wales and the National Crime Authority, it became clear that some issues of principle had to be resolved with respect to any anti-corruption unit.

One of those issues of fundamental principles was whether we would give yet another body—whether it be an anti-corruption unit responsible to the police or someone else—coercive powers. I should say that the Government always had in mind some degree of independence for the anti-corruption unit, but this is a fundamental question and a lot of the toing and froing and argument and debate on this issue gets lost. But the fundamental issue remains of whether we will give another body in this State—whether it be an anti-corruption unit, an independent commission or whatever you like—coercive powers with all the implications that has for our society.

As a nation and as a community brought up in the traditions of the British common law, we have tended not to give investigating authorities—whether they are looking at crime or anything else—coercive powers except in specifically determined circumstances where a royal commission has been established. I would have thought that people looking at this issue in a dispassionate and rational way would realise that there is a fundamental issue that has to be addressed. If the anti-corruption unit—or whatever it is—is to get coercive powers—whether it be under the Police Complaints Authority or any other body—it will have to be the subject of legislation in Parliament because we cannot administratively give those coercive powers to such a body.

We all know the debate about coercive powers. Ought we give investigating bodies—police or otherwise—the power to call people before them and force them to answer questions? National Crime Authority legislation provides that people may not be forced to answer questions if they feel that they might be incriminated. So, that provision against self-incrimination remains. Nevertheless, the National Crime Authority has those broad coercive powers. Once the NCA has a reference, anyone can be called before it and compelled to answer questions.

Will we give an anti-corruption unit that power? When that matter was discussed it was clear that a better solution, in the South Australian Government's point of view, was to have a body established in South Australia where we have already taken the step to give it coercive powers under certain circumstances. I do not think that in principle there ought to be a proliferation of bodies which look at this area that are given coercive powers. If the National Crime Authority were established in South Australia, the ministerial committee took the view that that would probably be the best solution in a number of ways because it would probably result in less resources and less cost to the Government because a body has already been established with its own legislation.

So, the answers to the first two questions are 'Yes'. The answer to the third question is that as far as I am aware, the Police Commissioner has not changed his mind and neither has the ministerial committee. Obviously the police would still have an important role in any anti-corruption strategy or investigation, but concern has been expressed by the National Crime Authority and other people about problems with police investigating police. Where we are talking about police corruption, it seemed to the Government that, where there is an existing organisation already in place, it would be a desirable solution to have an office established in this State.

POLICE CORRUPTION ALLEGATIONS

The Hon. L.H. DAVIS: I direct my question to the Attorney-General. Following the Police Commissioner's revela-

tion in a memorandum last month to other commissioned officers that in 1983 he had initiated and facilitated a number of investigations into police corruption, did the Commissioner advise the Government that he had taken this action and, if so, when? What was the nature of the allegations investigated? Who conducted the investigations? What was their outcome, and was the Government satisfied that the investigations were conducted fully and properly?

The Hon. C.J. SUMNER: I will take those questions on notice and bring back a reply.

HAMPSTEAD CENTRE

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Tourism, representing the Minister of Health, some questions on the Hampstead Centre.

Leave granted.

The Hon. M.B. CAMERON: During the Estimates Committee hearing last month in another place the member for Bragg raised the issue of moves by the Health Commission to cut 25 beds from the nursing home section of the Hampstead Centre at Northfield from November. The Health Minister told the Estimates Committee that the policies of the Government and Health Commission with respect to the centre had been explained to people residing there. He said:

> We do not hamfistedly deal with people in the way that the member for Bragg has stated.

A ministerial adviser also told the committee that patients would only be moved voluntarily, prompting the Minister to state:

> It was made quite clear in Dr Blaikie's report that patients are only moved to alternative accommodation on a voluntary basis.

It appears, however, that that is not the case and that patients are being asked to transfer to other accommodation against their wishes. This concerns not only patients but also nurses, who have now placed bans on transferring patients to other nursing homes. Nurses are, not unnaturally, concerned that up to 20 jobs might be lost if the beds are withdrawn.

It has been put to me by a senior Hampstead Centre staff member that the reason for cutting beds is a $300 000 reduction in the centre's budget this financial year. He says that, while the Minister might say that the reductions are in line with the Health Commission's strategic plans for the centre, the commission is simply taking facets of that plan which suit its decisions. This senior staff member says that, while it is true that no patients will be dumped in the street, simple arithmetic dictates that 20 to 25 patients will have to be moved elsewhere. He says that, if the social worker employed to try to relocate patients can convince a patient's relatives that relocation poses no geographical problem, patients will have no option except to move.

It has been put to me that the first reduction of 25 beds, two years ago, was justifiable, and centre staff had no quarrel with that. However, the second reduction of 25 beds last year was very reluctantly accepted when the Health Commission threatened to withdraw the Spinal Injuries Unit from the centre. Now, centre staff say the commission is using the need for additional space for the Spinal Injuries Unit as one reason for reducing another 25 beds from the centre. This is happening, the staff say, at a time when Hampstead's nursing home beds are running at an average of 90 per cent occupancy. On top of that, relatives of residents at Hampstead Centre are adamant there was no consultation prior to the decision to close the 25 beds, and furthermore that there is a shortage of alternative nursing home care in the districts surrounding Northfield. In view of these comments, my questions are:

1. Will the Minister now scrap plans to cut a further 25 beds from the Hampstead Centre, and so remove the acute state of uncertainty which is distressing patients at the centre?

2. Will the Minister give a long-term commitment that nursing home beds will be retained at Hampstead, and that a thorough review of the centre's requirements which takes into consideration patients' and staff views will be undertaken before any further changes in bed numbers takes place?

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

WASTE DISPOSAL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government a question on the subject of waste disposal.

Leave granted.

The Hon. M.J. ELLIOTT: Some weeks ago I had occasion to listen to discussions when the Minister for Environment and Planning said that he could think of worse things to live next to than a high temperature incinerator, although he did not say what those other things might be. Recently I received a copy of *Waste Lines*, which is put out by the Waste Management Commission. On the back page of edition No. 2 of July 1988 is an article about the disposal of liquid waste which says in part:

> The National Waste Company Ltd has obtained planning approval to establish an integrated liquid waste treatment plant at the existing liquid waste depot at Wingfield . . . The facility will incorporate grease and oil separation processes, neutralisation, solid/liquid separation, incineration and chemical immobilisation.

Because the Minister has an appointee on the Waste Management Commission, can she say whether that incinerator is to be a high or low temperature incinerator and what sort of waste could be incinerated in that process?

The Hon. BARBARA WIESE: I am not sure that the incinerator to which the honourable member has referred is located at the National Waste Company's disposal plant. An incinerator that was recently built in the Wingfield or Cavan area is used by Adelaide hospitals and other facilities for the disposal of their waste materials. That will alleviate what was previously a very serious problem in Adelaide. The National Waste Company recently took over the old liquid waste disposal site, which was formerly run by a company known as Hopkins. The intention is to considerably upgrade the facility in order to provide not only a dumping place for liquid waste but also a complete treatment facility. This means that the vast majority of liquid waste in Adelaide will be taken care of by that company at its Wingfield facility.

It also means that the treatment of waste in South Australia will be considerably upgraded and improved by the steps that have been taken by that company. For some time it has been a source of considerable concern to the Waste Management Commission that the methods that were previously used by the Hopkins Waste Liquid Disposal Company to dump liquid waste were no longer considered desirable or acceptable. In fact, the Waste Management Commission, in association with the Engineering and Water Supply Department, investigated the possibility of establishing a Government run liquid waste disposal and treatment operation on land owned by the E&WS Department.

Before those plans could be put into effect the National Waste Company approached the Waste Management Commission with a request for a licence to provide a facility of that kind on the Hopkins site. Because the amount of waste to be disposed of in Adelaide is relatively small, there is certainly no need, in the opinion of the Waste Management Commission, for two facilities of that kind to operate within South Australia.

For that reason it granted the licence to the company that plans to upgrade the facility during the next 12 to 18 months. I will check the details of the matter raised by the honourable member to clarify in my mind whether an incinerator is being run by the national company or whether another company at Cavan is operating such a facility to dispose of waste from such places as Adelaide hospitals. I shall be happy to bring back a reply on that matter for the honourable member.

The Hon. M.J. ELLIOTT: By way of supplementary question, will the Minister inform the Council of precisely what waste will be disposed of by incineration?

The Hon. BARBARA WIESE: I shall be happy to provide that information also.

SELECT COMMITTEE ON AVAILABILITY OF HOUSING FOR LOW INCOME GROUPS IN SOUTH AUSTRALIA

The Hon. CAROLYN PICKLES brought up the report of the select committee, together with minutes of proceedings and evidence.

Report received. Ordered that report be printed.

ABORTION

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about late abortions.

Leave granted.

The Hon. J.C. BURDETT: The *Advertiser* of 5 July 1988 carried an article by Barry Hailstone headed 'Moral Crisis in SA Over Late Abortions'. The article stated:

> Staff at Adelaide's major hospitals over the years have progressively refused to participate at 'late abortions' for other than genetic or life-threatening reasons.

The article further stated:

> Objections to performing abortions for 'social' reasons—rather than clinical ones—reached crisis point last week when a joint service by a Queen Victoria, Le Fevre and Port Adelaide Community Hospital unit was withdrawn.
>
> The unit, the only one in a public or private hospital performing abortions after the first trimester (first 12 weeks of pregnancy), told the Health Commission it would stop mid-trimester (12 to 20 weeks) terminations on 30 June.

In an article in the *Advertiser* on 7 July, two days later, headed 'Hospital Talks Clear Way For Late Abortions', it was stated:

> Emergency arrangements to provide abortions for South Australian women more than 12 weeks pregnant will be implemented within a week following a special meeting called yesterday between the South Australian Health Commission and the State's public hospitals.

The article did not spell out any details or say anything about long-term arrangements. The only reference was to emergency arrangements. My questions are as follows:

1. What reasons did the joint clinic at Queen Victoria, Le Fevre and the Port Adelaide Community Hospitals give to the Health Commission for withdrawing its services?

2. Have arrangements been made for long-term abortions on a long-term basis rather than just emergency arrangements and, if so, in what hospitals are such procedures carried out?

3. What are the precise details of the arrangements made for long-term (that is, post-12 weeks) abortions to be carried out?

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

MIGRATION APPLICATION FEE

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about immigration application fees.

Leave granted.

The Hon. M.S. FELEPPA: On 23 August this year the then Federal Minister for Immigration, Local Government and Ethnic Affairs, Mr Clyde Holding, announced the imposition of a flat $200 fee for people seeking to migrate to Australia. Up until this announcement, a combined fee of $225 was applicable for people wishing to migrate to Australia. This fee consisted of two separate payments: the first of $60 which was required when the application was lodged, and the remaining $165 was payable only if the applicant was successful. The imposition of the new flat fee of $200 is, in my view, unfair and is considered by many people in our ethnic communities to be simply another revenue raising measure.

It should be noted further that, since the number of points required in order for applicants to succeed has been increased from 70 to 80, the possibility now exists that at least 50 per cent of southern Europeans will never succeed because of the English language requirement. The flat fee of $200 is not justified. The fact that applicants are instructed on the application form that they should self-assess their chances of success still does not justify the flat fee of $200.

Therefore, will the Minister approach the new Minister for Immigration, Local Government and Ethnic Affairs, Senator Ray, requesting him to consider reintroducing the old two-stage fee, which certainly is a fairer method of passing the processing cost on to actual users of the service?

The Hon. C.J. SUMNER: I thank the honourable member for his important question. I agree with the sentiments that he has expressed. Indeed, I have already taken the opportunity of writing to Senator Ray, the Federal Minister for Immigration, Local Government and Ethnic Affairs, asking him to reconsider the appropriateness of the single application fee of $200 for all applications to migrate to Australia. I believe that that single fee appears to be unfair in comparison with the previous two-tier payment of $60 on application and $165 if the application proceeds further.

I also understand that the Ethnic Communities Council of South Australia has expressed concern about this new fee structure. I think that the fee could be discriminatory with respect to some countries, or some individuals in some countries, because of the relative wage levels. I also believe that the Department of Immigration, Local Government and Ethnic Affairs has introduced computer terminals in its overseas offices. This should enable Immigration Officers to enter information to provide appropriate advice and make a decision on the spot. Given that that is the situation, many people may pay the $200 and, because of the computer link, be told almost immediately that they are ineligible.

I have asked the Minister whether a fee of $200 is justified as the overall fee for any application. I have also asked him

to note the objections of the Hon. Mr Feleppa, who had already drawn this matter to my attention, and to note my objections and the objections of the South Australian Government to the measure. I have also asked the Federal Minister to review and reconsider the position.

NATIONAL CRIME AUTHORITY

The Hon. J.C. IRWIN: My question is directed to the Attorney-General. What is the estimated cost of establishing and operating a National Crime Authority office in Adelaide? Does the South Australian Government propose to contribute to its establishment and ongoing operations and, if so, how much will it cost?

The Hon. C.J. SUMNER: The Government has not assessed the cost of establishing such an office in South Australia. At this stage, we do not know whether the NCA will accede to our request. However, we believe that it ought to be less costly than the establishment of a separate anti-corruption unit or commission with coercive powers, and it was partly in the interests of cooperation between the Federal and State Governments and cost efficiencies that we felt it would surely be better to have an organisation in South Australia which is already established and operating rather than establishing our own unit with coercive powers. Obviously, we will still need some anti-corruption unit in South Australia, but the nature of that unit and whether or not it has coercive powers will depend on whether or not the NCA is set up in South Australia. If it is set up in South Australia, it will have coercive powers and the necessary degree of independence and, therefore, it would not be necessary to have an anti-corruption unit with those same characteristics.

We now have to determine whether the NCA and the Federal Government are prepared to enter into negotiations on the establishment of an NCA office here. I have already had preliminary discussions with Senator Tate. I now intend to talk with the Chairman of the National Crime Authority (Mr Justice Stewart) and, if there is an indication that they would be prepared to support the establishment of an office here, we will enter into detailed costings and a detailed arrangement relating to cost sharing.

ABUSE OF THE ELDERLY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Community Welfare, a question about abuse of the elderly.

Leave granted.

The Hon. DIANA LAIDLAW: Last week, when I visited the Australian Council on the Ageing in Melbourne, I was informed that the council had established a task force to investigate the abuse of elderly people, including physical, emotional and psychological abuse and neglect. This initiative reminded me that on 27 November last year the former Minister of Community Welfare (Dr Cornwall) announced that the State Government would establish 'an urgent inquiry into domestic abuse of elderly people, often referred to as granny bashing'.

The issue has been identified by the South Australian Association of Social Workers as being a problem of increasing dimensions upon which there is very limited research. I suspect that most members would appreciate that many older people are not able to undertake activities of daily living as well as they were able when they were fit and healthy. That leads to deficiencies and a consequent vulnerability to abuse and neglect. I have been advised by the Australian Council on the Ageing that elderly abuse is not restricted to marital relationships but tends to occur more within family relationships between the aged and sons and daughters, sons-in-law and daughters-in-law and their relations. The reasons advanced for the alleged increase in the abuse of the elderly includes the increasing numbers of older people in our community and the increased pressures on care givers or family members who are increasingly called upon to play caring roles that are considerably in excess of their capacity to support older people, who we all know have varying degrees of intellectual and physical ability as they grow older.

As I understand it (and my inquiries since last week have reinforced this understanding), very little has happened since the Minister announced in November of last year that he would establish an urgent inquiry into this matter. Can the Minister provide me with information to determine whether such an inquiry has ever been established as promised by the former Minister in November last year and, if so, who was appointed to conduct the inquiry, what were the inquiry's terms of reference, and when will the report be released?

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

DEPARTMENT OF FISHERIES

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General a question about a mole in the Department of Fisheries.

Leave granted.

The Hon. PETER DUNN: During the past couple of days a problem has occurred in the South Australian fishing industry, particularly in the abalone industry, in relation to poaching. Members may be aware that abalone is a very expensive product. In fact, during my previous visit to Port Lincoln, it was fetching $54 a kilo, or $54 000 a tonne. There are about 35 licensed abalone fishermen in South Australia, of whom 23 operate from Eyre Peninsula. From the information that I have received, about 15 poachers appear to work in the area at the same time.

The licensed divers report that the poachers appear to act with immunity from prosecution; they cannot be caught. Every time they appear in the area and the fisheries inspectors arrive, the poachers are not there, which suggests that the poachers have obtained prior knowledge.

Has the Minister of Fisheries ordered an investigation into the failure of a recent helicopter blitz on abalone poaching on the West Coast, because it was suspected that the poachers were tipped off in advance? How do poachers come into possession of radio codes and other sensitive information used by the Fisheries Department inspectors to pursue illegal activities? Is the Minister aware of claims that a person within the Fisheries Department has sold this information to poachers and, if so, is this a case of possible official corruption that the Government will refer to the NCA?

The Hon. C.J. SUMNER: With respect to the latter question, I do not think it is possible at this stage to say whether or not it is official corruption or to state the nature of the allegations. The answer to the honourable member's first question is 'Yes'.

TOURISM PROMOTION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism a ques-

tion about interstate promotion of South Australia as a tourist destination.

Leave granted.

The Hon. J.F. STEFANI: On 19 September 1988, C.J. Berry of Clarence Gardens, in a letter to the Editor of the *Advertiser,* said:

> Having just returned from Expo 1988 and visiting the South Australian exhibit, I was informed that South Australia does not have a branch of our tourist centre anywhere in Brisbane. I was appalled at that discovery. Every other State is represented in Brisbane. When visiting our exhibit at Expo I could not help noticing how many locals were asking the hard-worked assistants about South Australia's beauty spots to visit and were particularly interested in the Flinders Ranges.

I have checked with Tourism South Australia, which confirms that the existing Brisbane office only handles trade and commerce inquiries. My questions are:

1. Why has the Government not established a representative office in Brisbane to foster tourism to South Australia?

2. Why does the present office only handle trade and commerce inquiries?

3. Will the Minister give an undertaking that as an interim measure staff at the trade and commerce office will be directed to handle inquiries on tourism?

The Hon. BARBARA WIESE: The short answer to explain why we have not had an office in Brisbane to this time is simply that the Government has not had the resources to establish an office there. However, in recent times it has come to our attention that there is a growing interest emerging in Queensland about South Australia, especially an interest amongst people in the south-eastern corner of Queensland in coming to South Australia. This interest has been heightened enormously by our presence at Expo during the past few months.

Prior to Expo the Government realised that it would be desirable to test the interest in Queensland about South Australia as a tourism destination and, as a result, appointed an officer who has been operating in Brisbane for quite some time. As the honourable member indicates, her responsibility has been to liaise with the tourism industry and travel trade in Brisbane, to provide appropriate links with people in the industry there and to collect intelligence which will be of use to Tourism South Australia in determining what presence, if any, we should have in that marketplace in the future.

As I indicated earlier, we have discovered that during the past few months—and this is due primarily to our presence at Expo and the Government's decision to concentrate our Expo display on tourism promotion—interest in South Australia has grown. We have not only had something like 800 000 visitors to our stand, but we have had about 200 serious travel inquiries each week, largely from Queenslanders but also from people from other parts of the world who are interested in knowing more about South Australia and our holiday destinations.

In addition, through the officers staffing the Expo stand, we have booked a large number of people for this year's Grand Prix. So, with the assistance of the Grand Prix, which has raised the focus on Adelaide all over the country, and our presence at Expo, there is no doubt that the profile of South Australia has been raised considerably and the work that our officer in Brisbane has been doing with people in the industry will confirm that.

As a result, Tourism South Australia is considering the available options to maintain our presence in Queensland after Expo. The extent to which we will be able to be represented in Queensland will depend very much on the availability of resources, an issue which is currently under examination. I believe that there is potential in Queensland for South Australia to exploit further our capacity to increase visitation to this part of Australia and we will look for ways to maintain the presence in Brisbane which we have established during the past several months with a view to capitalising on that potential.

SEXUAL HARASSMENT

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about the Education Department's sexual harassment guidelines.

Leave granted.

