LEGISLATIVE COUNCIL

Tuesday 20 November 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Landlord and Tenant Act Amendment (No. 2),

Technical and Further Education Act Amendment.

PUBLIC WORKS COMMITTEE REPORT

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

RN 68600 Robinson Road, Seaford, Commercial Road to Main South Road Upgrading and Realignment.

PAPERS TABLED

The following papers were laid on the table:

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

Police Superannuation Board—Report, 1989-90.

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

Committee Appointed to Examine and Report on Abortions Notified in South Australia—20th Report, 1989.

South Australian Meat Corporation—Report, 1989-90.

Dentists Act 1984—Regulations—Hygienists and Specialists.

Drugs Act 1908—Regulations—Attendance Fees.

By the Minister of Local Government (Hon. Anne Levy)—

Reports, 1989-90—

Industrial and Commercial Training Commission.

South-Eastern Drainage Board.

Regulations under the following Acts—

Industrial and Commercial Training Act 1981—Customer Servicing.

National Parks and Wildlife Act 1972—Kangaroo Tags.

Real Property Act 1886—Surveyor Certificate.

Waterworks Act 1932—Fire Service Fees.

MINISTERIAL STATEMENT: GULF ST VINCENT PRAWN FISHERY

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: The State Cabinet yesterday made several decisions to ensure the future of this industry. The Government will appoint an independent auditor to resolve the problems relating to debt levels incurred by the Gulf St Vincent prawn industry. Hence it has rejected calls by the Gulf St Vincent Prawn Boat Owners Association that it pick up the $3.6 million debt owed to the South Australian Government Financing Authority following the establishment of a buy-back scheme in 1987.

Cabinet has decided that the prawn boat owners wishing to leave the industry should be able to sell their licences and share of the buy-back debt. This will require legislation. Cabinet approved that the licence holders will be required to repay their debt in accordance with the original arrangements of the buy-back scheme. However, prawn boat owners who believe they are in financial hardship should make an application to the independent auditor who will assess their individual circumstances and make recommendations to the Government. The recommendations will be based on the independent auditor's assessment of identified capacity to pay with no Government contribution.

At present there are 11 licence holders who, as a group, are required to repay the debt owed to SAFA. The appointment of an auditor is a fair and just decision that should be welcomed by the industry. The Government also rejects suggestions that the existing prawn licences do not have a residual value. The Government's decision has also taken into account the Copes 1990 review of the prawn fishery. In late August this year, fisheries management consultant, Professor Parzival Copes, completed his second inquiry of the Gulf St Vincent prawn fishery.

This inquiry was agreed to after a request from the Prawn Boat Owners Association to bring back Professor Copes to review the Gulf St Vincent prawn fishery. Professor Copes conducted a study into the fishery in 1985, which recommended the subsequent reduction in vessels removed by the buy-back scheme. The 1990 Copes report recommends that the Government should recover principal and interest from levies on the industry imposed on the basis of capacity to pay.

The Minister of Fisheries rejects suggestions in the Copes report that the Government should assume a major share of burden of the restructuring of the industry. The Government is already guarantor for the debt. Any further assumption of the debt would be a misuse of taxpayers' funds in very tight economic circumstances. The Copes report also found a high level of competence in the management of the fishery. In particular, the professor noted the role of the Department of Fisheries. It also says that the rebuilding of the prawn stock in Gulf St Vincent has been slower than hoped for and than anticipated, and outlined further management strategies to improve harvests.

However, had the Government not introduced the buy-back scheme in 1987, it is clear the prawn industry would not have been able to continue to operate even at reduced effort levels. The Government had earlier this year decided to implement a modification of the buy-back scheme proposed by an accounting firm. But at the time this was not satisfactory to the Prawn Boat Owners Association, which wanted Professor Copes to conduct another study.

In his report, Professor Copes is critical of the modified scheme and recommends that it not be continued. The decision to rationalise surcharge arrangements followed the implementation of a $2.96 million State Government buy-back scheme in 1987. At the time, five licences were removed, leaving 11 prawn fishermen to work Gulf St Vincent.

The South Australian Government Financing Authority provided the loan and the repayment of the borrowings was made via a surcharge on the remaining licensees. In April 1989 the industry was granted a deferment of principal and interest payment which has seen the debt capitalise to $3.6 million. The Minister of Fisheries expects the prawn industry to recover, and I urge the industry to work with the Department of Fisheries so that the industry can have a successful future. I seek leave to table a copy of the Copes report.

Leave granted.

QUESTIONS
OPERATION ARK

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing a question to the Attorney-General on the subject of Operation Ark.

Leave granted.

The Hon. K.T. GRIFFIN: In an interview on the *7.30 Report* on 5 February this year, the Attorney-General was questioned about any differences between the Stewart and Faris reports on Operation Ark. He replied as follows:

> The fact of the matter is there is common ground. There is a difference of emphasis.

The Attorney-General also gave one example of alleged corruption investigated by saying:

> They differed as to the specific recommendations in certain respects. I mean, for instance, the Police Commissioner has pointed out that one of the allegations that was made against police officers was some person saw a plastic bottle being passed by, I think, a police officer to a motorist and that came in as an allegation of possible drug dealing. Well, it was investigated and found that the police officer was assisting the motorist with a bottle of water.

The Attorney-General made further reference to this matter in the Legislative Council on 13 February, when he said:

> In the Stewart document there were certainly criticisms of certain police officers with a suggestion that their positions be reviewed. But it goes no further than that.

Information now available to the Opposition indicates that these statements by the Attorney have seriously misrepresented the criticisms of the Stewart report. The Stewart report concluded that:

> The authority was forced by the weight of evidence to conclude that there still exists within the South Australian police a lack of resolv amounting to a reluctance to take effective measures to enable allegations of police corruption and involvement in criminal activity to be brought to the attention of a permanent and independent investigatory unit.

In this, there is no common ground with the Faris report, which made no reference to the approach or attitudes of South Australian police to the investigation or alleged corruption within their ranks.

The Faris report made no reference to the alarming conflict in evidence given to the Operation Ark inquiry by Commissioner Hunt and Assistant Commissioner Watkins, and it made no reference to police handling of an allegation against former Drug Squad Chief, Moyse. On this particular matter, Mr Justice Stewart concluded that the police officer who had handled the investigation had 'demonstrated quite unprofessional investigative standards'. Mr Justice Stewart made the point that the officer had not even seen the person who had been the informant for this allegation, but instead had made a direct approach to a woman alleged to have been involved with Moyse with drug dealing—action which had compromised future investigations. My questions to the Attorney-General are as follows:

1. How does he reconcile his statement that there is 'common ground' between the Stewart and Faris reports and that they differ only in emphasis, with the fact that the Faris report does not refer to the approach or attitudes of South Australian police to alleged corruption within their ranks as detailed during the Operation Ark investigation; that it makes no reference to the alarming discrepancy in the evidence given by Commission Hunt and Assistant Commissioner Watkins; and that it makes no reference to the further allegation of corruption against former Drug Squad Chief Moyse and, in particular, to the deficiencies in how that allegation was investigated?

2. In the light of his earlier statements about the Stewart report and the facts now becoming available, will the Attorney-General now table the sections of the Stewart report which the Solicitor-General advised can be made public and, if not, will he say why?

The Hon. C.J. SUMNER: The answer to the second question is that the Government does not intend to make the document public. The reasons for that have been outlined on numerous occasions in this Council, and I do not intend to repeat them. Those reasons were outlined in the ministerial statement that I gave in April of this year and, quite clearly, they are still valid.

I find this new interest in Operation Ark and the apparently leaked copy of the Ark report arising now in November 1990 somewhat curious, because on 31 March 1990, several months ago, there was an article in the *Advertiser* headed 'Disneyland charge on police probe—Ark details leaked'. What we had in March of this year is as follows:

> The *Advertiser* has received a copy of a 139 page document believed to be the controversial so-called Ark report of former National Crime Authority Chairman, Justice Stewart.

So, the *Advertiser*, according to its own admission, had the report in March of this year and ran an article on it, which was given some prominence and which I think subsequently led to other discussions about the Ark report, because the so-called leaked document was dealt with also on television and, I think, on radio. Some eight months later, the *Advertiser* is now presenting the Ark report as a new leaked document and has run two stories—one yesterday and one today—based on the leaked document, which it had in March of this year and which it featured at that time under the heading 'Disneyland charge on police probe'.

I do not know whether the *Advertiser* and others are suffering from some kind of amnesia or whether it is just the classic journalist approach to life—anything that happened longer than a month ago is automatically excluded from their thought processes—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —or whether it is time again to recycle the stories because they have not heard anything about them for several months. Of course, it is true that as issues crop up they crop up in cycles. So, we had Operation Ark in March 1990 and we have Operation Ark again in November 1990, despite the fact that on 31 March the *Advertiser* had a 139 page document, which it described as the Operation Ark report. Frankly, I do not quite know what has provoked this new series of allegations, given that the material was before the *Advertiser* and other sections of the media, because they ran them freely at that time in March 1990.

I have no difficulty reconciling what I have said on previous occasions about this particular matter. There is and remains common ground between the Stewart document and the Faris NCA official report. The common ground is in the recommendations which have been tabled in this House, or made publicly available; that is, the recommendations of the Stewart document were made public. The recommendations and full report of the Faris NCA report were made public, and there were a number of recommendations that were the same.

However, the most common ground, which I think is important, is simply this: that there was no finding of corruption against any police officer in relation to this matter by either Stewart or Faris. There were criticisms of police officers in the Stewart report which were more serious than the view taken by Faris, and that has been said before, and I do not see that there is anything in what the Hon. Mr Griffin has said today which would indicate that that is an incorrect statement.

The common ground is about the central allegation. After all, that is what we should be principally concerned about—

whether there was any corruption. There was none. There were 13 allegations of corruption made against police officers during Operation Noah out of some 900 complaints. When they were investigated there was found to be nothing in it. So, what we have with this continual harping on Operation Ark is controversy around a report which has found that there was no corruption in the South Australian police on these particular matters. After all, that is what the NCA was here to look at, amongst other things, but they found none.

I should have thought that that was the important and salient point between the two reports. Common ground: no corruption found. Stewart document, more critical of South Australian police, yes; Faris believed those criticisms were unjustified and unfair; but also common ground that there were administrative shortcomings in the manner in which the Operation Noah complaints were dealt with and in the fact that they were not referred to the Anti-Corruption Branch immediately or to the NCA.

What I said on previous occasions still stands: there is common ground between the two reports, both in terms of the principal finding that there is no corruption; and, secondly, a number of specific recommendations were the same, and they have been acted upon. There were obviously differences of opinion between the Stewart document and the Faris official report. The Stewart document, as I have said previously in this Council and outside, was more critical of South Australian police.

BREAK-INS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of break-ins.

Leave granted.

The Hon. R.I. LUCAS: Last Thursday, following my raising of the issue of bail being granted for an alleged repeated burglary offender, the Attorney-General went on ABC radio's Philip Satchell program to discuss the issue. During the interview, listeners might have mistakenly gained the impression that the incidence of burglaries in South Australia is no worse than in other parts of Australia. Certainly, that was a point put forward by the Attorney-General. However, figures published in last Saturday's *Advertiser* show the Attorney was wrong.

The *Advertiser* article said that the daily incidence of 115 break-ins now made Adelaide the burglary capital of Australia. The figures, compiled by the Australian Bureau of Criminology, revealed there were a record 42 000 break-ins during the past 12 months—or the equivalent of a burglary every 12 minutes. Many householders are spending thousands of dollars to increase the security of their home, often after being the victims of repeated burglaries. The report also quoted police and insurance 'sources' as saying that overcrowding in prisons and toughening of the economy were reasons for the increased break-ins. My questions are:

1. Does the Attorney now accept that his statement on ABC radio was wrong and that there is a real problem with burglaries in South Australia, as evidenced by the recent findings of the Bureau of Criminology?

2. Does the Attorney believe that the Government's crime prevention strategy, released 15 months ago, will reduce the level of burglaries in South Australia from this record level?

The Hon. C.J. SUMNER: I do not accept that I am wrong in what I said about these particular matters, and I certainly did not say that there was no problem with—

The Hon. R.I. Lucas: You said that we were no worse than any other State.

The Hon. C.J. SUMNER: That is basically correct. If the honourable member examines the issue, he will see that that is correct. I have not said that we do not have a problem with break and enters or burglaries; clearly, we have. However, what we do have is a break and enter problem, a burglary problem, in common with every other State in Australia, in common with every other western industrialised nation.

The Hon. R.I. Lucas: You said we are no worse.

The Hon. C.J. SUMNER: We are not, basically; we are no worse than—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, I do not have the exact figures in front of me, but the fact is that it is extremely difficult to make valid comparisons in Australia from one State to another, and a very limited number of offences can be compared properly.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Of course, what was done in the Crime Prevention Strategy was to indicate what is undoubtedly the situation, namely, that in some areas—and this is in the strategy—South Australia is shown on those statistics to have higher rates in some crimes. In other crimes, it has lower rates. The point about the strategy is, and the argument put forward in the strategy was, that South Australia is no worse off in this respect than other States in Australia in terms of increasing crime, nor is it worse off generally than other western industrialised nations.

The crime rates vary among those nations. The only two industrialised nations (and one would not be described, I suppose, as a western nation) which seem to have escaped to some extent from the ravages of increasing crime are Switzerland and Japan, apart from the eastern bloc countries where until recently their crime rates were very low, too, when they had a political system which was very authoritarian and very oppressive. But one of the features of the liberalisation of the political regimes and Governments in eastern Europe has been an increase in crime rates in those nations as well.

But one of the features of the liberalisation of the political regimes and Governments in eastern Europe has been an increase in crime rates in those nations as well.

So, as I said, apart from Switzerland and Japan, where particular social factors operate, every industrialised nation has undergone increases in crime rates which we share in South Australia. The point which I was making, which I have made in this Council before and which I will make again, is that South Australia is not alone in this. The fact that we are not alone means that we must look at the traditional means whereby we have dealt with criminal behaviour and try to find alternatives because the traditional means of police, courts and corrections have not succeeded in reducing the crime rate; they have not succeeded in reducing the crime rate anywhere in the world.

The Hon. R.I. Lucas: Are you giving up, then?

The Hon. C.J. SUMNER: No, we are not. We are definitely not giving up and that is why, in August last year, we introduced the Together Against Crime package which relies on trying to get the community involved in community crime prevention. The very philosophy in the crime prevention document is based on not relying exclusively on police, courts and corrections. They must remain the cornerstone of any criminal justice policy—of any deterrent policy—but if you just rely on them the evidence everywhere in the western world, with that exception, is that you will not succeed.

I have pointed out in this place before that there are 1 040 000 prisoners incarcerated in the United States of America; effectively a city, a group of people larger than the city of Adelaide are locked up in American gaols. They have the death penalty in 30 or 40 States. A great majority of States in the United States of America have the death penalty and yet they have a crime rate, on most indicators, which is greater than the crime rates in Australia, Canada and western Europe.

That does not mean that we do not have a crime problem. The very fact that the Government introduced its Together Against Crime policy last year was an obvious recognition of that fact. I think that, as a community, we have to get together and get behind that program and try to use it, complementary to the criminal justice system, to reduce criminality. But it is very easy to play politics with this particular issue. I regret that the Opposition still have not responded to the Government's request for you to join the coalition—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, you have refused it. The Hon. Mr Lucas says apparently he has not responded.

The Hon. R.I. Lucas: I haven't said that; I said you haven't—

The Hon. C.J. SUMNER: You have not responded. You have not agreed to our request to joint the coalition.

The Hon. R.I. Lucas: You are about two weeks behind—

The Hon. C.J. SUMNER: Well, if you have agreed, then I welcome it. It is probably as a result of my prompting.

The Hon. R.I.Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It is probably in response to a question in this Council some days ago but, if the Opposition has now responded and has agreed to join the coalition, I welcome that. What it has to realise is that if it really wants to do something about the crime rate there is no point in playing politics about it. You only have to look at the situation in today's newspaper in New South Wales where there is talk about record rates of illegal use of motor vehicles. You only have to look at press reports from the United Kingdom, which has had a very conservative law and order orientated Government for the last 10 years, and they are complaining about crime rates. Ironically, there it is the Labor Party that is calling for more police and it is Mrs Thatcher who is saying that her policies are satisfactory.

For the past 10 years in the United Kingdom, there has been a very upfront, outspoken, hardline—at least in its rhetoric—law and order approach to dealing with the crime problem. No matter what else they might accuse her of, I do not think that anyone would accuse Mrs Thatcher of being a wimp. Clearly she has not been, yet the crime rates in that country have also increased. There was the same experience in the United States of America, again under another Conservative figure, President Reagan. There was a suggestion that some of his earlier policies were having an effect but, in the final analysis, crime rates in the United States have also increased.

The basic point which I put on the Philip Satchell program, and which I will put again now is, first, we are not alone; secondly, it is very difficult to make accurate comparisons between States in Australia because, regrettably, our crime statistics are in an appalling condition. In any event, you cannot rely on reported crime statistics as an accurate indicator of actual levels of crime. The only way to get a more accurate assessment of actual levels of crime is to carry out what are called 'victimisation surveys'—that is, actually doing household surveys through the Australian Bureau of Statistics or some other polling mechanism to determine the crime rates in the various States. A couple of those have been done in the past 20 years, but not enough of them.

The Standing Committee of Attorneys-General is currently working on getting a regular series of crime surveys done throughout Australia so that we do get a better assessment of what the crime rates might be. But you cannot just rely on reported crime statistics, although there are some areas—I think it is only three or four—where you could say the crime statistics are reasonably reliable, that is, the police reporting statistics as between the Australian States. However, whatever is the case, one has to be careful about the use of those statistics.

With that caution, I return to the basic thesis, and that is that South Australia is not unique. We are no worse off in general terms than other States in Australia, and that is clear. Neither are we worse off than other Western industrialised nations, although one can talk about there being different crime rates in different parts of the world. The international comparative survey that was done showed that the United States was at the top of the league, Canada and Australia were on the second rung and Western Europe were third. But it is the same phenomenon, basically, of increasing crime rates, in particular, offences such as break and enter, car theft, vandalism and the like.

What it recognises, clearly, is not just that there are insufficient resources or whatever, because wherever there are additional resources, such as in South Australia, with more police per capita than any other State in Australia, the crime rate has still continued to increase. So, it is something which is more deeply imbedded in the psychology and social structure of this particular category of nations. In some respects, it may even be related to the freedoms and liberties which we have. I said before, in Eastern Europe, under oppressive regimes, there were low crime rates—at least that was their argument. There is no doubt that crime rates have increased in those countries since they have lifted the restrictions. If we are to deal with the problem, we have to deal with it as a community. We have to try different solutions, and that is what the 'Together against Crime' policy is all about.

ARTISTS' ALLOWANCES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts a question about touring allowances for performing artists.

Leave granted.

The Hon. DIANA LAIDLAW: Last Friday the Industrial Relations Commission accepted in full an ambit claim by Actors Equity, the Musicians Union and the Australian Theatrical and Amusement Employees Association which effectively increased by over 100 per cent the overnight allowances for performing artists, musicians and stagehands when they tour to regional areas and interstate. The decision has been deplored by arts companies in South Australia and interstate, as has the decision to backdate the increases to take effect from 2 November.

The Patch Theatre Company is currently interstate but now finds that its successful season has been turned into a financial mess, with a surplus becoming a deficit, as it had not budgeted for the increased touring allowances. I understand that the same situation may apply to the Australian Ballet following its recent season of *Coppelia* at the Festival Theatre. The impact of the commission's determination has even wider implications. In the past two days, Adelaide-based performing arts companies have cut their interstate

touring programs for the coming year. As the Minister would appreciate, such tours to the larger audience markets in the eastern States help those companies to ensure that they are able to earn income so they are less dependent on Government grants. Those tours also help to subsidise regional touring programs in South Australia.

Because South Australia does not have a huge audience pool, promoters have already indicated reservations about scheduling tours of their productions to Adelaide in the future. Such a move would have dire consequences for Festival Centre venues, our regional theatres and the Entertainment Centre, both in terms of an increase in 'dark nights' and a decrease in revenue generating opportunities. I have been advised by artists themselves in the past 24 hours that, while it may be seen on the surface that the commission's decision appears to be enlightened, they are concerned that the decision will lead to fewer employment opportunities in the future. My questions to the Minister are:

1. Has she or the Department for the Arts assessed the impact upon the arts industry in South Australia of the Industrial Relations Commission's decision to accept in full the ambit touring allowance claim?

2. Will she, on behalf of the South Australian Government, support an appeal by the Entertainment Employers Association against the ruling?

