LEGISLATIVE COUNCIL

Thursday 4 April 1991

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

SUPPLY BILL

Adjourned debate on second reading.
(Continued from 3 April. Page 3964.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the second reading of the Supply Bill. The Bill appropriates expenditure of $850 million to carry the payment of essential Government services through the months until the major Appropriation Bills are passed later this year. As my colleague the Hon. Legh Davis said last evening, these are traditional matters. We have two Supply Bills in a year and they offer members of Parliament the opportunity to make some comment in relation to matters pertaining to Supply but, in particular, matters of an economic and financial nature and matters that are related to the State budget.

Having looked at a number of second reading explanations on the Supply Bill over my nine years in Parliament, I note that it is with continuing disappointment to members that the amount of information in those explanations, rather than increasing, continues to decrease. If members look at the second reading explanation of this Bill they will see something like half a page of very general information but no specific information related to the progress of the financial situation and, in particular, the budget.

We are some nine months through the financial year 1990-91 and the Treasurer and Treasury officers must now be in a position to know whether we are on track in relation to various estimates that have been made for expenditure and revenue. Whilst on occasions we receive outside Parliament some information on a monthly basis, it is always couched in the terms that not too much store ought to be placed on monthly revenue and expenditure estimates, because it is the final result that counts.

As most members would be aware, when one is nine months into the financial year, initial discussions are commencing in relation to the budget for the next financial year. Those members of this Chamber who have been Ministers in previous Governments would be well aware of the forward discussions or the forward planning that goes on with the Treasurer and, more particularly, Treasury officers as to the bids for the next financial year, what the revenue projections are likely to be and what reining in of expenditure, for example, might be required to be considered, at least, at this early stage for the next financial year.

Certainly, a good amount of information exists within the bowels of the State Public Service as to how the State is progressing in relation to the 1990-91 financial year. In this debate at least more detailed information should be provided as to the progress of the State budget three-quarters of the way through this financial year. I hope that this Government in the remainder of its term—and it may well have two more budgets to bring down—and the next Government when it brings down its first budgets, will consider providing more information to members of Parliament and, obviously, to the community, as to the progress of the State budget.

This Bill has been introduced at a time of crisis in South Australia: not only economic crisis but also budgetary crisis. As all members on both sides of the Chamber would acknowledge, the economic crisis has been created by the policies of the Labor Government, in particular in Canberra, but also by the policies of the Bannon Labor Government. Again, members of all Parties in this Chamber would acknowledge the cruel effects on South Australia of the policies of the Federal Labor Government, led by Prime Minister Hawke and Treasurer Keating. Those problems have been exacerbated by the arrogant and callous indifference of Treasurer Keating in particular, to the effect of his Government's policies on regional economies such as South Australia.

I know that there is much opposition not only from this side of the Chamber but also from within the various factions of the State Labor Party towards Treasurer Keating. There is considerable ill feeling among members of the Left faction towards Treasurer Keating and his policies, particularly his callous indifference to the effects of those policies on ordinary and working-class South Australians. Those in areas of high unemployment in the northern and southern suburbs of Adelaide and, indeed, right across the State, are suffering. As I said, I know that is a concern shared not just by the Liberal members in this Chamber.

Whilst we, in the short term, cannot effect some change in the personnel of the Labor Government and the direction of its policies, members of the factions of the Labor Party, both State and Federal, at the national conference to be held in the delightful mid winter climate of Tasmania might well be able to seek a change in personnel but, more importantly, in policy direction to try to ensure that we can turn around the national economic climate. With the flow-on effect to the South Australian regional economy, we might well be able to reverse the very worrying increase in levels of unemployment being experienced in South Australia.

The Hon. T.G. Roberts: The Left would be even more worried about your policies!

The Hon. R.I. LUCAS: The Hon. Terry Roberts suggests that the Left of the Labor Party might be even more worried about the policies of a Federal Liberal Government. I am sure he says that with tongue in cheek, Mr President, because the faction of which he is a member is very concerned about the direction of national economic policy.

The Hon. M.J. Elliott: Too much like the Liberal Party!

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am too much of a gentleman to have that put on the record for the particular member concerned. Nevertheless, it is a good indication of the feeling of the various factions within the Labor Party, and the considerable concern that is expressed by factional leaders within the Labor Party. It is not just a national economic policy that has created the crisis facing South Australia, as I said, a crisis of an economic and budgetary nature at the moment; it is also the result of the policies of the Bannon Labor Government, and we have seen—and I will not recount the details again—the irresponsible financial promises made by the Bannon Government, and by Premier Bannon in particular, in his desperate clutch to hold on to Government at the last State election, promises made that he knew, personally knew, he could not afford to keep without breaking a whole range of other promises that he made at the same time.

In previous Supply Bill and Appropriation Bill debates, I have outlined in some detail those irresponsible promises that Premier Bannon made personally. That criticism remains of Premier Bannon and his Government. Added to that, of course, is the very significant criticism that can be made of Premier Bannon personally and his Government

in relation to the handling of the State Bank crisis and, in particular, from the viewpoint of this debate, the flow-on effects of the State Bank disaster for the State budget.