The Hon. CAROLYN PICKLES: According to an article in the *Advertiser* of Thursday 22 September, a study conducted by a research team from the Northern Community Health Research Unit and the Tea Tree Gully Community Health Service found that the Education Department guidelines still do not ensure a uniform approach across schools to the problem of sexual harassment. The article states in part:

> The research team said while it believed a great deal had been achieved in South Australia since the Education Department's sexual harassment policies were developed in 1984, there was an urgent need for some fine-tuning of the present policy. The study had revealed that teachers wanted more in-service training, more curriculum development on the subject, and more support from the department and from school authorities.

According to the article, the survey aimed to investigate:

> The victimisation of girls by their peers and by teachers who dealt with incidents of sexual harassment.
>
> Teachers' awareness and understanding of the Education Department's and schools' sexual harassment and sexual assault policies.

I understand that the South Australian Education Department's sexual harassment guidelines have been used as a model by other States and were revised as recently as July this year. Can the Minister advise the relevancy of this survey to the department's guidelines and whether he believes that any further review is warranted?

The Hon. BARBARA WIESE: I will refer those questions to my colleague the Minister of Education and bring back a reply.

FIREARMS REGISTRY

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about the firearms registry.

Leave granted.

The Hon. R.J. RITSON: Five months ago I addressed a question to the Attorney-General concerning the firearms registry because I was informed that about 100 000 firearms registered on the old card index system prior to the introduction of electronic data processing were not transferred to the new system, and that whilst those firearms remained registered there had been no follow-up of licence renewals by their owners or tracing of changes of address. They have virtually been lost in the system because of the lack of physical resources to cleanse the register.

When I asked the question, it was my understanding that an answer had been drafted for the Minister the following day or certainly within 48 hours. As the weeks and months passed and the question was not answered, I asked again, 'When may the question be answered?' A few weeks ago I asked again whether the question would be answered and I said at that time that I did not have a suspicious mind and that I did not really believe that the Government was trying to conceal something or suppress an answer just because

the answer was not to its liking. But, I am now extremely concerned lest that be the case, and lest the Government be treating the Parliament with contempt by simply refusing to answer a question that it does not want to answer because it does not like the answer that has been prepared.

In my original question I asked whether the police had requested additional resources (either financial or personnel) to cleanse the register, and I ask again: first, is there a discrepancy of major proportions between the number of firearms on the old card index system and the new electronic register? Secondly, has there been any request by the Police Force for additional resources to cleanse the register, and when will the question be answered? It is now five months, and I believe that the Minister has had the answer for that length of time.

The PRESIDENT: Before calling on the Attorney, I remind the Hon. Dr Ritson that opinions may not be expressed in a question. I strongly suspect that *Hansard* will reveal considerable opinion being expressed in that question.

The Hon. R.J. Ritson: I got carried away. I was following the example of Dr Cornwall.

The PRESIDENT: That is not an excuse.

The Hon. C.J. SUMNER: I will refer the question to my colleague and bring back a reply.

LIVING STANDARDS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for the Arts a question about living standards.

Leave granted.

The Hon. L.H. DAVIS: Page 48 of the Program Estimates and Information 1988-89 sets out the program description for the Department of the Arts. Under the heading 'Issues and Trends', the following statement appears:

> While visitor numbers to museums have risen markedly, consumer resistance to higher level admission charges is increasing as disposable income shrinks.

Here in black and white is an admission in an official Government document by the Department of the Arts, by the Minister for the Arts (who happens also to be the Premier and Treasurer of South Australia). Record bankruptcy levels, the lowest retail sales growth of any State in Australia for many months and other leading economic indicators, have shown that South Australia is falling behind the other States in economic performance. Will the Minister confirm that the statement 'as disposable income shrinks' is a frank admission by the Department of the Arts and the Government which can only be construed to confirm what the Liberal Opposition has been saying for a long time, namely, that living standards in South Australia are falling more rapidly than those in any other State?

The Hon. BARBARA WIESE: I do not believe it is any secret that the economic policies that have been pursued by the Commonwealth Government in association with the trade union movement with respect to wages policy has certainly led to some people in some sectors of our economy finding that their living standards have not been as healthy as they once were. I understand that the sorts of policies which have been pursued by the Commonwealth Government in this area are those which the Liberal Party endorses, so I am surprised to hear that the honourable member should be casting—

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —any reflection on those policies or the effects that they might have on the economy of South Australia or the nation. The Hon. Mr Davis, who likes to think of himself as some sort of financial guru, has said on a number of occasions that adjustments need to be made in our economy in order to bring about the structural change and the economic growth that I presume all parties in politics in Australia would like to see occur. It is also true to say that the policies which have been pursued by the Commonwealth Government, with the assistance of various State Governments around the country, have led to a regeneration of our economy and to a considerable growth in job creation in Australia, and this must be considered to be a credit to the Government of this country.

As the honourable member knows, both the Commonwealth Government and the State Government this year were able to bring down budgets that have resulted in a surplus. That is no mean feat given the economic conditions in which we are operating. That does mean, however, that some people in our community have found it very difficult to make ends meet, and there has been a reduction in disposable income for some of those people. I presume that that has had some impact on the takings of some institutions in our community.

On the other hand, a whole range of activities that require the expenditure of disposable income have experienced considerable growth, so the question of disposable income may not be the only factor that is having some impact on our cultural institutions: it may be that people are choosing to spend their disposable income in other areas of our economy, because in the past few years an enormous growth has taken place in tourism operations and other attractions in our community in which people would be happy to participate. Indeed, they certainly are participating in those activities.

So, if there has been a decline in patronage of some of those institutions, that is lamentable. However, no doubt once the novelty value of some of the newer attractions has ceased to exist, patronage in some of the more traditional areas may pick up again. I certainly hope that that will be the case, because the institutions to which the honourable member refers are very important and should be supported by all South Australians.

SALINISATION

The Hon. M.J. ELLIOTT: Has the Minister of Tourism an answer to a question on salinisation that I asked on 10 August?

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

Leave granted.

The Minister of Water Resources has advised that salinisation, resulting from the clearing of native vegetation, is of concern to the Government as it has the potential to put large tracts of agricultural land out of production. In so far as the Murray River and the Murray-Darling basin is concerned, land degradation has been recognised by the Murray-Darling Basin Ministerial Council as a key resource management problem facing the basin and a number of strategies are being developed and undertaken.

The Murray-Darling Basin Ministerial Council in fact has been established to ensure that management of natural resources is pursued through the appropriate integration of land, water and environmental initiatives. The council's salinity and drainage strategy specifically deals with action to provide immediate relief to the land degradation problems already evident in Victorian and New South Wales

major irrigation areas. Development of this strategy is well advanced and is being finalised with the utmost urgency.

The following complementary actions are being undertaken:

- drainage works where necessary to reduce groundwater level;
- promotion and adoption of improved irrigation and farm management practices to decrease infiltration of excess water to the groundwater;
- continued investigations to enhance understanding of groundwater systems with the specific intention of identifying key recharge areas and making greater use of better quality sources;
- identification of key areas where retention of existing vegetation is essential and where revegetation will be most effective;
- community programs to, first, inform the community about the nature and extent of the problem and secondly, to establish an ethos of appropriate land use practices;
- community based land care programs;
- integration of Government resource management actions.

As a financial contributor to the operation of the Murray-Darling Basin Commission, this Government is actively participating in formulation and adoption of strategies developed.

I also raised this matter with the Minister of Agriculture, who has informed me that his department already has a dryland salinity project based at Keith in the South-East to look at aspects of controlling the spread of dryland salinity and re-establishment of salt affected areas. In addition, a program involving CSIRO and the Western Australian Department of Agriculture has been submitted to the Commonwealth Government for consideration for funding under the National Soil Conservation Program (NSCP) and the National Afforestation Program (NAP). This program proposes to look at the hydrology of five different catchments in South Australia, including one in the South-East, and proposes to apply different treatments to the landscape including tree planting, higher water use crops and engineering structures to determine their effect on salinity in the catchment. From this, the department will be able to provide better advice on how landholders shoud manage salinity problems. Approval has been given by NAP for funding for the tree planting aspect of the project and we are awaiting consideration by NSCP for funding for the hydrology part.

DEPARTMENT FOR COMMUNITY WELFARE

The Hon. DIANA LAIDLAW: Has the Minister of Tourism, representing the Minister of Community Welfare, a reply to the question that I asked on 16 August regarding Community Welfare Department morale?

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

Leave granted.

I am advised by my colleague the Minister of Community Welfare that the letter from 10 former DCW staff members to the CEO of Department for Community Welfare has nothing to say about morale in the department. The quality of the unique maintenance service provided by DCW has been recognised by the Commonwealth's willingness to employ former DCW staff as the nucleus of its new Child Support Agency in Adelaide. The Minister of Community Welfare has stressed that this transfer was negotiated by DCW in the interests of the staff and to help the new Child Support Agency.

The letter from the former staff reflects some difficulties between them and the relatively inexperienced DCW staff who took their place. The transfer involved the 10 officers continuing to work alongside the replacement DCW staff while they were preparing data required by the new agency.

DCW management took the initiative in ensuring the transfer of the staff was suitably recognised. While the CEO was not able to attend the two functions held so far, both of which were at venues outside of the department at the request of the transferees, the relevant Director did attend. On behalf of the CEO, he expressed the department's appreciation and best wishes. Further acknowledgment, in accordance with the department's usual practices for recognising lengthy and appreciated services, has long been planned to occur just before the section actually leaves DCW premises.

The new Minister of Community Welfare advised that she has made arrangements to start a wide range of visits to DCW locations throughout the State. The Minister is confident that these visits will confirm the high opinion that she already holds for staff in the department.

CAR PARKING

The Hon. I. GILFILLAN: Has the Minister of Tourism a reply to the question that I asked on 10 August regarding car parking on campuses of colleges of advanced education?

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

Leave granted.

The following information has been supplied by the Minister of Employment and Further Education in response to the honourable member's questions.

1. The Government has not reintroduced such regulations. Indeed it did not introduce any such regulations in the first place.

2. The South Australian College of Advanced Education Council is empowered by section 13 (1) *(c)* of the South Australian College of Advanced Education Act 1982 to impose parking fees.

3. Yes.

4. No. To the extent that the will of the Legislative Council has been expressed, it has previously disallowed by-laws which had nothing to do with the introduction of parking fees. If the Parliament wishes to express its will in terms suggested by the honourable member, it would be necessary to amend section 13 (1) *(c)* of the South Australian College of Advanced Education Act 1982.

5. It appears from the context of the question that the honourable member believes Parliament has decided that the college should not be able to charge parking fees. Since this is not the case, the premise of this question is incorrect, so no answer is possible.

In regard to the honourable member's supplementary question, the Government has neither endorsed nor opposed, through any subordinate legislative Act, the introduction of parking fees at the college.

PERSONAL EXPLANATION: DEFAMATION LAW

The Hon. J.R. CORNWALL: I seek leave to make a personal explanation.

Leave granted.

The Hon. J.R. CORNWALL: Following the events of early August, allegations have circulated in this city that I had previously derived significant financial benefit from libel or defamation actions. Those allegations—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Those allegations were recirculated yesterday by Mr Davis and Mr Lucas by way of interjection. If I may, let me set the record straight.

The Hon. L.H. Davis: We simply said that, if the defamation law is no good, you shouldn't be taking advantage of it yourself.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Approximately 10 years ago, when I was a relatively junior backbencher, I received an out of court settlement of $1 500 from the *News* following the publication of a letter to the editor. At the time, as some members will recall, I was still the principal in my veterinary practice at Largs North. I had canvassed the ethics and practical effect of a modified voice control operation on dogs whose persistent barking was uncontrollable.

The Hon. T.G. Roberts: It might come in handy in here.

The Hon. J.R. CORNWALL: I thought the honourable member would never interject. I am talking about dogs, Ms President. For such dogs, the only alternative was destruction. The published letter to the editor stated, 'On his own admission, Dr Cornwall is guilty of this act of criminal violence.' That is a very serious allegation by any standard and directly impugned my character and professional reputation. I settled for an apology and $1 500. On the other occasion—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: It is a bit different from $75 000, I would have thought. However, I must not discuss that because it is *sub judice.*

The PRESIDENT: Quite right.

The Hon. J.R. CORNWALL: Ms President, I am doing my damnedest today to respect any problems that you might have with hypertension. The only other occasion on which I received any monetary compensation occurred when a caller on a breakfast program on radio station 5DN said of me, among several other things, 'Cornwall wouldn't know the bloody arse end of a cow and he is meant to be a dog doctor.'

Members interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Elliott laughs his head off. Obviously, it is perfectly all right to defame me in the grossest possible way.

Members interjecting:

The PRESIDENT: Order! The honourable member has leave to make a personal explanation. I suggest that members grant him the courtesy of listening to his personal explanation.

The Hon. L.H. Davis: It is very personal.

The PRESIDENT: That is what a personal explanation is meant to be.

The Hon. J.R. CORNWALL: The caller went on to say, among other things, 'He is being totally unprofessional in his conduct. He is being totally improper as a Minister.' That, again, is a very, very serious defamation. It may cause the Opposition to fall about laughing. It may cause the Hon. Mr Elliott considerable amusement. Nevertheless, is was a very serious defamation which needed to be put right.

The Hon. M.B. Cameron: You called me a diseased maggot one day.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: You also said of me, Mr Cameron, that you once had a terrier dog like me which was so mad that it had to be put down. If you want to get into this—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The honourable member said that in coward's castle, as he always does, except on one significant occasion.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: That's right. You have defamed me grossly in this place on many occasions.

Members interjecting:

The Hon. J.R. CORNWALL: Members find that amusing. You regard the whole business—

The Hon. L.H. Davis: You can't take it.

The PRESIDENT: Order! I call the Hon. Mr Davis to order. The Council has granted leave for a personal explanation. I ask that the personal explanation be listened to with courtesy, as is customary in this Chamber.

The Hon. J.R. CORNWALL: Mr Elliott finds this matter of defamation so amusing that he has practically wet himself. It is really an extraordinary double standard. Incidentally, the statement from this particular caller (and members will take note that I have not identified him) was allowed to go to air by my old mate Murray Nicholl on the 5DN breakfast program despite the seven second time delay. Again, it was a massive reflection on my competence as a veterinarian. I settled out of court for an apology and $3 000.

The Hon. L.H. Davis: Using the crook defamation laws.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I was far more interested in having the record set straight, having been grossly defamed, than I was in chasing money. On another occasion, during our period in Opposition, action was taken against me and the *Advertiser* concerning remarks that I made about an individual and his dealings with the South Australian Health Commission. Again, I am at pains not to identify the individual. That was also settled out of court with an apology and all parties agreeing to pay their own legal costs. In a reasonable situation, dealing with reasonable people and if we had reasonable law, that is the way in which all defamation suits should be settled. In my case, the costs amounted to $2 300 which I paid out of my own pocket.

On other occasions I have used my legal advisers, again at my own expense, to seek redress over unfair and defamatory statements. One such occasion, obliquely referred to by the Leader of the Opposition (John Olsen) quite recently, concerned an episode in 1984 when, outside the Chamber, the Leader called me a liar. It was reported on the front page of the *News.* He said, 'Dr Cornwall has lied to the Legislative Council about the matter. He must immediately resign or be sacked by the Premier.' I asked my solicitors to write to him and to the *News* seeking an apology in reasonable terms. He declined. He did not have the decency to retract what again was a gross defamation. He had neither the grace nor the decency to apologise, and I took the matter no further.

The Hon. Peter Dunn: You can't beat the truth.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Well, it didn't do me too much good in a recent court action, my friend.

The Hon. Diana Laidlaw: Are you reflecting—

The PRESIDENT: Order! I call the Hon. Ms Laidlaw to order.

The Hon. J.R. CORNWALL: So much for the allegations that I have somehow profited under the archaic and anachronistic 19th century defamation law of this State. In fact, in more than 13 years as a member of Parliament, prior to August, I was neither a financial winner nor loser in the area of defamation. It is as near as one could get to a lineball. I have tried to defend my good name and, on the one occasion when I made a reflection on another citizen of this State, apart from the most recent matter on which I cannot comment, I took the gentlemanly and proper course and publicly apologised. That is my record. One matter is outstanding which I do not intend to canvass. It concerns allegations that were made outside the Chamber by the Leader of the Opposition in this place. I will not pay my solicitors good money to negotiate on my behalf, and then negotiate directly with or without prejudice, with Mr Cameron in this place. I make clear that on all occasions when I have taken action my primary objective has always been to defend my good name. As I said at the outset, I have never profited in the net sense from the defamation laws.

Members interjecting:

The Hon. J.R. CORNWALL: That is a harsh remark, Peter, to put it mildly and does you no credit. I have never profited in the net sense from the defamation laws of this State.

INDEPENDENT COMMISSION AGAINST CRIME AND CORRUPTION BILL

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to establish the Independent Commission Against Crime and Corruption; to define its functions and for other purposes. Read a first time.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

In introducing this Bill to establish an Independent Commission against Crime and Corruption, I want to mention a few of the allegations that have been raised with me on corruption. It is inappropriate to outline chapter and verse all the allegations raised with me, I have shared relevant information with officers of the National Crime Authority and will continue to do so.

I did not set out to act as a *quasi* royal commissioner myself, but as I became identified as being concerned about corruption in South Australia I was and still am being contacted frequently by people with allegations, which in some cases they have been too scared to mention before and, in others, they have felt 'what is the use'. The examples I have chosen are a cross section and, for most of them, they have come to me in the last few days.

Example one concerns the Fisheries Department and the abalone poachers of Eyre Peninsula. I intend to canvass not the issue of abalone poaching itself but rather the issue of alleged corruption surrounding it. My informant in my opinion is of the highest integrity. In conversation with a representative of the abalone poachers, he was told that they had copies of the Department of Fisheries radio codes. This enables them to know Fisheries Department vessel movements well in advance and thus avoid detection. My informant was shown the copies of the radio codes. The abalone poachers are tipped off on department helicopter movements as well. The poacher told my informant that the material came from someone high up, 'so high up that even Glover would not suspect' (Mr Kevin Glover is Senior Fisheries Officer in the department), and that it did not cost very much. They were surprised how cheep it was. My informant was told that 'there are three police officers we can count on. I don't have to tell you what that means'.

The poacher told my informant of a Fisheries Department officer, whom he named, who took a department boat and fuel for 31 days poaching abalone. He made enough money to buy a cray licence in the South-East. He has now moved to Queensland. It is interesting to note in passing that as reported in the *Port Lincoln Times* on 15 September the Minister for Fisheries, Kym Mayes, accused the abalone poachers of drug running. This was rebutted by senior police officers and the Drug Squad. Mr Mayes reacted angrily and said he would raise the matter with the Minister in charge of police, Dr Hopgood.

The second example is of a young woman, who is my informant in this matter. She was a drug user known to the police. Police officers whose names she has supplied to me, befriended her, so to speak. They provided her with some 'sticks' for herself and two grams of speed to sell ($60 each). Some days later they approached her again and asked her if she wanted some dope. She replied, 'Yes', whereupon they gave her the address of a house (address supplied to me) and said to go and get the plants from that house. The detectives said that they wanted $1 000 and anything over would be for her. It took her 2½ hours to dig out the plants. It was not good quality and she could not sell it.

The police came to her house, rang a colleague and then another person who said she would sell it for them and off they went. Some days later, she was given a quantity of pinkrocks, which is pure heroin, by two officers in the drug squad (names supplied) in interview room No. 8 of the Angas Street Police Station. She was asked to sell this herion. The proposed sale was a mixed success, but when she returned later she gave money to the two police officers whom she saw divide and pocket the money.

Her case reflects a similar case which was alleged by a male informant, who got in touch with me from Yatala. His case was heard last year. He alleges that the police in the drug squad used him as an outlet for their own sale of drugs. He was then offered a plea bargain to have two counts dropped in exchange for pleading guilty to two counts. This is contained in the letter from his lawer, of which I have a copy. I believe there will be more specific detail of this case in Chris Masters' *Page One* on channel 10 tomorrow night. I contacted Chris Masters early this year and collaborated with him in the sharing of much of my information. He has followed up several of those leads.