The Hon. ANNE LEVY: Of course, I am aware of the award which was made last Friday in the Industrial Relations Commission. As I am sure the honourable member who asked the question is aware, that matter has been proceeding before the IRC for a period of nine months now. While it was not known when the decision would be brought down, it has been obvious for the past nine months that a decision was forthcoming.

The Hon. Diana Laidlaw: But not the full ambit?

The Hon. ANNE LEVY: Not necessarily the full magnitude of it, but it was certainly known that the claim was before the IRC and that a determination would be made in the near future. At this stage the impact of it is a little difficult to assess because the appeal time is still open. I understand that appeals can be made against the award at any time within 21 days of the bringing down of the determination. So, there is virtually a three-week period during which appeals can be lodged. At this stage it is not known whether appeals will be made or by whom, or what the outcome of these appeals will be. I therefore think it is desirable for this Parliament to let the Federal law in this matter take its course until the matter has been finally resolved.

WOOLGROWERS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question relating to the wool farmers' banking crisis.

Leave granted.

The Hon. I. GILFILLAN: I have been a sheep farmer on Kangaroo Island for about 35 years. This morning, I was telephoned by an accountant, Roger Oates, of R. M. Oates and Co., who has been practising on Kingscote for a couple of years. He was crying out for help regarding a situation that he believes is heading towards imminent disaster. All of his 50 wool-growing clients on Kangaroo Island will record a net cash loss this year—and that is even farmers without debts—and will have to borrow money to run their farms and to live. Members who have watched the wool market will know that last year the wool price was $8.70 per kilo with an 8 per cent tax; this year it is $7 per kilo with a 25 per cent tax; and next year it will be $7 per kilo, but with only 75 per cent of the clip able to be sold, with the possibility of a 35 per cent tax.

This impact is already taking a very high toll on Kangaroo Island. There are several cases, and I refer to the following in particular. These farmers, up until this year, had been regarded as viable. One, who shot 2 000 sheep last month, has filed a petition for bankruptcy and has left his property looking for a job. Another farmer has left the farm to look after itself and has been lucky enough to get a job at Moomba.

I had a conversation with a bank manager on the island. He said that the situation was critical this year, but as for next year he shuddered to think. In September, two properties were put up for auction, but there was not one bid. Apparently, there are 20 properties on the books for sale, with no sales. I spoke to a stock firm agent, an Elders manager on Kangaroo Island, who said that, statistically, on Kangaroo Island the average return per bale was $500. On 100 bales that would be a $50 000 return next year, less the 25 per cent tax—without any increase in tax—reducing that to $38 000, and there will be no return for sheep sales. There is virtually no return to people who have relied previously on off-shears surplus sheep sales. This is going to force a lot of Kangaroo Island sheep farmers to consider the option of petitioning for bankruptcy. They will receive a $25 000 relocation allowance, and they will walk away from what would be virtually an unsaleable property and, in many cases, leave a large net debt structure.

I spoke to Mr Pieter Boschma, who is head of the rural department of the State Bank of South Australia, and he said that things are tough. I refer to some figures that he faxed to me concerning a study that has just been completed by the State Bank. They cover two years, and, based on 20 bales of 23 micron fleece and lock wool from a clip, show a cumulative reduction in 1991-92 of 51 per cent, from the 1989-90 season.

Year	Average per Bale $/Bale	Average per Greasy kg c/kg	Return for 20 Bales $	Per cent Change
1989-90	847	484	16 940	—
1990-91	545	311	10 900	−36
1991-92	545	311	8 180	−25
(Cumulative 51%)				

I am sure members are aware that, while 51 per cent drop occurs, there will be no corresponding drop in living requirements costs; they will inevitably go up. Mr Boschma said, 'Even with no debt, it is a harrowing exercise this year as a sheep farmer to keep your head above water.' He says that no single bank—in fact not even all the banks together—can solve this situation; it must have a global solution involving governments.

I agree with the contention that whole communities are at risk, particularly those that are largely dependent on wool growing; that there is desperation; that there are moves to militancy, which is poised to erupt in communities which feel that no-one understands and no-one cares about their plight. I ask the Attorney:

1. Is the Government aware of the crucial situation as it applies to Kangaroo Island?

2. Will the Government immediately enter into top level discussions with the State Bank and other banks involved to establish constructive lending policies aimed to keep people on the farms?

3. Will the Government approach the Federal Government to immediately address the crisis which will destroy rural communities of which Kangaroo Island is a prime example?

The Hon. C.J. SUMNER: The Government is certainly aware of the difficulties which are being experienced by the rural sector in a number of areas. However, I am sure that the honourable member is as aware as I am of the reasons for those difficulties, whether it be the competition from overseas products, in the case of the Riverland, or whether it be the depressed markets at present for Australia's wool products and our wheat products. Of course, as the honourable member would know, that is the core of the difficulties. One assumes, from the way markets work, that there will be an upturn in demand for those products. One can only hope so in the interests of our country.

As the honourable member knows, it was only a matter of two or three years ago that wool prices were very good, and farmers who were growing sheep and involved in wool production had a very good return on their product. Since then, the overseas market for wool has deteriorated significantly. As all members would know, there is now an oversupply of wool in this country and a depressed demand internationally, and that is causing the problem. A somewhat similar situation is occurring with wheat in that there has been a lessening demand for that product internationally in recent times. So, there are different reasons for the difficult situation in which the rural sector finds itself at present. The Government is aware of those difficulties.

I can only refer the Hon. Mr Gilfillan's suggestions relating to lending policies to the responsible Minister for a response. I am sure, in any event, that the honourable member would be aware of the steps that have been taken by the Federal Government to deal with the situation, particularly relating to the wool industry. However, I will also refer that question to my appropriate ministerial colleague and bring back a reply.

RURAL HEALTH CRISIS

The Hon. R.J. RITSON: I seek leave to make an explanation of enormous length, but nevertheless shorter than the question asked by the Hon. Mr Gilfillan and considerably shorter than the answer to the second question, before asking the Attorney-General, representing the Treasurer, a question on the rural health crisis.

Leave granted.

The Hon. R.J. RITSON: The Whyalla Hospital is in trouble. It is a systematic kind of trouble that strikes at the heart of the policy of regionalising rural specialist services. The matter involves, first, a broken promise concerning the budget and the untying of the fee-for-service line of the budget.

Whyalla Hospital was, as it were, garnisheed the sum of $200 000 out of its budget, as were other rural hospitals, to make good a deficit in the Riverland. It was told, at that time, that this would be made up to it by way of subsidy from the metropolitan section of the public health budget because the operation of the Riverland Hospital would involve patient retention of work that otherwise would have been a burden on the metropolitan system. However, that promise was broken and there was, therefore, a budgetary loss in real terms.

Secondly, the Health Commission used to pay medical practitioners for the services that they rendered to public patients out of a fixed line tied only to that purpose. However, that nexus has been broken and they are now to be paid out of the hospital's general budget and are not guaranteed any particular amount for the treatment of public patients. At October 1990, the fee-for-service line was $98 000 over budget and the hospital executive requested the medical staff to reduce their activities, a euphemism for 'stop treating patients'.

Some of the proposals were to refer patients out of the area; to refuse to treat the population of the wider Eyre Peninsula and to treat only the Whyalla patients, which, of course, strikes at the heart of the idea of a regional specialist service for rural people; and to close down services as much as possible over Christmas—the dates 21 December to 29 January being suggested, a period of five weeks during which the doctors would not be paid but would be expected to stand by for emergencies. This is to happen again at Easter, if necessary, to balance the budget lines. Further suggestions included: all work practices to be examined; the voluntary stand-down of staff; new appointments to be addressed critically; and referring patients out of Whyalla.

The patient transport budget is seriously eroded, people have been asked to take extended leave and, quite frankly, the whole thing is in a mess. This will reverberate to other country hospitals threatening the break-down of regionalised specialist services. When a surgeon leaves because he has been stood down, it is very hard to replace him, and there is fear that this may happen. A recently expanded and very good ophthalmic clinic headed by an eye surgeon operating in Whyalla may be lost if these stand-downs occur.

This problem was demonstrated last year when, euphemistically, the reduced activities technique was applied to the Royal Adelaide Hospital. With the turnover of staff and the failure to take on staff during this period, when it came time to resume activities, they could not be resumed because it takes time to replace and to recruit staff. A little bird tells me—and he is not a parliamentary bird—that the Minister and local member (Mr Blevins) is very sympathetic to the problems of the hospital and the citizens that it serves, but that the Treasurer has stamped on the idea.

In view of this and other similar cuts to vital services at the same time as the Government is clawing back money from the public as fast as it can (for example, the hundreds of per cent increase in FID and other taxes), I ask the Premier:

1. Is the State in greater financial difficulty than anyone understands; and

2. Will he visit Whyalla with the local member (Hon. Frank Blevins) and explain to hospital staff members why they will not be allowed to treat sick people?

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

REPLY TO QUESTION

The Hon. BARBARA WIESE: On 8 November, the Hon. Mr Griffin asked me a question concerning the Residential Tenancies Tribunal. I have already provided a copy of my reply to him in view of the fact that it related to events taking place in the past few days. I now seek leave to have the reply incorporated in *Hansard* without my reading it.

Leave granted.

RESIDENTIAL TENANCIES TRIBUNAL

In reply to **Hon. K.T. GRIFFIN** (8 November).

The Hon. BARBARA WIESE: I refer to a question asked by the Hon. K.T. Griffin on 8 November 1990 concerning

a Mrs Gebhardt and a residential tenancies matter. I have called for a report on the matter and provide the following information.

Mrs S. Gebhardt entered into a tenancy agreement with K.F. Roberts and D.J. Morgan in relation to premises at Northfield. On 24 June 1990, Mrs Gebhardt made an application to the Residential Tenancies Tribunal for an order terminating the tenancy with Roberts and Morgan on the ground that the tenants were not allowing the landlord the quiet enjoyment of the premises. The matter was heard by the Residential Tenancies Tribunal on 4 July 1990. After considering evidence from the parties in attendance and a written statement submitted by K. Roberts the tribunal dismissed the application. The written statement was read aloud in full during the course of the hearing, giving Mrs Gebhardt the opportunity to respond to the tenants' allegations.

The tribunal provided a written confirmation of the order made including its reasons on 23 August 1990. A copy of that order is available for the honourable member should he wish to see it. On 30 August 1990, a further application was made to the tribunal by White, Burman and Co., Barristers and Solicitors, on behalf of Mrs Gebhardt. This application sought the termination of the tenancy from 8 November 1990 on the expiration of a 120 day notice.

On 30 August 1990, the solicitor was advised that such an application could not be made until such time as the notice of termination had expired, that is, after 8 November 1990. Accordingly, the application was withdrawn. There is no formal record of any subsequent contact from or on behalf of Mrs Gebhardt. However, a fair trading officer recalls speaking to Mrs Gebhardt concerning the tenants' possessions that were removed from the premises by Mrs Gebhardt. He advised Mrs Gebhardt that her actions were inappropriate and contravened the Residential Tenancies Act. He further directed Mrs Gebhardt to remedy the situation and to return the tenants' possessions to the rented premises.

The honourable member's remarks suggest that Mrs Gebhardt was advised that the only notice she could give was 120 days. However, a 120 day notice is not used where there is a breach of the agreement. I understand that Mrs Gebhardt was advised, based on the information provided to the fair trading officer, that, as there was no breach of the agreement by the tenants 120 days was the minimum notice she could give. It would appear that the alleged breaches by the tenants may have intensified. If this was the case, Mrs Gebhardt could have served the tenants with another 14 day notice of termination. I am unable to comment on why Mrs Gebhardt did not do so and I am unaware of Mrs Gebhardt seeking further advice from the Office of Fair Trading. Similarly, the real estate agent now managing the premises could have issued a 14 day notice of termination if the tenants' behaviour constituted a breach of the tenancy agreement.

I have directed that a fair trading officer within the tenancies group attend the rented premises and conduct an external inspection of the premises with Mrs Gebhardt. It may also be appropriate for the officer to contact the agents now managing the property and advise them of the appropriate action they may take in dealing with this matter. Should the tenants fail to vacate on 16 November 1990, Mrs Gebhardt would need to make an application to the tribunal for an order of termination. If the tribunal grants the order for termination and the tenants fail to vacate, Mrs Gebhardt can request the tribunal's bailiff to enforce the order.

Any goods of value left at the premises would need to be removed and stored for 60 days before being sold at public auction. However, if the costs associated with the removal, storage and sale of goods exceed their value, then the goods may be disposed of two days after the termination. If Mrs Gebhardt is unsure of what action she can take in relation to the goods left behind, the Office of Fair Trading will advise her of the appropriate action in the circumstances. Should Mrs Gebhardt have any further queries in this matter, she should contact Mr John Aquilina, Manager, Tenancies on 226 8600.

SACON

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction, a question about SACON.

Leave granted.

The Hon. L.H. DAVIS: I have received a copy of a rather remarkable letter from the Regional Manager of the Central Northern Region of SACON at Elizabeth to a tradesperson in Gawler which reads:

> Until now all breakdown maintenance work at Gawler High School and Light College of TAFE has been organised by our Nuriootpa office (Max Resmus) using private contractors, such as yourselves.
>
> To gain the most benefit out of SACON's own trades work force and make the best use of funds allocated to SACON for maintenance it has been necessary to change arrangements, and from 23 October 1990 the bulk of breakdown maintenance for the above school college will be carried out by SACON vans from Elizabeth. Mr Chris Lock or Gunther Katzorke (08) 282 1809 will coordinate the work and have been given your firm's name should the need arise.
>
> However, it is regrettable that there will be a significant drop in breakdown maintenance work for you at those assets.
>
> Thanks for the excellent service you have provided these clients in the emergency maintenance area.
>
> Max will continue to arrange larger maintenance works from Nuriootpa.
>
> Signed:
> D. Bernard
> Regional Manager,
> Central Northern Region,
> SACON, Elizabeth.

That is a remarkable letter in many respects. The plumbers, electricians, glaziers, builders, carpenters and other local tradespeople in Gawler are on site. They do not come from Elizabeth, as do the SACON people. Quite clearly, these people in the private sector offer a very efficient, effective and, I believe, less costly service in doing maintenance work at Gawler High School and Light College of TAFE. In fact, Gawler High School requires considerable maintenance because of what is, apparently, a fairly high level of vandalism. However, the private contractors are continuing their work in other schools in the area.

It is curious that these two educational institutions, Gawler High School and Light College of TAFE, have been separated out for work by SACON. It is curious in the sense that all State Governments around Australia have moved or are moving to contract out to the private sector significant areas involving building repairs and maintenance—areas which were previously undertaken by Government employees. However, in this remarkable example we have a forlorn instance of the Bannon Government swimming against the relentless tide of economic reform. Will the Minister explain the justification for this extraordinary move and say whether any study of the savings flowing from this decision to use SACON instead of private contractors for maintenance work at Gawler High School and Light College of TAFE has been undertaken and, if so, will the Minister

make available as soon as possible the details of any such study?

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

EDUCATION DEPARTMENT STAFF

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Education, a question about staff cuts in the Education Department.

Leave granted.

The Hon. M.J. ELLIOTT: The justification that the Government gave for the cutback in 795 teaching positions was that the teachers' pay rise was much more than expected; in fact, the Government claimed $23 million more than budgeted. I am told that 20 salaries in the Education Department, allowing for additional costs such as superannuation, cost about $1 million per year. So the arithmetic suggests that 460 teaching positions would have been enough to make up the $23 million shortfall, not the 795 teaching positions that were finally axed; that is, of course, even before allowing for the loss of more than 100 school assistants which would have saved an additional several million dollars.

I ask the Minister what justification is there for the cutbacks over and above the savings of $23 million. In fact, it has been suggested that the Government had already planned such cutbacks. Does it suggest, as was asked in another question, that the Government's budget is much further out of skew than anybody anticipated?

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

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: I seek leave to have the following replies to questions inserted in *Hansard* without my reading them.

Leave granted.

REFRIGERATOR RATINGS

In reply to **Hon. M.J. ELLIOTT** (5 September).

The Hon. ANNE LEVY: My colleague, the Minister for Environment and Planning, has advised that she is aware that typical refrigerators and freezers being sold in Australia at the present time are less efficient than the best units available in some overseas countries. It is acknowledged that there is significant potential to improve the efficiency of available refrigerators and freezers, and indeed of other domestic appliances, throughout Australia.

It is for this reason that the Government has adopted the energy labelling system to which the honourable member refers. Regulations under the Electrical Products Act 1988 for refrigerators and freezers came into force in June 1990. It is expected that, within a few months, similar regulations for refrigerative air-conditioners, dishwashers, tumble dryers and washing machines will be in place. At that time Victoria and South Australia will be the two leading States in terms of energy labelling requirements.

The Office of Energy Planning through the Minister of Mines and Energy has advised that the introduction of base efficiency standards (or minimum performance standards) for such domestic appliances is an option which the Government will consider. The present labelling system, while it does have legislative backing, is essentially market-driven. It provides information to consumers about the operating costs of appliances which they may take into account when making purchase decisions. Manufacturers may use the scheme for marketing purposes.

There is a case to proceed further in the promotion of efficient appliances by enforcing standards of minimum performance. The option should certainly be considered. That is why members of the Australian Minerals and Energy Council, at their meeting in Darwin on 29 August 1990 agreed to the establishment of a working party (chaired by Victoria) to consider the development and implementation of national energy standards for major household appliances. Clearly, a national approach to such standards would be preferred, given that most appliances are marketed on a national basis. It is expected that by mid-1991, the future direction of such standards in Australia would have been more clearly defined as a result of the deliberations of this working party.

PESTICIDES IN SCHOOLS

In reply to **Hon. M.J. ELLIOTT** (22 August).

The Hon. ANNE LEVY: My colleague the Minister of Education, has advised that health and safety guidelines are being followed in schools and were followed with respect to Cleve Area School. Consultation took place between the school, SACON and the Health Commission. The school council endorsed the use of an organophosphate pesticide. Cleve Area School was treated with 'Dursban' which is listed as an approved termite eradication chemical under the Australian standards. The physical application of the treatment was undertaken in the presence of a representative from the S.A. Health Commission.

Guidelines for the use of pesticides for the prevention and control of termites are detailed in Australian Standards 2178-1986, 2057-1986, and 1694-1974. I table for the information of honourable members a copy of the guidelines for schools regarding the use of hazardous chemicals which were published in the *Education Gazette* dated 6 May 1988, volume 16 number 11.

The Minister of Housing and Construction has advised that information on the level of pesticide used in schools over the years would be extremely difficult to obtain. SACON's data base is not able to provide this information without a laborious investigation.

Education Department buildings are treated against termite intrusion by measures described in the relevant Australian Standards.

As to recommended procedures for the use of hazardous chemicals or substances in Education Department workplaces when repairs, construction or chemical treatments are being carried out:

The safety policy of the South Australian Government requires each Government department or instrumentality to maintain joint employer-employee advisory committees to formulate occupational health, safety and welfare policy and to recommend its adoption by management.

As part of its continuing task, the Education Department's Occupational Health, Safety and Welfare Advisory Committee has developed the following guidelines for use when planned site work, involving the use of chemicals is identified as a concern to employees at an Education Department workplace.

Before any upgrading or chemical treatment is commenced, the principal and whole staff must be fully informed and briefed at a staff meeting as to the nature and extent of the work involved.

In order to advise, properly, all employees at the meeting, the health and safety representative should have first convened a meeting between the principal and the officer supervising the project to ensure that the following issues have been addressed:

- all safeguards are in place
- restricted areas are clearly defined
- the safest products are being used (non toxic or less toxic alternatives should be employed wherever possible)
- the most appropriate time is chosen for the project (school holidays should be chosen wherever possible).

It can be expected that contractors shall adhere to safety guidelines outlined in the industrial safety code with regard to the following matters:

- handling, transport and storage of materials
- appropriate evacuation procedures
- length of time for which buildings are to be vacated
- cleaning up procedures.

On each occasion when persons undertaking work enter Education Department workplaces to begin a project or to resume work, the principal and health and safety representative should be notified of:

- procedures to be adopted
- safeguards to be employed
- nature of chemicals or hazardous substances being used
- appropriate contingency plans
- restrictions which apply to access until all dangers are removed.

When work is completed, it must be ensured that a meeting of all workplace staff is convened by the health and safety representative or the manager. That meeting should be informed on any matter necessary to assure employees that previously restricted areas can return to normal use.

E.D., 1/5/101C

Education Gazette 6 May 1988 volume 16 number 11.

NORTH YELTA MINE

In reply to **Hon. M.J. ELLIOTT** (18 October).