I have allegations that there are protected drug sales in the Darlington area, in particular, sales to school children by 'Mrs G'. They are being sold sticks, 'foils you know', as my informant said, 'School kids are the ones who will get you busted. But any competitors who crop up are the ones who get busted. It seems as if Mrs G is being protected.' And, further, this allegation is corroborated by a 'blue boy' who is named and is a uniformed police officer described as straight, but who will not take action because of covering for the sake of the force and his job.

This is one of the more disturbing aspects—that information which should come forward is being withheld because the likely informant is either, first, liable to prosecution him/herself; secondly, scared of losing his/her job; or, thirdly, scared of consequences to life and family. This is a prime reason for the establishment of the commission—to provide a safe, trusted, and, if need be, confidential recipient of information.

Another recent informant, who has been a drug user and dealer, described to me his case. He was in his words 'used callously by the police'. He had been a useful informer. I have details of the matters he informed. He believed the police officers who dealt with him were determined to keep him on drugs for their own purposes. He has named the

police officers with whom he dealt. One in particular, then serving in the drug squad, had given him $8 000 to buy drugs on one occasion. The same officer, when my informent was out on bail, had contacted him and demanded money, first $800 then next $400 with threats. This extortion was continued with an ex criminal (who has also been named; I have the name) as the contact until my informant was taken back into custody. The total amount extorted was $8 000. The times, dates and amounts have all been recorded by the informant's father, with whom I have been in contact, and he has verified those details.

I have been told that drugs in South Australia these days are run by companies rather than individuals, a view shared by Commissioner Hunt, and that the money is invested and the dividends are drawn as nice clean money. I have been given the name of the one man who has been involved. He is regarded as an upright citizen and has been involved in the car industry. And, incidentally, another upright citizen and property developer has used a recognised hitman in Adelaide to assist in his affairs. The NCA advised me that the hitman had been identified and located, through assistance from the well known Mr X of the Moyse case.

There have been efforts to portray Moyse as having worked alone in the criminal activities in the Drug Squad. I do not believe that to be so. I believe there are wide ramifications stretching well outside the Police Force itself. Mr X, the informant of the Moyse trial, has disclosed that Moyse was involved in the theft of the paintings from Carrick Hill, which if true (I have no reason to doubt that this material was given in circumstances when Mr X would be telling facts) indicates wider interests than just drug sales and with different fields of contact.

The fourth example I want to give is the circumstances of the murder of Peter Dean Tillbrook in 1978. On 3 June 1988 I taped a conversation with ex-police officer Michael O'Shea. Mr O'Shea was a key Crown witness in the case of the Dr Duncan drowning. His credibility must be highly regarded by the Attorney-General and the Crown Prosecutor, or he would not have been chosen as a key Crown witness. The evidence O'Shea gave ranged far wider than just the Duncan death and provides important allegations of police malpractice. The transcript of the trial will be well worth saving for those who wish to take a closer look at this issue. In response to my questions, O'Shea said:

Yes, Peter Dean Tillbrook was a local Port Noarlunga resident; he was a small time heroin dealer.

I have spoken to his brother, who informs me that at that time Peter Dean Tillbrook was 19 years old. The conversation continues:

He was a user of the substance himself; he dealt with small quantities of heroin and small deals of marijuana. My intelligence was that the heroin which Tillbrook was using had initially come from a person known as Peter Demetreo. I arrested Tillbrook in possession of a small quantity of heroin on one occasion and also a small quantity of Indian Hemp in the way of Buddha sticks which would amount in those days to a prohibited import—it was an importation rather than locally grown substance. Tillbrook had pledged to become an informant and assist me with my police inquiries. Shortly after this, and prior to reaching the court on the charges of possessing heroin and marijuana, he was located deceased in his vehicle in Port Noarlunga. In a coronial report submitted by uniformed police, the cause of death was written down or reported and recorded as suicide.

Members should note that the death was recorded as 'suicide'. The conversation continues:

I heard of the incident two days after it had occurred by accident only and on checking I went to the Coroner's office and ascertained that the morning that I arrived at the Coroner's office and after speaking to Sergeant Weak that a burial certificate (which I had sighted on a desk in the office) was about to be issued. I requested that that certificate ought to be withheld until such time as an autopsy be carried out on Tillbrook's body as I was concerned that the matter was not suicide and that it may have very well been murder, knowing all of the facts involving Peter Dean Tillbrook. A subsequent autopsy was carried out on my information by either James or Manock—I am not sure of which, I think it was Dr Manock—and it was revealed that Tillbrook had two fatal bullet wounds to the head and that he was in fact murdered and not suicided.

My question was:

One was not less than 10 feet away if I remember correctly?

O'Shea's answer was:

My understanding of the situation, having checked with Manock on one occasion during a courtroom sitting, was that one of the bullets was from point blank range and that another one was from no closer than 10 feet away. Both bullet wounds would have been instantaneously fatal.

My question was:

Do you have any suspicions as to who would have been involved in that?

O'Shea answered:

I had strong suspicions, because of the crime intelligence that I had gained in regards to some officers of the Drug Squad at the time. He was a small time dealer operating on behalf of one of the members and the Demetreo son. He was either quietened and killed by someone within the department, or someone outside the department, with some form of contract.

I asked O'Shea:

Did Harvey have any contact with you about this situation?

He answered:

Once the matter had been revealed that Tillbrook was in fact murdered, I was recalled to Christies Beach to work to assist the major crime officers. It had been declared a major crime. I was only in the office for about half an hour and a direction had come via Kevin Harvey (the Assistant Commissioner now, he wasn't then, he was a senior superintendent), through my sergeant that I was to have nothing to do with the inquiry, that I was not to assist with any inquiries that were being conducted in relation to Tillbrook's information and that I was to give no information whatsoever as to Tillbrook's involvement in the drug scene or his known associates. I was the person within the department who would have known more about Tillbrook and his activities than any other person within the department or even in the drug enforcing agencies.

The next question was:

Do you suspect that the Commissioner, who was Draper at that time, was involved in this situation?

He answered:

I understand yes, that information was given to Draper via Harvey and Collins, that I was involved in the sale, distribution and use of illicit drugs including heroin and that I should have nothing to do with the inquiry. That was the explanation given to me at a subsequent time by the then Crime Director, Tom Howie. I was devastated and most annoyed about it.

Conversations I have had with a member of Tillbrook's family have thrown doubt on the police role in this death. I believe it must be investigated, ideally by the independent commission.

While the Duncan case was proceeding, I was called by a member of the CIB in a most agitated state, who said that he would give me the name of the fourth police officer involved in the Duncan drowning if the Attorney-General would grant the person, still a serving officer in the Police Force, an indemnity—one assumes for turning Crown witness. As the conversation proceeded my caller said he could not be identified as it was more than his job was worth, but he decided to give me the name of the fourth person regardless. He also mentioned two senior police officers as being corrupt. These names were identical with those given to me from several sources. Incidentally, I got in touch with the Crown Prosecutor, Paul Wright, and gave him that information.

Now, those who may have misgivings about the Independent Commission Against Crime and Corruption for South Australia could say that establishing a branch of the NCA should provide adequate resources to deal with any

problems in South Australia. It is important to bear in mind that, with due respect to the NCA, it has not enjoyed the complete confidence of those involved in law enforcement and inquiry.

First, it comprises seconded police officers from State Police Forces, so it is not detached from Police Forces generally. Secondly, it is from time to time under suspicion itself. Currently, there are allegations (and details of these have been given to me) against serving NCA officers in Victoria being involved in drugs, and two names given to me were involved in a drug frame-up in Millicent. Thirdly, the NCA does not have anything like adequate powers to require and deal with information or conduct hearings to assess matters such as those we are concerned about.

Opposition members at least would take note of the warning given by the Queensland Liberal leader, Mr Angus Innes, who was quoted in the *Sunday Mail* of 18 September 1988 as saying that he suspected 'national bodies set up to fight organised crime on an Australia wide basis had also been infiltrated by corrupt police.'

As for the anti-corruption unit, as proposed by the Government on a recommendation from the NCA (that recommendation was in conjunction with other recommendations, involving the setting up of an independent commission, which the Government very conveniently chose not to emphasise when speaking to this issue), it could serve a useful purpose but it cannot be a substitute for a commission, for the same reasons as applied to the deficiencies of the NCA. Further, it would comprise, to a certain extent, police investigating and judging police. Bear in mind that Jack Herbert, in evidence to the Fitzgerald inquiry, said that corrupt officers in on the 'joke' (the term for corrupt practice in the Police Force) had planted one of their people on Commissioner Whitrod's anti-corruption unit in Queensland.

So, although there will be a useful role for the various entities—the South Australia Police, NCA, Federal Police and, possibly the anti-corruption unit—they will be ancillary only to a commission which is designed to have a superior role. The commission may use any one of the organisations as well as others in its investigative, preventative and educational role.

I have had serious allegations levied about activities of a leading overseas bank and a local finance company as regards false valuations and unethical practices. It is interesting that Brian Toohey, the editor of a small circulation, but interesting content newspaper, *The Eye*, has an article in the latest issue entitled 'Protecting the big boys' which is critically reflective about a major overseas bank, one which is significantly active in South Australia.

It is plain to me that corruption is not and will not be confined to the police. An independent commission, as active in Hong Kong, New York, and soon Sydney, will be essential to really tidy up the State of South Australia. I am considering details of cost and I believe that, at this stage, it would be about $2 million a year. However, I recognise that further work would be required to get a more accurate figure.

I now turn to the Bill itself, which is a long document. I wish to express my sincere gratitude to Parliamentary Counsel, particularly Rita Bognor and Ashley Marshall, who worked so hard and well on it. I have had conversations with Mr Bob Bottom of the *Melbourne Age*, to whom I sent a draft copy of the Bill. He is a well-known authority in this area, having assisted the New South Wales Government, and he has several official roles to look at these structures. He said that he believes that it is first class legislation and, from the amount of scrutiny that he had been able to give to it, he could not fault it. I do not intend to describe the Bill in detail, but I will outline some of the major points. However, I trust that members will study the Bill for further details.

I now turn to the definitions in the Bill, particularly 'organised crime', which is an innovative inclusion. It was included largely on the recommendation of Bob Bottom. New South Wales did not include such a definition in its legislation; rather, it has a separate entity dealing with organised crime and, therefore, it does not have the same pressure to include it in its independent commission. However, 'organised crime' is defined as follows:

'. . . a course of criminal conduct or series of criminal offences that:

(a) involves substantial planning and organisation;

and

(b) is carried out principally for the profit of persons other than those who commit the offences;

I recommend analysis of that definition. I believe that it is a very succinct and worthwhile definition which separates organised crime from the large bulk of what would be ordinary criminal activity in this State. We do not want to bog the commission down with looking at the latter. The Bill defines 'corrupt conduct' as follows:

(a) conduct of a person that adversely affects, or could adversely affect, directly or indirectly the honest or impartial exercise of an official function by a public official or public authority;

(b) conduct of a public official that constitutes or involves the dishonest or partial exercise of his or her official functions;

(c) conduct of a public official or former public official that constitutes or involves a breach of public trust;

or

(d) conduct of a public official or former public official that involves the misuse of information acquired in the course of his or her official functions (whether or not for his or her benefit or for the benefit of any other person),

if that conduct constitutes or involves—

(e) a criminal offence;

(f) grounds for disciplinary action under any law;

or

(g) grounds under any law for removing a public official from office,

whether or not proceedings for an offence, disciplinary action or removal from office can still be taken.

Subclause (3) provides specific examples of corrupt conduct, including bribery, obtaining or offering secret commissions and perverting the course of justice. The list is not exhaustive and in no way limits the generality of the definition, but it is an interesting and quite long list. Clause 4 provides that the Bill is to bind the Crown. Clause 6 provides for the constitution of the commission as follows:

(a) a Commissioner appointed by the Governor on the address of both Houses of Parliament;

and

(b) such assistant commissioners (if any) as the Governor may, with the concurrence of the Commissioner, appoint.

Clause 8 deals with the terms of appointment. A member of the commission can be appointed for a term of up to five years and is eligible for reappointment, but cannot hold office for terms totalling more than five years. The commissioner can only be removed on the address of both Houses of Parliament. Insofar as that clause enables the Parliament to choose a term, which may be one, two, three, four and up to five years, it is significant. The Bill is not specific, but it provides that a person can serve up to five years and, also, that the commissioner can only be removed on a motion passed by both Houses of Parliament, so he or she cannot be dismissed at the whim of the Government of the day.

Clause 13 sets out the functions of the commission. Subclause (1) lists the commission's 14 principal functions, which include the investigation of allegations of corrupt conduct in organised crime, various advising and educating functions aimed at revising and changing the method of work and procedures of public authorities and public officials to reduce the likelihood of the occurrence of corrupt conduct and organised crime. It also includes educating the community on strategies to combat corrupt conduct and organised crime. Further, the commission's function is to educate the public about the importance of maintaining the integrity of public administration and to enlist and foster public support in combating corrupt conduct and organised crime.

It is important for members to realise that the Democrats do not see the commission's sole function as following up and tracking down the actual offenders after the offence has occurred but, rather, to undertake important preventive measures. That would embrace the recommendation to change procedures within the public sector and to educate the public. The commission is also required to investigate any matter referred to it by Parliament and to develop, arrange, supervise, participate in or conduct such educational or advisory programs as may be described in a reference to the commission by Parliament.

Other principal functions are listed in the Bill, including to assemble for the Attorney-General evidence that may be admissible in the prosecution of a person for a criminal offence against a law of this State in connection with corrupt conduct or organised crime, and to furnish to the Attorney-General other evidence obtained in the course of its investigations (being evidence that may be admissible in the prosecution of a person for a criminal offence against a law of another State, the Commonwealth or a Territory), and to recommend what action should be taken. Members should note that any action and prosecution must be at the instigation of the Attorney-General: the commissioner cannot instigate such action.

That same clause also provides that, if evidence or information is furnished to a person by the commissioner on the understanding that it is confidential, that person is subject to the secrecy provisions and it is very important that, if people are to come forward and give material with confidence to this commission, they should feel secure that, where they are entitled to confidentiality, it will be strictly enforced, otherwise the commission will not receive much of the material that would be useful and important in attacking organised crime and corruption. This is one of the major deficiencies in anything that has been presented so far as an alternative to an independent commission. Nothing else can offer (nor does it pretend to offer) the convenience, the confidentiality and the safety of an independent commission for people who are tentative and nervous about coming forward to provide information.

Clause 20 provides that, on receipt of a complaint, on its own initiative, the commission may make an investigation on a report or on a reference to it and may do so, even though no particular person has been implicated in the matter. Clause 21 allows a complaint to be made by any person or body of persons about a matter concerning corrupt conduct or organised crime. The commission has a discretion to investigate a complaint, to not investigate it, or to discontinue an investigation. However, before making any such decision, the commission should consult the Operations Review Committee, which I will describe in a little more detail further on. That obviously gives the commission the power to withdraw from anything which will not yield satisfactory results and to avoid the obligation of pursuing frivolous and vexatious matters.

Clause 22 allows the commission to refuse to investigate or to discontinue an investigation of a complaint if the matter is trivial, frivolous, vexatious, or if the complaint is not made in good faith. Other matters need not be investigated if they are trivial, or if an investigation is unnecessary or unjustifiable. However, this power cannot be used in relation to matters referred by Parliament. Either House of Parliament has the power to refer a matter to the commissioner and that commissioner is then obliged to investigate that matter and report back to Parliament. There is no option for the Commissioner not to act on that.

Clause 32 provides for the holding of public and private hearings. A hearing must be held in public unless the commission directs that a private hearing is to be held. The commission may give certain directions as to who may be present at a private hearing. It is important wherever possible—and this is the practice in the Fitzgerald inquiry—to hold open hearings. It is only under very special circumstances that a private hearing will be tolerated or approved by the commission, bearing in mind that the preliminary assessment of the information will have been made confidentially in camera before any decision as to the nature of the hearing—if indeed the hearing is to go ahead.

Clause 33 empowers the commission to allow legal representation at a hearing. Clause 34 provides for the examination and cross-examination of witnesses at a hearing with the commission's leave. On the issue of privilege, subject to two exceptions, clause 35 denies a person who attends a hearing or appears before the commission the right to refuse to answer a question or produce a document but provides that such evidence is not admissible except in civil proceedings against the person or proceedings against the person for an offence against this clause or if the person does not object to giving the evidence.

There are two significant and important exceptions which were the subject of some debate in New South Wales: first, an answer or document or other thing that contains a privileged communication passing between a legal practitioner and a person for the purpose of providing or receiving legal professional services in relation to the appearance, or reasonably anticipated appearance, of a person at a hearing before the commission and, secondly, confessions made to a member of the clergy.

The first exception does not apply if a person having authority to do so waives privilege. The second exception does not apply if the confession was made for a criminal purpose or if the person who made the confession agrees to its disclosure. It may be interesting in the Committee stage—if we get that far; and I hope we do—to look at how one can make a confession for a criminal purpose.

Clause 47 empowers the Commissioner to make such arrangements as are necessary to avoid prejudice to the safety of, or to protect, a witness. This is a very important clause. The Commissioner, through this power, would be able to offer safety to those witnesses—and I hope they are very few—who fear for their lives and the safety of themselves and/or their families.

Clause 53 provides that if the commission is dissatisfied with a report of a relevant authority—and in this context relevant authorities are outlined in the Bill but refer to anybody about whom the commission has asked that certain action be taken or certain reports be returned to the commission—it must inform the authority of the grounds of its dissatisfaction and give the authority the opportunity to comment within a specified time. If after considering such comment the commission is still dissatisfied, it can submit

a report to the Minister responsible for the authority. If after considering any comments from the Minister responsible the commission is still dissatisfied, it can make a report to Parliament. Once again I point out that throughout this Bill Parliament stands supreme. The commission is only answerable directly to Parliament and can only be appointed and dismissed, in the ultimate sense, by Parliament. I believe that it is essential that this independence and stand-apart aspect of the commission is a guarantee that it will act in the best interests of South Australia.

Clause 54 imposes a duty on a relevant authority to comply with the commission's requirements or directions. I mentioned earlier the Operations Review Committee which comprises representatives from various walks of life appointed by the Governor on the recommendation of the Attorney-General with the consultation of the Commissioner. It acts as a deterrent for the commission becoming an ivory tower. The Operations Review Committee is closely involved with reviewing the proceedings of the commission. The Bill provides some detail as to how that committee will work. The committee's members will have some salary and allowances and will therefore be one of the ongoing costs of the commission.

A parliamentary joint committee is to be established to be known as the Committee of the Independent Commission Against Crime and Corruption, as outlined in clause 67. As soon as practicable after the commencement of this part of the Bill at the commencement of the first session of each Parliament this committee should be appointed.

Clause 68 provides for the membership of the committee to be three members of the Legislative Council appointed by the Council and six members of the House of Assembly to be appointed by the House. A Minister of the Crown is not eligible for appointment as a member of the joint committee.

Clause 71 sets out the joint committee's functions. These include the review of the exercise of the commission's functions, reporting to both Houses of Parliament on matters connected with the commission's functions, to examine annual and other reports of the commission, to examine trends and changes in corrupt conduct or organised crime and to inquire into any question in connection with the commission's functions referred to it by a House of Parliament. The joint committee cannot investigate a matter relating to particular conduct or reconsider any decision of the commission in relation to a particular investigation.

This obviously allows the Parliament to keep a relatively close watch and communication between it and the commission, but it cannot meddle with the investigations that the commission has in hand. It will not be a surrogate commission in its own right. It is purely a facilitating or a scrutinising committee, but not in any way part of the commission's job.

Clause 77 provides that either House of Parliament may, by resolution, refer certain matters to the commission for investigation or other action and vary or revoke any such reference. The commission is obliged to investigate fully a matter referred to it by Parliament and to comply as fully as possible with any directions contained in a reference by Parliament.

Clause 78 deals with the reports that the commission is required to prepare in relation to matters referred by Parliament. These reports can be special reports by the commission on administrative or general policy matters and there will be a prepared annual report of its operations for Parliament, which will be a mandatory requirement.

Clause 96 empowers the Commissioner to certify a contempt of the commission to the Supreme Court and for the examination and punishment of the offender by the Supreme Court.

Clause 99 provides that the commission is not bound by the rules of evidence and can inform itself on any matter in such manner as it considers appropriate. The commission is required to exercise its functions with as little formality and technicality as possible, particularly to conduct hearings with as little emphasis on an adversarial approach as is possible.

I hope that the Council—and others who are interested in the work of the commission—will take note of the character of this clause. It means that the commission has the freedom to work outside the restraints of normal court procedure and that it is encouraged to do so in a way that will encourage people to come forward and be open in their communication with the commission. The fact that there will be as little emphasis on an adversarial approach as possible is one of the significant reasons for the requirement of a commission and the current court systems which are based on an adversarial approach will not and can never compensate for the lack of a commission.

Clause 100 authorises the commission to carry out investigations even though proceedings may be in or before a court, tribunal, royal commission, warden, etc. (subject to any such investigations being carried out, as far as practicable, in private and any report to Parliament on an investigation being deferred during the currency of such proceedings). This is an important clause. It means that the commission can continue although certain matters may be, as we have described them, *sub judice*, and with certain requirements of discretion the commission can—and I believe that this is to its advantage and that of South Australia—continue to investigate a matter and will not be temporarily stopped because a certain matter has come before the court.

Honourable members would realise that if there were those who wanted to frustrate the work of the commission, one way would be to bring a the matter before a court unless the commission had this capacity to continue its investigation.

Clause 102 is a secrecy provision. A person to whom the clause applies must not, except for the purposes of this Bill or otherwise in connection with the person's powers or functions under this Bill, make a record of any information or divulge or communicate to any person any information, being information acquired by the person by reason of or in the course of the exercise of the persons's powers or functions under this Bill. In simple terms that means that the commission will insist on secrecy, so or once again there is this sense of security that can be put around those people who have information but who are very nervous about their situation and want confidentiality observed.

Clause 103 empowers the commission, where it considers it desirable in the interests of the administration of justice to do so, to direct that certain evidence or information, or part of it, not be published or not be published except in such manner, and to such persons, as the commission specifies. A person must not make a publication in contravention of a direction of the commission. I imagine that this may be a clause of some controversy. It does have two effects, one of which is that there is an allegation possibly of a form of censorship exercisable by the commission. On the other hand, it once again allows for protection of people who otherwise would not come forward, and the information that they provide would not be available to the commission, and therefore, to the benefit of the State. So, certainly on the face of it, I believe that it is an important clause for the proper working of the commission.

Clause 106 imposes a duty on the Ombudsman, the Commissioner of Police, a principal officer of a public authority and a person who constitutes a public authority to report to the Commissioner any matter that he or she suspects may concern corrupt conduct or organised crime. Clause 107 provides that the commission may recommend to the Attorney-General that a person be granted an indemnity from prosecution or an understanding that certain evidence will not be used against him or her. Again, this is a very important tool in the hands of the commission, to ensure that important information comes forward. If one looks at the work of the Fitzgerald inquiry in Queensland, one sees that it is not hard to see how so much of that material would never have come forward had it not been for the granting of indemnity under certain circumstances.

Clause 108 is designed to preserve the rights and privileges of Parliament in relation to freedom of speech, debates and proceedings in Parliament so that we can carry on regardless. The commission cannot control the verbal activities of this place.

In concluding my second reading explanation remarks, I would like to observe two things. First, I have been criticised frequently for not coming forward with hard evidence of corruption of organised crime in South Australia, and the old phrase 'put up or shut up' has been used. I make the point again that, had I got evidence which clearly was actionable, it more than likely would have got somewhere else where action could have been taken. Secondly, it is certainly at a stage, if it is as clear and precise as that, where I would have passed that information on, as I had indeed passed on to the NCA all the information that I have. I would not have sat on it.

However, quite a lot of material that has come to me has involved allegations, and in some of it people have been named. I have felt it quite irresponsible of me to bandy about the names of people who may well be completely innocent of the allegation. I am not in a position to investigate them, nor do I have any enthusiasm to do so. However, I make the point that the information has been brought to me, and that I dearly wish that there was in place a commission as outlined in this Bill to which the material could be referred.

My final point is that, if the Attorney-General's argument was followed that there would be no justification for establishing an independent commission until hard evidence had been produced, there would have been no Fitzgerald inquiry in Queensland. That inquiry was established on the allegations, and inferences of a television program, and there was no hard evidence to justify the establishment of the Fitzgerald inquiry, and certainly there was no concept that it would move as widely and as productively as it has. So, it is a nonsense argument to say that there will be no justification for an independent commission unless I put up hard evidence to justify the establishment of such a commission.

I plead with honourable members to look at the Bill as a long-term palliative to the situation in South Australia. I have never attempted to portray South Australia as an evil, sick State. However, we certainly cannot ignore the fact that there are malpractices in wide areas. One hopes that they are confined (as I believe they are) to small pockets. We certainly have organised crime established in this State, and it is my firm conviction and the conviction of the Democrats that an independent commission against crime and corruption is the most effective single measure that can be implemented at this time to reduce (I doubt whether we can ever eradicate it) organised crime and corruption, as well as to produce an alert, educated public. This will make organised crime and corruption much more difficult and much less profitable in South Australia. So, I recommend to the Council this Bill to set up this independent commission against crime and corruption. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 to 4 deal with preliminary matters.

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 is an interpretation provision. Subclause (1) defines various words and phrases used in the Bill. In particular, 'public authority', 'public official' and 'organised crime' are defined.

'Organised crime' is defined to mean a course of criminal conduct or series of criminal offences that involves substantial planning and organisation and is carried out principally for the profit of persons other than those who commit the offences.

Subclause (2) defines 'corrupt conduct'. Corrupt conduct is:

(a) conduct of a person that adversely affects, or could adversely affect, directly or indirectly, the honest or impartial exercise of an official function by a public official or public authority;

(b) conduct of a public official that constitutes or involves the dishonest or partial exercise of his or her official functions;

(c) conduct of a public official or former public official that constitutes or involves a breach of public trust; or

(d) conduct of a public official or former public official that involves the misuse of information acquired in the course of his or her official functions (whether or not for his or her benefit or for the benefit of any other person).

if that conduct constitutes or involves—

(i) a criminal offence;

(ii) grounds for disciplinary action under any law; or

(iii) grounds under any law for removing a public official from office,

whether or not proceedings for an offence, disciplinary action or removal from office can still be taken.

Subclause (3) provides 23 specific examples of conduct that is corrupt conduct (for example, bribery, obtaining or offering secret commissions or perverting the course of justice) but this list is not exhaustive and no way limits the generality of the definition in subclause (2).

Subclause (4) provides that conspiring or attempting to engage in conduct referred to in subclauses (2) or (3) also constitutes corrupt conduct.

Subclause (5) extends the application of the Bill to conduct that occurs before the commencement of this Bill, conduct that constitutes corrupt conduct only after the person engaging in it becomes a public official and conduct that occurs outside South Australia.

Clause 4 provides that the Bill is to bind the Crown.

Clauses 5 to 19 deal with the Commission and its functions.

Clause 5 establishes the Independent Commission Against Crime and Corruption. It provides that the Commission is a body corporate and endows it with full juristic capacity.

Clause 6 provides for the constitution of the Commission. The Commission is to consist of a Commissioner appointed by the Governor on an address of both Houses of Parlia-

ment and such assistant commissioners (if any) as the Governor may, with the concurrence of the Commissioner, appoint.

Clause 7 sets out the qualification requirements for appointment as Commissioner or assistant commissioner. Members of the judiciary and of legislatures are disqualified.

Clause 8 deals with terms of appointment of members of the Commission. A member of the Commission can be appointed for a term of up to five years and is eligible for reappointment but cannot hold office for terms totalling more than five years. The Commissioner can only be removed on the address of both Houses of Parliament. The clause specifies when a member's office becomes vacant. In the event of the Commissioner's office becoming vacant, a person must be appointed to fill the vacancy.

Clause 9 provides for the salary and allowances of a member of the Commission to be as determined by the Governor and appropriates the General Revenue of the State to the necessary extent.

Clause 10 makes provision for the appointment of an Acting Commissioner and acting assistant commissioners.

Clause 11 prohibits a member of the Commission from engaging in any remunerative employment or undertaking outside official duties without the Minister's approval.

Clause 12 provides that a member of the Commission is not a Public Service employee.

Clause 13 sets out the Commission's functions. Subclause (1) lists the Commission's fourteen principal functions. These include the investigation of allegations of corrupt conduct and organised crime, various advising and educating functions aimed at the end of revising and changing the methods of work and procedures of public authorities and public officials to reduce the likelihood of the occurrence of corrupt conduct and organised crime, educating the community on strategies to combat corrupt conduct and organised crime, on the importance of maintaining the integrity of public administration and to enlist and foster the public's support in combating corrupt conduct and organised crime.

The commission is also required to investigate any matter referred to it by Parliament and develop, arrange, supervise, participate in or conduct such educational or advisory programmes as may be described in a reference to the commission by Parliament. Other principal funcitons includes functions incidental or ancillary to those specified in subclause (1).

Subclause (2) sets out other functions of the commission, namely, to assemble and furnish to the Attorney-General evidence that may be admissible in a prosecution for a criminal offence against the law of South Australia in connection with corrupt conduct or organised crime and to furnish to the Attorney-General other evidence obtained in the course of its investigations (being evidence that may be admissible in a prosecution for an offence against the law of another State, the Commonwealth or a Territory) and recommend what action should be taken.

Subclause (3) empowers the commission to furnish information relating to the exercise of a public authority's functions to the Minister responsible for the authority and to make to that Minister such recommendations as the commission considers appropriate.

Subclause (4) provides that if evidence or information is furnished to a person under this clause by the commission on the understanding that it is confidential, that person is subject to the secrecy provisions of clause 102.

Subclause (5) requires the commission to treat the protection of the public interest and the prevention of breaches of public trust as of paramount importance in the exercise of its functions.

Clause 14 provides for the establishment of task forces and co-operation with other State, Commonwealth and joint task forces.

Clause 15 provides that the commission should work in co-operation with law enforcement agencies and certain persons and bodies in carrying out its investigations. The commission is authorised to consult with and disseminate intelligence and information to certain persons and bodies. The clause contains a provision with respect to the confidentiality of information, in similar terms to that in clause 13 (4).

Clause 16 gives the commission a general incidental power.

Clause 17 empowers the commission to employ such staff as it needs for the purposes of this Bill and to engage persons to provide services, information or advice. The clause also allows the commission to make use of, with the approval of the relevant Minister, the staff of a department, office or authority, and, with the approval of the Minister after consultation with the Commissioner of Police, of a member of the police force.

A member of the staff of the commission is not a Public Service employee but the Minister can, by notice, provide that certain provisions of the Government Management and Employment Act 1985, apply to Public Service employees assigned to the commission.

Clause 18 empowers the commissioner to appoint a legal practitioner to assist the commission.

Clause 19 provides for the delegation of powers and functions of the commission, the Commmissioner and assistant commissioner. Certain powers and function can only be delegated to an assistant commissioner and some of these can only be delegated if the Commissioner is of the opinion that there may be a conflict of interest if the power or function is not delegated or that it is in the interests of justice to do so.

Clauses 20 to 38 deal with investigations and hearings.

Clause 20 provides that the commission may make an investigation on receipt of a complaint, on its own initiative, on a report or on a reference to it and may do so even though no particular person has been implicated in a matter.

Clause 21 allows a complaint about a matter concerning corrupt conduct or organised crime to be made by any person or body of persons. The commission has a discretion to investigate a complaint or not investigate it or discontinue an investigation. However before making any such decision the commission should consult the Operations Review Committee.

It is an offence for a person to wilfully make a false statement to, or mislead or attempt to mislead, the commission or its officers in making a complaint. The maximum penalty is a fine of $2 000 or imprisonment for six months.

Clause 22 allows the commission to refuse to investigate, or discontinue an investigation of, a complaint if the matter is trivial, frivolous, vexatious or the complaint is not made in good faith. Other matters need not be investigated if trivial or if an investigation is unnecessary or unjustifiable. This power cannot be used in relation to matters referred by Parliament.

Clause 23 empowers the commission to require a public authority or public official to provide a statement of information. It is an offence, without reasonable excuse, to fail to comply with such a requirement or, in purported compliance, to knowingly furnish information that is false or misleading. The maximum penalty is a fine of $2 000 or imprisonment for six months.

Clause 24 empowers the commission to require a person to attend before it and produce a document or other thing.

It is an offence to fail, without reasonable excuse, to comply with such a requirement. The maximum penalty is a fine of $2 000 or imprisonment for six months.

Clause 25 empowers the Commissioner or a person authorised by the commission to enter premises used by a public authority or public official and inspect a document or other thing and take copies of a document (but not a document or other thing that relates to the relationship between the State Bank or the SGIC and a client of the Bank or SGIC).

Clause 26 saves certain claims of privilege in relation to the disclosure of information or production of a document required by the commission pursuant to clause 23 or 24.

Clause 27 similarly saves certain claims of privilege in relation to entry on premises and inspection and copying of documents under clause 25.

Clause 28 provides that a statement of information or a document or other thing produced under clause 23 or 24 that tends to incriminate the person producing it cannot be used as evidence against the person except in proceedings for an offence against this Bill.

Clause 29 authorises the Supreme Court to grant injunctions restraining a person from engaging in conduct that relates to an investigation or proposed investigation by the commission. Before doing so the court must be satisfied that the conduct sought to be restrained is likely to impede the investigation or proposed investigation or that it is necessary in the public interest to restrain the conduct.

Clause 30 provides that certain powers are exercisable in relation to an investigation whether or not a hearing is being held before the commission for the purposes of the investigation.

Clause 31 empowers the commission to hold hearings for the purposes of an investigation.

Clause 32 provides for the holding of public and private hearings. A hearing must be held in public unless the commission directs that a private hearing is to be held. The commission may give certain directions as to who may be present at a private hearing. It is an offence for a person to be present at a hearing in contravention of such a direction. The maximum penalty is a fine of $4 000 or imprisonment for 12 months.

Clause 33 gives certain persons a right of appearance at a hearing and empowers the commission to allow legal representation at a hearing.

Clause 34 provides for the examination and cross-examination of witnesses at a hearing with the commission's leave.

Clause 35 empowers the Commissioner to summon witnesses to give evidence and produce documents or other things. The clause also empowers the member of the commission presiding at a hearing to require a person appearing at the hearing to produce a document or other thing. There is provision empowering the presiding member to require a witness to take an oath or make an affirmation and authorising the member to take oaths and affirmations.

It is an offence for a witness to fail to attend as required by the summons or to fail to attend from day to day unless excused or released. The maximum penalty is a fine of $2 000 or imprisonment for six months. It is also an offence for a witness to refuse or fail to take an oath or make an affirmation when required, to fail to answer a question made by the commission or to produce a document as required. The maximum penalty is a fine of $4 000 or imprisonment for 12 months.

It is a defence to a prosecution for an offence of failing or refusing to produce a document or other thing for the defendant to show that the document or other thing was not relevant to an investigation.

Privilege

Subject to two exceptions, the clause denies a person who attends a hearing or appears before the commission the right to refuse to answer a question or produce a document but provides that such evidence is not admissible except in civil proceedings against the person or proceedings against the person for an offence against this clause or if the person does not object to giving the evidence.

The two exceptions are—

(a) an answer or document or other thing that contains a privileged communication passing between a legal practitioner and a person for the purpose of providing or receiving legal professional services in relation to the appearance, or reasonably anticipated appearance, of a person at a hearing before the commission;

and

(b) confessions made to a member of the clergy.

The first exception does not apply if a person having authority to do so waives privilege. The second exception does not apply if the confession was made for a criminal purpose or if the person who made the confession agrees to its disclosure.

Clause 36 empowers the making of a declaration that answers, documents or other things are given or produced subject to a general objection by the witness concerned, so as to avoid the need for repeated objections.

Clause 37 provides for the bringing of prisoners before the commission where their attendance is required.

Clause 38 empowers a justice, on application of the Commissioner, to issue a warrant for the arrest of a witness who fails to attend the commission in answer to a summons. A justice can also issue a warrant for the arrest of a person if it is probable that a person will not attend the commission to give evidence unless compelled to do so or is about to, or is preparing to leave the State.

Clauses 39 to 46 deal with search warrants.

Clause 39 authorises the issue of a search warrant by a justice or the commission.

Clause 40 sets out the powers conferred by a search warrant.

Clause 41 requires a person executing a search warrant to produce it for inspection if required by the occupier of the premises to be searched.

Clause 42 authorises a person executing a warrant to use force to enter premises.

Clause 43 allows the use of assistants in executing warrants.

Clause 44 allows for the execution of search warrants by night (that is between 9 p.m. on any day and 6 a.m. the following day) where authorised by the warrant.

Clause 45 provides for the expiry of search warrants.

Clause 46 provides for the seizure and retention of documents and other things found as a result of a search.

Clause 47 empowers the Commissioner to make such arrangements as are necessary to avoid prejudice to the safety of, or to protect, a witness.

Clause 48 provides for the payment of witness fees and for these to be ascertained in accordance with the scale prescribed by regulation, or if there is no such scale, to be such an amount as the commission determines.

Clause 49 empowers the Attorney-General to give legal or financial assistance to a witness who is or is about to appear before the commission.

Clauses 50 to 55 deal with the referral of matters by the commission.

Clause 50 is an interpretation provision.

Clause 51 authorises the commission to refer a matter to any appropriate person or body (the 'relevant authority').

Clause 52 empowers the commission to require a relevant authority to report on the action taken by the authority in relation to a matter referred to it.

Clause 53 provides that if the commission is dissatisfied with a report of a relevant authority it must inform the authority of the grounds of its dissatisfaction and give the authority the opportunity to comment within a specified time. If after considering such comment the commission is still dissatisfied, it can submit a report to the Minister responsible for the authority. If after considering any comments from the Minister responsible the commission is still dissatisfied, it can make a report to Parliament (see clause 81).

Clause 54 imposes a duty on a relevant authority to comply with the commission's requirements or directions.

Clause 55 empowers the commission to revoke or vary a referral, recommendation, requirement or direction.

Clauses 56 to 66 deal with the Operations Review Committee.

Clause 56 is an interpretation provision.

Clause 57 establishes the Operations Review Committee.

Clause 58 provides that the Committee consists of seven members, being the Commissioner, an assistant commissioner and five persons appointed by the Governor on the recommendation of the Attorney-General, of whom four will be appointed to represent community views.

Clause 59 provides for the appointment of acting appointed members.

Clause 60 provides that a Minister of the Crown is not eligible for appointment as a member.

Clause 61 sets out the terms of appointment of appointed members. An appointed member cannot hold office for more than two years but is eligible for reappointment. An appointed member cannot be removed from office except on the recommendation of the Attorney-General with the concurrence of the Commissioner. The clause also specifies when an appointed member's office becomes vacant. In the event of a vacancy a person must be appointed to fill the vacancy.

Clause 62 provides that the salary and allowances of an appointed member will be as determined by the Governor.

Clause 63 provides that an appointed member is not, by virtue of that office, a Public Service employee. It enables a person who holds an office under some other Act to hold both that office and the office of an appointed member. The clause also makes it clear that the office of an appointed member of the Committee is not, for the purposes of any Act, an office or place of profit under the Crown.

Clause 64 sets out the Committee's functions. These are to advise the commission as to whether the commission should investigate or discontinue an investigation of a complaint and to advise the commission on such other matters as the commission may refer to the Committee. The Commissioner is obliged to consult with the Committee on a regular basis at least once every three months.

Clause 65 deals with the calling of, and the procedure at, meetings of the Committee.

Clause 66 requires members of the Committee to disclose any interests in a matter before the Committee or things being done by the commission and prohibits them from taking part in any deliberations or decisions with respect to such a matter or from exercising any power or function with respect to such a thing.

Clauses 67 to 75 deal with the Parliamentary Joint Committee.

Clause 67 requires the establishment of a Parliamentary Joint Committee to be known as the committee on the Independent Commission Against Crime and Corruption, as soon as practicable after the commencement of this part of the Bill and the commencement of the first session of each Parliament.

Clause 68 provides for the membership of the Committee to be three members of the Legislative Council appointed by the Council and six members of the House of Assembly to be appointed by the House. A Minister of the Crown is not eligible for appointment as a member of the Joint Committee.