The Hon. ANNE LEVY: My colleague, the Minister for Environment and Planning, has advised that, before a proposed mining operation which may affect heritage items is granted approval by the Department of Mines and Energy, consultation occurs between that Department and the Department of Environment and Planning. Advice relating to heritage matters is taken into account before a final decision is made.

The heritage and historical value of buildings in the town has been considered; however there are in fact no buildings in North Yelta recorded on the Register of State Heritage Items.

The proposed mining operation must operate under the provisions of the Clean Air Act and the Noise Control Act. In accordance with the above Acts, blasting operations will be monitored for vibration, and dust suppression will be carried out.

CORPORATIONS (SOUTH AUSTRALIA) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to apply certain provisions of laws of the Commonwealth relating to corporations, the securities industry and the futures industry as laws of South Australia; and for other purposes. Read a first time.

The Hon. C.J. SUMNER: I move:

That this Bill be now read a second time.

1. The objects of this Bill are:
   (a) to apply certain provisions of laws of the Commonwealth relating to corporations, the securities industry and the futures industry as laws of South Australia; and
   (b) to provide for their administration and enforcement and related matters.

2. The Bill forms part of a legislative scheme that involves the enactment of Bills by the Commonwealth, the State and the Northern Territory. The scheme is based on an agreement reached at a meeting of Ministers at Alice Springs on 29 July 1990.

The Background

3. The Corporations Act 1989 (the Corporations Act) and the Australian Securities Commission Act 1989 (the ASC Act) were enacted by the Parliament of the Commonwealth as laws applying of their own force throughout Australia.

4. Following the High Court's decision in *South Australia and Others v the Commonwealth* (the corporations case), the Commonwealth and the States agreed that the Corporations Act and the ASC Act should form the basis for future corporate regulation and that an applied law regime should be adopted by the States to enable those Acts to apply Australia-wide. This approach is also designed to overcome the constitutional uncertainty which would persist if the Commonwealth proclaimed those parts of the Corporations Act which were not affected by the decision in the corporations case.

The Commonwealth Bill

5. The Commonwealth component of the scheme is contained in the Corporations Legislation Amendment Bill 1990, which was introduced into the Commonwealth Parliament on 8 November 1990.

6. In giving effect to the agreement, the Commonwealth Bill provides for the Corporations Act and the ASC Act to be amended to remove the current constitutional underpinning and to be recast as laws for the Australian Capital Territory. The aim of those amendments is to produce Acts which are in a form that can be applied by each State as the law of the State.

7. The Commonwealth Bill will insert at the beginning of the Corporations Act a series of sections (covering provisions) and will convert the current text of the Corporations Act (with other amendments) into a document called the corporations law. The corporations law will be capable of being applied to any State or Territory by legislation of or applying in the State or Territory.

8. The covering provisions will apply the corporations law to the Australian Capital Territory.

9. The Commonwealth Bill will amend the ASC Act to convert it from a Commonwealth law applying of its own force throughout Australia into a law relating to the regulation of corporate activities and the securities and futures industries in the Australian Capital Territory.

As with the Corporations Act, it has been agreed that the States will pass legislation applying the bulk of the provisions of the ASC Act to their own jurisdictions, and conferring powers on the ASC to administer the corporations law of their respective jurisdictions.

The various bodies involved in the administration of corporations legislation will continue to be constituted under the ASC Act; these bodies are the ASC, the Companies and

Securities Advisory Committee, the Corporations and Securities Panel, the Companies Auditors and Liquidators Disciplinary Board and the Accounting Standards Review Board.

10. Other matters are dealt with by the Commonwealth Bill. Some of these provisions have counterparts in the State Bills and are discussed below. Other provisions are necessary to the operation of the scheme, but will not be duplicated in the State Bills (for example, the power to make regulations for the purposes of the corporations law).

11. Provisions relating to the buy-back of shares have been included in the Commonwealth Bill. This will update the Corporations Act to bring it into line with the current cooperative scheme law.

12. A small number of provisions have also been included in the Commonwealth Bill to clarify the operation of, and correct anomalies in, the fundraising provisions and to facilitate the operation of the ASC's national information system of computerisation of corporate affairs records.

13. Some technical amendments to provisions of the Corporations Act that are in need of correction or clarification are also included in the Commonwealth Bill.

The State Bill

14. This Bill applies the corporations law set out in the Corporations Act as a law of this State. This law may be referred to as the Corporations Law of South Australia. The Bill also applies the provisions of the regulations made for the purposes of the corporations law. These regulations will be made under the Corporations Act, and may be referred to as the corporations regulations of South Australia. Provisions are included to make it clear that references in the applied laws to 'this jurisdiction' will mean the State.

15. The Bill also applies the substantive provisions of the ASC Act as a law of this State (the ASC Law of South Australia). The provisions relate to the functions of the ASC, and, in particular, to its investigatory powers, and to the functions of other bodies established under the ASC Act.

16. The Bill also applies the accounting standards made by the Australian Accounting Standards Board to the State.

17. The Bill contains provisions for the vesting and cross-vesting of both civil and criminal jurisdiction in matters arising under the Corporations Law.

18. The Bill contains provisions that apply provisions of Commonwealth laws (to the exclusion of relevant State laws) relating to offences, so that for all practical purposes offences against the applied laws will be treated as if they were offences against Commonwealth law.

19. The Bill confers powers on the ASC, the Australian Federal Police and the Commonwealth Director of Public Prosecutions in connection with matters arising under the applied laws. These prowers will not be exercised by State authorities, except in accordance with arrangements made between the Commonwealth and the State.

20. The Bill applies administrative law of the Commonwealth to matters arising under the applied laws. This regime will extend to the Administrative Appeals Tribunal Act, the Administrative Decisions (Judicial Review) Act, the Freedom of Information Act, the Ombudsman Act and other Commonwealth legislation, and will apply to the exclusion of relevant State laws.

21. The Bill deals with other matters, including matters of a savings or transitional nature. The existing cooperative scheme legislation will be excluded to the extent that it is inconsistent with the applied law. Otherwise, the effect of current State law will, as a general rule, be preserved. References in existing State law to the existing cooperative scheme legislation will be automatically read as including references to the new laws, subject to mechanisms to deal with inappropriate or special cases.

THE RESULT TO BE ACHIEVED BY THE COMMONWEALTH AND STATE BILLS

22. The new national scheme will involve the establishment of the Corporations Law to be the substantive law of the Australian Capital Territory providing for the regulation of companies, the securities industry and the futures industry. The national operation of the new scheme will come about by each State passing complementary application legislation. That legislation will apply the Corporations Law as the law of each of those jurisdictions. The Corporations Law will be applied in a way that ensures that any further amendments to the Corporations Law by the Commonwealth Parliament will automatically apply in the States. In this way the Corporations Law will state the uniform text of the new national law applying in all jurisdictions.

23. In a similar way, the substantive provisions of the ASC Act will also be applied in each jurisdiction. This will result in the Corporations Law being administered by the ASC on a national basis. The ASC is to be formally accountable to the Commonwealth Minister and the Commonwealth Parliament.

24. The revised Corporations Act will substantially preserve the policy of the Corporations Act and to the fullest extent the language of that Act. As a result of the agreement, the applied laws will have the characteristics of, and will be treated for all practical purposes within each jurisdiction as if they were, Commonwealth laws rather than State laws. The Commonwealth Bill amends the Corporations Act and the ASC Act to confer these characteristics on the applied laws regime. The Commonwealth Bill also amends the ASC Act to facilitate the conferral of full administrative authority by State Acts on the ASC.

25. The legislative scheme will enable Commonwealth and State laws regulating companies, the securities industry and the futures industry to operate, to the greatest extent possible, as national laws. By the use of citation provisions, the law governing these matters in the States and Territories will be able to be referred to as simply the 'Corporations Law' (similar provisions apply for the ASC Law). There will be a uniform text of companies and securities law applying throughout Australia, and companies and persons dealing with companies will be able to operate on the basis that there is a single national law. Companies will be able to lodge documents, including an application for incorporation, with the ASC anywhere in Australia and, in effect, operate as if they were incorporated Australia-wide.

26. The Commonwealth and State Bills contain provisions for the cross-vesting of civil jurisdiction on the Supreme Courts of each jurisdiction and the Federal Court with respect to matters arising under the Commonwealth and State laws. The purpose of these provisions is to permit, relatively simply, administration and enforcement of the corporations law.

27. The Bills contain provisions for the cross-vesting of the relevant State and Territory courts with jurisdiction to deal with offences under the corporations law of each other jurisdiction.

28. The Bills result in the national administration and enforcement of the Corporations Law through the 'federalising' of offences under the Corporations Law of each jurisdiction, so that they are treated as if they were offences under Commonwealth law.

29. The language of the Corporations Act and the ASC Act is to be made as neutral as possible. The purpose of those amendments is to reduce the need for State translator

provisions. Application orders will provide for local matters relevant to particular jurisdictions.

30. To enhance the national character of the Corporations Law, a State law will only be able to override the Corporations Law where it expressly purports to do so.

31. The overall objectives of the legislative arrangements are therefore to:

(a) replace the existing cooperative companies and securities scheme laws with virtually one system of uniform law; and

(b) to establish a single national regulatory authority (the ASC), with the capacity to effectively administer the laws throughout Australia, and to be accountable to the community through the normal principles of responsible government at a Federal level.

32. The agreement contemplates that the Ministerial Council for Companies and Securities is to continue, although with a revised role in the light of the new national arrangements. The Commonwealth Attorney-General will become the permanent Chairman of the Council. The council is to have no power of direction or control over the ASC. The council is to be consulted in relation to all legislative proposals involving amendment of corporations legislation. In respect of legislative proposals relating to matters covered by chapters 6 to 9 of the Corporations Law (takeovers, securities, public fundraising and futures) the Ministerial Council is to have a consultative role only. In respect of other legislative proposals, the council is to have a deliberative role.

The only other thing I wish to say, which is not in the form of a second reading report, is that responsible Ministers have agreed that the new scheme will operate from 1 January 1991. The Federal legislation has been introduced into the Federal Parliament and is in the process of passage through that Parliament. Other State Parliaments are attempting to deal with the legislation to accommodate that timetable. This Parliament will sit until Thursday 13 December; that is, with this week, there are three sitting weeks left. It is important for the future of companies and securities regulation in South Australia that this matter be dealt with as expeditiously as possible, and I ask members to try to do that to enable the timetable that has been agreed by all States and the Commonwealth Minister to be met.

The Hon. K.T. Griffin: Are they all going to pass it?

The Hon. C.J. SUMNER: I cannot answer the Hon. Mr Griffin's interjection because there may be objections in some Upper Houses.

The Hon. K.T. Griffin: If there were not, would they be passing it by the end of December?

The Hon. C.J. SUMNER: I believe so, yes. I have not heard anything to indicate that the legislation will not be passed, provided that the Parliaments are in agreement. I cannot guarantee that, and the situation could well change. I am fairly certain—as certain as one can be—that it will be passed in New South Wales, Victoria and Queensland. Possibly there is doubt about Western Australia but, if the more populous States pass the legislation and assuming other issues are sorted out, 1 January will still be the start-up date. If the situation changes, I will advise members.

I make those comments to indicate to the Council the timetable that the Government would like to see adhered to for this Bill. That probably means its passage through this Chamber at least in the second to last week of our sittings so that it can be dealt with in the other place during the last week. I also indicate that if members require any briefings—and I apply that comment to the Australian Democrats as well as members of the formal Opposition—the Government is prepared to facilitate that by making the Corporate Affairs Commissioner (Mr Gordon Grieve) available. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1 provides for the citation of the proposed Act and states its purposes. Clause 2 provides for the proposed Act to commence on a proclaimed day or days. Clause 3 contains definitions of expressions used in the Bill. One of the definitions is that of 'applicable provision', which is defined to mean a provision of the Corporations Law, the Corporations regulations, the ASC Law, the ASC regulations, and certain Commonwealth laws, applying as laws of a jurisdiction. This definition refers to the laws that are to be applied by the proposed Act.

Clause 4 provides that the Jervis Bay Territory is taken to be part of the Australian Capital Territory for the purposes of the national scheme laws. Clause 5 provides that a later Act or statutory instrument is not to be interpreted as amending, repealing or otherwise affecting the Act or the applicable provisions (that is, the Corporations Law, the Corporations regulations, etc., of this State), unless it expressly so provides. Clause 6 provides that nothing in the Act or the applicable provisions affects the operation of an Act or statutory instrument enacted or made before the commencement of the clause.

PART 2—THE CORPORATIONS LAW, AND THE CORPORATIONS REGULATIONS, OF SOUTH AUSTRALIA

Clause 7 applies the Corporations Law (set out in section 82 of the Corporations Act as amended by the Commonwealth Bill, and as in force for the time being) as a law of this State. The applied law amounts to the bulk of the present Corporations Act, as amended by the Commonwealth Bill. Clause 8 applies the regulations in force for the time being under the Corporations Act as regulations in force for the purposes of the Corporations Law of this State. Provision is made to protect private persons from any prejudicial effect of any retrospective regulations.

Clause 9 defines some of the basic expressions used in the Corporations Law and Corporations regulations of this State. Clause 10 provides that the Acts Interpretation Act of the Commonwealth, as in force at the commencement of the relevant Commonwealth legislation, applies to the interpretation of the Corporations Law and Corporations regulations of this State. However that Act will have only a residual operation as there are extensive interpretation provisions contained in Part 1.2 of the Corporations Law, and those provisions will prevail over the Acts Interpretation Act. The clause also makes it clear that the Acts Interpretation Act of this State does not apply.

PART 3—CITING THE CORPORATIONS LAW AND THE CORPORATIONS REGULATIONS

Clause 11 enables the Corporations Law of this State to be referred to simply as the Corporations Law. Similarly, the Corporations regulations of this State may be referred to simply as the Corporations regulations. Clause 12 recognises references to the Corporations Law and Corporations regulations of other jurisdictions. Clause 13 provides that a reference in an Act or instrument of this State to the Corporations Law is to be taken (for the purposes of the laws of this State) to be a reference to the Corporations Law of this State and to include a separate reference to the Cor-

porations Law of each other jurisdiction. Similar provision is made for references to the Corporations regulations. These provisions yield to a contrary intention. The object of these provisions is to help ensure that the Corporations Law and Corporations regulations of this State, together with those of other jurisdictions, operate, so far as possible, as if they constituted a single national law operating of its own force throughout Australia. The Commonwealth Act and each State Act will have a similar provision. The interlocking of these provisions will enable in most instances persons and companies to refer to the Corporations Law without specifically identifying the Corporations Law of a particular jurisdiction.

PART 4—APPLICATION OF THE CORPORATIONS LAW TO THE CROWN

This Part states whether certain provisions of the Corporations Law apply to the Crown or emanations of the Crown. Clause 14 makes it clear that a reference to the Crown includes an instrumentality or agency of the Crown. Clause 15 (1) provides that the Crown in all its Australian capacities (or rights) will be bound by the external administration provisions of the Corporations Law (chapter 5), except in relation to offences committed by officers of companies that are in some form of external administration. The purpose of so binding the Crown is to displace the Crown's special priority in relation to the payment of debts, except so far as a priority is specifically preserved by other legislation, and to treat the Crown for the purposes of the insolvent administration of a company like any other creditor of a company.

Clause 15 (2) expressly provides that the securities provisions (chapter 7) of the Corporations Law do not bind the Crown in these capacities. Clause 16 provides that the Crown in right of this State will be bound by the external administration provisions of the Corporations Law of other jurisdictions (except in relation to offences committed by officers of companies that are in some form of external administration). Clause 17 provides that nothing in Part 4 of the Bill or in the Corporations Law renders the Crown in any right to be prosecuted for an offence. Clause 18 makes it clear that where chapter 5 (other than Part 5.8) of a Corporations Law of another jurisdiction binds the Crown in right of this State by virtue of this clause, that law overrides any prerogative right or privilege of the Crown, for example, in relation to the payment of debts.

PART 5—APPLICATION ORDERS

The Corporations Law provides for the making by the Commonwealth Minister of application orders, which are designed to specify matters relevant to particular jurisdictions. Additionally, the Corporations regulations may require or permit matters to be specified by or in application orders made by the Commonwealth Minister. Clause 19 provides that an application order may only be made with the consent of the State Minister. Clause 20 extends the provisions of the Corporations Law of the State relating to the making of applications orders, so as enable the making of such orders for the purposes of the ASC Law of the State.

PART 6—ACCOUNTING STANDARDS

Clause 21 applies the accounting standards made by the Australian Accounting Standards Board to the State.

PART 7—IMPOSITION OF FEES AND TAXES

Clause 22 imposes the fees that the Corporations regulations prescribe. Clauses 23-25 impose contributions and levies payable under various provisions of the Corporations Laws.

PART 8—NATIONAL ADMINISTRATION AND ENFORCEMENT OF THE CORPORATIONS LAW

Division 1—Preliminary

Clause 26 states the object of this Part, which is to help ensure that the Corporations Laws and ASC Laws of this and each other jurisdiction are administered and enforced on a national basis, as if they together constituted a single law of the Commonwealth. Clause 27 provides that this Part has effect subject to the Act, the Corporations Law of this State and the ASC Law of this State. Particular reference is made to Part 9 of the Act, which contains provisions for the vesting and cross-vesting of jurisdiction. That Part makes provision for the courts in which offences against applicable provisions are to be dealt with; that issue would otherwise have been dealt with by reference to the principles set out in the Part (especially clause 29, which would have had the effect of applying the Judiciary Act of the Commonwealth, but is specifically dealt with in clause 55).

Division 2—Offences against applicable provisions

Clause 28 states the object of this Division, which is to further the object of this Part (as stated in clause 26) by providing that offences against the applicable provisions of this or any other jurisdiction are to be treated as if they were offences against Commonwealth law. Examples of the extent of this formula are set out in clause 28 (2), and include the investigation and prosecution of offences. Clause 29 applies Commonwealth laws as laws of this State in relation to offences against the applicable provisions as if those provisions were laws of the Commonwealth and not laws of this State. For the purposes of the laws of this State, such an offence is taken to be an offence against Commonwealth law, except as prescribed by regulations.

Clause 30 contains similar provisions to those in clause 29, but applies to offences against the applicable provisions of other jurisdictions. Clause 31 confers the appropriate functions and powers on officers or authorities of the Commonwealth in connection with the application of Commonwealth law under clauses 29 and 30. There is provision in the Commonwealth Bill for such functions and powers to be received by such officers or authorities.

Clause 32 deals with the technical point of how references in the applied Commonwealth laws to laws of the Commonwealth are to be construed. Clause 33 makes it clear that officers and authorities of the State may not perform or exercise functions or powers conferred by this Division on officers and authorities of the Commonwealth. This provision is, however, subject to arrangements under Part 12.

Division 3—Administrative Law

Clause 34 states the object of this Division, which is to further the object of this Part (as stated in clause 26) by providing that the Commonwealth administrative laws apply to the applicable provisions, as if the applicable provisions were those of the Capital Territory. This has the effect of applying the Commonwealth administrative law regime to the national scheme laws. The Commonwealth administrative laws are the Administrative Appeals Tribunal Act, the Administrative Decisions (Judicial Review) Act, the Freedom of Information Act, the Ombudsman Act and the Privacy Act of the Commonwealth.

Clause 35 applies the Commonwealth administrative laws as laws of this State in relation to anything arising in respect of an applicable provision of this State. For the purposes of the law of this State, anything arising under an applicable provision of this State is taken to arise under Commonwealth law, except as prescribed by regulations. Clause 36

contains similar provisions to those in clause 35, but applies in relation to the applicable provisions of other jurisdictions.

Clause 37 confers the appropriate functions and powers on officers or authorities of the Commonwealth in connection with the application of Commonwealth law under clauses 35 and 36. There is provision in the Commonwealth Bill for such functions and powers to be received by such officers or authorities. Clause 38 deals with the technical point of how references in the applied Commonwealth laws to laws of the Commonwealth are to be construed. Clause 39 makes it clear that officers and authorities of the State may not perform or exercise functions or powers conferred by this Division on officers and authorities of the Commonwealth. This provision is subject to arrangements under Part 12.

PART 9—JURISDICTION AND PROCEDURE OF COURTS

Division 1—Vesting and cross-vesting of civil jurisdiction

Clause 40 (1) states the operation of this Division. It applies to civil matters arising under the Corporations Law of this State and other jurisdictions. The Division operates in relation to those matters to the exclusion of the cross-vesting scheme under the Jurisdiction of Courts (Cross-vesting) Act 1987. Clause 40 (2) provides that nothing in the Division affects any other jurisdiction of any court, for example, cross-vested jurisdiction arising under the Jurisdiction of Courts (Cross-vesting) legislation in relation to a matter unconnected with the Corporations legislation.

Clause 41 defines certain expressions used in the division. The expression 'Corporations Law' is defined to include the Corporations regulations, the ASC Law and regulations, any other applicable provisions, the Act and regulations under the Act and certain rules of court. Clause 42 confers jurisdictions with respect to civil matters arising under the Corporations Law on the Federal Court, the Supreme Court of this State and the Supreme Court of each other jurisdiction.

Clause 43 restricts appeals from courts, so that appeals may not be instituted in courts of different jurisdictions. The purpose of this provision is to ensure that, notwithstanding the cross-vesting of jurisdiction, the normal hierarchy of appeals will apply. Clause 44 enables proceedings to be transferred from one superior court to another, where it appears, having regard to the interests of justice, that it is more appropriate for the proceedings to be determined by the other court. Regard, however, is to be had to the principal place of business of any body corporate concerned in the proceedings, and to the place where the relevant events took place.

Clause 45 (1) deals with the question of which rules of evidence and procedure should be applied in a case involving cross-vested jurisdiction. The court is empowered to apply such rules of evidence or procedure as the court considers appropriate in the circumstances, being rules that are applied in a superior court in Australia. Clause 45 (2) provides that, where a proceeding is transferred from another court, the accepting court must give reciprocal recognition to the steps that had been taken for the purposes of the proceeding in the transferring court.

Clause 46 requires courts, judges and court officials to act in aid of each other in these matters. Clause 47 confirms that the Supreme Court of this State may exercise cross-vested jurisdiction. Clause 48 will enable barristers and solicitors involved in transferred proceedings to have the same entitlement to practise in relation to transferred proceedings as would be available if the accepting court were a Federal court exercising Federal jurisdiction.

Clause 49 provides that a decision under the cross-vesting provisions as to whether a proceeding should be transferred to another court, or as to which rules of evidence and procedure are to be applied, is not subject to appeal. Clause 50 will enable a judgment of the Federal Court or the Supreme Court of this State given in the exercise of cross-vested jurisdiction to be enforceable in this State as if it were a judgment entirely given in the court's ordinary jurisdiction. Clause 51 empowers rules of court to be made for the Supreme Court of this State with respect to proceedings arising under the Corporations Law of this State. When the Supreme Court of this State is exercising cross-vested jurisdiction, it is required to apply its own rules of court, with such alterations as are necessary. Similarly, the Supreme Court of another jurisdiction is required, when exercising cross-vested jurisdiction in matters arising under the Corporations Law of this State, to apply its own rules of court, with such alterations as are necessary. Clause 52 provides that when the Federal Court is exercising cross-vested jurisdiction in matters arising under the Corporations Law of this State, it is required to apply its own rules of court, with such alterations as are necessary.

Division 2—Vesting and cross-vesting of criminal jurisdiction

This Division provides for a cross-vesting regime for criminal jurisdiction for offences against the Corporations Law, based on Part X of the Judiciary Act of the Commonwealth. As a result of the agreement, offences against the Corporations Law are to be 'federalised', that is, treated as though they were offences against Commonwealth law. Jurisdiction will be conferred on the several courts of the States and Territories.

Consistently with the approach adopted in relation to the conferral and exercise of civil jurisdiction, the Bill sets out in detail the regime for the conferral and exercise of criminal jurisdiction rather than take the more complex and circuitous route of relying on the application of Part X of the Judiciary Act of the Commonwealth under the general federalising formula.

In summary, the cross-vesting of criminal jurisdiction in respect of offences against the Corporations Law provides for the following courts to exercise jurisdiction.

In respect of summary offences, the several courts of the States and Territories exercising jurisdiction with respect to the summary conviction of offenders or persons charged with offences against the laws of that State or Territory will have equivalent jurisdiction with respect to persons charged with summary offences against any Corporations Law.

However, the courts exercising jurisdiction in relation to summary jurisdiction in relation to summary offences against any Corporations Law may decline to exercise that jurisdiction, in relation to an offence committed outside the particular jurisdiction, if satisfied that it is appropriate to do so.

In respect of indictable offences:

(a) committed outside Australia (including offences committed in the coastal sea), the several courts of each State and Territory exercising jurisdiction with respect to the trial and conviction on indictment of offenders against the laws of that State or Territory have the equivalent jurisdiction with respect to persons charged wtih indictable offences against any Corporations Law;

(b) committed partly in one jurisdiction and partly in another, the several courts of those States and Territories in which the offence was partly committed exercising jurisdiction with respect to indictable offences against the laws of those States

and Territories have equivalent jurisdiction with respect to indictable offences against the Corporations Law;

(c) committed wholly within one jurisdiction, the several courts of that State or Territory in which the offence was committed exercising jurisdiction with respect to indictable offences against the laws of that State or Territory have equivalent jurisdiction with respect to indictable offences against the Corporations Law;

(d) wherever committed, the courts of the State or Territory against whose Corporations Law the offence was committed which exercises jurisdiction with respect to indictable offences against the laws of the State or Territory, have equivalent jurisdiction with respect to indictable offences against the Corporations Law of that jurisdiction.

The application of the Crimes Act of the Commonwealth by the general federalising formula for Corporations Law offences will govern which offences under the Corporations Law are indictable.

Clause 53 states the operation of this Division. It applies to criminal matters arising under the Corporations Law of this State and other jurisdictions.

Clause 54 defines certain expressions used in the Division. The expression 'Corporations Law' is defined to include the Corporations regulations, the ASC Law, the ASC regulations, any other applicable provisions, the Act, regulations made under the Act and certain rules of court.

Clause 55 confers criminal jurisdiction in respect of offences arising under the applicable laws of this State on the several courts of each State and Territory exercising criminal jurisdiction. It also accepts jurisdiction conferred on courts of this State by corresponding laws of other jurisdictions. Provisions of the clause are based on the principles contained in section 68 of the Judiciary Act of the Commonwealth.

Clause 56 provides that State laws applying to the arrest and custody of offenders or persons charged with offences, and the procedure for their summary conviction, committal for trial, etc., will apply to persons charged with offences against the Corporations Law of this State.

PART 10—COMPANIES LIQUIDATION ACCOUNT

Clause 57 will enable money standing to the credit of the Companies Liquidation Account established by the Companies (South Australia) Code to be dealt with in accordance with the relevant provision of the Code.

PART 11—THE ASC LAW AND THE ASC REGULATIONS OF SOUTH AUSTRALIA

Division 1—Application of ASC Act and ASC Regulations

Clause 58 applies the ASC Act (other than the provisions listed in clause 58 (2)) as a law of this State.

Clause 59 applies the regulations in force for the time being under the ASC Act as regulations in force for the purposes of the ASC Law of this State.

Clause 60 defines some of the expressions used in the ASC Law and ASC regulations of this State. These definitions parallel the definitions in section 5 of the ASC Act, which is one of the provisions not applied by clause 58.

Clause 61 provides a definition of 'giving information', in the same terms as section 6 of the ASC Act, which is one of the provisions not applied by clause 58.

Clause 62 provides that Part 1.2 of the Corporations Law and (subject to that Part) the Acts Interpretation Act of the Commonwealth, as in force at the commencement of the relevant Commonwealth legislation, apply to the interpretation of the ASC Law and ASC regulations of this State. However, the Acts Interpretation Act of the Commonwealth will have only a residual operation as there are extensive interpretation provisions contained in clause 60 of the Bill and in Part 1.2 of the Corporations Law, and those provisions will prevail over the Acts Interpretation Act. The clause also makes its clear that the Acts Interpretation Act of this State does not apply.

Division 2—Citing the ASC Law and the ASC Regulations

Clause 63 enables the ASC Law of this State to be referred to simply as the ASC Law. Similarly, the ASC regulations of this State may be referred to simply as the ASC regulations.

Clause 64 recognises references to the ASC Law and ASC regulations of other jurisdictions.

Clause 65 provides that a reference in an Act or instrument of this State to the ASC Law is to be taken (for the purposes of the laws of this State) to be a reference to the ASC Law of this State and to include a separate reference to the ASC Law of each other jurisdiction. Similar provision is made for references to the ASC regulations. These provisions yield to a contrary intention. The object of these provisions is to help ensure that the ASC Law and ASC regulations of this State, together with those of other jurisdictions, operate, so far as possible, as if they constituted a single national law operating of its own force throughout Australia.

Division 3—The Commission

Clause 66 formally confers on the ASC the powers conferred on it by the national scheme laws of this State, and also the functions and powers conferred on the National Companies and Securities Commission by a cooperative scheme law.

Clause 67 empowers the State Minister to enter into agreements or arrangements with the ASC for the performance of functions by the ASC as an agent of the State.

Clause 68 formally confers on the ASC the power to do acts in this State in the exercise of functions conferred by national scheme laws of other jurisdictions.

Clause 69 empowers the Commonwealth Minister to give directions to the ASC in relation to functions conferred on it by a national scheme law of this State. Such a direction will not relate to a particular case, and must be gazetted.

Division 4—The Panel

Clause 70 formally confers on the Corporations and Securities Panel the functions conferred on it under a national scheme law of this State. It also confers on the panel the power to do acts in this State in the exercise of functions conferred by national scheme laws of other jurisdictions.

Division 5—The Disciplinary Board

Clause 71 formally confers on the Companies Auditors and Liquidators Disciplinary Board the functions conferred on it under a national scheme law of this State. It also confers on the board the power to do acts in this State in the exercise of functions conferred by national scheme laws of other jurisdictions.

Division 6—Miscellaneous

Clause 72 provides that where a person is appointed under the ASC Act to act in an office, the law of this State applies as if the person were the holder of the office. This provision supplements a similar provision in the ASC Law. The provision is necessary to deal with cases where acting appointments are made under provisions of the ASC Act that are not applied by the Bill.

Clause 73 is a formal provision that deals with future possible changes of names of bodies or offices established under the ASC Act.

Clause 74 applies Part III of the Crimes Act of the Commonwealth for the purposes of the investigation and information-gathering provisions of the ASC Law. That Part relates to offences relating to the administration of justice, and applies for this purpose as if an examination or hearing by the ASC were a judicial proceeding.

Clause 75 applies Part IIIA of the Evidence Act of the Commonwealth for the purposes of the investigation and information-gathering provisions of the ASC Law. That Part relates to the admissibility of business records.

PART 12—GENERAL

Division 1—Arrangements

Clause 76 defines 'relevant State law' for the purposes of the Division. It includes matters of the kind referred to in section 13 (1) *(b)* of the ASC Act as well as other State law, but excludes a cooperative scheme law.

Clause 77 provides for arrangements for the conferral of State functions on Commonwealth authorities or officers, and for the conferral of functions under applicable laws on State authorities or officers. Such an arrangement would be made between the Minister and the Commonwealth Minister.

Clause 78 provides for notice of such arrangements to be gazetted.

Division 2—Penalties and Fines

Clause 79 requires fines, penalties and other money payable under the applicable provisions of this State to be paid to the Commonwealth.

Division 3—Regulations

Clause 80 empowers the making of regulations for the purposes of the Act. It also empowers the making of regulations of a savings or transitional nature, but any such regulations expire 12 months after the commencement of the clause. Provision is made to protect private persons from any prejudicial effect of any retrospective regulations.

PART 13—TRANSITIONAL

Division 1—Staff

Clause 81 provides that a member of the staff of the ASC who was a public servant of this State engaged in the administration of the cooperative scheme laws is authorised to disclose to the ASC any information acquired while so engaged. This would override any existing inappropriate secrecy provision.

Clause 82 provides that a South Australian public servant who becomes a member of the staff of the ASC will be taken to be on special leave without pay for a period to be prescribed by regulation, but will, by notice in writing to the Commissioner for Public Employment given during the prescribed period, be able to elect to resume duties in the South Australian Public Service.

Clause 83 prescribes the ASC for the purposes of section 5 of the Superannuation Act 1988 as an authority with which the South Australian Superannuation Board may enter into superannuation arrangements.

Division 2—Cooperative Scheme Laws

Clause 84 defines the cooperative scheme Acts. They include the various Acts and Codes that regulate corporate activity at present.

Clause 85 provides that the national scheme laws prevail over the cooperative scheme laws. The cooperative scheme laws continue to operate of their own force only in relation to matters arising before the commencement of the clause and incidental matters.

Clause 86 enables regulations to be made excluding the residual operation of cooperative scheme laws.

Clause 87 contains a technical provision as to how the Acts Interpretation Act applies in relation to cooperative scheme law affected by clauses 85 and 86.

Clause 88 enables regulations to be made modifying cooperative scheme laws.

Clause 89 is a technical provision that preserves the operation of cooperative scheme laws that might be affected by certain Commonwealth regulations.

Clause 90 provides a mechanism for dealing with references to cooperative scheme laws in existing legislation and other instruments.

Clause 91 confers enforcement powers on the Commonwealth Director of Public Prosecutions and the Australian Federal Police in connection with offences against the cooperative scheme laws. The Commonwealth Minister is also given the same functions and powers in relation to such offences as he or she would have if they were offences against the national scheme laws.

Clause 92 enables arrangements to be made between the Minister and the Commonwealth Minister regarding the exercise of investigation powers by State authorities and officers in connection with the cooperative scheme laws.

Division 3—Exemptions

Clause 93 preserves the effect of certain current exemptions in force under section 16 of the Companies (Application of Laws) Act 1982.

Division 4—Australian Stock Exchange Limited

Clause 94 contains savings provisions regarding the Australian Stock Exchange, which is dealt with under Part IIA of the Securities Industry (South Australia) Code.

Division 5—Companies Auditors and Liquidators Disciplinary Board

Clause 95 continues the disciplinary board in existence for the purpose of dealing with certain applications made before the commencement of the clause.

PART 14—PROVISIONS AFFECTING CORPORATIONS LAW

Clause 96 continues a provision currently contained in the Companies (South Australia) Code but not retained in the new Corporations Law providing that certain land transfers by companies of units or allotments shown on a strata plan or a plan of division are not to constitute a reduction of share capital.

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

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 amends section 82 of the Constitution Act. New paragraph *(a)* requires the Electoral Boundaries Commission to commence proceedings for an electoral redistribution within three months after assent to the Constitution (Electoral Redistribution) Amendment Act 1990. New paragraph *(c)* then requires an electoral redistribution after every subsequent general election.

Clause 3 recasts section 83 of the principal Act. A new criterion of electoral fairness is introduced by subsection (1). New subsection (2) is broadly similar to section 83 as it stands at present except that the requirement that the commission should adhere as far as practicable to existing electoral boundaries is eliminated. New subsection (3) defines what is meant by a group of candidates for the purposes of the section.

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

REFERENDUM (ELECTORAL REDISTRIBUTION) BILL

Second reading.

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

That this Bill be now read a second time.

The Constitution (Electoral Redistribution) Amendment Bill sets out the changes the Government wishes to make to the Constitution in relation to the timing and frequency of redistributions. As the changes proposed affect Part V of the Constitution Act they must win majority support in the Parliament and in the community. This Referendum Bill is the vehicle which facilitates the holding of that referendum. It identifies the form of the question to be put to electors at a referendum, the content of which is dealt with in the accompanying Bill. It also determines who will conduct the referendum and who is entitled to vote at the referendum. Further administrative matters relating to, for example, the appointment of scrutineers and the determination of formality will be dealt with by way of regulation. I would advise the Council that those regulations together with this Bill, the Constitution (Electoral Redistribution) Amendment Bill and Part V of the Constitution Act have all been referred to a select committee which has considered these matters during the winter recess. The form of the question to be submitted to electors is proposed to be:

Do you approve of the Constitution Act Amendment Bill 1990 relating to electoral redistributions?

Electors will be obliged to answer 'Yes' or 'No' in a square provided on a ballot paper. It is expected that explanatory statements will be available to all electors prior to the referendum so that they are in a position to know what the consequences are of answering 'Yes' or of answering 'No'. In addition, the Government would expect that statements would be provided by political Parties and also available in one form or another for electors. The Electoral Commissioner will conduct the referendum. I should remind the Council that the Constitution Act requires that at least two months elapse between the time at which the Parliament agrees to this and the related Bill and the time at which a referendum can actually be held. I commend the Bill to the Council and again repeat the Government's intention to allow full public and parliamentary scrutiny on this matter through debate in both Chambers. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 requires submission of the Constitution (Electoral Redistribution) Amendment Bill 1990 to a referendum of electors. In accordance with section 88 of the Constitution, the referendum is to be held on a date appointed by proclamation being a date falling at least two months after the Bill is passed by Parliament. If a majority of the electors voting at the referendum approve the Bill, it will be submitted to the Governor for assent, but if not, it will lapse.

Clause 3 provides for the referendum to be conducted by the Electoral Commissioner in accordance with the procedures appropriate to a general election.

Clause 4 empowers the Governor to make regulations.

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

CORRECTIONAL SERVICES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 15 November. Page 1905.)

The Hon. J.C. IRWIN: The Opposition supports this Bill, although it will seek to amend one clause and will oppose one clause. But, I will deal with these matters later. I acknowledge that the last major correctional services legislation was introduced near the end of the Tonkin Government by the then Chief Secretary, Hon. Allan Rodda. That legislation was necessary because of the lack of proper attention paid to the prisons in the 1970s by the Dunstan Government. Some can recall the turmoil which surrounded the prison system in the early 1980s. This was not so much the fault of the then Chief Secretary but an accumulation of inaction over the preceding years and a certain reflection of changing community attitudes to the penal system. I am pleased to note that the Minister of Correctional Services said this about the Hon. Allan Rodda:

He tried to make some fundamental reforms in this area, but he did not get many thanks for his efforts. Following the Royal Commission he decided that the Government would be best served by his leaving. Allan Rodda was a pioneer in this area—there is no question about that—he had a real feel for it and a lot of the work that he laid down lives on.

The Hon. C.J. Sumner: Who said that?

The Hon. J.C. IRWIN: This is your colleague the Hon. Mr Blevins, about one of my former colleagues, Mr Rodda. There is unfortunately a mystique in politics that gives undue credit to charismatic, head-kicking, headline grabbing politicians to the detriment of the Allan Roddas who have graced this Parliament. Allan Rodda was for a time, my local member, a close friend and associate. He was one of the finest members any constituent could have. He left this Parliament with his very high ideals of honesty, integrity and hard work totally intact. Allan Rodda's Correctional Services Act is now many years old and long overdue for an update. Hence our attention to this legislation today.

There is no question that law, order and personal safety were the number one issues at the 1985 and 1989 State elections. Both major Parties would have identified this fact; in fact they did identify that fact, when listening to the electorate prior to and during those campaigns. I have

to give credit to the Government for winning the tactical battle on this high priority community issue. It is probably true that it won the 1985 and 1989 elections because it was able to convince the electorate that it really was doing things and would go on doing things about law and order and generally toughening up on the criminal and anti-social element in our society. I have no intention of attempting to detail or debate this enormous subject now but the present legislation before us allows me to make some reflections on just one area of the debate. The strong community demands for something to be done in the 1980s was, undoubtedly, a reaction to the slackish attitude of the 1970s and was directed towards wanting a tougher attitude to those who break the law.

The Attorney-General has frequently given us a long list of areas in which the Government has toughened its stand. More offenders are now being put into gaol and generally for a longer time. A fairly hefty capital works program, which is still continuing, has seen upgrading of the gaol facilities and expanded accommodation. Some measures have been devised as an alternative to gaol and the expansion and finetuning of these measures are part of the legislative amendments before us now. The gaols in South Australia are, to all intents and purposes, full now and will remain at capacity, whatever that is, for the foreseeable future. If we take nothing else from the experience of the curfew poll at Port Augusta, we cannot avoid the fact that people—and a vast majority of the people—do want a discipline in society.

I have no doubt at all that every council area in the State will support the Port Augusta community's strong cry for help. They may not support the curfew concept but they will support the need for something to be done; not just more committees and more talking, but positive action to crack down on anti-social behaviour. We would do well to follow the motto of the Shaftsbury Centre in Queensland, 'Better to build the boy than to mend the man' or whatever its equivalent is in non-sexist language—perhaps 'Better to build the child than to mend the adult'.

My position is that I cannot ignore a community, through a democratic poll, calling for action for something to be done. This Government has demonstrated, through the demise of the Department of Local Government, that it wants local communities to be more responsible for their own areas and their own local decision making. It will make a nonsense of that fine sentiment if it baulks the very first time it is tested. Recently it gave alcohol-free areas to the Aboriginal people because they wanted it. What is the difference when, in this case, the people of Port Augusta ask for more control in their area? The people are stunned by the reaction of this Government.

The Hon. C.J. Sumner: You opposed it, too.