Clause 69 provides for the election of a presiding officer and an assistant presiding officer of the Committee.

Clause 70 specifies when a Committee member's office becomes vacant.

Clause 71 sets out the Joint Committee's functions. These include the review of the exercise of the commission's functions, reporting to both Houses of Parliament on matters connected with the commission's functions, to examine annual and other reports of the commission, to examine trends and changes in corrupt conduct or organised crime and to inquire into any question in connection with the commission's functions referred to it by a House of Parliament. The Joint Committee cannot investigate a matter relating to particular conduct or reconsider any decision of the commission in relation to a particular investigation.

Clause 72 deals with the calling of, and the procedure at, meetings of the Joint Committee.

Clause 73 gives the Committee power to send for persons, papers and records. Evidence must be taken in public except where, pursuant to clause 74, a witness requests that evidence be taken in private.

Clause 74 provides for the taking of evidence in private at the request of a witness. Where evidence is so taken, it must not be disclosed or published without the consent in writing of the witness and the authority of the Committee. The maximum penalty is a fine of $2 000 or imprisonment for six months. Where evidence is taken in private otherwise than at the request of a witness, the evidence must not be disclosed or published without the authority in writing of the Committee. The maximum penalty is a fine of $2 000 or imprisonment for six months. Both these prohibitions bind members of the Committee.

The clause does not prohibit the disclosure or publication of evidence that has already been lawfully published or the disclosure or publication by a person of a matter of which the person has become aware other than by reason, directly or indirectly, of the giving of evidence before the Joint Committee.

Where evidence taken by the Joint Committee in private is disclosed or published in accordance with this clause it is a defence to proceedings (other than proceedings for defamation) brought in respect of the disclosure or publication if it is proved that the disclosure or publication was authorised under the clause. In the case of proceedings for defamation brought in respect of the publication of a report of evidence given to the Joint Committee in private, it is a defence to the proceedings if the report is a fair report.

Clause 75 provides for the validity of acts and proceedings of the Joint Committee notwithstanding a vacancy in the office of a member of the Committee or any defect in the appointment, or any disqualification, of a member of the Committee existing at the time when the act or proceeding was done, taken or commenced.

Clauses 76 to 82 deal with references by and reports to Parliament.

Clause 76 is an interpretation provision.

Clause 77 provides that either House of Parliament may, by resolution, refer certain matters to the commission for investigation or other action and vary or revoke any such reference. The commission is obliged to fully investigate a matter referred to it by Parliament and to comply as fully as possible with any directions contained in a reference by Parliament.

Clause 78 deals with the reports that the commission is required to prepare in relation to matters referred by Parliament.

Clause 79 provides for the making of special reports by the commission on administrative or general policy matters relating to the functions of the commission.

Clause 80 requires the commission to prepare annual reports of its operations for Parliament.

Clause 81 provides that if the commission has made a recommendation to an authority that certain action be taken in relation to a matter under investigation and the recommendation has not been adopted, the commission may report the matter to Parliament (see clause 53).

Clause 82 requires the tabling in Parliament of reports of the commission. The commission can recommend that a report be made public forthwith and in the case of a report being made public before being laid before Parliament, it attracts the same privileges and immunities as if it had been so laid.

Clauses 83 to 93 create various offences.

Clause 83 makes it an indictable offence for a person to give evidence at a hearing before the commission that is, to the knowledge of the person, false or misleading in a material particular. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 84 creates several offences relating to the destruction of evidence.

Subclause (1) makes it an indictable offence for a person to wilfully destroy or do certain things to a document or other thing to prevent it being used in connection with an investigation, knowing that it is or may be required in connection with an investigation. The maximum penalty is a $8 000 fine or imprisonment for two years.

Subclause (2) makes it an indictable offence for a person to destroy or alter a document or other thing relating to the subject matter of an investigation or to send, attempt to send or conspire with another person to send out of the State any such document or other thing or any property of, or in the disposition of or under the control of, a person whose affairs are the subject matter of an investigation, with intent to delay or obstruct the carrying out of the investigation. The maximum penalty is a $15 000 fine or imprisonment for four years.

Subclause (3) makes it an indictable offence for a person to fabricate evidence with intent to delay or obstruct an investigation or mislead the commission, if the evidence is given to the commission. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 85 makes it an indictable offence for a person to practise any fraud or deceit on, or knowingly make or exhibit a false statement, etc. on a witness with intent to affect the testimony of the witness or his or her compliance with a notice to produce a statement of information or documents, etc. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 86 makes it an indictable offence for a person to wilfully prevent or endeavour to prevent a person summoned to attend before the commission from attending as a witness or producing evidence pursuant to a summons. The maximum penalty is a $15 000 fine or imprisonment for four years. The clause also makes it an indictable offence for a person to wilfully prevent, etc. a person complying with a requirement to produce a statement of information or produce a document or other thing. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 87 makes it an indictable offence to injure, punish, etc. a witness. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 88 makes it an indictable offence for an employer to dismiss an employee or prejudice an employee in his or her employment on account of the employee having given evidence to the commission. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 89 makes it an offence to impersonate an officer of the commission or for an officer to represent that he or she is of a particular class, of which he or she is not. The maximum penalty is a $4 000 fine or imprisonment for one year.

Clause 90 makes it an indictable offence for a person to procure or cause or attempt or conspire to procure or cause the giving of false evidence or false or misleading information to the commission. The maximum penalty is a fine of $15 000 or imprisonment for four years.

Clause 91 makes it an indictable offence for a person to take certain action in order to get a witness to give false evidence or withhold true evidence. The maximum penalty is a $15 000 fine or imprisonment for four years.

Clause 92 creates certain indictable offences with respect to bribery of officers of the commission. The maximum penalty in each case is a fine of $15 000 or imprisonment for four years.

Clause 93 creates certain offences with respect to obstruction of the Commission. The maximum penalty is a $4 000 fine or imprisonment for one year.

Clauses 94 to 99 deal with contempt of the commission.

Clause 94 is an interpretation provision.

Clause 95 sets out what acts constitute contempt of the commission.

Clause 96 empowers the commissioner to certify a contempt of the commission to the Supreme Court and for the examination and punishment of the offender by the Supreme Court.

Clause 97 contains certain ancilliary provisions. The Commissioner may summon a person to show cause why he or she should not be dealt with for contempt. If the person fails to attend in answer to the summons, the Commissioner can apply to a justice for the issue of a warrant for the arrest of the person and the bringing of him or her before the Commissioner to show cause. In the case of a contempt committed in the face of the Commission there is no need for a summons and a member of the police force can take the offender into custody there and then and call on the person to show cause.

Clause 98 provides that an act or omission that constitutes both an offence and a contempt of the commission can be punished either as an offence or as a contempt but an offender cannot be punished for both.

Clauses 99 to 112 deal with various other matters.

Clause 99 provides that the commission is not bound by the rules of evidence and can inform itself on any matter in such manner as it considers appropriate. The Commission is required to exercise its functions with as little formality and technicality as possible, particularly to conduct hearings with as little emphasis on an adversarial approach as is possible.

Clause 100 authorises the commission to carry out investigations even though proceedings may be in or before a court, tribunal, royal commission, warden, etc. (subject to any such investigations being carried out, as far as practic-

able, in private and any report to Parliament on an investigation being deferred during the currency of such proceedings).

Clause 101 provides that no liability (apart from this Bill) attaches to a member of the commission, a person acting under the direction of the commission or Commissioner or to any other person engaged in the administration of this Bill, for an honest act or omission in the exercise or purported exercise of a power or function under the Bill. Liability lies instead on the Crown. The clause also provides that a legal practitioner assisting, or appearing before, the commission has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings in the Supreme Court.

Clause 102 is a secrecy provision. A person to whom the clause applies must not, except for the purposes of this Bill or otherwise in connection with the person's power or functions under this Bill, make a record of any information or divulge or communicate to any person any information, being information acquired by the person by reason of or in the course of the exercise of the person's powers or functions under this Bill. The maximum penalty is a $4 000 fine or imprisonment for one year.

A person to whom the clause applies cannot be required to produce in any court any document or other thing that the person has custody or control by reason of, or in the course of, the exercise of the person's powers or functions or to divulge or communicate to any court any matter, etc., that has come to the person's notice in the exercise of the person's powers or functions, except for the purposes of a prosecution instituted as a result of the commission's investigations.

The clause does not prevent a person to whom it applies from divulging information for the purposes of this Bill, for the purposes of a prosecution instituted as a result of the commission's investigations, in accordance with the directions of the Commissioner, or to any prescribed authority or person.

The clause applies to officers (including former officers) of the commission, legal practitioners (including former legal practitioners) appointed to assist the commission (including a person acting on behalf or such a legal practitioner), a member or former member of the Operations Review Committee and the Attorney-General and other persons involved in prosecutions for offences.

Clause 103 empowers the commission, where it considers it desirable in the interests of the administration of justice to do so, to direct that certain evidence or information or part of it, not be published or not be published except in such manner, and to such persons, as the commission specifies. A person must not make a publication in contravention of a direction of the commission. The maximum penalty is a $4 000 fine or imprisonment for four years.

Clause 104 provides that if a person is charged with an offence in a court, the court may (after considering any representation of the Commissioner) require that evidence (subject to a direction referred to in clause 103) be made available to the person charged or to the prosecutor.

Clause 105 makes it an offence to disclose information about a notice to produce a statement of information or document, etc. or a summons to give evidence or produce documents, etc. if the disclosure is likely to prejudice an investigation. The maximum penalty is a fine of $4 000 or imprisonment for one year.

Clause 106 imposes a duty on the Ombudsman, the Commissioner of Police, a principal officer of a public authority and a person who constitutes a public authority to report any matter that he or she suspects may concern corrupt conduct or organised crime.

Clause 107 provides that the Commission may recommend to the Attorney-General that a peson be granted an indemnity from presecution or an understanding that certain evidence will not be used against him or her.

Clause 108 is designed to preserve the rights and privileges of Parliament in relation to freedom of speech, debates and proceedings in Parliament.

Clause 109 specifies how documents may be served for the purposes of this Bill.

Clause 110 provides that the maximum penalty applicable to a body corporate convicted of an offence against this Bill is double the pecuniary penalty otherwise applying to the offence.

Clause 111 provides that except where otherwise expressly provided by this Bill, the offences created by this Bill are summary offences.

Clause 112 is the regulation-making power.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

EDUCATION POLICY

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

That this Council expresses its grave concern at the Minister of Education's handling of his portfolio and in particular—

1. His failure to adequately consult school communities, i.e., parents, students and staff, before amalgamation and closure of schools;
2. His proposed school staffing formula for 1989;
3. His proposal to gag school principals and teachers.

(Continued from 7 September. Page 655.)

The Hon. M.J. ELLIOTT: My concluding remarks will be brief. Let me begin by noting that only a fortnight ago about 4 000 teachers and parents gathered on the steps of this place in a demonstration against the Minister of Education, and their expressed viewpoint was along the lines of that which is expressed in this motion.

One of the most important points that was made by the Institute of Teachers, by teachers generally and by parents is that there should be a curriculum guarantee for children and that education is accessible. The three points in this motion relate to that in no small way. It is about time that the State Government stopped putting out publications such as 'Education Budget 1989', which is one of the greatest furphies of all time. It tries to suggest that the department is doing a good job. If it were being honest with the people of South Australia, it would have a policy for curriculum guarantee, and school staff would respond to that guaranteed curriculum. The publication merely indicates that the department is playing games with numbers.

I will look at the document in detail another time, but it is worth noting the bar graph on the first page which displays, in real terms, recurrent expenditure for students. The increase per student is only marginal and it fails to recognise the very real problems that occur in schools as numbers start to decrease. As the number of students decreases, the cost per student increases. That is why the Government wants to close down a number of schools. However, even if student numbers decrease, schools still need groundsmen, librarians and secretaries to sit at the front desk. They remain a fixed cost. The Government claims that it is doing a good job because recurrent expenditure per student is increasing. However, that belies what is happening to the standard of education overall. I have already addressed the

question of the school staffing formula and the proposal to gag school principals and teachers.

My final point concerns the consultation process with school communities in relation to amalgamations and closures. I will not deal at any length with the question of school closures because they really need to be looked at on a school by school basis. There cannot be a hard and fast rule. There is no doubt in my mind that some schools will need to be closed. The question is whether some of the schools that are proposed to be closed or amalgamated should be.

After talking with many members of school councils and many parents, it is clear that the Government's consultation process is failing. It may be a question of goodwill on the part of the Government. To begin with, the Government has failed to recognise a couple of things about schools. First, school councils are fairly transient bodies. Having taught in schools for nine years and having been a school councillor for several years in my capacity as a teacher representative, it was my experience that most school councillors probably did a one or two year stint. It is a body that rarely has a large degree of experience in dealing with the Education Department.

When the Education Department starts making moves in any particular direction, I am not at all sure that school councils know how to react and what are the right or wrong things to do. If it were not for the guidance of school principals, school councils would be totally lost. It is interesting to note that the Government wants to gag school principals, who are the most experienced members of school councils. The Government has failed to recognise in the first instance that, in general terms, school councils comprise a large number of people who are inexperienced in school council matters.

The second important point is that school councils are not terribly representative of the parent body. The simple fact is that, at annual general meetings, only a few more parents turn up than are needed for a school council. I have been at meetings at which the required number have not arrived. Although it is pedantically correct to say that school councils have been involved in discussions and, therefore, that the school body has been consulted, in reality the consultation process simply has not reached the parents of the children at all.

It is worthwhile to look briefly at the consultation process that occurred with one school to give an indication of the way in which the process works. The schools in the Fulham/Henley Beach area have had a marked decline in student numbers because of changing demography and many of the schools have become quite small. The question of amalgamation or closure has been raised. I will read from a document that was prepared for the Fulham council, as follows:

In response to these enrolment trends and in line with Government policy, the Education Department has undertaken a rationalisation exercise, based on the assumption that small schools on large sites are uneconomic and are unable to provide the curriculum options which are available at larger schools. Furthermore in line with Government policy, the Education Department is investigating ways and means of disposing of surplus property, either by direct sale or leasing arrangements. Also as a consequence of reorganisation within the department and a 'back to school' policy there is a need to locate some units within vacant school accommodation. In the light of all these factors, the Director of Education in the Adelaide area appointed Mr Malcolm Bormann, a school principal, as a project officer to undertake an investigation into ways and means by which some rationalisation of school facilities in the Lockleys, Fulham, West Beach, Henley, Grange and Kidman Park zone could be achieved.

A first meeting of the principals and school council chairpersons concerned was held at 7.30 p.m. on 30 May. The meeting was attended by the Area Director, the Planning Officer, the Superintendent of Schools and Mr Bormann (See Appendix 2). Mr Bormann began work in accordance with a time line which included a collection of information, interpretations, preparation of three options, the presentation of the draft and community response, the refining of the draft and submission of the report and proposals to the Area Director. During this time Mr Bormann made himself available to attend meetings of school communities and councils.

Mr Bormann's final report was not made public, nor was it possible to obtain a copy of it. However, on 1 July, right on schedule, Mr Bormann sent an open letter to the Fulham Primary School community (Appendix 3). The letter concentrated on the proposal that only one school should serve the combined Henley Beach-Fulham community. Three options were advanced: to amalgamate Fulham with Henley on the Henley site; to close Fulham; to amalgamate both schools on a third site to be named. Mr Bormann did not indicate a preferred option and asked people to be 'patient for a little longer'. He did say that the Area Director would present the preferred option to the council on Monday 26 July. This meeting took place with the parents as well as the council and Mr Cusack informed the community that he would recommend that Fulham Primary School amalgamate with Henley on the Henley site.

At that point, future discussion was closed off. It is true that a couple of meetings took place with the school council. The major concern is that much of the decision making happened in the absence of the school council and it was informed after the decision had been made. A decision having been made, most people are reluctant to change their mind.

There are a number of problems. As I said, most school councils are relatively inexperienced and do not know how to react. School closure is a relatively rare event and there is not much history to go by. The Fulham council did not know how to react to the process. The larger school community was really not involved at any point until after the final decision had been made.

I attended a meeting of parents who were indeed upset. It is interesting to note that most of the people seemed to be accepting the need for a school closure in the area. As much as anything their anger was directed at the fact that the whole thing was a *fait accompli* by the time they had really become aware of the issue. It is very important that the State Government change the way that it consults. Lack of consultation is a weakness of this Government not only in education but in many areas. The sorts of processes it now sets up let certain people in closed cliques know what is going on and those people are often tied up in confidentiality, although that did not happen in this case. The wider community is kept largely ignorant. The decision making process here was happening behind the doors of the bureaucrats and not in the public arena.

I do not wish to address the question of closures generally, although I add that I believe the Government may be acting rashly. There are not enormous savings to be made in the closing of primary schools compared with high schools because they have a lot fewer specialist teachers. When there are specialist teachers, contracting numbers start to cause real problems in terms of the economics of supplying education. That is not true in smaller schools. The quality of education in small primary schools will be every bit as good as the quality of education in large primary schools, and I do not believe that many of the arguments the Government has used apply to primary schools.

Secondly, with the Government's avowed policy of urban consolidation, we have to expect that in the longer term there will be a turnaround in the demographics of inner and near metropolitan areas and that the time may indeed come when some schools start to burst at the seams and the Government may be left without the facilities to cope. That would be very sad. The Minister of Education has made a number of tragic mistakes of late and certainly has caused a great deal of concern in the education community.

I hope that in all three cases he would act and reverse the current process.

The Hon. CAROLYN PICKLES: I oppose the motion. I place on record that it is the view of the Government that the Minister of Education has nothing to defend in this area. His handling of his portfolio is second to none and he has been the most successful Minister of Education.

First, I address the consultation process, contained in the first part of the motion. In the past year, this State has seen some of the most wide ranging consultations ever undertaken in the education field. Members will recall the times that the Opposition has made snide and inaccurate remarks about consultation processes in eduction. I have no doubt that the Opposition will conveniently forget those occasions during this debate. Once again, if members of the Opposition support this motion, they will be trying to have it both ways: on the one hand they try to suggest that the Government and the Education Department do not consult enough, and on the other hand they claim that there is too much consultation. I wonder what the Opposition means by consultation? I wonder what its methods of consultation would be like. Do members opposite hope to emulate the type of consultation that their New South Wales counterparts are undertaking—the Metherell method, the 'crash through' technique that has managed to get every education group in New South Wales offside in less than six months?

Compare that with the broad consultations that have taken place with every major policy initiative that this Government has undertaken, for example, the primary education review, the Gilding Report on post-compulsory schooling, and the languages other than english development plan. These have involved thorough consultation at every stage, and consultation has been a hallmark of this Government's record in education. Consultation has characterised the Education Department's approach to the sensitive issues involved in restructuring educational services for the benefit of students.

Have members forgotten the South-West Corner Study, or the Joel Committee Report? Has the mover of this motion or the Opposition ever heard of these consultations? Or do they choose to ignore them because the facts inconveniently do not support their allegations? The South-West Corner Study, chaired by Ted Newberry, a former Mayor of Marion, involved extensive consultation with parents, students, teachers and other community members before recommending changes to services provided by eight high schools in the inner south-western metropolitan suburbs.

The Joel Committee considered the restructuring of secondary schools in the Elizabeth-Munno Para area. Not only did it undertake wide community consultation but it also had as members a wide range of community representatives. The result was an innovative group of proposals aimed at restructuring secondary schools in the area to improve the educational opportunities for students. Both of these highly successful projects were conducted with full consultation with the communities involved, which by itself should be enough to disprove the allegations embodied in this motion.

However, once again the Opposition is seeking to use a community's concerns for the education of its children as a political football and cynically cashing in on people's natural apprehensions about change. I refer, of course, to the way the Opposition has been trying to exploit the concerns of the school communities of Fulham and Henley Beach Primary Schools and Hindmarsh Primary School. This debate should be about ways of ensuring that educational opportunities are maintained and strengthened for students in areas where there are declining enrolments.

As usual, the Opposition is nitpicking away around the edges of a complex issue, trying to find some detail that they can knock. By knocking the process in this way they are denigrating the efforts of hundreds of parents, teachers and other community members who have put an enormous amount of time and energy into the consultation processes involved in finding ways of improving the educational opportunites for children in those areas. There has been a massive change in school enrolments because of changes in population patterns.