The Hon. J.C. IRWIN: Self-righteous, indignation and a whole string of negatives—

The Hon. C.J. Sumner: You opposed it.

The Hon. J.C. IRWIN: I am saying what I believe the people have said to your attitude to their poll.

The Hon. C.J. Sumner: Do you support the curfew?

The Hon. J.C. IRWIN: It has nothing to do with what I think about it. I am talking about your attitude.

The Hon. C.J. Sumner: Yes it does. There was a press release put out on behalf of the Opposition. You opposed the curfew.

The ACTING PRESIDENT (Hon. R.R. Roberts): Order! The Hon. Mr Irwin has the call.

The Hon. J.C. IRWIN: I am not talking about that now. If you were listening—

The Hon. C.J. Sumner interjecting:

The Hon. J.C. IRWIN: You are very prickly.

The Hon. C.J. Sumner: No I'm not.

The Hon. J.C. IRWIN: You're very inactive and very negative. That is what I am saying—a whole string of negatives—

The Hon. C.J. Sumner: But you're opposed to it.

The Hon. J.C. IRWIN: It doesn't matter whether I am opposed to it.

The ACTING PRESIDENT: Order!

The Hon. J.C. IRWIN: You can go on parroting that, but I'm just saying that you're being very negative about it.

The Hon. C.J. Sumner: You're negative, too.

The Hon. J.C. IRWIN: Yes, but you're being negative about everything. What are you doing? Some more committees.

The Hon C.J. Sumner interjecting:

The ACTING PRESIDENT: Order!

The Hon. J.C. IRWIN: What is Mr Rann doing? More committees? What are we doing? I don't understand why we can't get back—

The ACTING PRESIDENT: Order! Members will direct their remarks through the Chair.

The Hon. J.C. IRWIN: I cannot understand why members, Ministers or Governments cannot get back to the attitude of one Tom Playford when he or his Government built Whyalla. When the Public Service said to him, 'Sir, you can't build that here' he said, 'Don't tell me how I can't build it, tell me how I can build it.' That is the attitude of people now. Let us not argue about whether or not we agree with the curfew. Things need to be done when a community has asked for something to be done.

While we have three levels of governments directing our lives in this State, there will always be, and have to be, acknowledgment that the Federal and State Governments will be passing the laws for others to administer. To a great extent these laws have to reflect what the people want. Although it does seem to me at times that we in here, and other Parliaments around the world, know more than what the people want and what the people we serve ask us to do for them. They elect us, as individuals or as part of a Party team, espousing a certain philosophy. So, however you read the Port Augusta example, you have to see an unrest, even if that symptom is highlighted by a few ringleaders and irresponsible parents and guardians. As I see it, the unrest is not just at Port Augusta.

I am sure it would be the majority view in this place that the penal system should not be the place to deal with every offender against the laws of the land. I support the notion that it has a very important part to play in the order of things, but it should always be, and be seen to be, the ultimate penalty and the ultimate censure, just as certain sections at Yatala Labour Prison are the ultimate penalty within the prison system. In my youth it was socially unacceptable to even speak to a person who had been in gaol. It is a sad reflection on our 'progress' that to have been in gaol is now seen to be a status symbol by many.

To me, discipline starts in the home, continues in the school and prepares young people for the discipline still demanded by the many laws for which we in this place are responsible. It is visibly breaking down in the home and in the school and makes it very difficult for us as legislators to devise a correctional services system to deal with the end product of an ever increasing number of people straying from what the community expects, and what is the community norm. If you like, the penal system is the bandaid; and we are dealing with the bandaid today, to make it a better bandaid. We have to do that frequently; we cannot avoid it.

However, the Attorney-General and others often tell us quite correctly that the answer to the problem lies not in a better bandaid but in a better society which does not produce the quantity of offenders as now, and we received some of that advice today. It should be number one priority for Governments and Oppositions to have the major part of their planning directed towards helping society build from a better foundation. No-one can say everything is rosy now, so it will be a start for Governments to admit that. There is nothing wrong with a big dose of idealism and a real commitment towards achieving some of the goals. The people of Port Augusta have spoken for the people of South Australia, and if that is not a clear guide post of community support for Government action, I do not know what is.

I turn now to the amendments to the Correctional Services Act alluded to in the second reading explanation and already passed in the other place. Most of my remarks are based on looking at the merit of the proposals on their own without being stampeded into accepting the need for them on the premise that our gaols are full. That is a dangerous way to go and we will only compound our problems if we fall for that easy way out.

I also say that I was very disappointed to learn that the amendments before us were never discussed with the Correctional Service Advisory Council, a council set up in the Act to advise the Minister of Correctional Services. I am always suspicious when I find out about a lack of consultation, especially with this group of people whose experience and wisdom is unquestioned in the very areas we are talking about now. One wonders why there is an arrogant disregard for the people on the Advisory Council as well as a disregard for the provisions in the Act.

It is not good enough for the Minister of Correctional Services to tell us that some community service committees are not working. Of course, I agree that you can lead a horse to water but you cannot make it drink, but I refuse to believe that enough has been done to make some of these community service committees work, or that we cannot find people in the community with a sense of service to the community to serve on these committees. This is a little like the Australian National Railways saga revisited: run the service down and then say we can do away with all the country rail services. We do not accept the notion of one community service committee for the State, servicing the north, south, east and west of the rural areas as well as all the urban areas of Adelaide. It would make a nonsense of a still potentially good scheme, based as it is on community input and supervision, operating as one committee.

I accept the amendments that the Pitjantjatjara lands in the far north-west of the State, made up of 12 committees, should have community service orders available to them through the courts. My advice is that the police, the courts and, most importantly, the Aboriginal people themselves want a community service option. It has been suggested (and I would hope the Minister would consider this) that we appoint police aides and/or TAFE teachers in the Pitjantjatjara communities to help the committee at, say, Marla or Port Augusta to make the scheme work, and I would imagine that each of the 12 communities referred to in the far north-west lands would have their own unique circumstances. Such committees, be they are Marla or Port Augusta, must work, because it would be quite stupid to even try to direct a community service scheme for this area from a central Adelaide committee.

The Opposition is prepared to support the Government so far as the Pitjantjatjara communities are concerned, but it is compromising on one committee instead of 12, which I guess was the ideal when this concept was first brought into fruition in the early 1980s. We are opposed to the Minister, on advice from the department, moving to reduce the community service committees around the State. I cannot understand why the Minister's second reading explanation tells us, in regard to the Inspector of Correctional Institutions that:

> Whilst not dissatisfied with the job done by the various justices over the past five years, the department seeks to add to the perceived objectivity weight and credibility by seeking to recruit members of the judiciary and other legally qualified persons.

We will put our amendment to spell out exactly what the second reading explanation told us was the justification for an amendment by the Government. If the Minister wants other than what he said he wanted, let him spell out the parameters and not leave it so vague.

The Opposition accepts the explanation of the Minister of Correctional Services regarding the amendments to designated parts of institutions. I have not researched the reasons why the wording for the present, designated parts of institutions was in the Act, but undoubtedly there were good reasons based on sound advice at the time. But I am advised the section is not working, or has never been used. So, if the suggested amendments have a chance to give better administration of a gaol, we should support them. I am assured by the Minister that the present provisions are deficient, and what we are being asked to support will correct the position to allow the prison management to manage for all the best reasons.

As members know we have already set up a select committee in this place to look at the penal system in South Australia. I have already said how I welcome the opportunity to have a good, close look at the system and perhaps see how other States and indeed other countries (without going to the other countries) are coping with the problems. I hope the select committee will enlighten me and the other members on matters such as designated parts of institutions, how we can deal with segregation for such things as AIDS and hepatitis, the custody of prisoners, the power to keep prisoners apart and a whole range of other matters.

It has been put to me, when consulting on the amendments, that there could be a correctional service ombudsman, and this is a matter I would like to follow up with the select committee. I am not talking about South Australia's present Ombudsman, as was discussed in the other place. I know the Ombudsman is available to prisoners now and is used extensively. However, my thought is for a special person, call him or her what you like, who can negotiate and conciliate problems before they get to levels of violence which we have seen this year. I would be interested to know what provisions, if any, are made in other States to nip potential problems in the bud.

I want to conclude with some comments regarding the proposed changes to home detention. As I see it, there are two parts to the debate on the proposed amendments to home detention. Let me deal with Aboriginal prisoners first, for the amendements will allow for a home detention area wider than that of the home only, as allowed for white prisoners. I cannot help but support the logic of this, what I will call a trial, if the amendment passes, but I also cannot help pointing out once again in this place how we make one rule for whites and one rule for Aborigines. In other countries that would be very close to apartheid and certain people in this place howl with rage when South Africa makes separate rules. As I understand it, an Aboriginal prisoner released on home detention in the urban areas will still have to abide by the residential provision, but when released to reside on tribal lands or an Aboriginal reserve, such extra areas of land as the chief executive officer may specify in the statement of release will be included.

This is what I belive is logical and the Opposition hopes it will work well. A prisoner released to reside on tribal or reserve lands may not see a home detention coordinator more than once over three to six months. It may be practical to have a teacher, social worker or police aide to act as a *de facto* home detention officer. I would like to know more about the fine details of how this will work for the benefit of the prisoner and this community into which that prisoner has been released.

As to the other amendments relating to all prisoners, except life prisoners who do not have a non-parole period, eligible for release on home detention, I can say that the Opposition is apprehensive. I understand that the 1982 legislation was conservative, and properly so because it was the first such legislation in Australia, but nevertheless it was constructed to ensure that prisoners served the maximum of their sentence and their debt to society to ensure the protection of the people. If the Government is broadening the home detention scheme because the gaols are full, then it is being done for the wrong reason. If it is on the grounds of cost per prisoner, again that is the wrong reason. The reason can only be that a prisoner, on all of the best advice available, is ready for and has earned what the Minister says is a three month maximum home detention period.

The reasons must be for the rehabilitation of the prisoner and with all the safeguards of the protection of the public while that home detention period is being served. The Minister of Correctional Services said:

> If the State of South Australia thought a prisoner was still dangerous the State has the right to go back to the court to resolve any non-parole period and have the sentence extended. This has been done by the Attorney-General on behalf of the State on a number of occasions.

I refer to the story on the front page of today's *News* in respect of Paul Wheatman. It is exactly this sort of circumstance with the early release of a prisoner, which makes the Opposition nervous. The Opposition needs a very strong assurance from the Attorney-General that proper safeguards are available for the extension to the home detention scheme before it will support this amendment. Having made some qualifying remarks and observations, the Opposition supports the Bill.

The Hon. J.F. STEFANI secured the adjourment of the debate.

LAND ACQUISITION ACT AMENDMENT BILL

(Second reading debate adjourned on 13 November. Page 1731.)

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Payment into Court.'

The Hon. J.C. BURDETT: I move:

Page 1, lines 15 to 16—Leave out all words in these lines and insert:

Section 20 of the principal Act is amended—

(a) by striking out from subsection (2) 'may' (first occurring) and substituting 'must';

and

(b) by striking out from subsection (2) 'any prescribed securities' and substituting 'an authorised trustee investment on which interest is payable, compounding at least monthly'.

I outlined the reason for this amendment in my second reading speech. The purpose of the amendment is to require moneys paid into court, or otherwise received, to be invested in securities where interest compounds monthly. There are three reasons for this. First, the amounts involved are often large. There are a lot of small acquisitions, of course, such as for road widening purposes and so on, but other acquisitions are often very large in amount. For example, domestic homes could involve $100 000, or $200 000, and up to, say, $500 000 and it may be more than that. If one goes into the commercial, industrial and broadacre areas, it may be very much more still.

Secondly, the period during which the money is held can be quite protracted, so the amount of interest is important. Thirdly, we are dealing with compulsory acquisition, when the owner did not want to have his land acquired. Often an owner objects very strongly to having his land acquired. In those circumstances, he should at least get justice in the matter of interest, which these days is most important, and for this reason I move the amendment standing in my name.

Progress reported; Committee to sit again.

UNIVERSITY OF SOUTH AUSTRALIA BILL

(Second reading debate adjourned on 15 November. Page 1918.)

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Functions of the university.'

The Hon. R.I. LUCAS: I do not have an amendment to this clause, but I have received a wide range of submissions from institutions, associations and interested individuals relating to a number of clauses. Whilst in relation to some of the clauses of this Bill I have not chosen to proceed by way of amendment, I want to place some comments on the record.

In relation to clause 5, it is difficult when one looks at the wide range of functions of a university to know exactly what ought to be included. Although I have attended the University of Adelaide and, on occasions, looked at that university's Act and the Flinders University Act, I have not until now really thought too much about the question of what ought or ought not to be included in the functions of a university.

Clause 5 (1) *(c)* talks about providing such tertiary education programs as the university thinks appropriate to meet the needs of the Aboriginal people. A number of submissions were received by the Liberal Party saying that we ought not, in the functions of the new university, to differentiate between programs for Aboriginal people and programs for non-English speaking background people, people from country areas or programs for women.

It is true that in other provisions dealing with the functions there is a broad reference to meeting the needs of groups within the community which the university considers have suffered disadvantage in education. Certainly, that reference could cover those from lower socioeconomic groups, women, rural students and students from non-English speaking backgrounds. The argument put to me and to the Liberal Party was, therefore, why should we highlight Aboriginal people in relation to the specific functions of the University of South Australia?

The Hon. Carolyn Pickles: They are more disadvantaged than most.

The Hon. R.I. LUCAS: The Hon. Ms Pickles says that they are more disadvantaged than most. Certainly, they are disadvantaged; on a measure compared to persons from a non-English speaking background, I do not know. We concede that, in relation to access to higher education, persons of Aboriginal background have, until recently, been severely disadvantaged. The Government—or certainly the Minister—felt strongly that this function ought to remain part of

the university. Certainly, the two institutions—the South Australian Institute of Technology and the South Australian College of Advanced Education—in consultation with me very strongly argued that they would like to see this function remain as part of the university's functions. They highlighted the programs that they currently offer as separate institutions.

There is some suggestion in the offing that with an amalgamation and a rationalisation of programs—and I do not know whether the appropriate term would be 'centre of excellence'—a rationalised centre of Aboriginal studies programs might be offered to Aboriginal people. On receiving that advice, the Liberal Party was prepared to accede to the wishes of the two institutions that this particular function remain part of the functions of the new university.

The Hon. ANNE LEVY: As far as the particular emphasis on Aboriginal people in this legislation is concerned, I am sure that I do not need to remind the Committee that both the South Australian Institute of Technology and the South Australian College of Advanced Education have been outstanding in the programs that they have run to date: one having the task force on Aboriginal studies, which has been pre-eminent nationally in the area of Aboriginal education, and the other similarly having one of the outstanding centres for Aboriginal education in this State.

So, the new university which will be formed under this legislation will have the option of forming the first faculty of Aboriginal studies in education in the history of Australia. It will be unique and it would be possible for it to bid for funds for a centre of excellence under the various criteria set by the Federal Government. It is for that reason, and the possibilities which will arise regarding Aboriginal studies at this university, as well as for the general goal of broadening educational opportunities for Aboriginal people, that clause 5 (1) *(c)* has been inserted; this is in recognition of the role that the new university will be able to have in view of the role that has been played up until now in its constituent components in Aboriginal education for the whole nation.

Clause passed.

Clause 6 passed.

Clause 7—'Principles to be observed by the university.'

The Hon. R.I. LUCAS: I want to address some comments to this clause, which in essence has become known as the anti-discrimination clause. Again, the Liberal Party received a number of submissions in relation to the drafting of this clause, and I want to address some comments to some of the submissions that we received and in fact the position that has thus far been adopted by the Liberal Party in relation to the clause. Clause 7 (2) provides:

> The university must not, in performing its functions—
> *(a)* discriminate against any person on the ground of his or her religious or political affiliations, views or beliefs;.

That subclause is very similar to a section in the University of Adelaide Act and the Flinders University Act, and I think it is fair to say that universities pride themselves on not discriminating, certainly on religious or political affiliations. They have over the years traditionally been seen as institutions where one can express perhaps unpopular political views and not be discriminated against because of those views. I am sure members will be aware that on occasions that has not always occurred, but I think in the main it has been respected as a part of the traditional operation of our universities. This subclause for the University of South Australia quite properly picks up that anti-discrimination clause.

It is fair to say that our Equal Opportunity Act in South Australia and our Commonwealth Sex Discrimination Act cover a whole range of grounds for discrimination, but do not currently cover political discrimination or discrimination on political or religious grounds. So, just to say that the university ought to be bound by the Equal Opportunity Act or the Commonwealth Sex Discrimination Act would not, of course, place within the Act of the new university protection against discrimination on religious or political grounds. We therefore support it.

I must confess, as a non-lawyer, that subclause 7 (2) *(b)* did cause me some problems in relation to interpretation. Parliamentary Counsel and other legal colleagues have gently taken me through the process and assisted my understanding. It provides as follows:

> The university must not, in performing its functions—
> *(b)* unlawfully discriminate against any person on the ground of his or her sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age or any other ground.

In a number of submissions I have been asked what 'unlawfully' means. As explained to me, through the use of that one word, Parliamentary Counsel, the Government and the University of South Australia were seeking to bring into play the code of discrimination as outlined under the Equal Opportunity Act in South Australia. So, under the Equal Opportunity Act you are able, in my non-lawyer terms, to lawfully discriminate on certain grounds: you can give special benefits and special programs for certain classes of persons under certain conditions in the Equal Opportunity Act.

So, the drafting was objected to very strenuously by a number of people in their submissions to me. I will place on the record the results of my discussions with persons who are better trained in the law than I, and I think my colleague the Hon. Mr Griffin might offer some further comment in debate on this clause as well. Certainly, the Opposition, on that understanding, can see where we are heading. Then we have clause 7 (3), which provides:

> Nothing in subsection (2) prevents the university from establishing affirmative action programs for, or taking special measures for the benefit of, such classes of persons as the university thinks have suffered disadvantages in education or employment.

The Liberal Party, on previous occasions in this Parliament, has supported the fact that on certain occasions and under certain conditions special measures can be taken under the terms of the Equal Opportunity Act for certain classes of persons. The drafting of clause 7 (3), is of course, a little wider than those provisions in the Equal Opportunity Act, because these special measures can be taken for such class of persons as the university thinks have suffered disadvantage in education or employment.

Again, the Liberal Party, and certainly I, could see what was intended by this provision. For example, the University of Adelaide has a program known—I think, as the Pathway program, which provides a special classification for entry to the University of Adelaide for students from schools in certain areas of Adelaide, for example, the northern and the western suburbs of Adelaide. There has been much criticism over recent years that the University of Adelaide has been seen to be elitist, as having too high a proportion of its students coming from non-government schools or from the higher socioeconomic areas of South Australia.

I now refer to the university, its council and a number of its lecturers, and in this respect I pay a tribute to the work of Dr Bob Catley, now a Labor member for the Federal seat of Adelaide, who amongst others responded to the criticism of the University of Adelaide and was partially responsible for the Pathway program as currently offered by the University of Adelaide. Certainly, the Liberal Party would wish to see nothing that would prevent the University of South Australia from offering similar programs, within

reason, of course, to those being offered by the University of Adelaide, or indeed a continuation of some programs that might exist within the Institute of Technology and the South Australian College.

One of my concerns with the drafting of clause 7 (3) is whether it provides any greater power or flexibility to the University of Adelaide in relation to special measures or affirmative action programs over and above those for persons covered by the Equal Opportunity Act, if I can distinguish between the two. Clearly, certain classifications of persons are not covered by the Equal Opportunity Act; for example, those from a lower socioeconomic area. This clause will give the University of South Australia power to offer special measures for those persons.

My original concern when considering the Bill was that, for those classes of person covered by the Equal Opportunity Act—that is, discrimination on the grounds of sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age—we did not treat the University of Adelaide, for example, any differently from the Education Department. If the Education Department as a major educational institution wishes to discriminate in favour of women, it must follow the procedures of the Equal Opportunity Act. For example, it has a policy with respect to women only deputy principal positions, which has been supported in South Australian schools for a number of years. On my understanding, the department must get a dispensation or an exemption from the Equal Opportunity Tribunal for those women only positions to be offered.

If the University of Adelaide or the University of South Australia contemplates special measures for classes of person already covered by the Equal Opportunity Act, it is fair for them to be bound by the same guidelines as bind the Education Department. In other words, they ought to go through the same procedures under the Equal Opportunity Act. For that reason the Liberal Party moved an amendment, which the Government supported, to include subclause (4) in the Bill before us, which provides:

Nothing in this section derogates from the operation of the Equal Opportunity Act 1984.

We had long debate with legal counsel as to whether it was required and, in the end, out of an excess of caution and from genuine concern for the reasons I have given, the Liberal Party moved and the Government accepted an amendment in the other place that this clause ought to have that provision included in it. On my understanding, it means that, in relation to special measures for classes of person covered by the Equal Opportunity Act, the University of South Australia should act similarly to other bodies such as the Education Department. That is why we moved the amendment.

I received a couple of submissions on this clause questioning how the university could not discriminate on the ground of intellectual impairment because, on all occasions, a university discriminates on the ground of intellectual achievement. That is a major part of a university's task. Parliamentary Counsel tells me that intellectual impairment is well defined in the Equal Opportunity Act.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: I would not like to say that. The persons who made those submissions to me need have no fear that what a university currently does in discriminating on the ground of intellectual achievement will be hindered by the passage of this clause.

The Hon. ANNE LEVY: It is certainly true that clause 7 (2) *(a)* goes well beyond the discrimination provisions of the Equal Opportunity Act. Clause 7 (2) *(b)* merely restates the provisions of that Act, but it is necessary in view of the provision in clause 7 (2) *(a)*, and makes quite clear that, if clause 7 (2) *(a)* was the only mention of discrimination or prohibition of discrimination, that alone could be seen as the sum total of the new university's obligations regarding equal opportunity. Quite clearly, that is not the case and, to make sure that the specific does not override the general, the general needs to be restated in this legislation.

With regard to the affirmative action provisions in clause 7 (3) it is perhaps not understood that the Equal Opportunity Act, which is the general law of the State, contains section 47 which is headed 'Measures extended to achieve equality'. Because of that provision, neither the Education Department nor any university needs to seek an exemption from the Equal Opportunity Commission to seek an affirmative action program or to take special measures to assist those who are disadvantaged. It is commonly thought that such exemptions have to be sought, but I am informed that section 47 of the Equal Opportunity Act means that affirmative action on behalf of a disadvantaged group does not require specific exemption to be sought. In this way, the new university is not being treated any differently from the Education Department.

As the honourable member said, a number of affirmative action programs are run, not only by the University of Adelaide but by Flinders University, the Institute of Technology and the South Australian College of Advanced Education. The scheme to which he referred is now known as the Fairway scheme, not Pathway. Other affirmative action programs are run by all the tertiary institutions, and I refer to the Tertiary Access Program, bridging programs, programs for Aboriginal students, a women in engineering program, an equity in tertiary teaching program, a multicultural curriculum development and implementation project and a special program for nursing students from non-English speaking backgrounds.

As time passes, there will probably be more affirmative action programs in one or more of our tertiary institutions designed specifically to assist groups which are disadvantaged in our community. Clause 7 (3) gives power to devise special measures for people who suffer disadvantage. Again, it is felt desirable to ensure that there is no conflict between this specific Act and the Equal Opportunity Act.

The Hon. K.T. GRIFFIN: One issue I wish to take up is that of affirmative action programs. There is a distinction between what is permitted by the Equal Opportunity Act and the Federal Sex Discrimination Act and what some people would regard as being outside the Act. Affirmative action has different connotations for different people, and it seems to me that the scenario my colleague the Hon. Robert Lucas addressed, in which an exemption might be required to be granted by the tribunal to favour a particular group, particularly where there is equal ability among applicants for particular positions, is still required.

That issue is not particularly controversial, but I do not think that either my colleague or the Minister has addressed clause 7 (2) *(b)*. Although the Minister indicated that it was intended that that should merely reflect the provisions of the Equal Opportunity Act and be a balance to paragraph *(a)* of subclause (2), it goes much further than the provisions of the Equal Opportunity Act. Although that Act refers to sex, sexuality, marital status, pregnancy, race, physical or intellectual impairment or age, it does not refer to any other ground.

It seems to me that clause 7 (2) *(b)* appears to go much further than the provisions of the Equal Opportunity Act and that, therefore, the university may well run into difficulty when it seeks to do anything that some of the students, staff or others may regard as discrimination on a ground

other than in relation to those matters specifically covered by the Equal Opportunity Act.

The Hon. ANNE LEVY: The Hon. Mr Griffin is forgetting that clause 7 (2) *(b)* provides that the university must not unlawfully discriminate on the various grounds named. The classifications set out are those currently covered by the Equal Opportunity Act. At the moment, if there were discrimination on any other ground which was not religious or political, such discrimination would not be unlawful.

I presume that the addition of the phrase 'or any other ground' is to cover the situation that other grounds for discrimination being unlawful may in the future be added to our Equal Opportunity Act. Currently, however, they are not, so it is not unlawful to discriminate on grounds other than those currently in that Act or the religious or political affiliations provision added in clause 7 *(a)*. I do not think it can be claimed that the university in this respect stands any differently from anyone else covered by the general Equal Opportunity Act.

Clause passed.

Clause 8—'Internal organisation of the university.'

The Hon. R.I. LUCAS: Will the Minister advise whether she or her adviser is aware of a significant bequest to the South Australian School of Art of about $5.4 million? My note says 'Southern Trustee Company' or something similar. I contacted Mr Beare, Manager, Finance, South Australian college, and, in response to my request for a list of all bequests and trusts currently left to the South Australian college, which will be a consideration in the companion Bill, he provided me with such a list, the most significant being something listed as the sale of North Adelaide property re De Lissa Fellowship of some $305 000. All the others range from between $200 and $10 000 or $12 000. Will the Minister advise the Committee of her knowledge of the bequest to the South Australian School of Art?

The Hon. ANNE LEVY: I am given to understand that the South Australian School of Art has received a very substantial bequest, although I am not aware of the sum involved. It is suggested that the bequest is from an American source. I undertake to obtain that information and provide it to the honourable member.

The Hon. R.I. LUCAS: The only reason I raise the matter is that, during discussions, I was advised that one of the reasons for leaving the South Australian School of Art within the parent Act (because, other than the De Lissa Institute, no other institutes, schools, or faculties are retained within the University of South Australia Act) was the very persuasive reason that the money had been left to the South Australian School of Art, so it ought to stay in existence if the $5 million were to be enjoyed by the new university.

The Liberal Party supported that, but I merely wish to have it clarified, although I do not want to hold up the Committee. My reason for raising it was that this bequest was not mentioned on the list I received, and I wondered why.

Clause passed.

Clause 9—'Student associations.'

The Hon. R.I. LUCAS: I want to place on record again the results of submissions the Liberal Party received in relation to student associations. As the Bill was first drafted, there was some concern that not only would the student associations of the University of South Australia need to have their constitutional rules approved by the council, but perhaps any other association of students (such as the Liberal Club on campus, Young Labor or, indeed, Young Democrats on campus, if they exist, or Friends of Wilpena or any other association of students) might have been required to have their constitutional rules approved by the university council.

The Liberal Party did not support that proposition, and we moved an amendment that was supported by the Government in the other place. In the amendment, we are talking about associations of students formed for the purpose of promoting the interests of students or of students and staff. The intention of that amendment relates to the interests of the general student body, all students within the University of South Australia, and ensures that only the students association or equivalent body on the University of South Australia campus would need to have its rules approved by the University of South Australia Council.

It is not intended that any other association of students, such as Young Liberal, Young Labor or Young Democrats or Friends of Wilpena, as I said, will need their constitutional rules approved by the university council.

In my view, it was a fairly difficult task to try to distinguish between the Students Association and other associations of students. Parliamentary Counsel has done a good job in attempting to make that clear. I just wished to place on record the reason for the Liberal Party's moving the amendment in another place and my support for the intention of that amendment.

The Hon. ANNE LEVY: I merely say that that amendment was accepted in another place after explanation. I do not see why the time of this place should be taken up in re-explaining something which has already been accepted.

Clause passed.

Clause 10—'Establishment of the Council.'

The Hon. R.I. LUCAS: I move:

Page 4, line 20—Leave out 'seven' and insert 'five'.

This amendment ought to be debated in conjunction with my next amendment which seeks to ensure that two members of the Parliament of South Australia will be members of the interim council of the University of South Australia. The Parliament of South Australia is represented on the governing body of the University of Adelaide and the Flinders University. It would certainly be my wish and the wish of the Liberal Party that, when the permanent council of the University of South Australia is established, there be Parliamentary representation on that body also. Of course, that will be a decision for the Parliament at the time to take.

In relation to the interim council, it is both my view and that of the Liberal Party that there ought to be representation from the Parliament on the interim council. Informal discussions have been held with the Minister on this matter. One of the problems we have had in drafting this amendment is that in my view it is inappropriate that the Parliament have four or five representatives on the interim council, given that currently this provision involves a total of only seven persons. Therefore, we believe that a fairer compromise would be to have two members of Parliament. This, though, makes it very difficult in relation to our normal way of electing members to university councils. Generally, we have a Liberal member and a Labor member from each of the Houses, and they are elected at the start of the Parliamentary term.

The Hon. Anne Levy: Nominated.

The Hon. R.I. LUCAS: Yes, nominated to the university councils. With only two members, if we were to have the two Houses doing it, the only way it could be achieved would be by way of an assembly of members, as I understand it. However, it is certainly not our intention to hold up the passage of the Bill to try to organise that. So, the drafting presently before the Committee indicates that, in effect, there would be an address from both Houses of

Parliament on the two nominations. It would be my view that there be discussion amongst all interested parties represented in the Parliament and that there be some agreement between all interested parties as to who the nominees would be. These nominees would only serve for the duration of the term of the interim council, which may well be six months, 12 months or, perhaps at the most, 18 months, depending on any further amendments.

The Hon. ANNE LEVY: The Government is very happy to accept this amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 4, after line 21—Insert new paragraph as follows:

(ab) Two members of the Parliament of South Australia appointed by the Governor pursuant to a recommendation contained in an address from both Houses of Parliament;.

This amendment is consequential on the first amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 4, after line 23—Insert new subclause as follows:

(3a) The Minister must consult with the Leader of the Opposition in the Parliament before nominating a person for appointment under subsection (3) *(a)* (iii).

This amendment seeks to ensure that there is consultation between the Government and the Opposition before nominating persons for appointment under subclause (3) *(a)* (iii). The five nominees to be appointed by the Government will be critical appointees to the interim council. There are to be 10 nominees from the South Australian Institute of Technology, 10 from the South Australian College of Advanced Education, two members of Parliament and five nominees of the Government. Because of the balanced nature of the 10 nominees from the SAIT and 10 nominees from the SACAE, it may well be that, on occasions, there will be a split view. We hope that that will not be the case and that everything can be achieved through consensus. Therefore, the appointment of these other persons could be critical on a number of matters in relation to the interim council.

In addition, I have received a submission (and I am sure the Government has also received the submission) that, in the Government's consideration of the nomination of its five additional persons, it should be looking for persons who might be suitable for appointment to the position of Chancellor of the University of South Australia when it is up and going after the interim council has finished. Everyone may have differing views on the qualities required for a future Chancellor of the University of South Australia, but if that is possible to accommodate within the Government's nomination of five persons I think it is a sensible and reasonable suggestion.

The amendment seeks to ensure that there is some consultation between the two major Parties (the Government and the alternative Government). It was drafted in this way again to ensure that there is no holdup to the nomination of these five additional persons. An alternative proposal considered by the Liberal Party, but rejected, was to require a joint nomination by Government and the alternative Government for these positions. We have chosen this much more workable option which only relies on consultation between the two major Parties in the Parliament.

The Hon. ANNE LEVY: The Government is not very happy with this amendment and really regards it as rather insulting. The Minister concerned gave an undertaking to the Hon. Mr Lucas that he would consult with the Opposition before determining who the five appointees by the Government to the council would be. I feel it is rather insulting that the Opposition will not accept the word of the Minister and wants it written into legislation. The Minister has every intention of consulting very widely before determining the five nominations to the interim council of the new university. He will consult not only with the Leader of the Opposition. A large number of people have a very legitimate interest in this matter, and the Minister has every intention of consulting very widely before appointing these five people.

However, this is to form an interim council only. When the permanent form of the legislation to establish an ongoing council comes before this Chamber, there would obviously be reason to revert to the type of clauses which exist in the legislation already passed by this Parliament apropos the University of Adelaide and the Flinders University of South Australia, which do not have clauses such as this. The Minister has every intention of keeping his word to carry out this consultation, not only with the Leader of the Opposition but very widely. I think it is rather insulting that the honourable member feels that he has to include in the legislation reference to the Opposition in this way. However, as it is an interim council only, and in the interests of getting the legislation through in the shortest time possible, the Government is prepared to accept this amendment, as I say, with the proviso that it would have happened anyway.

The Hon. M.J. ELLIOTT: I will try to keep this debate as brief as possible by not speaking except when I have to. It is a pity that all members cannot abide by that sometimes. As the Minister noted this is a special one-off case, and we will be looking at a quite different clause for the setting up of the council when more permanent arrangements are in place.

The Opposition appears to have demanded some say, and as one interjector from the Government backbench said, I fail to see why this wider consultation that the Government was talking about would not include also the representatives of other voters in South Australia, who are, in effect, sort of disfranchised by the sentiments expressed by the amendment. I will not demand that reference to the Democrats be written into the legislation, but I expect the sort of courtesy that the Minister was already going to pay to the Opposition to be paid to the other political Parties in the Parliament—as will also be the case with other parts of the South Australian community.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 4, after line 32—Insert new subclause as follows:

(5a) subsequent appointments under subsection (3) *(a)* (i) and (ii) will be made on a recommendation given to the Minister by the Council.

This is to clarify the position as to what happens if there is a casual vacancy amongst, say, the ten persons who go on the interim council from the South Australian College of Advanced Education, or from the ten persons from the South Australian Institute of Technology. Under the original drafting of the Bill, it would have been an appointment by the Government of an additional person. The drafting of this amendment is to ensure that the recommendation given to the Minister will be from the interim council of the new University of South Australia.

The Hon. ANNE LEVY: The Government is prepared to accept this amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 4, line 33—Leave out '30 June 1992' and insert '31 December 1991'.

This relates to a subsequent amendment to clause 18. A very strong view was put to the Liberal Party that this interim council should not continue for any longer than it has to, and I think everyone accepts that, although there

are varying views as to how long it might have to continue. My series of amendments to clauses 10 and 18 are, first to direct the interim council that it must report back to the Minister by 30 June next year: that is, it will be the priority task of the interim council to report back to the Minister on the future structure of the council of the university within six months.

By way of amendment in another place, we have placed in clause 18 a restriction on the interim council that it must look at ways of achieving a substantially elected permanent council. A lot of criticism was made of the fact that the interim council, for a variety of good reasons, was not an elected council, that it was in effect a nominated body from various institutions or from the Government. This amendment requires the interim council to report to the Minister within six months, and from 30 June next year the Minister would have three or four months to consider his or her position and the Government's position and to introduce to the Parliament legislation which would have to be voted on by the end of the 12 month period, which would be the end of next year.

So, the amendment, in effect, puts a sunset restriction on this interim council, to provide that it shall go for no longer than 12 months. As I said, with clause 18, the scheme of things is that there should be a report in six months, with everything to be completed by the end of 12 months. The provision that was accepted by the Government in the other place was that the timetable should be 30 June 1992. It is really a simple matter of whether we hurry it along by an extra six months or leave it at 18 months, as proposed by the Government.

The Hon. ANNE LEVY: The Government opposes this amendment. We feel it would almost certainly cause chaos. To have an 18 month rather than a 12 month sunset clause will simplify considerably the logistics of moving from an interim council to a long-term council. Certainly, we want to have a permanent council as quickly as possible but, if the 12 month sunset clause was accepted, the interim council would have to report back to the Minister in a very short time, and probably not be able to give appropriate consideration to the restructuring. If there was a 12 month sunset clause, a new council would have to be in place on 1 January 1992 and, frankly, that seems highly unlikely.

Legislation will have to be passed through this Parliament and, as all members know, the budget session is always a very busy one. But it is not just a question of passing legislation through Parliament. If there are to be student members of the council they will have to be elected by students, and trying to get an election of students in the months of November and December would be absolutely impossible. Likewise, elections of staff members, while perhaps easier than elections for students at this time of year, is not an easy matter to achieve, either. It is much better to leave it as an 18 month sunset clause so that the first elections which will be held for the new council will not have to be crowded into the end of next year when both staff and students at tertiary institutions certainly have lots of other things to think about.

The Hon. J.C. BURDETT: I point out that Parliament would be unlikely to sit on 30 June 1992 but would be more likely to sit until about April. So, if the Bill stands in its present form the Minister would have to look at legislation to extend or to set up the new council. This would have to be done fairly early in the next academic year, so I do not know that there is a great deal of difference between the two amendments.

The Hon. ANNE LEVY: I think the Hon. Mr Burdett is ignoring clause 18 of the proposed legislation, which provides that within 12 months the council must report to the Minister on its proposals for the permanent structure of the council. So, one would expect the council to report in about 12 months. This would allow the autumn session of Parliament (between February and April) to put in place the required legislation and would then allow a period of 2½ to three months to organise and conduct what will be the first elections required for the new council.

We cannot assume that, as a result of legislation passed by this Parliament, the new council will spring *de novo* out of the air. The university will require time to organise the necessary election, to contact the constituency and to call for nominations. If that process had to be squeezed into 12 months the university would have to report much earlier than the period of 12 months provided under clause 18.

The extra period of six months will allow the council during its first year of operation to consider the permanent composition of the council as well as the many other tasks that it will have as a new council of a new university. There will then be a reasonable chance for the Government to bring in the appropriate legislation and, further, there will be reasonable time for the necessary elections to occur as a result of that legislation. Certainly, our advice is that to try to achieve all this within 12 months would cause chaos or would mean that elections would be held in December, which is the most inappropriate time in the educational calendar for conducting elections.

The Hon. M.J. ELLIOTT: I do not believe that the time frame set out in this legislation is unreasonable. In terms of the continuity from the two councils, which are disappearing, to the formation of the new council during that first phase-in period of operation, I think it is useful. This council will have not only the usual task of the present councils but also all the extra tasks involved with the formation of this new institution. So I think that 18 months is not an unreasonable period of time and, therefore, I will not support the amendment.

Amendment negatived; clause as amended passed.

Clause 11—'Conditions of office.'

The Hon. R.I. LUCAS: I move:

Page 4, line 35—After 'council' insert '(other than a Member of Parliament)'.

Page 5—After line 3—Insert new paragraph as follows:

(ca) ceases, in the case of a Member of Parliament, to be such a Member (except pursuant to expiry of his or her term of office as such or on dissolution or expiry of the term of the House of which he or she is a Member).

Both these amendments are consequential on the decision that the Committee took earlier to include two members of Parliament on the interim council.

Amendments carried; clause as amended passed.

Clauses 12 to 17 passed.

Clause 18—'Reports.'

The Hon. R.I. LUCAS: My proposed amendment forms part of the package in relation to my earlier amendment to the sunset clause.

Clause passed.

Clauses 19 to 22 passed.

New clause 22a—'The Governor to be the visitor to the university.'

The Hon. R.I. LUCAS: I move:

Page 7—After clause 22, insert new clause as follows:

The Governor to be the visitor to the University

22a. The Governor is to be the Visitor to the University with the powers and functions appertaining to that office.

Under the University of Adelaide Act and the Flinders University Act, the Governor of South Australia is the visitor to the university. Given that the University of South Australia will be one of the three universities in South Australia and that the Governor is the visitor to each of

the other two universities, I have moved the insertion of new clause 22a on the basis that, in my view, the Governor ought to be the visitor to the new university.

I am advised that, in practice, in South Australia the position is largely a traditional and ceremonial one; for example, the Governor presides over four or five meetings a year at the University of Adelaide in his position as Governor of South Australia. According to *Halsbury's Laws of England*, occasionally, in matters of constitutional crisis the position of a visitor to a university can, if the Governor exercises his reserve powers, have some effect. A precedent has been set in, I think, New South Wales where the Governor was called in to, in effect, arbitrate on an internal dispute within the University of New South Wales. I am not sure if that was the institution, but it was one of the prominent universities in New South Wales where the position of Governor, as the visitor to that university, was used in an endeavour to seek to resolve the problem within the university.

According to *Halsbury's Laws of England*, under the heading 'Settlements of disputes and correction of abuses' there is a discussion about the powers of the visitor—in this case, it would be the Governor of South Australia—to seek to help to resolve internal disputes. So, for those reasons, and without going into the detail of *Halsbury's Laws of England*, some of which I understand and some of which I do not, the Liberal Party moves for the insertion of new clause 22a, which will place the University of South Australia in exactly the same position as the University of Adelaide and Flinders University.