I notice from my copy of *Hansard* that my colleague, Mr Keith Plunkett, member for Peake, spoke about the enrolment decline in the western suburbs during the Address in Reply debate in another place. He described how the drop of 45 000 students over a 10 year period affected the western metropolitan suburbs which he represents—an area which includes the three schools Fulham, Henley Beach and Hindmarsh. Mr Plunkett certainly knows his electorate well and has been following the consultations about the schools in his area very closely. I am also well acquainted with the area, as I worked there for many years.

In a general area bounded east and west by South Road and the sea, and bounded north by Grange Road, Crittenden Road and Trimmer Parade, and bounded south by Burbridge Road, there are 18 schools—14 primary and four secondary. In this area there has been a massive decline in enrolments between 1981 and 1988—from 8 330 to 5 542. That is, 2 788 fewer students—a decrease of 33.4 per cent. The decrease at Henley Beach over that same period was from 147 to 112 students and at Fulham from 214 to 64 students. Fulham school could have been facing a situation next year where it might only have had two classes.

Both of those school communities were involved in extensive consultations with representatives of the Education Department since the beginning of this year. A project officer was seconded to work with the principals and school communities to gather information relating to the delivery of educational services in the Henley Beach/Fulham district. Both school communities agreed that they ought to join forces to provide viable educational opportunities for children in the area. The Director of Education for the Adelaide area clearly informed the school communities about the recommendations he would be making to the Minister of Education to give them time to consider them. The Minister met with representatives of both schools to discuss the recommendations with them before approving any of the recommendations.

At every stage the school communities have been consulted and kept informed. Naturally, some members of the community are disappointed that the decision did not go their way, but it is sheer nonsense to say that they have not been consulted. The Education Department is setting up an amalgamation working party which will continue to consult with the school communities during the implementation process and which will make available a counselling service to parents and students moving into the new school.

At Hindmarsh Primary School the enrolment decrease has been even more startling. With only 34 children the school is the smallest one in Adelaide. In spite of dedicated and hard-working teachers, there is a risk that children in such situations could miss out in some areas. With such a very small staff, teachers cannot be expected to cover everything that should be done. At the Hindmarsh school, it cost about $8 600 for each student last year. That is more than double the cost of educating a child at one of the neighbouring schools.

Again, the school community has been kept informed and consulted by the Education Department at every step of the

way, and again the Minister met with representatives of the school community before considering the department's recommendation. He accepted the recommendation to close the school in the best future educational interests of the children; after assuring himself that there had been adequate consultation. Once again, students and parents will be provided with information and support to assist them in looking at school curriculum options and student services that are available at other schools.

Contrast this with the Liberal Government's consultation processes in New South Wales. That Government's idea of consultation is at the same low level of sophistication as their South Australian counterparts. Consultation for the New South Wales Liberals is to go in boots and all, sack staff and slash programs. That is why they have everyone in every sector up in arms. The South Australian Opposition has already telegraphed its intentions. 'Liberals will close schools' said the headlines recently. So much for consultation; they have made up their minds already. 'We are going to close schools,' they say. 'Too bad about what you think!' Once again they can only offer simplistic solutions to complex issues. In this they are heading down the same path as their New South Wales colleagues, and, like them, seem to want to turn back the clock on education.

In South Australia, we have a proud record of co-operation between all school sectors, while the State Government has actively encouraged parents to have a greater say in schools. For the first time, a parent participation policy will be introduced next year. This will further cement the strong relationship between parents, teachers and students in our schools. This is the kind of initiative which characterises this Government's commitment to genuine consultation. It is a commitment which will continue in spite of the Opposition's attempts to undermine public confidence in our schools. This part of the motion is yet another example of attempts to undermine that confidence, and I ask members to reject it.

I now refer to the staffing formula, the second part of the motion. It is interesting that a Liberal member did not move this motion. Obviously, even the Liberals would have been embarrassed by their own hypocrisy in doing so. Their agenda for school staffing is plain for anyone to see. Their New South Wales colleagues have slashed teacher numbers in that State's public schools by 2 700—that is in six months. That is an indication of the kind of staffing formula that the Liberal Party has in mind. Mrs Ruth Readford, head of the NSW Association of High School Principals, has condemned the Liberal Government's cutbacks. She said, 'Six months of slow torture is what it's all about.' It is indicative of the Liberal agenda for an attack on public education, as exemplified by their activities in New South Wales.

Let us eliminate a few of the furphies that have been going around about this staffing business. First, let us get rid of the misleading term 'average enrolments'. The new staffing strategy does not aim to staff schools on the basis of average enrolments. The staffing strategy aims to match staff numbers more closely with actual student enrolments. It is a significantly more generous way of allocating staff than using the statistical average. The staffing proposal was an integral part of the second tier wage package registered by the Teachers Salaries Board which provided a 4 per cent wage increase for Education Department teachers at a cost of $20.5 million. The basis of this package was to ensure the more efficient use of resources. In doing this, the Educational Department was following, as it was required to do, the Federal Industrial Court's decision which was accepted by the ACTU.

I am fascinated as to how Opposition members will rationalise their double standards if they support this motion. They are the ones arguing that wage claims should be based more rigorously on productivity trade-offs. They should be applauding the Government's attempts to give teachers their pay rise while at the same time improving the efficiency of the system. The Liberals are the ones screaming about savings that they think could be made, and yet, when a proposal is made that would make significant savings and maintain the quality of education as well as enhancing the delivery of some education services, they oppose it blindly, just for the sake of scoring political points.

The proposed strategy is designed to provide teachers as required. Previously, some schools have in fact been overstaffed for part of the year. For example, some secondary schools have been staffed on peak enrolments at the beginning of the year although their actual enrolments have begun to drop soon after, as students leave to take up jobs, and senior students who might have returned to repeat their final year take up late offers of tertiary places. In fourth term there is a dramatic drop in enrolments as senior students finish their exams and leave. In primary schools, staff have been provided on predicted peak enrolments, which are not reached until later in the year.

The new strategy offers genuine efficiency measures without affecting the quality of education in our schools. In contrast, the Liberal's suggestions for savings are trivial and demonstrate their lack of real commitment. Once again, the Opposition has shown that it does not understand the issues. For example, the Opposition suggests that savings could be made on school buses. It claims that the Auditor-General's report suggests that savings could be made there. What it fails to tell us is that the Auditor-General's Report says that savings could be made by charging children who travel on school buses, which is exactly what the Liberals have done in New South Wales.

There is the Liberal agenda for savings: sack teachers and charge parents for services. Let us remember that the staffing strategy represents no change to 42 per cent of high and area schools, and no change to 34 per cent of schools with primary enrolments. The proposal also allows for individual negotiation to meet special needs; gives special attention to small schools and country schools; retains existing negotiable salaries to meet specific school programs; and retains the basis of allocating administrative time, non-contact time, school support grants, librarian salaries and ancillary staff salaries. The staffing strategy also frees up resources for new priorities such as professional development and retraining.

It must be stressed that there has been and will continue to be considerable consultation with schools and teachers to ensure that staff is provided to enable the quality of education to be maintained. The Director-General of Education has established an advisory unit made up of practising principals to work with school principals in implementing the new staffing arrangements if they wish to consult it. He has also given school communities four guarantees: first, continuous admission—all five year olds will be able to begin schooling on or soon after their birthdays. Secondly, vertical groupings—schools with junior primary classes wishing to group years one, two and reception children together will still be able to do so. Thirdly, in junior primary classes, it will not be necessary for any student to change classes because of the staffing strategy. Fourthly, secondary curriculum—secondary schools will still be able to offer the same range of curriculum as they would have done if they were staffed on their February 1989 enrolment.

These are the guarantees that the Director-General has given. They alone should be sufficient for members to reject

the second part of this motion. I repeat that the staffing strategy was part of the package which allowed teachers to have a $20.5 million pay rise, in accordance with the legal requirements, and at the same time provided opportunities to continue to improve the quality of education in a time of changing needs and priorities.

The third part of the motion refers to an alleged proposal to 'gag' school principals and teachers. What nonsense! The Minister has not made any such proposal. The wording of the motion is totally misleading. This motion ought to be thrown out with the contempt it deserves on that score alone. Neither has the Director-General made any such proposal, either publicly or in a recommendation to the Minister. But, of course, mere facts have not prevented the Opposition from trying to get some mileage out of this misinformation.

To clarify the situation, I need to give some historical background on how the present situation, now being misrepresented in this motion, came about. The Education Department periodically reviews the Education Act to determine whether any amendments ought to be recommended. These amendments are generally not brought forward singly, but are held and grouped, unless the matter is of urgent significance. This process last began in 1987. One of the matters raised internally within the Education Department was the matter of the acceptance of employment or other business activity by persons employed under the provisions of the Education Act.

In 1980, under the previous Government, the then Premier asked the Public Service Board about the differing provisions which then existed between the Public Service Act (as it affected public servants) and the Education Act (as it affected teachers). Subsequently, and following detailed discussions with the Public Service Association, the Government Management and Employment Act 1985 was brought into being. This made amendments to the previous disciplinary provisions which applied. Earlier this year the former Director-General of Education approached the Commissioner for Public Employment about the variations which existed between the GME Act and the Education Act disciplinary provisions and sought an opinion as to whether the disciplinary provisions in the Education Act should be aligned with those in the GME Act. The commissioner supported this move and, as a result, this measure was incorporated with others.

The set of proposed amendments was forwarded by the Director-General (Dr Ken Boston) to the South Australian Institute of Teachers, principals associations and parent organisations seeking comment and requesting a response by 29 July 1988. Following receipt and consideration of those comments, the Director-General intends to make recommendations to the Minister.

There is no intention that debate and discussion on education issues should be impeded. Indeed, it is the responsibility of principals to keep school councils and the school community informed on various educational matters. However, what is being stressed, irrespective of any changes which may or may not be made to the Education Act, is that, when a policy decision is taken within the Education Department, it is the responsibility of principals, as part of the management team of the department, to assist in the implementation of that policy.

I ask members to compare that situation with a similar example from the world of business, with which I am sure they are familiar. A managing director expects debate and input from his or her line managers before policy decisions are taken. However, once such a decision is made, the managing director expects them to implement it. Naturally, the company expects a good manager to monitor the implementation and to provide feedback to senior management, but through the appropriate channels and in the appropriate forums. The company does not expect managers to misuse their position to publicly criticise the company or the company's policy.

If a principal disagrees with a particular policy (say, for example, the policy to introduce over 10 years a language other than English into primary schools), then that principal may use his or her employee association (the South Australian Institute of Teachers) or Principals Association as a means of expressing concern. The principal, as principal of a particular school, should not use that position to criticise publicly the policies of the department but, rather, to use the means available within the department that can lead to changes being made.

A proper consultation process was occurring with respect to this issue. Relevant teacher and parent bodies were being asked for their responses to a draft of proposed changes. It is a great shame that some Opposition members choose to beat up this issue out of all proportion and try to fool the public into thinking that there was some connection between it and the proposed staffing strategy. No such connection exists, and the allegations that either the Government or the Education Department is attempting to prevent proper debate on education issues is just plain wrong.

Once again, the Opposition is doing a gross disservice to schools by irresponsibly undermining public confidence in education in this way. This Government has promoted and supported community involvement and participation in schools, which is seen as necessary and valuable. An essential part of this participation is the availability of accurate information, and principals are seen as an important part of that process.

There is no attempt, nor has there been any attempt, to stifle debate or prevent the flow of correct information between schools and parents. Education Department policies actively encourage such debate and exchange of information. I urge members to reject this motion.

The Hon. R.J. RITSON secured the adjournment of the debate.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 September. Page 662.)

The Hon. DIANA LAIDLAW: I support the second reading of this Bill which provides for separate sporting competition for boys and girls at primary school level. At least within my own Party and, although I do not wish to be too presumptuous, I suspect that within Parliament, I would be recognised as being a strong advocate of equal opportunity initiatives for men and women and boys and girls to redress discrimination, whether it occurs in sporting activities, employment, provision of housing, superannuation, education and the like.

Members would recall that during the previous session I introduced a Bill to amend the Equal Opportunity Act that would extend the provisions to incorporate the ground of age. I intend to reintroduce that Bill later this session. I am a very strong believer in the merits of equal opportunity legislation. I recall that, when the Bill to amend what was then called the Anti Discrimination Act and subsequently the Equal Opportunity Act was debated in October 1984, the Liberal Party supported extending the provisions to

cover sporting activities and sporting clubs with mixed membership. We would hardly have done otherwise, because two years earlier, in July 1982, in opening the Parliament, the Governor noted that the Tonkin Government intended to introduce a Bill which essentially would address the same matters.

There is no doubt that at that time—and certainly still today—women and girls experienced a number of significant disadvantages in the areas of sport and physical recreation. These matters, in addition to being addressed by the Liberal Party in the legislative form to which I have just referred, were also addressed by our Party in some detail in both the policy on sport and recreation that we released prior to the 1985 election and the women's statement released at that time. I quote from page 32 of the women's statement under the heading 'Sport and physical recreation' as follows:

> In the areas of sport and physical recreation girls and women experience a number of significant disadvantages. Only half as many girls and women as boys and men participate in organised sport. More girls than boys begin to decline in levels of fitness from the age of 12 years.
>
> The Liberal Party recognises that women and girls do not receive equal treatment in terms of coaches and administrators, activities in schools, access to facilities, media coverage, nor funding by both the public and private sector; family, peer group pressures and myths surrounding females and physical activity are strong disincentives to participation by women and girls in sport; and proportionately there are very small numbers of women administrators, coaches and umpires.
>
> The Liberal Party accepts that this situation calls for special initiatives to raise the status of female sport and to encourage more girls and women to participate at all levels of sporting and physical recreation activity. The focus of our initiatives will be on providing choice.

I repeat those words—'The focus of our initiatives will be on providing choice.' Under the heading of 'The School System' the paper states:

> The Liberal Party's commitment to prepare a five year sports in education development plan will take account of our belief that all students should have access to physical education and sport as part of the school curriculum; and will address the recommendations of the Australian Council for Health, Physical Education and Recreation, 'Women in Sport and Recreation' policy statement of July 1984.

For the interest of members, I will read from the policy statement of the Australian Council for Health, Physical Education and Recreation in relation to women in sport. The document states:

> That sport and recreation should be made available in a way which encourages widespread participation whilst respecting individual differences; a wider range of activity options must be developed so that girls can not only compete at the highest level, including against boys if that is what they wish, but also for collaborative and non-competitive sports and recreation; and organised competition should allow for teams based on merit alone, mixed sex teams based on a fixed ratio, girls only teams and boys only teams.

That policy produced by the Australian Council for Health, Physical Education and Recreation makes quite clear that choice is important in advancing the status of women and girls in sport. The ability of a school to determine that it will have separate boys and girls competition was sought by the Liberal Party in its policy document in 1985 and that is again sought in this amendment introduced by the Hon. Robert Lucas.

My concern today is that the disadvantages encountered by women and girls in sport, to which I have already alluded, have been reinforced in recent times for girls in school sporting activities as a direct consequence of the interpretation and practical implementation of the amendments to the Equal Opportunity Act of 1984.

I remind members that the Commissioner for Equal Opportunity—and subsequently the Government's policy—decided that equal opportunity in primary school sports must mean that girls compete with boys in open competition in all sports, that initially some sports may be able to conduct separate competitions, but ultimately within a few years time all competition between girls and boys at primary school must be on a basis of open competition.

I do not believe that the disadvantage which currently exists for girls in primary school competition—and, as a direct result, the Commissioner for Equal Opportunity's decisions in this matter and the Government's policy—is the desired outcome of those decisions, interpretation and policy. Indeed, I accept that the Commissioner's efforts have been well motivated and that in good faith she has pushed for open events for boys and girls in primary school sports. However, the fact is that this move has backfired and the policy has been counterproductive for the participation of girls in sports. Whereas girls were competing in girls only teams, we now see in those same schools a fewer number of girls competing. I think that the Commissioner and the Government have to be big enough to acknowledge the fact that no matter how much they believed that this policy would overcome the disadvantage currently experienced by girls in primary school sports—and later by women in sport and physical recreation in general—the reality is that it is not working and is reinforcing past disadvantage.

We must readily acknowledge that for some years now the South Australian Primary Schools Amateur Sports Association (SAPSASA), the association involved in primary school competition, has argued and worked for separate competitions for boys and girls at primary school level. We must also recognise that as at August this year the Federal Commissioner for Human Rights, Brian Burdekin, advised the New South Wales Minister of Education—and I understand earlier the Federal Attorney-General—that:

> There is no requirement under legislation to hold open and girls events and that there was no basis upon which separate boys and girls events could not be held.

I understand that that judgment by the Federal Commissioner for Human Rights has prompted an early assessment, at the request of the Premier, by SAPSASA of the consequences of the implementation of the new policy over the past 10 months. I do not intend to read the whole of the correspondence from SAPSASA in response to the Premier's request for advice because it was read into *Hansard* by the Hon. Mr Lucas when moving this motion. However, I want to highlight some sections of the letter, because it points out the disappointment of SAPSASA—and I think most members of Parliament—that the policies designed to overcome the disadvantage have backfired. The letter states:

> The executive of SAPSASA, comprising 21 members, representing principals, teachers, the Education Department and the independent schools met to discuss the issue of equal opportunity and sport last Tuesday. The concerns expressed are basically directed at one specific part of the policy that is causing great problems, namely, the implementation stages. SAPSASA has always wanted to hold separate boys and girls competitions, or parallel sports, in many of our sports, and this was indicated to the Commissioner throughout all our negotiations.
>
> Since that time there has been a change in direction given to SAPSASA. Initially, separate boys and girls events were acceptable [to the Commissioner]. That part of the policy was changed on a directive from the Commissioner, and hence we developed a six year implementation strategy, in consultation with the Commissioner's office and the Education Department Equal Opportunity Unit.
>
> It is anticipated that Australian sports bodies will be strongly recommending to all Directors-General at the next Directors-Generals' conference that a sensible resolution should be that separate parellel boys and girls competitions be the norm. Without fail, all groups have continually and repeatedly expressed grave concerns about the current emerging decline in girls' participation rates in sports, the group that this policy was specifically set up to assist.

That paragraph relates to an earlier reference that SAPSASA had been seeking feedback on the policy over the past 10 months. The letter continues:

It is strongly argued by individual principals, teachers and school councils and the Primary Principals Association that a policy that was specifically set to increase girls' participation rates has in fact been counterproductive and is quite clearly disadvantaging girls. These concerns expressed throughout the State are supported by statistical data gathered and collated by SAPSASA over the past 10 months.

The association cites a number of examples where this disadvantage has been experienced, but I shall quote just one aspect in respect of cross-country meetings, in relation to which SAPSASA notes that:

The competition was run as an open event. Girls, who in the past would have received a placing (first, second, etc.), were in fact finishing 73rd, 91st and 106th. The highest placed girl in the open event was 28th. The girls therefore did not receive the accolades and the recognition that they so richly deserved. Some of the concerns expressed are that girls are actually dropping out of sport rather than competing against the boys. As an organisation that wishes to increase the participation rates—

I would include myself and the members of the Liberal Party in this expression as well—

of both girls and boys, this dropping out of school sports by girls is not acceptable. In many sports similar trends have occurred.

And this has occurred in cross-country meets. The letter further states:

Little Athletics and other parent organisations are presently conducting their sports as separate girls and boys events and conducting them on the school grounds. These same parents are involved in both SAPSASA and Little Athletic events, and express extreme annoyance about the different systems that operate, as their child may compete in two completely different formats over the one weekend. Catholic education groups and most independent schools continue to conduct separate boys and girls events.

Yet SAPSASA is not allowed to. The letter continues:

Parents continually see SAPSASA as a social change agent for this legislation.

Although we all know that, essentially it has nothing to do with SAPSASA and it has fought against this. The letter continues:

The various adult sporting organisations responsible for junior sport throughout the State have expressed concerns about the need to run open competitions. We believe that the great majority of these bodies are continuing to run separate boys and girls competitions on Saturdays and Sundays—for example, swimming, athletics, tennis, table tennis, basketball, etc. We understand that the majority of schools still run separate boys and girls competitions in most sports.