The Hon. ANNE LEVY: The Government is happy to accept this amendment. If I, too, can quote from learned journals, I would like to quote a statement relating to visitors to the following effect:

> The Universities of Oxford and Cambridge, being civil and lay corporations have, it seems, no visitor. The colleges of Oxford and Cambridge, unlike the univerisites themselves, are elecmosynary corporations and subject to visitation.

The Hon. R.I. Lucas: We are all a lot clearer after that.

The Hon. ANNE LEVY: I continue as follows:

> Other universities are likewise visitable, with the Crown usually being the visitor in the case of those incorporated by modern charter.

The Hon. R.I. Lucas: No more need be said.

The Hon. ANNE LEVY: As I say, we are happy to accept the amendment, although it could perhaps be pointed out that the Governor might seek advice from the bureaucracy, and to that extent the power of the bureacracy over the university may be somewhat enhanced. On the other hand, it would seem to me entirely appropriate that Dame Roma, having been Chancellor of a university, will now become the visitor to all three universities.

The Hon. R.J. RITSON: I make a very brief observation on tradition in universities and university statutes. I was reminded of an instance in which a modern day student looked through the old statutes and, quoting them in the middle of an exam, demanded a pint of ale. There was some fuss, but eventually he got his pint of ale and the next day he was fined five pounds for not wearing a sword. Although this position, in some sense, is steeped in tradition that sometimes goes awry, I have complete confidence that it will not result in excessive intrusion by the Crown. Indeed, for the foreseeable future I am sure that advice to this particular visitor would be advice only and not command. I support the amendment.

New clause inserted.

Remaining clauses (23 to 25) and title passed.

Bill read a third time and passed.

VALUATION OF LAND 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

The Valuation of Land Act 1971 came into operation on 1 June, 1972 and although it has been amended a number of times, minor amendments are now needed to take into account changing administrative requirements.

Minor amendments are proposed for definitions contained in section 5. The definitions of 'annual value' and 'capital value' have been simplified and the term 'rating or taxing authority' removed from this section and all places it appears in the Act. Following public complaints that in certain areas of the State private sector valuers are not available, it is proposed to amend the Act to enable those land owners, or owners who can demonstrate genuine hardship, to request valuations of land from the Valuer-General. Where appropriate, the Valuer-General may recover fees for that service as set by the Minister.

The term 'valuation list' has been removed from the Act. This acknowledges that valuation information is now kept on computer and print-outs provided as required. Registered owners or their agents may view valuation information relating to their property free of charge, but members of the general public will purchase copies of the roll on conditions and at a price determined by the Minister.

This Government acknowledged that heritage buildings should be valued with their heritage status as a factor, and in 1985 amended the Valuation of Land Act accordingly. However, some buildings deemed to be of heritage value to the city of Adelaide are not included on the State Heritage List and are not covered by the provisions of section 22b. It is proposed to further amend the section to allow the Minister to prescribe such buildings as forming part of the State Heritage for purposes of valuation.

Administratively, the Act will be simplified. All prescribed forms will be deleted, penalties will be brought into line with current values and the Minister will be able to fix appropriate fees for services.

Clause 1 is formal.

Clause 2 repeals sections 4 of the principal Act, a transitional provision that was inserted in 1981 and has been exhausted.

Clause 3 amends section 5 of the principal Act, an interpretation provision. The clause deletes paragraph *(b)* of the definition of 'annual value' of land which provides that if the value of the land has been enhanced by trees (other than fruit trees) planted on the land or preserved on the land or preserved on the land for shelter or ornament, the annual value must be determined as if the value of the land had not been so enhanced. A simplified definition of 'capital value' is substituted and the definition of 'rating or taxing authority' is struck out. An updated definition of 'the rating or taxing Acts', including reference to the Local Government Act, 1934, is substituted.

Clause 4 amends section 11 of the principal Act to remove the reference in subsection (2) to 'rating or taxing authority'.

Clause 5 amends section 17 of the principal Act to remove references to 'rating or taxing authority' and to insert a new subsection (2) that gives the Valuer-General the power to

value land or cause land to be valued, at the request of any person, if the Valuer-General is satisfied that there is no licensed valuer with the appropriate expertise available to value the land, the costs of obtaining the services of a licensed valuer to value the land would, in the circumstances of the case, result in genuine hardship or there are other special reasons why the Valuer-General should accede to the request.

Clause 6 repeals section 20 of the principal Act which requires the Valuer-General to keep a valuation list and make it available for public inspection free of charge between office hours.

Clause 7 amends section 21 of the principal Act by providing for fees for the provision of copies of the valuation roll to be those approved by the Minister instead of those prescribed by regulation and by substituting 'Minister of Water Resources' for 'Minister of Works' as a person to whom a copy of the valuation roll must be provided.

Clause 8 amends section 22b of the principal Act to require a valuing authority that values land for the purpose of levying rates, taxes or imposts to take into account, in valuing land that forms part of the State Heritage, the fact that the land forms part of the State Heritage but to disregard any potential use of the land that is inconsistent with its preservation as part of the State heritage. New subsection (4) makes it clear that the fact that land becomes part of the State heritage does not invalidate pre-existing valuations. New paragraph *(c)* of subsection (6) provides that the for purposes of the Act, land forms part of the State heritage if the land is, by virtue of the regulations, to be treated as forming part of the State heritage.

Clause 9 amends section 23 of the principal Act to provide that where particulars of a valuation under the Act are included in an account for rates, land tax or some other impost, the account will be taken to constitute the notice of valuation required under the section to be given to the owner of land by the Valuer-General.

Clause 10 amends section 25a of the principal Act to provide for allowances that members of regional panels of licensed valuers are entitled to receive allowances at rates for the time being approved by the Minister instead of allowances prescribed by regulation.

Clause 11 amends section 25b of the principal Act to provide for the fee payable on an application for review of a valuation to be the appropriate fee fixed by the Minister instead of the fee prescribed by regulation.

Clause 12 amends section 25d of the principal Act to remove the reference to 'rating or taxing authority'.

Clause 13 amends section 28 of the principal Act to remove the requirement for returns under the section to be in the prescribed form. New subsection (2) specifies the matters in relation to which the Valuer-General may ask questions.

Clause 14 amends section 29 of the principal Act to remove the following requirements: that where land is compulsorily acquired under any Act the person by whom the land is so acquired must give the Valuer-General notice in writing of the acquisition within 30 days of the acquisition and that, where land is subdivided or re-subdivided, the person on whose application the subdivision or re-subdivision took place must forwith give notice of the subdivision or resubdivision in the prescribed form and supply to the Valuer-General such other plans or documents relating to the subdivision or re-subdivision as may be prescribed.

Clause 15 amends section 32 of the principal Act to provide that the fee for a certified copy or extract for any entry in a valuation roll will be the appropriate fee approved by the Minister instead of the fee prescribed by regulation. The amendment also inserts new subsections (3) and (4) to empower the Valuer-General to publish information as to land values in such forms as the Valuer-General thinks appropriate and make publications containing such information available for purchase at prices approved by the Minister. The Valuer-General must, at the request of the owner of land, permit the owner to inspect, free of charge, entries in the valuation roll relating to that land.

Clause 16 converts the penalty references in sections 22a (6) and 22b (5) to the equivalent divisional reference, updates maximum penalties in sections 26 (2), 27 (2) and 28 (4) from $50 to a division 7 fine ($2 000) and inserts a maximum penalty of a division 7 fine ($2 000) for non-compliance with section 29 (1).

Clause 17 is a saving provision that ensures that the definitions of 'annual value' and 'capital value' inserted by this Bill do not affect the validity of determinations of annual value and capital value made by reference to the earlier definitions.

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

WILPENA STATION TOURIST FACILITY BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

The Hon. BARBARA WIESE: I move:

That the Legislative Council's amendmets be not insisted on.

As honourable members would be aware, the amendments that were carried in this place during the course of debate on this Bill last week have been transmitted to another place and, following debate there, the other place has resolved not to agree with these amendments. I believe that the issues that are outstanding on this question have been debated at great length by both Houses of Parliament and that probably very little is to be gained by covering that ground again in any great depth.

It appears to me that the question now before us is whether or not the Council will continue to insist on these matters in view of the fact that members in another place, who have now had an opportunity to consider these questions and have not agreed, have in fact taken that action.

So, I would like to remind members that the aim of the Government's Bill was to protect this development from continuing vexatious litigation which had been undertaken and which had been signalled to the Government would continue. The purpose of introducing legislation of this kind was to provide some certainty to potential investors who have taken an interest in this project but who have been very reluctant to become involved with it in the light of the pending litigation and the threats of continuing litigation that have been forthcoming from some opponents of the legislation.

It has never been the Government's intention to allow a development that would be inappropriate or environmentally insensitive within the Flinders Ranges National Park, nor has it ever been intended to allow the developer to circumvent requirements relating to environmental standards that would otherwise apply to developers. That is the Government's starting point and I understand from statements that have been made by the majority of members of the Liberal Party that they, too, support this development and wish to see it proceed. I hope that the passage of time since we last considered this matter has given members opposite an opportunity to consider the matters on which

we disagreed during the course of last week's debate and that they will have had time to agree that we should not insist on the amendments carried here last week.

In essence, the main issue in point involves clause 12. The Government's view is that the amendment carried in this place puts at risk the integrity of agreements reached between Governments and the private sector. It sends very much the wrong message to people in the private sector when a situation has arisen in which a developer has, in good faith, entered into an agreement with the Government only to find that, at some later date, Parliament decides to change the terms of that agreement, or potentially change the terms of the agreement. As I said, that sends bad messages to the community and seriously undermines investor confidence not only in this project but in other projects that may be mooted for other parts of South Australia. That major issue must be resolved by Parliament.

Of course, three other amendments were carried here which have not been agreed to by the other place. One deals with costs for the legal action that has been taken so far. The Government has not accepted the point put by members of the Liberal Party and members of the Australian Democrats that there should be compensation for any legal costs resulting from the action in the Supreme Court. However, the Government has expressed a willingness to compromise on this question by putting forward an amendment which would provide for costs for pending action. As I indicated last week, the Government has some sympathy with the argument that this legislation was introduced after community organisations began preparing a case for the High Court. I ask members to consider their position on that question, as well.

That leaves two other matters, one of which relates to the environmental impact assessment process. The Government believes, in brief, that the tried and true way of dealing with these matters ought to stand and, for that reason, it has disagreed with the amendment moved in this place. The final amendment relates to providing for other Acts of Parliament to be covered by this legislation, even though they may not have been named in the legislation, to ensure that, if some other matter has not been covered here, the developer will have the protection of this Bill, nevertheless. They are the four issues. I hope that, during the past few days, members have had an opportunity to reconsider their position on these matters and that they will agree not to insist on the amendments that were carried here last week.

The Hon. R.I. LUCAS: Over the weekend, members of the Liberal Party had an opportunity to think again about last week's debate and to take further submissions. We returned to the Chamber this afternoon with a stronger resolve than ever to insist upon the amendments that the Legislative Council made to the Wilpena Bill. I do not intend delaying the Committee in restating our position. We made quite clear last Thursday, strongly and forcefully, where we stood, particularly in relation to the amendment to clause 12, which we see as pivotal to the whole debate, and to the whole Liberal Party approach to the debate in another place and in this Chamber.

The Liberal Party remains of that view that that amendment and the other amendments made by the Legislative Council last week are important and essential to the Wilpena Bill. We believe that the Legislative Council should insist upon the amendments that it made last week and, if the Council does insist on those amendments, we should proceed post haste to the tried and proven formula of trying to resolve a deadlock between the Houses, that is, a conference of managers, to see whether there can be some accommodation of the conflicting points of view on this Bill.

The Hon. M.J. ELLIOTT: The Democrats have made clear from the beginning that we oppose the whole process or, rather, lack of process by which this development evolved. We were clearly opposed to the legislation which came into this place, but we supported the limited protections that were added to the Bill, and I must say that they were limited. It has been interesting to see the Government's reaction to them. It is quite clear that the Government has been caught out by its own scheming. The Bill had one purpose only, and that was to kill off any possible court action, both present or future. The rest of the Bill was nothing more or less than window-dressing.

The Government's reaction to clause 12 has been particularly interesting. The Government intended the clause to provide for the lease to always prevail over the Bill, but it has been amended so that the Bill will prevail over the lease, and that indicates exactly what was going on. I have no sympathy for the Government. It set about stopping legitimate court action. It did not need to come to Parliament: it chose to do so. It asked Parliament to give approval to the development, but we, as a Party, have not done so. However, Parliament as a whole has given approval, with amendments which provide some limitations. The Government must expect that. Parliament has given approval, but with limitations.

If the Government had not come to Parliament, it need not have worried about what has occurred. The Government must accept that. The Government has suggested that it is willing to compromise over the matter of costs. Some compromise! Most of the costs have been incurred in the Supreme Court and, to a limited extent, before the High Court. This legislation seeks to interrupt the process whereby the appeal has gone from the Supreme Court to the High Court. In its wisdom, the Government has decided that the appeal is vexatious. That is opinion only. I do not believe that there has been a cost compromise.

The Government's reaction in this case is interesting. Some six months ago in Parliament I raised a question about a developer in Coffin Bay who kept appealing to higher courts. He was simply using the power of his purse to destroy what were legitimate concerns of local property owners, yet the Attorney-General took no interest whatsoever in what was happening with these people when the power of the purse of the developer was being used in the courts. He just stood back and let the courts proceed. In this case, where the Government is, in effect, the developer, the Government very quickly is moving to pre-empt what is happening in the courts. In this case, I have no sympathy whatever for the Government. The Democrats will continue to insist on all the amendments we have before us.

The Committee divided on the motion:

Ayes (9)—The Hons T. Crothers, M.S. Feleppa, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese (teller).

Noes (12)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Majority of 3 for the Noes.

Motion thus negatived.

RENMARK IRRIGATION TRUST 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

This Bill amends the provisions of the existing Act with respect to allotments of land to which irrigation waters may be supplied. Within the district of the Renmark Irrigation Trust, an allotment of land that is of an area of less than 0.2 of a hectare is not entitled to a supply of water for irrigation purposes. This land is provided with a domestic water supply and the land owner is charged for the supply accordingly.

In recent times, there has been a proliferation of allotments approved for residential use in the Renmark district that are each of an area of up to 0.4 of a hectare. As these residential allotments are larger in area than 0.2 of a hectare, the owners are currently entitled to a supply of water for irrigation purposes from the Renmark Irrigation Trust. It is not desirable that owners of residential allotments should have the same rights and privileges with respect to a supply of irrigation water as those persons whose livelihood depends on such a supply.

This Bill increases the minimum area of an allotment of land to which a supply of irrigation water may be provided to 0.5 of a hectare. The owners of the residential allotments will continue to be provided with a domestic water supply by the Renmark Irrigation Trust, but will lose any entitlement to a supply of irrigation water.

Clause 1 is formal.

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

Clause 3 amends section 5 of the principal Act which is an interpretation section. The amendment strikes out the definition of 'ratable land' and substitutes a new definition that differs from the current definition by excluding land that is, in one block, less than 0.5 of a hectare unless the block forms part of a single holding that exceeds 0.5 of a hectare. 'Single holding' is defined as any continuous area of land, or any two or more parcels of land, that are separated only by roads, track or channels, situated within the district and occupied and used by the same person as a single vineyard, orchard or garden.

Clause 4 amends section 78 of the principal Act by striking out subsection (1) and substituting a new subsection (1) dealing with the trust's entries into the trust's assessment-book of an assessment set out in the form shown in the third schedule.

Clause 5 repeals section 83 of the principal Act and substitutes a new provision. This deals with the power of the trust to rectify the assessment-book in respect of any land that has ceased to be ratable land by reason of subdivision, amendment of the principal Act, or otherwise, or on the discovery of any error or omission in the assessment-book.

Clause 6 amends section 92 of the principal Act by striking out subsection (2) and substituting a new subsection (2) to bring section 92 into conformity with the new definition of 'ratable land'.

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

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 15 November. Page 1922.)

The Hon. K.T. GRIFFIN: I support the second reading of this Bill to deal with a number of matters consequential upon the division of the South Australian College of Advanced Education and the amalgamation of the University of Adelaide with Roseworthy Agricultural College; the merger of the South Australian Institute of Technology with certain parts of the South Australian College of Advanced Education to form the University of South Australia; the merger of the University of Adelaide and the city campus of the South Australian College of Advanced Education; and the merger of Flinders University with the South Australian College of Advanced Education.

The Bill is necessary to facilitate those mergers and particularly to establish a structure within which the mergers occur, and discussions will continue to resolve issues of distribution of staff and of property, particularly that held by the South Australian College of Advanced Education. A number of documents are referred to in the Bill, there are various agreements that the constituent bodies must use their best endeavours to implement, and there is an ongoing process of negotiation in relation to other matters.

During the course of the Committee consideration of this Bill I will be raising some questions, but I recognise that the Hon. Robert Lucas will be moving a number of amendments that pick up at least some of the concerns raised with the Liberal Party during the consultation we have had on this Bill. Some of them are of a technical nature; others of a substantive nature. One major issue which has already created some debate within the tertiary institutions and which will undoubtedly result in further debate in this Chamber is the establishment of the universities parliamentary review committee.

The Liberal Party will be moving that because it is concerned to ensure that there is some body which oversees the merger process. Because the universities should be free from Executive control, it seems appropriate that there be some form of parliamentary body which monitors and assists in the merger process and ultimately reports to the Parliament. I know that in some of the tertiary institutions concern has been expressed that this is parliamentary interference with the universities. I would suggest that that is not so, that the intention behind this is to ensure that there is a reasonable level of information available to the Parliament and also, if there are problems, that they are assisted by the parliamentary involvement.

The committee is not an Executive committee: it is essentially a monitoring and evaluating committee, so it is not as though it can tell the universities what can be done, although Parliament can ultimately tell them what can be done through an Act of Parliament. I do not see anything sinister in that; nor do I see anything in the establishment of the parliamentary review committee which will threaten the independence of the universities. Ultimately, those universities must be both accountable and subject to the law. Ultimately, they must be subject to the Parliament. With

the two existing universities, the fact that members of Parliament are on the respective university councils means that there is a continuing liaison which is designed to ensure that there is a constant link between the universities and the Parliament. So, the establishment of this committee will, in my view, result in better liaison.

There has been controversy about the moving of the pharmacy faculty from the Institute of Technology and, eventually, the new University of South Australia, and amalgamating it into a health sciences centre under the control of the Adelaide University, along with a number of other disciplines. That is controversial. There are some who would see that, if it occurred, as a weakening of the new University of South Australia, whilst others would see it as a strengthening of the focus on health sciences. If that issue is controversial now, in my view it is important not that the Parliament makes a decision on it now but that the issue is resolved with the assistance of some form of independent support, and that will come through a parliamentary review committee.

I know that an idea is floating around that there be some independent committee appointed by the Minister, but I would suggest that that would be more under the control of the Executive arm of Government than a parliamentary committee of review ever would be. It would be quite inconsistent with the independence that the universities seek to establish and maintain that there be an Executive committee responsible not to the Parliament but to the Executive arm of Government involved in monitoring and evaluating the mergers and particularly being involved in the discussions relating to what faculties should take which disciplines from which university.

I suggest that that is quite inappropriate as an Executive committee, and I hope that the Hon. Mr Elliott and his colleague, and other members of the Council, will reject that proposition if it is seriously put during the Committee stage of consideration of the Bill. Other issues will be more appropriately dealt with on a clause by clause basis, and I reserve my position on those until the Committee stage of the Bill.

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

[*Sitting suspended from 5.53 to 7.45 p.m.*]

RURAL INDUSTRY ADJUSTMENT (RATIFICATION OF AGREEMENT) BILL

Adjourned debate on second reading.

(Continued from 8 November. Page 1667.)

The Hon. PETER DUNN: If ever there was a debate in which filibuster tactics could be used until tomorrow morning, this is it. However, I will not do that, even though there is a lot to be said with the rural crisis at the moment, and this Bill deals directly with that. There was a question today from the Democrats regarding the problem that has occurred on Kangaroo Island. In South Australia problems began in the western areas, where the seasons had been bad over the years. It is gradually getting closer to the city; in other words, the better country is now being affected not because of seasonal conditions but because of the economic management of the Labor Governments in this country.

I support this Bill because it offers some assistance. I am not sure that I am greatly enamoured of the assistance that is provided by Governments, and I will go into that in small detail later. However, any State that can borrow money at 4½ per cent, lend it out at 15½ per cent and pocket the difference is doing a good deal, and I support it. It is a damn good deal. If the Federal Government is weak enough to lend the money for that, all well and good. It is interesting to note that it was agreed to pass this legislation on 1 January 1989 and here we are on 20 November 1990—it has taken it that long to get into this Chamber. This was brought about, I believe, by the fiasco that took place in Queensland, when there was rorting of the system. There is no doubt about that. Because of that all of us have suffered a little.