They have indicated that they do not wish to continue with parallel sports, as directed by the Commissioner and as is the policy of the Government. It continues:

At the recent principals' conference held at Barmera, certain recommendations were given to the meeting, and these were most favourably supported. Even equal opportunity equity subgroups [within schools] express strong support for reverting to boys and girls sports.

The submission continues, but I will not further elaborate on it. The parts that I have selected certainly demonstrate that the policy has been counterproductive, and that is extremely disappointing and it is time for all of us to face up to that fact and realise that we must look again at how we help girls to overcome disadvantage and increase their participation in sports within schools. I would note that SAPSASA in its submission (and certainly the Liberal Party holds the same view) indicates it does not want to revert in all sports to separate competition for boys and girls. With football, for instance, the Liberal Party is quite relaxed about joint competition—boys and girls competing in the same events, because it is absolutely impractical to run parallel competitions in big team sports like football.

I do stress that the Liberal Party does not seek a policy of parallel competition, but we do want to have a policy and a situation which provides a choice, so that the school, parents, the children and SAPSASA can make a choice that they have separate competitions if that is in the best interests of the boys and girls at that school, or in the competition.

I commend the Hon. Robert Lucas for bringing in this measure. I hope that it will be given the support of the Council and that its passage will see that participation of girls in sport in primary schools not only revert to the position that pertained before this Bill was introduced but increase further in the future.

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

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 October. Page 779.)

The Hon. K.T. GRIFFIN: The Opposition publicly indicated that, if this Bill came before Parliament, it would do everything possible to facilitate its consideration and, if the Opposition were satisfied with it, its passing in both Houses. As a result of my request last week, the Attorney-General let me have an advance copy of a Bill on a confidential basis. That was subsequently amended before it was introduced yesterday. I appreciated the opportunity to have some forewarning of the nature of the legislation that the Government was proposing to introduce.

Largely, the Bill arises from a range of technical difficulties which, I suspect, were drawn initially to the Government's attention via a circular from the Chairman of the Commercial Tribunal, who established a special hearing to consider questions of law and procedure under the Land Agents, Brokers and Valuers Act, particularly in the light of amendments which came into operation in February of this year.

On Monday of last week I attended that hearing before the Commercial Tribunal as an interested observer. Approximately 70 creditors sat in the body of the courtroom, expecting that their claims would be resolved expeditiously. They were in expectation of receiving at least an interim payment which had been promised for 30 September by circular from the Department of Public and Consumer Affairs. They were most disappointed when they found that there were a number of legal problems with the proposal to pay them 100c in the dollar by instalments. They had to sit through over two hours of legal debate which, to most of them, appeared to be legal mumbo jumbo. They sat through the Crown's presentation to the Commercial Tribunal, indicating that the Government would have to introduce legislation to overcome a number of technical difficulties.

I was somewhat surprised to hear that in the light of the fact that, in March of this year, by circular letter to all of the creditors of Hodby, in particular, they had been offered by the Attorney-General 100c in the dollar subject, of course, to any unknown claims being made in respect of other land brokers who might subsequently be in default. It is my view that, if legal problems arose, they should have been noted at the time and the amendments to the legislation should have been proposed in the last session, when we had something like two months to run after the promise was made to the creditors, or in the first two months of this session, which began in early August. Whilst I have indicated that the Opposition will facilitate consideration of this Bill,

nevertheless, I am critical of the fact that it comes in at what is really the tail end of the consideration of the claims made by the creditors of Hodby and Schiller.

It is interesting to note the determinations made by the Commercial Tribunal on 30 September and circulated to all creditors (it only came into my hands late this morning). It has determined that, for the purpose of paragraph 12 *(b)* of the schedule to the Land Agents, Brokers and Valuers Act 1973, the Land Agents, Brokers and Valuers Act Amendment Act 1986 commenced on 18 February 1988. That is relevant because, prior to that date, the creditors of Hodby, for example, who had made a claim were entitled to share in a maximum of 10 per cent of the amount standing to the credit of the fund at that time. Claims that were made after 18 February 1988 in respect of Hodby were, by virtue of the amendments, entitled to payment in full with no limit on the amount of the fund in which they were able to share. The same applied in relation to Schiller because some claims were made before 18 February 1988 and some claims were made after that date. Those made before were entitled to share proportionately in only 10 per cent of the amount standing to the credit of the fund at that time whilst those who made a claim after 18 February 1988 were able to be paid in full. There was no limit on the amount in which they could share.

The consequence of that difference meant that for the Hodby creditors—something like $8 million worth of creditors—they would have recovered only 7.8 per cent or thereabouts of their claim because of the limit on the proportion of the fund in which they were entitled to share, whilst the Schiller creditors were entitled to something like 35 per cent. Quite properly, the Commercial Tribunal, when considering this matter last week, drew attention to what, as between the creditors of Hodby and as between the creditors of Schiller, appeared to be an inequitable position. The Chairman of the Commercial Tribunal discussed that during the course of the hearing.

The determination by the tribunal also included a finding that claims against the Agents Indemnity Fund made before 18 February 1988 must be determined in accordance with the provisions of Part VIII of the Land Agents, Brokers and Valuers Act as those provisions stood at the time the claim was made. Claims made after that date must be determined in accordance with the provisions of Part VIII of that Act as amended by the Land Agents, Brokers and Valuers Act Amendment Act 1986. That finding relates to the matters that I have just explained in relation to the creditors of both Hodby and Schiller and the relevance of the 18 February 1988 date. The tribunal also determined that it had power to order that interim payments be made in respect of claims made before 18 February 1988 but not in respect of claims made after that date.

It then indicated that it would proceed to hear and determine claims for the purpose of assessing the amount of actual pecuniary loss suffered by each claimant, but would defer making any order for payment, interim or otherwise, out of the Agents Indemnity Fund until after 31 October 1988. Presumably that was because of the intimation by the Crown Law Office to the tribunal that the Government proposed to introduce legislation. As I indicated, the Crown Law officer representing the Commissioner for Consumer Affairs and on behalf of the Government put to the tribunal that it was now the view that the 100c in the dollar promise made by the Attorney-General could not be achieved without legislation.

It is interesting to note that at the hearing of the Commercial Tribunal the statistical data which identified the amount of credit in the fund and the amount of claims being made by creditors of defaulting landbrokers, was quite substantial. Perhaps, for the purpose of background, it would be helpful if I were to read the reasons for the decision of the Commercial Tribunal to the extent that it refers to the relevant data, as follows:

(1) The last audited accounts of the Agents Indemnity Fund were the accounts made up to 30 June 1988.

(2) The balance of the fund on that date (to the nearest one thousand dollars) was $5.944 million.

(3) The balance in the fund as at 31 August 1988 was $6.5258 million (subject to audit).

(4) The income of the fund from interest on trust accounts is approximately $250 000 per month.

(5) Based on the present balance, the fund itself earns interest of approximately $80 000 per month.

(6) The total amounts involved in claims in the Hodby and Schiller matters are:

	$	
R.D. Hodby	8.379	million
T.R. Schiller	2.314	million
	$10.693	million

The total amounts validated by the Commissioner for Consumer Affairs in his recommendations to the tribunal are:

	$	
R.D. Hodby	7.793	million
plus interest to 30 September 1988	.152	million
	7.945	million
T.R. Schiller	1.723	million
	$9.668	million

(7) Other pending claims for compensation from the fund are as follows (figures in the column headed 'Validated' are those recommended by the Commissioner for Consumer Affairs):

Agent/Broker	Claims	Validated
	$	$
Swan Shepherd	4 000 000.00	672 776.49
Warner	106 738.41	not known
Nicholls (a recent land broker's default)	None yet made	—

In addition, there is a further $282 784 payable to claimants in respect of defaults by L.A. Field if those claimants are to receive 100 cents in the dollar.

(8) It may take years to determine how much will be received by Hodby creditors from the Official Receiver. The current expectation is that creditors will eventually receive between 40 per cent and 45 per cent of their claims. There may be an interim payment of 25 per cent to 30 per cent in October 1988. The total amount available for distribution to Hodby creditors is expected to be $3 million or more. In the case of Schiller's bankruptcy, it is not yet known whether a distribution will be made; if it is, it is likely to be minimal.

(9) In summary, the total amount of present claims and other amounts payable out of the fund is $10.8 million as against a present balance of $6.5 million. Even after bankruptcy recoveries are completed, there is likely to be a shortfall of between $1 million and $2 million.

As a result of the amendments that are before us, quite obviously the proceedings before the Commercial Tribunal will be largely outdated and will therefore become irrelevant because under the Bill the procedure will be that the Commissioner for Consumer Affairs will assess the entitlement and make a determination which will be communicated to the creditor. If the creditor does not within three months reject the assessment or appeal to the Commercial Tribunal, the entitlement so assessed will be regarded as having been accepted. That is shorthand for what happens under the Bill.

The facility is then provided for any claimant who does not accept and does not appeal for the matter to be referred to the Commercial Tribunal to be resolved on an *ex parte* basis. That procedure is satisfactory. It reserves the right of a creditor to go before the Commercial Tribunal and argue for more. On the other hand, it provides a streamlined procedure to enable claims to be processed expeditiously. There are, though, some matters to which I want to refer and which will require some response from the Attorney-General.

The problem that has been drawn to my attention is the number of outstanding claims by the creditors of Field and Swan Shepherd. Swan Shepherd's insolvency occurred in 1980, from memory; Field in 1985; Hodby in 1986; and Schiller in 1987. When I raised this matter with the Attorney-General on 1 March in relation to the creditors of other defaulting landbrokers being paid out in full, he replied that there would be an endeavour to ensure that those creditors would also be paid out in full.

The creditors of Swan Shepherd have a special criticism to make, namely, that the Commissioner for Consumer Affairs has been delaying resolution of the claims made on the basis that the liquidator of Swan Shepherd had not finalised the liquidation and that periodic dividends were being paid, some of which comprised interest on money which had been collected by the liquidator, had been invested and was to be paid out to the creditors of Swan Shepherd. Several of them who have contacted me have been critical of the eight years delay in the resolution of claims against what is now the Agents Indemnity Fund, previously the Consolidated Interest Fund, and have said that when their claims are being considered the interest being received from the liquidator on funds that have been invested is being taken into consideration and any entitlement from the indemnity fund is being discounted by the amount of such interest, even though they have had to pay income tax on it and have suffered considerable loss as a result of the delay in payment of the dividends by the liquidator.

That issue is raised in the context of this Bill, also in relation to Hodby, where the Official Receiver is expected to make a distribution from the bankruptcy of Hodby; some of that distribution may, in fact, comprise an interest component. The Bill provides that the Commissioner for Consumer Affairs will be subrogated to the interests of the creditor in circumstances where that payment may not have been made at the time that the payment is made out of the Agents Indemnity Fund to the creditor, and that subrogation will be to the full extent of both the capital component—the loan repayment component—of the amount received from the Official Receiver and the interest component. That is a difficult issue to resolve, but it has special significance in relation to the Swan Shepherd creditors whose payments are to be reduced quite substantially.

Another issue is much more significant in relation to the creditors of Swan Shepherd and Field in particular. A number of the creditors have, in fact, been paid, from the Consolidated Interest Fund, amounts which are a small proportion of their pecuniary loss. (I recognise that 'pecuniary loss' has a particular connotation under the legislation.) According to my interpretation of this Bill, they will not be able to re-open their claim: their claims having been approved by the Land Agents Board, that will be final. They will not be able to, in any way, participate in a much wider distribution unless they have the approval of the Minister.

If we are to deal with some of the creditors of these defaulting brokers in a way which will entitle them to more than a proportion of 10 per cent of what was in the fund, then we ought to be treating all of them equally. Unless I have misread the Bill, those claims which have been determined under the old provisions are not able to be re-opened with a view to ensuring that the creditors will participate in the bigger cake. That has some minuses for the creditors of Hodby and Schiller who have not yet had their claims resolved. It has some pluses for the creditors of Swan Shepherd and Field. However, if it is the intention of the Government—as the Attorney indicated in answer to questions in March this year—to endeavour to give all these creditors 100 cents in the dollar, the issue that I have raised in relation to the closing off of entitlements should be closely examined. It may be that what the Government intends is that, notwithstanding that those claims which have been approved by the Land and Business Agents Board are final, under the power for the Minister to approve additional payments, those additional payments will be extended to the creditors of those earlier defaulting brokers and agents. However, that is certainly an issue which needs to be addressed in the context of this Bill.

I am pleased that the audit provisions are being broadened, particularly in the light of experience with Hodby, who received moneys through associated companies for the purpose of investment mortgage and those moneys did not, at any time, go through his trust account. It is important if we are to exercise a measure of control over what are, in effect, trust funds by land agents and brokers, that the audit provisions be extended to associates. That extends not only to companies and trusts but also to relatives, remembering that Schiller's wife invested in her name some of the moneys which were entrusted to Schiller himself. Of course, there is a broader problem in relation to companies which are not brokers and agents but which manage to syphon off moneys which might be entrusted to them and which might subsequently not be subject to the stringent requirements of the Companies Code. However, whilst I mention that now, it is only peripheral to the present issue.

With respect to the Bill, I would like the Attorney to clarify clause 7 and clause 9. I would also like some explanation of the way in which the scheme is proposed to be administered. Under clause 9, the new section 76b establishes the procedure for determining the amount of compensation. As I see it, that is not necessarily the same as 'pecuniary loss'. Is the identification of the pecuniary loss then subject to an abatement procedure which results in an amount of compensation which is lower than the pecuniary loss which may be further reduced under clause 9 and the proposed section 76f, which allows the Commissioner to make proportionate reductions in the amounts paid out in respect of those entitlements? I take it that 'entitlements' refers to the compensation which might be fixed under the proposed section 76b which may not necessarily be the pecuniary loss.

In the context of the insufficiency of the fund, proposed section 76f allows the Commissioner to make proportionate reductions. But the entitlement in respect of which payments are made under that proposed section are discharged, notwithstanding that they may not have been satisfied in full. I am not clear whether that discharge is in relation to the compensation which may have been determined on the pecuniary loss, or whether it is only in relation to the proportion which has been paid out, leaving a proportionate balance in respect of which the creditor may subsequently receive some further payment of compensation. This confusion is compounded by proposed subsection (6) of proposed section 76f which talks about the Commissioner, with the approval of the Minister, making payments to any person whose entitlement to compensation has been discharged by reason of the operation of the section.

On my interpretation, it seems that, once the amount of entitlement to compensation has been determined by the commissioner, and is accepted, that may be reduced proportionately and, when the proportion is paid out, that represents a discharge for the full amount. However, there is no right for the creditor to go to the Commercial Tribunal and say, 'Well, I agree with the full amount of the compensation that has been assessed by the Commissioner, but I

do not agree with the amount by which it has been abated.' I have some difficulty in understanding fully the scenario which the Government proposes to put in place by this legislation and as to how it will administratively operate. Would the Attorney-General give some further clarification of what is proposed?

It is also confusing, because my recollection is that, when the Crown Solicitor's representative made submissions to the Commercial Tribunal last week, periodic payments were proposed. Under the Bill it seems that there is no proposal for periodic payments to be administered by the Commissioner but, rather, to be made, in a sense, as an *ex gratia* payment by the Minister approving additional payments under proposed section 76f.

I want to raise a couple of questions about other aspects of the Bill that I hope the Minister will be able to answer, if not in his reply, then during the Committee stage. The first matter relates to clause 4 where the definition of 'agent' is to include a land broker, a mortgage financier and a person who carries on a business of a prescribed class. At this stage, does the Government intend to prescribe other persons under paragraph *(c)* and, if so, what class of persons? With respect to the audit provisions of the present Act (and they have been tightened up very considerably), would the Attorney-General indicate what procedures apply in respect of regular audits, filing of audit reports and spot audits? What criteria does the Commissioner for Consumer Affairs apply in determining when a spot audit should be made?

Earlier this year I drew attention to the fact that, in relation to the Legal Practitioners Act, one indication of a lawyer being in trouble might be the number of complaints about delays in payment of moneys and, upon that indication being discerned from the level and nature of complaints, the spot audit is undertaken. Can the Attorney-General indicate how that is being handled? Further, what procedures are in place to prevent problems of the sort which arose in the case of Hodby, who did not file audit reports for two years but who, nevertheless, continued to practise?

Would the Minister also consider broadening the notice provisions in subsection (15) of proposed section 76b where notice is to be served on a claimant, personally or by post or, where the whereabouts of the claimant are unknown, by publication of the notice in the *Gazette*? I suggest that very few people read the *Government Gazette* and I would like to see the notice provisions being extended to a daily newspaper circulating in the area of the last known place of residence of that claimant. Perhaps the claimant is in New South Wales and it would be foolish to publish a notice in the *Gazette*, or even the *Advertiser* or *News* here. It would be more appropriate to publish such a notice in the *Sydney Morning Herald*, so would the Government consider that matter?

Under clause 10, would the Government also consider the question of the penalty? Where there is a deliberate course of conduct contrary to the provisions of proposed section 98b, a penalty of $5 000 seems to be inadequate to ensure compliance. In addition to the monetary penalty, a period of imprisonment should be prescribed.

I understand that the Land Brokers Society did not have a copy of the Bill and, if that was the case, I would be surprised, because the society is directly affected by the Bill. I spoke to the society at mid-afternoon today. However, the President of the society did not have a copy of the Bill, so I have arranged for a copy to be sent. The Real Estate Institute has a copy, it read the Bill last night, and is considering its position. Will the Government also indicate whether or not the Land Brokers Society was forwarded a copy and, if so, when? Also, was the Law Society sent a copy and, if so, what responses have been received from the professional bodies who are more likely than others to be involved with the administration of the legislation?

Finally, I refer to the matter that I have raised previously; namely, the audit reports for Hodby that were not filed with the Department of Public and Consumer Affairs. Nevertheless, Hodby continued to be licensed. I have suggested that perhaps the Government, in its own administration of the legislation, has a liability in negligence in respect of what has occurred. Although the Attorney-General places responsibility on the Land Agents Board, I must disagree with him.

Whilst the board is independent of Government, it nevertheless is served by a Government department upon which it relies to provide information. It had no facilities or resources of its own to undertake research. It still remains a mystery as to how Hodby could continue to carry on business with a valid licence while failing to lodge audit reports. The whole question of negligence in this area must be addressed and resolved. Instead of throwing up the sort of brick wall he has thrown up in the past, will the Attorney-General indicate what steps have been taken to resolve that issue?

Subject to those reservations, the Opposition supports the second reading. The Attorney-General may be prepared to consider some amendments and, if so, because of the need to deal with this legislation expeditiously, I hope that he will use the ample resources available to him to consider the amendments. However, if he is disinclined to remedy the difficulties in the Bill, then I will endeavour to do so.

I appreciate that this Bill is of great importance to the creditors of defaulting landbrokers. I hope that when it passes both Houses the creditors will receive some dividend expeditiously, with the door not being closed to future dividends as funds accumulate. I support the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL (No. 2)

The Hon. Barbara Wiese, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Children's Protection and Young Offenders Act 1979. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This small Bill to amend the Children's Protection and Young Offenders Act 1978 should be regarded as a companion to the Criminal Law Consolidation Act Amendment Bill 1988. It seeks to effect, in relation to warrants issued by the Training Centre Review Board, a similar amendment to the one that the latter Bill seeks to effect in relation to warrants issued by the Parole Board in respect of adults. In other words, process will be issued by a functionary who is recognised under the Service and Execution of Process Act 1901 (Commonwealth), for the interstate apprehension and extradition of a young absconder.

Clause 1 is formal. Clauses 2 and 3 provide that members of the Training Centre Review Board may apply to a justice of the issue of a warrant where necessary.

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

CO-OPERATIVES ACT AMENDMENT BILL

The Hon. Barbara Wiese, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Co-operatives Act 1983. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to amend the Co-operatives Act 1983. Section 46 of the Act deals with the entitlement of members of a cooperative to be supplied with certain accounts, statements and reports prior to the annual general meeting, and includes cross-references to relevant subsections in the Act to enable identification of the documents that are to be supplied. This section is based on section 274 of the Companies Code. The cross-references in section 46 are to subsections of section 40 of the Act. Section 40 is based on section 269 of the Code.