The system that now operates in South Australia was started under the Tonkin Government, when the Hon. Ted Chapman was Minister of Agriculture. Assistance was provided to help farmers who could not get finance for one reason or another. In fact, the Rural Assistance Branch of the Department of Agriculture was a 'lender of last resort'. From there it has grown like Topsy. It now lends out a considerable amount of money. This year it will receive about $8 million from the Federal Government for interest subsidy and for administration costs of the scheme. The Department of Agriculture borrows the money from SAFA and, as I said, the interest subsidy is provided by the Federal Government.

Generally, the money is lent to a farmer who can prove his need. This is through a number of reasons—and I need not go into any of the argument in relation to this because it has been explained in great detail by the Minister in another place, and anyone who is interested should read in *Hansard* the debate that took place there. It was also questioned in detail by the member for Goyder in particular and the member for Flinders. Primarily, the money is lent to a farmer for him to carry on, when the banks have decided that they can no longer lend money to the farmer because his equity is too low or he is not a good risk. The Rural Assistance Branch will consider that farmer's plight and perhaps lend him some money. This enables him to continue on at least until harvest or until he has a chance to off-load his farm, or whatever the case may be.

Farmers are in a predicament. They are price takers and not price makers. Randall Ashbourne's article in the *Sunday Mail* was interesting, and I agreed with him on some points. But he forgets one thing, that is, that the primary producer in this country sells most of his produce on the overseas market.

The Hon. M.J. Elliott: The wheat and sheep producers do; the rest don't.

The Hon. PETER DUNN: Yes, that is a good comment. The wheat/sheep producers do—but they are producing most of it. The Riverland, though, which is in diabolical straits now, involves fundamentally a home consumption industry, and the problems with that industry are different. But the big export income earners are wool and wheat—eliminating the mining industry. The preponderance of farmers in Australia are therefore engaged in wheat and wool production. The beef industry is beginning to tumble as well because the prices for beef have been gradually dropping over the past month, and this affects, of course, the large number of beef producers that we have in Australia. I suspect that the influence of sheep meat prices will cause beef prices to come down naturally.

The same applies throughout the world in relation to grain prices. For instance, corn has a major influence on prices throughout the world. One can remember when American cornfields got corn blight in 1973 or 1974 that knocked out about two-thirds of the corn, and wheat prices, which traditionally had been about £90 a ton, went to £120

overnight. So, every other grain price went up and down with it. At the moment we are seeing the reverse in Australia, with big crops of wheat in the Northern Hemisphere. I know that has some influence. One has to only look at the policies of the EEC and the policies of the American Government, with its export enhancement schemes, to understand that we really are very small beer in the world trade.

However, Australia is still about the third biggest trader in wheat, and we are obviously the biggest trader in wool. Those two products therefore have an enormous influence on Australia's primary industry sector. They have now been hit very hard. Much of this is because they are competing on the world market, which is very depressed, and yet our costs are still up with the very best in the world. They are extremely high. Interest rates are off the planet, really, although there has been some relief in the past month or five weeks. Certainly, the Australian dollar seems to fluctuate up and down like a yoyo and, until that dollar gets down to about 70c, Australia will not be competitive whatever happens.

The article by Randall Ashbourne in the *Sunday Mail* highlighted the fact that there still are a number of subsidies in secondary industry, and the car industry and the clothing industry are prime examples of that; the subsidies in those are enormous. They are compounded by the time they get down to the primary producer. He cannot hand that cost on; everybody else can and does, but the primary producer cannot. He is in the invidious situation of having to go to the bank manager and say, 'I've got no money.'

I can guarantee that about 90 per cent of the farmers today in South Australia will say that they will farm this year and go backwards. If we really wanted to be fair dinkum about this, we would say to the wage earner, 'Righto, we will attach your wage to the export performance of this nation.' We would find wages going up and down as the seasons hit us, as the Australian dollar went up and down and as interest rates affected the cost of money. If that were the case, wage earners would understand what it is like to go to a bank manager and ask for a sum of money and then to invest it and try to give him a return.

I assure members that, today, that is a very difficult task and it is soul-destroying. I personally know some farmers who I thought were the best in the business, the top operators, but who have now fallen over. I will cite the example of one of the best pig producing properties in the Kimba area of South Australia. In 1983, a family by the name of Miller—and I am sure that this family will not mind if I use its name—purchased land for about $252 an acre. That was the going price at that time, and it was not considered to be high. It was a big operation with about 18 people involved, including sons, wives and grandchildren. This year, the best of that land sold for $88 an acre. The crop value was $35 to $40 an acre, so, the land was valued at $40 to $50 an acre or about one-fifth of its 1983 value.

Last Friday, a very good property on central Eyre Peninsula was offered for sale, but it did not get even one bid. The manager of Elder-Smiths in Cleve informed me yesterday that not one property on the whole of Eyre Peninsula has been sold for $100 an acre this year. So, the situation is drastic. This Bill will tickle the edges of the problem, but that is about all. I agree in a sense with what it tries to do—

The Hon. T.G. Roberts interjecting:

The Hon. PETER DUNN: The Minister has nothing to do with this. This agreement was in place before the Minister was appointed, so I will not continue with that argument. I have some worries about what a branch such as this does. It is a lender of the last resort and, in some situations, I agree that it can help. However, it has developed into a lender of cheap money so that one neighbour can buy out another. It lends money at a concessional rate starting at about 12 per cent or a little less and gradually over three years rising to commercial rates. The people who are in trouble and are having their farms bought out often get very cross because they are told that they cannot borrow any money, yet their neighbour, because he is viable, is given money from this source to purchase the unviable farmer's property—and this has created a lot of ill-feeling in the country.

I do not think that the Rural Assistance Branch was set up initially to play this role. It was set up to help those people who for whatever reason—flood, fire, pestilence or natural disaster—and through no fault of their own were in trouble. They were able to get some money from the Government so that they could continue until the next season provided them with an income. In my opinion, that role should be played by banks, particularly in relation to the first example that I cited where money is being lent by the branch at a concessional rate to a farmer to purchase an unviable neighbour's property. I would have thought that that would be the bank's job, and I still think so.

Banks have been charging extra rates of 2 and 3 per cent over and above the normal commercial rate to cover what they class as a bad risk. I do not agree with that; however, that is a commercial decision made by the banks, and I suppose they are now reaping the benefit of the hard times because they are showing very little profit. However, huge amounts of money are being set aside to cover future debts. I do not have a crystal ball to read what the situation will be in 18 months. Wheat prices at present are roughly 52 per cent of last year's prices and, unless the dollar drops rapidly, they will stay at that rate. If we cannot get the wool industry up and running shortly there will be even louder and louder squeals because relatively few people have been squealing up until now. They are situated in the broad acre areas, but the more intensive agricultural areas, such as the South-East, Kangaroo Island and the Mid North, are now coming under pressure, not because of seasonal conditions but because of economic conditions, and they will put pressure on Governments.

This situation is rearing up in every State of Australia, and the Commonwealth Government will have to lend more money in the long term if the situation continues for any length of time. It will have to lend more money to the States to cover the problem, or it will have to change its plan of attack. I suggest that the Commonwealth Government would be better off changing its plan of attack, because the deregulation system has not worked. I was a proponent of deregulation in the past, but I now see that in practice it has not worked entirely because the Government has not deregulated everything else. It deregulated some of the bits that it thought would help consumers, but it did not deregulate wages, the shipping industry and clothing manufacturers or, for that matter, much of secondary industry. As a result, primary producers are suffering because they cannot hand on their costs.

This is further emphasised by the fact that fuel prices have gone very high, and I believe that they could go as high as double today's prices if there is a decent argument in the Middle East and it becomes hard to get fuel as in the past.

An honourable member interjecting:

The Hon. PETER DUNN: You are right, and that will exacerbate the present situation; it will be very sad. Primary producers can buffer themselves a little because primary

producers, in particular, wheat growers, carry large quantities of fuel on their properties. They have their tanks pretty well full at the moment because they bought their fuel at the right price, but when people start to pay $1.50 per litre or more—and it was $1.50 per litre in Italy this year—pressure will be brought to bear on Governments to correct the situation.

That is a rough idea of what this Bill will do. It endeavours to pick up those people who, generally through no fault of their own, have got themselves into trouble. The Rural Assistance Branch, which will now be called the Rural Finance Development Division, will attempt to assist those people, and I wish it well.

An honourable member interjecting:

The Hon. PETER DUNN: That is true, but I do not believe that it will be very successful with the enormous downturn of primary industry that has occurred in this State and in the whole of Australia. If this situation continues for a further six months we will be in for the greatest recession of all time, because if no money comes in from exports it will not filter into the cities and it will not raise our standard of living. As a result, there will be no money to pay wages and salaries.

We saw what happened in the 1930s when the bottom dropped out of the market. I recall my father telling me that in 1932 he sold wheat for sixpence-halfpenny per bushel and that wool could not be sold. That was the result of incredibly poor management. I would have thought that the economists of the world might be able to solve that problem, but it is quite obvious that they have been unable to do so. As I said, this Bill allows the borrowing of money at 4.5 per cent to be lent at 15 per cent or better. That is great odds, and I support the Bill for the reasons I have stated.

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

WILPENA STATION TOURIST FACILITY BILL

The House of Assembly requested a conference at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council committee room at 8.30 p.m. this date, at which it would be represented by the Hons M.J. Elliott, K.T. Griffin, R.I. Lucas, R.R. Roberts and Barbara Wiese.

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1993.)

The Hon. M.J. ELLIOTT: While the Democrats are supporting this Bill, and supported the other pieces of legislation in relation to the creation of the new university in South Australia, we have had grave reservations about the whole process by which the merger took place. It is a process that appears to have hatched in the mind of the Federal Minister, John Dawkins, who decided that fewer larger institutions would be a good thing for tertiary education in Australia. There has been much heated debate within the institutions and much resistance, in fact, to various merger proposals, but ultimately we find a merger now proceeding between the Institute of Technology and the preponderance of what is now the South Australian College of Advanced Education.

I must say that personally I do not see any great educational benefits deriving from that merger. As I see it, the major reason why some of those in SACAE and some of those in the Institute of Technology are agreeing to the merger is that they have been bullied financially—

The ACTING PRESIDENT (Hon. R.R. Roberts): Order! There is too much audible conversation. I am having trouble hearing the speaker.

The Hon. M.J. ELLIOTT: I feel that the institutions were, first, bullied financially; that they were facing a great cutback in funding unless they agreed to the merger; and that elements within both institutions were, for various reasons, very keen to become part of a university. Separately, both SACAE and the Institute of Technology had at various times asked to be recognised as universities, and it eventually became plain to them that that would happen only by way of a merger.

If one cares to analyse the merger so far, one sees that there has been very little by way of argument in terms of educational benefits coming out of this merger. In fact, I do not believe that a single benefit has been clearly identified. The merger is happening simply because it has been forced upon the institutions.

I have chosen not to oppose the merger itself, quite simply because I agree with what many people say, namely, that the institutions should not be interfered with and, now that the ruling bodies of the two institutions have deemed that it is a good thing—for reasons that I suspect I have already covered—I do not think it is my role to interfere with that.

There is no doubt that many issues that should have been addressed were not. The most obvious one, but by no means the only one, is the question of a proposal to form a specialist health unit within the University of Adelaide. I have been lobbied very extensively, particularly by the pharmacy faculty, which is currently within the Institute of Technology, asking that it be placed within the University of Adelaide and suggesting that perhaps some other elements of the health sciences within the Institute of Technology should also be combined with medicine and dentistry within the University of Adelaide, and also with the Institute of Medical and Veterinary Science and the Royal Adelaide itself, to produce a centre of excellence in the health sciences.

Those sorts of questions should have been addressed before the merger. They are not the only ones: there are questions such as whether we would be better off if the Department of Architecture, for instance, which is now in the University of Adelaide, had been incorporated in the faculty of building environment within the Institute of Technology, which is about to become the new university. None of these questions, nor those of credit transfer, etc., has been addressed. In fact, I find it interesting that some of those issues are the sorts of issues that the Liberal Party might have liked to address within its select committee. I must say, personally, that the number of questions that have not been addressed and are unanswered are well beyond the scope of a select committee, because a great deal of time would be taken up, and I do not think that a select committee has the time to devote to the very wide range and complexity of questions which need to be answered and which were avoided.

I also believe that in future times we may regret the passing of the sorts of education in which SACAE and, for that matter, even the Institute of Technology specialised. In the past, they have had, very clearly, different philosophical and practical approaches to the manner of their teaching,

and I think that there is a real likelihood that the new University of South Australia will become increasingly similar to the other universities, so that the choice of institutions that we currently offer our students will in fact be narrowed down.

In years to come, we will have to reinvent a level of tertiary education which will mimic what SACAE has offered South Australia for a very long time. That is not to say that what is offered by SACAE is better or worse than what is offered by Adelaide University or Flinders University, but most people would agree that it is clearly different. I speak as one who studied at both the University of Adelaide and the South Australian College of Advanced Education. We will rue the passing of that institution and I am sure that some people from the Institute of Technology will rue its passing, as well, given sufficient time.

As I said, I will not stand in the way of this merger when the two institutions themselves have decided to go ahead with it. The Liberal Party intends to move for a select committee but it seems to me that the sort of work that needs to be done and the wide range of issues that it is proposed be covered by that committee are beyond what one could reasonably hope a committee could achieve. For a couple of weeks I have been in negotiation with the Minister of Employment and Further Education on an alternative proposal which, in the first instance, sets up an independent inquiry into the health sciences, not just within the new institution but also within all the tertiary institutions in South Australia. There is no doubt that, while the health sciences are not the only area that require attention, that is the most urgent matter at this stage.

I believe that, without prejudging the final result, the sorts of questions that are being raised by the Pharmacy Department within the Institute of Technology are reasonable. Other questions in the health sciences area also need addressing further; for instance, what is to be the fate of nursing in these mergers? There is a degree of concern as to what will happen to the nursing school at the Sturt campus of SACAE, which is to be merged with Flinders University. There are very real fears that the nursing school will be subsumed and overwhelmed by the medical faculty. When one considers that nursing has been in our tertiary institutions for such a short time, special consideration should be given to its future, and that is another issue that needs addressing.

Without taking that question further at this stage, I indicate that, during the Committee stage, I hope that a document from the Minister of Employment and Further Education will be tabled which pledges the setting up of an inquiry into the health sciences in our tertiary institutions, and which discusses the terms of reference for such an inquiry. With those words, I indicate support for the Bill. As I said, I have reservations about this whole process. I do not believe that we have achieved a great deal of good out of it, other than perhaps satisfying a few egos, including that of the Federal Minister for Education and those of some people within the institutions themselves. With the passing of time, there may be some regrets about this process.

The Hon. CAROLYN PICKLES: I support the Bill, which, with the Bill that the Council has passed to establish the new University of South Australia, is very historic. The merger implementation has taken considerable time. I think it has been three years since it was mooted by the Federal Minister for Education. However, I believe that the outcome by way of these two Bills is satisfactory. In the initial stages of the proposed merger, I was involved, behind the scenes to some extent, over a couple of years with the former Minister, and I chaired a committee set up through the Minister to listen to the views of the academic institutions with regard to the mergers in varying forms. Various options were put forward by the institutions, which seemed to change their mind daily. So, it is very pleasing, finally, to see that some kind of accommodation has been reached.

As I said, there was a very long consultation process, and that is why I find it very disturbing that the Hon. Mr Lucas will move an amendment to insert a clause to establish a universities parliamentary review committee. That amendment will serve only to throw out the window all the delicate negotiations which have taken place through a spirit of compromise and goodwill, especially in the past few months. In my view, it is a naked attempt to interfere with one of the basic tenets of higher educational institutions, that of university autonomy. The negotiations for these mergers have not been simple and I do not support a further period of destabilisation with the interference of a parliamentary committee.

We have an opportunity to enhance the education profile of South Australia and to set us firmly on the road to our becoming the smart State in the clever country. Now that this all seems ready to happen, the Hon. Mr Lucas seeks to interfere with this Bill by proposing an amendment, which has met with almost universal disapproval from the South Australian higher education institutions, and I will refer to some of the utterances of disapproval from those institutions. Professor John Lovering, the Vice-Chancellor of Flinders University, wrote in a recent letter:

> I am strongly of the opinion that your proposed committee—

he referred to the committee that the Hon. Mr Lucas proposes to set up—

> will jeopardise all the delicate negotiations which have taken place so far because it will provide an avenue for protracted debate and appeal by every self-interested group in each institution which does not get what it wants out of the normal negotiation process.

In a letter, Mr Lou Barrett, the President of the Council of the South Australian Institute of Technology, and Mr John McDonald, the President of the South Australian College of Advanced Education, stated that they are both 'dismayed' to learn that the proposal, defeated in another place, may be reintroduced into this Chamber. They wrote of the committee proposal that it:

> . . . disrupts the basis of institutional autonomy on which the Australian higher education system has been founded and which has been preciously preserved in South Australia despite many difficulties during the last three years of restructuring debate.

They also warn:

> The reasons adduced for this proposal refer to the public interest but deal with sectional interests. It is said to serve the public interest better than the 'narrow, parochial, institutional interests of any of the three universities' with the tendency 'to preserve the *status quo*'. It is also purported to ensure that 'the wider interest, which none of the three universities can be expected to contemplate, can be given due consideration'. We reject these reasons as totally inadequate and denigrating of the quality and calibre of the membership of our councils and of the staff and students of our institutions. The long merger debate has been unsettling and destabilising to the governing bodies and the communities of our institutions. Nevertheless there has been much hard and selfless work, in the interests of the community, to find structural solutions which would benefit the system as a whole.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

WILPENA STATION TOURIST FACILITY BILL

Later:

A message was received from the House of Assembly agreeing to a conference to be held at the time and place appointed by the Legislative Council.

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

That the sitting of the Council be not suspended during the conference.

Motion carried.

STATUTES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1996.)

The Hon. CAROLYN PICKLES: I continue my remarks by quoting Mr Lou Barrett and Mr John McDonald as follows:

The mergers which have resulted will not benefit everyone involved and the members of our communities are fully aware that some will find them inimical. Nevertheless, apart from one small pressure group, they have cooperated in these endeavours in the wider interest.

This measure could well have the effect of discouraging right-thinking and responsible citizens of appropriate calibre from serving on institutional councils whose advice has been ignored or not believed, whose responsibility to address and resolve higher education issues is liable to be overridden at the behest of a parliamentary group and whose prerogatives are liable to be circumvented by institutional or political pressure groups. In this connection it matters little whether the measure is applied over one, three or more years; the damage is irrevocable once it has been enacted.

The Principal of the South Australian College of Advanced Education (Ms Denise Bradley) and the Director of the South Australian Institute of Technology (Mr Alan Mead) are just as strong in their criticism of the proposed universities parliamentary review committee. They write:

No other State in Australia has sought to intervene in the merger process in this way, nor has the Commonwealth sought such intervention. No adequate justification has yet been given as to why South Australia should be unique in this regard, nor do we think that such justification can be found.

I seek leave to table three items of correspondence.

Leave granted.

The Hon. CAROLYN PICKLES: One academic institution, I understand, has not condemned the proposition mooted by the Liberal Party, and that is the University of Adelaide council. I find it particularly difficult to understand why that council, albeit in part, is in favour of the Liberal Party amendment. Certainly, over past years it has been the most strident of all South Australian institutions in its defence of university autonomy and of the right to pursue academic excellence unfettered by outside interference.

It is interesting, however, that in the past week I have had some conversation with academics at the University of Adelaide and with some members of staff who are absolutely and utterly against this move on the part of the university council. It makes me wonder how much in touch the members of the council are with its constituencies or, should I say, those members of the council who supported the Liberal Party amendment, as I am aware that the decision was by no means unanimous.

I do not wish to denigrate those sensible people on the University of Adelaide council, but those who, I understand, have urged support for this amendment should really think very carefully about what it proposes. I strongly urge the Opposition to abandon its proposal and to take advice from the highly regarded and experienced academics in South Australia who see the amendment only as a retrograde step to a Bill which, with the vital ingredient of university autonomy, will allow South Australians to place their trust in our highly committed, experienced and qualified academics in order to lay the base for a standard of excellence in our newly merged universities. I urge members to support this Bill.

The Hon. J.F. STEFANI secured the adjournment of the debate.

UNIVERSITY OF SOUTH AUSTRALIA BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

[*Sitting suspended from 8.34 to 10.35 p.m.*]

ADJOURNMENT

At 10.35 p.m. the Council adjourned until Wednesday 21 November at 2.15 p.m.