Due to what would appear to be misprints, two of the cross-references in section 46 are incorrect. The first of the proposed amendments corrects these errors and sets out the requirements of the section in a more easily understandable format.

The Act, in section 50 (3), contains provisions whereby the Commission may grant an exemption from the requirement that a person being appointed auditor of a cooperative be ordinarily resident in the State and that, where a firm is being appointed, at least one member of the firm be a registered company auditor who is ordinarily resident in the State.

The report of the Working Party on Legislation and Policy Affecting Co-operatives in South Australia also recommends that the commission be empowered to grant an exemption from the requirement that a person being appointed auditor of a cooperative be a registered company auditor.

The working party considered that the exemption was appropriate given the small size of some cooperatives in terms of turnover and/or assets, where strict compliance would place an unreasonable burden on the cooperative. The recommendation of the working party, whilst approved by Cabinet, was not conveyed in the new legislation, by virtue of what appears to be a misprint.

This error became apparent when the Corporate Affairs Commission found that it did not have the legislative power to accede to the request from a small cooperative for exemption from the requirement that its auditor be a registered company auditor.

The second of the proposed amendments has the effect of correcting this anomaly. These proposed amendments have been discussed with the Co-operatives Advisory Council and the Co-operative Federation of South Australia. Both bodies are in full agreement with the proposals. I commend the Bill to members.

Clause 1 is formal. Clause 2 repeals section 46 of the principal Act and substitutes a new provision. This section requires a cooperative to supply its members with copies of certain accounts, statements and reports prior to the annual general meeting. The new provision is self-explanatory. Clause 3 amends section 50 of the principal Act which deals with the qualification of auditors of cooperatives. The amendment to subsection (3) clarifies the Commission's exemption powers.

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

STATUTES AMENDMENT (CRIMINAL LAW CONSOLIDATION AND SUMMARY OFFENCES) BILL

The Hon. Barbara Wiese, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935 and the Summary Offences Act 1953. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The provisions of this Bill are to be regarded as complementary to the package of reforms that is contained in the Firearms Act Amendment Bill (No. 2) 1988, which was introduced on 23 August 1988. This Bill seeks to constitute two new firearms-related offences in the Criminal Law Consolidation Act 1935 and one such offence in the Summary Offences Act 1953.

The proposed new section 32 of the former Act deals specifically with the situation where a person has the custody or control of a firearm (or imitation firearm) for the purpose of using it in order to commit serious offences (that is, offences punishable by a term of imprisonment of three years or more) or for the purpose of carrying it to like effect. The offence also extends to causing or permitting another person to use or carry the firearm in question in order to commit, or whilst actually committing, such serious offences. The proposed new section 47 specifically deals with unlawful threats by persons perpetrated with a firearm or imitation firearm. Both these proposed offences are to be indictable offences.

The proposed amendments to section 15 of the Summary Offences Act 1953 deal with the situation of persons who, in a public place and without lawful excuse, carry or have control of a loaded firearm or both a firearm and a loaded magazine that can be used in conjunction with that firearm. By inserting this new offence in section 15 the Government is reaffirming its position on legally necessary measures of preventive justice, akin to the offence of carrying an offensive weapon. For the purpose of this new summary offence, a firearm will be deemed to be loaded if a round of ammunition is either in the breach or barrel of the firearm or if the round is in a magazine that comprises part of, or is attached to, the firearm in question.

The Government believes these measures, upon becoming law, ought to have a significant deterrent effect against the commission of offences, or the potential for the commission of offences, that represent a real threat to public order. The passage of this Bill will greatly enhance the armoury of both prosecutors and members of the Police Force alike in their

quest to eliminate or curb the incidence of firearms-related offences that threaten public safety. I commend this Bill to members.

Clauses 1 and 2 are formal. Clause 3 amends the Criminal Law Consolidation Act 1935. The term 'firearm' used in the new provisions inserted by the clause will have the same meaning as in the Firearms Act 1977. Clause 4 amends the Summary Offences Act 1953, as outlined above.

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

POWERS OF ATTORNEY AND AGENCY ACT AMENDMENT BILL

The Hon. Barbara Wiese, for the **Hon. C. J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Powers of Attorney and Agency Act 1984. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill makes three amendments to the Powers of Attorney and Agency Act 1984. Section 6 (1) of the Act is recast to make its meaning clearer. The substance of the section is not changed.

Section 11 is amended to ensure that when an enduring power of attorney is revoked the remedies contained in section 11 (1) *(a)* and *(b)* of the Act are still available. The situation has arisen where a protection order has been made under the Mental Health Act and the Public Trustee has been appointed administrator, the protected person having executed an enduring power of attorney in favour of a third party. In some cases it may be necessary for the Public Trustee to revoke the power of attorney as a matter of urgency. The wording of section 11 (1) *(a)* and *(b)* does not make it clear whether in these circumstances the Public Trustee can apply to the Supreme Court for an order requiring the donee of the power to file in the Supreme Court records and accounts kept by the donee of dealings and transactions made pursuant to the power and for these to be audited.

It is arguable that a donor of an enduring power of attorney continues to be a donor after the power has been revoked but this opportunity is taken to make it clear that the remedies in section 11 (1) *(a)* and *(b)* can be sought even though the power has been revoked.

The third amendment protects the interests of a beneficiary named in a protected person's will where a specific gift bequeathed or devised to the beneficiary is sold by the administrator. The new clause 11a allows the Supreme Court to make such order as it thinks just to ensure that no beneficiary gains disproportionate advantage, or suffers disproportionate disadvantage, of a kind not contemplated by the will, in consequence of the exercise of the donee's powers during the period of the legal incapacity of the donor or former donor.

Section 118s of the Administration and Probate Act and section 16a of the Aged and Infirm Persons Property Act contain similar provisions.

Clause 1 is formal.

Clause 2 makes a minor change to section 6 of the principal Act to clarify the operation of that section. (The Act provides that the authority conferred by an enduring power of attorney may be either to act notwithstanding the donor's subsequent legal incapacity, or to act in the event of the donor's subsequent legal incapacity.) The matter is further clarified by an associated amendment to the second schedule.

Clause 3 amends section 11 of the principal Act to ensure that the remedies contained in subsection (1) of that section are available even if the enduring power of attorney has been revoked or the period of legal capacity has come to an end.

Clause 4 inserts a new section 11a into the principal Act that confers jurisdiction on the Supreme Court to make orders in relation to a will where the share of a beneficiary under the will has been affected by the exercise of powers by the donee of an enduring power of attorney during a period of legal incapacity on the part of the testator.

Clause 5 makes a consequential amendment to the second schedule.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

The Hon. Barbara Wiese, for the **Hon. C.J. SUMNER (Attorney-General)**, obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill is designed to rectify an anomaly in relation to the way the Parole Board can deal with a person who has been found not guilty of an offence on the ground of insanity and who may abscond interstate while at liberty on Governor's licence. Where the Parole Board has reasonable cause to suspect that such a person has contravened or failed to comply with any term or condition on which he or she was released, any two members of the board may issue a warrant for the person's apprehension and return the person to custody (section 293a (3) CLCA). If the person absconds interstate, the usual manner of dealing with the matter is by extradition proceedings pursuant to Part III of the Commonwealth Service and Execution of Process Act 1901. However, section 18 (1) of that Act expressly contemplates that any warrant for (interstate) apprehension has been issued, in accordance with the law of South Australia, by anyone who acts in the capacity of 'a Court, a Judge, or Police, Stipendiary or Special Magistrate, a Coroner, a Justice of the Peace or an officer of a court'. Clearly, at present, a warrant issued by the Parole Board is not issued by any such designated functionary.

This amendment to the Criminal Law Consolidation Act 1935 is calculated to overcome this defect. Process will be issued by a designated functionary (within the terms of section 18 (1) of the Commonwealth Service and Execution of Process Act 1901) for the interstate apprehension and extradition of an absconder. I commend this Bill to members.

Clause 1 is formal.

Clause 2 amends section 293a of the Act by providing that the members of the Parole Board have no power themselves to issue a warrant under this section, but may apply to a justice for a warrant when necessary.

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

BUILDING ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Building Act 1971. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The principal and historic objective of this amendment Bill is to provide for the incorporation by reference of the Building Code of Australia by regulation under the Act in the same way as regulations under various Acts incorporate and require compliance with various Australian standards.

Since the commencement of the Act in 1974, it has been supported by a set of building regulations which are modelled on a code authorised by the Australian Uniform Building Regulations Co-ordinating Council which is representative of the Commonwealth Government, the States and Territories. The Co-ordinating Council has redrafted the above code and the result is known as the Building Code of Australia, being the first stage in a comprehensive reformulation and simplification of Australian building regulations. The concept of the Building Code was approved at the Joint Local Government Ministers' Conference in 1986 and enjoys Australian wide government acceptance.

Unlike the existing building regulations, the proposed code contains no administrative provisions conferring a power on a local authority, imposing a responsibility on a local authority or other person or body or describing particular administrative procedures. A separate set of administrative regulations will be required to complement the code. In addition, after due scrutiny, modifications to the code based on local law and practice will be implemented as an appendix to the administrative regulations.

The members of the Co-ordinating Council are seeking the implementation of the code by 1 January 1989. It is not proposed to promulgate the code in the form of regulations to be gazetted and tabled in Parliament. Instead the code will be incorporated or in popular terminology 'called up' by regulation under a head power to be inserted in the Act. Copies of the code, I am assured, will be readily available through the State Information Centre and elsewhere.

In addition, for a transitionary period of at least twelve months, a head power is required for the code to be invoked by the proposed set of administrative regulations or, alternatively and exclusively, for the existing regulations to operate. Thus, for a time after the code's introduction a builder will be given the opportunity to choose to comply with either appropriate requirements contained in the code and supporting administrative regulations or the existing regulations. Amendments to the code will inevitably ensue but after the promulgation of the proposed regulations incorporating the code in 1989, future amendments to the code will not flow on until an appropriate amendment is made to the regulations then in force.

Simultaneously all other States, the ACT and the Northern Territory will introduce similar Bills so that the code can apply Australia wide. In short, it is an example of uniform legislation and necessitates an amendment to section 61 of the Act. The Bill also provides for the incorporation by regulation of a standard or other document prepared or published by a prescribed body such as the Standards Association of Australia or as it is now known, Standards Australia. This measure places beyond doubt the long established practice of incorporating Australian standards in building regulations, and by specific reference opens the way for the code itself to incorporate standards such as Australian Standards.

This will have a direct bearing on the proposed Swimming Pools (Safety) Bill, a clause of which requires compliance with regulations made under the Building Act. In that context it is proposed to promulgate a Building Act regulation which in respect of swimming pool fences constructed after the assent of the latter Bill will require compliance with an appropriate Australian Standard.

The Bill also provides that a copy of the code must be kept available for inspection by members of the public, without charge, during normal office hours. This obligation will be discharged at the offices of my department at North Adelaide. Finally a clause has been inserted to ensure that the code can be tendered as evidence of its contents for offences or civil proceedings arising out of the Act. There is also a clear need to upgrade the various penalty provisions set out in the Act which have remained unaltered since the inception of the Act in 1974.

The Bill also includes minor alterations to sections 22, 36 and 38. The amendment to section 22 is cosmetic. The amendment to section 36 was considered desirable after the 1986 Supreme Court decision—In Re Game (44 SASR 156). The amendment to section 38 overcomes an ambiguity in meaning which followed on a statute alteration to that section in 1986.

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation.

Clauses 3 to 6 increase penalties for various offences against the principal Act. Penalties currently fixed at $400 are increased to division 6 fines (a maximum of $4 000); penalties currenlty fixed at $100 are increased to division 9 fines (a maximum of $500); daily default penalties currently fixed at $50 or $100 are increased to division 10 fines (a maximum of $200).

Clause 7 changes a reference to the Arbitration Act 1891, to the Act that has replaced that Act, the Commercial Arbitration Act 1986.

Clause 8 increases the penalties for an offence against section 35 of the principal Act from $400 and a daily default penalty of $50 to a division 6 fine (a maximum of $4 000) and a division 10 fine (a maximum of $200) respectively.

Clause 9 amends section 36 of the principal Act which provides that an owner may apply to referees (under Part IV of the Act) for an order that the requirements of a notice under Part V relating to a dangerous or defective excavation, building or structure be varied or struck out. The clause amends the section so that it refers to the referees making a 'determination' on such an application rather than an 'order', 'determination' being the expression used in Part IV, in particular in section 30 which provides for enforcement of such determinations by the Supreme Court. The amendment is also designed to make it clear that the original

council notice may be enforced where the referees determine that the requirements of the notice be carried out.

Clause 10 amends section 38 of the principal Act which empowers a council to serve notice on the owner of a defective building or structure to bring it into conformity with the Act or demolish it. The clause amends the section to make it clear that a council may by such a notice require corrective building work, require demolition or require corrective building work or demolition as the owner may choose.

Clauses 11 to 15 increase penalties for various offences against the Act. The penalty under section 39d is increased from $200 to a division 7 fine (a maximum of $2 000); the penalties under section 39f are increased from $400 and a daily default penalty of $50 to a division 6 fine (a maximum of $4 000) and a division 10 fine (a maximum of $200) respectively; the penalties under sections 49 and 50 are increased from $400 to a division 8 fine (a maximum of $1 000); and the penalty under section 59b is increased from $400 to a division 7 fine (a maximum of $2 000).

Clause 16 amends the regulation-making section. The clause increases the maximum penalties for an offence against the regulations from $200 and a daily default penalty of $50 to a division 7 fine (a maximum of $2 000) and a division 11 fine (a maximum of $100) respectively. The clause also inserts proposed new subsections (2), (3), (4) and (5) designed to cater for the adoption within South Australia of the proposed Building Code of Australia. Proposed new subsection (2) provides that the regulations may adopt, wholly or partially and with or without modification, a code relating buildings, structures or building work, or an amendment to such a code. Proposed new subsection (3) provides that regulations adopting such a code or amendment may contain incidental, supplementary or transitional provisions.

Proposed new subsection (4) provides that the regulations or a code adopted by the regulations may refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body and that such regulations or code may have general, limited or varying application and confer discretionary powers on the council or building surveyor. Proposed new subsection (5) makes certain provision where a code is adopted by the regulations, or the regulations or a code adopted by the regulations refers to a standard or other document prepared or published by a prescribed body.

Firstly, any such code, standard or other document must be kept available for inspection by the public, without charge and during normal office hours, at an office or offices specified in the regulations. Secondly, evidence of the contents of any such code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document. Finally, any such code, standard or document is to have effect as if it were a regulation made under the Act thereby ensuring that provisions of the Act requiring compliance with the Act will require compliance with any such code, standard or document.

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

LAND TAX ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Land tax revenues have increased quite significantly in recent years. The main reason for these increases has been the rate at which land values have been rising. Land values are essentially the product of demand for land which is heavily influenced by perceptions about the return which can be generated in particular locations. If the market for land is working properly, increases in liability for land tax reflect increases in capacity to pay land tax.

Of course, land tax is levied on a progressive scale, which means that, as land values rise, liability for tax increases more than proportionately. It also means that, as landowners acquire more land, they move into a higher tax bracket. This characteristic of the land tax scale attracts frequent criticism but what the critics overlook is that the only way to remove this characteristic entirely is to remove the generous exemption now provided to small landowners and to tax land at a flat rate.

The Government does not consider this to be an appropriate response to the circumstances. However, it does favour a much simpler tax scale as a means of relating tax increases more closely to increases in value while retaining the exemption for small landowners.

The Bill proposes a reduction in the number of steps in the land tax scale from six to three. The new scale is also more generous than the old scale in that, at all levels, it produces a lower liability for tax. However, the Government proposes also to retain the 25 per cent tax rebate which was provided last year on the first $200 000 of the value of land owned by all taxpayers. A further rebate will be provided to larger landowners equal to 5 per cent of the tax otherwise payable on the value of land in excess of $200 000.

Some examples of the effects of these changes are shown in the following table:

Value	Old Tax	New Tax	Saving
$	$	$	$
100 000	210	150	60
200 000	1 410	900	510
500 000	8 760	7 883	877
1 000 000	21 010	19 520	1 490

These measures will reduce estimated land tax revenues by about $11.5 million from about $75 million to about $63.5 million.

Clause 1 is formal.

Clause 2 provides that the measure will be deemed to have come into operation at midnight on 30 June 1988. It is noted that land taxes imposed for a particular financial year are calculated as set at midnight on the thirtieth day of June immediately preceding the relevant financial year according to circumstances then existing.

Clause 3 amends section 12 of the principal Act in two respects. A new table of rates for land tax, consisting of three steps, is proposed. No land tax will be imposed in respect of land up to the value of $80 000. Over $80 000 and up to $200 000, the rate is to be 1 per cent. Over $200 000, the rate is to be 2.4 per cent. The metropolitan levy will still apply in relation to land in the metropolitan area with a taxable value in excess of $200 000. In addition, a partial remission of land tax is to apply during the current financial year.

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

PAY-ROLL TAX ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Together with Queensland, South Australia is the only State or Territory which does not impose a pay-roll tax surcharge on large employers. The maximum rate payable in South Australia is 5 per cent. This is reflected in Grants Commission comparisons which demonstrate that pay-roll tax is much lower in South Australia than in the other States.

Nevertheless, the Government is conscious of the fact that the exemption level has remained at $270 000 for two years, and accordingly a two stage increase in the exemption is proposed. From 1 October 1988, it is proposed to increase the exemption level to $300 000 and from 1 April 1989 to $330 000. These measures are estimated to reduce payroll tax receipts in 1988-89 to about $4 million below what they would otherwise have been. In a full year the increase to $330 000 should benefit taxpayers by about $8 million.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure. It is proposed that except for the statute law revision amendments, the measure will be deemed to have come into operation on 1 July 1988.

Clause 3 proposes an alteration to the prescribed amount of wages under section 11a. Pay-rolls under the prescribed amount are effectively exempt from pay-roll tax and pay-rolls over the prescribed amount are entitled to a deduction of the prescribed amount less $1 for each $4 by which the amount of taxable wages exceeds the prescribed amount. The prescribed amount is presently $22 500 per month. It is proposed to increase this to $25 000 per month from 1 October 1988, and to $27 500 per month from 1 April 1989.

Clause 4 amends section 13a of the principal Act and is consequential on the alterations to the prescribed amount proposed by the previous provision. Section 13b of the Act allows an adjustment to be made to the liability of an employer under the Act when it appears that the employer has not paid the correct amount of tax over a financial year. Section 13c of the Act allows an adjustment when an employer ceases to pay wages during a particular financial year. The formulae set out in the amendments relate to the imposition of the tax over a particular financial year and are necessary to ensure that alterations to the prescribed amount under section 11a are taken into account in any relevant calculations and that adjustments are based on the number of days in the year in respect of which the employer paid or was liable to pay wages. The formulae are consistent with the manner in which the prescribed amount is applied under section 11a of the principal Act.

Clause 5 lifts the level (expressed according to the rate of wages paid per week) at which an employer must register with the Commissioner for the purposes of the Act. The increase is consequential on the increase to the prescribed amount under section 11a.

Clause 6 amends section 18k of the principal Act in a manner similar to the amendments proposed under clause 4, except that these amendments relate to the grouping provisions. The amendments are relevant to the operation of section 18*l* relating to annual adjustments and section 18m in cases where the members of a group do not pay taxable wages or interstate wages for the whole of a financial year.

Clause 7 revises section 21a of the principal Act. This section allows the Commissioner to refund any tax overpaid as a consequence of any specified amendment to the Act. The practice has been to amend this section each time that the Act is amended. It is now proposed to provide that section 21a applies in relation to any amendment to the Act, thus avoiding the need in the future to amend section 21a on each occasion that the Act is otherwise amended.

Clause 8 and the schedule provide for statute law revision amendments to the Act. These amendments are intended to bring the principal Act into conformity with modern standards of drafting and to delete obsolete matter from the Act. The amendments will be included in a consolidation of the principal Act and will be brought into operation at the time that the consolidation is ready for public release.

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

ADJOURNMENT

At 6.5 p.m. the Council adjourned until Thursday 6 October at 2.15 p.m.