Thirdly, there are the policies of the Bannon Government in relation to the last State budget when, at a time when we were heading into a national recession, Premier Bannon had the hide to increase taxation by some 18 per cent, from financial year 1989-90 to financial year 1990-91, to try to prop up a significant increase in recurrent expenditure. This 18 per cent increase in State taxes and charges compares with a figure of just 6 per cent at the Commonwealth level, and with the Queensland figure of 7.5 per cent. So, the 18 per cent figure in relation to South Australia is some three times as large as the comparative figure for the Commonwealth.

Premier Bannon not only made irresponsible promises during the 1989 election campaign but he also increased expenditure significantly during the 1989-90 financial year, rather than restraining the extent of the increase in State Government expenditure and trying to live within our means, within the level of revenue that was going to be available to the State Government during what was going to be a very difficult period, which at that time was just commencing.

Of course, as a result of all those policies, there has been a very significant increase in taxes and charges and, as a result of the State Bank disaster, that 18 per cent increase is likely to be significantly more during the next two State budgets.

It is always useful to consider what outside, independent commentators think of the fiscal policies of various State and Commonwealth Governments. I want to place on record the views of writers in a recent edition of the Institute of Public Affairs *Review*, when they considered—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Well, independent commentators. I am sure that the Hon. Terry Roberts will acknowledge that the independent commentators of the Institute of Public Affairs have no specific brief for respective State Governments. They have done an objective analysis of the State and Commonwealth budgets and have placed those views on the record. In that recent edition they said this about Premier Bannon's 1990-91 budget:

> Mr Bannon's budget stands out as the most irresponsible of all the States and a clear winner of the IPA lemon award. In 1990-91 Mr Bannon plans to continue his high spending ways with recurrent expenditure set to increase by 8 per cent. This is to be financed partly by a truly massive 18 per cent increase in State taxation and a 2 per cent reduction in capital spending for general government purposes.

They are not political opponents of the Bannon Government putting a view on Premier Bannon's budget strategy, but they are respected, independent economic commentators who have done an objective analysis of the respective State budgets, and their independent, objective view is that the Bannon budget is the most irresponsible of all the State budgets. Certainly, that is a very damning criticism.

The Hon. T.G. Roberts: Respected by whom?

The Hon. R.I. LUCAS: Well, I think it is respected by most economic commentators. Certainly, their objective analysis is quoted widely in the financial press and by economic and financial commentators. I am sure that they are even acknowledged by the Hon. Terry Roberts as respected commentators. As I said, that is a damning criticism of Premier Bannon and his budget strategy and it is not a criticism from his political opponents but from independent commentators.

In addition to this significant increase of 18 per cent in State taxation, we have also seen in South Australia a massive increase of some $80 million over the previous level of $180 million in the net finances requirement of the State. So the debt levels of South Australia are increasing significantly.

As I indicated earlier, added to all of these problems we had which were publicly acknowledged and evident at the time of the last State budget, we now must consider the future effects of the State Bank disaster on our State financial situation. Again, most independent commentators would acknowledge that Premier Bannon personally, as the person responsible for the running of the Government and as the Treasurer, has presided over what is acknowledged by all as the State's greatest financial disaster in relation to his and his Government's handling of the State Bank.

The taxpayers of South Australia had invested $920 million of capital in the State Bank. The record of the State Bank from 1984 to 1990 (a period of six years) was one of pre-tax profits of $296 million. To understand the enormity of the disaster that has now been publicly acknowledged. I remind members that the loss which the State Bank suffered from 30 June 1990 to 30 December 1990 was $412.4 million, effectively wiping out in six short months any profits that the bank had ever earned for South Australia since its inception in 1984-85.

In addition to that initial input of $920 million, the taxpayers have now been forced to inject another $970 million to fund the bank's current losses. The gross debt of the State has been blown out by this virtual $1 billion rescue package. As a result, those who follow the financial pages would know that the State of South Australia and its major financial institutions have lost their AAA credit rating. That, of course, will have a flow-on effect. It will mean that our borrowings will be at a slightly higher interest rate. Of course, this means that the taxpayers of South Australia will have to pay more in future interest costs as a result of the downgrading in the credit rating.

We are now considering the flow-on effects on the budget of the State Bank crisis. The estimated annual cost for the next financial year is about $120 million to $130 million; that is, if the extent of the disaster is limited to the figure of $1 billion.

A noted and respected independent financial commentator, Terry McCrann, who writes in the national press, wrote during this last week what was to me a very disturbing piece. Without quoting the article, as I do not have it before me, the import of what Mr McCrann was saying was that in his view—and certainly in the view of many others—that figure of $1 billion is likely to be a significant underestimate of the eventual losses of the State Bank group. Mr McCrann put a figure of $2 billion on the potential total losses of the State Bank group.

The figure of $1 billion is bad enough, but an amount of $2 billion would be almost impossible to digest, so we hope that Mr McCrann is wrong. He is a noted independent commentator and, on most occasions in these sorts of areas, he has been proved correct.

The Hon. M.J. Elliott: He was very good on John Elliott.

The Hon. R.I. LUCAS: Mr McCrann has been very accurate in relation to a number of significant financial groups that have suffered problems over the past three or four years. The Hon. Mr Elliott interjects that he has been very accurate in relation to one particular group and he is probably acknowledging that Mr McCrann has been very accurate in relation to a number of groups. That places greater weight on that significant piece that Mr McCrann wrote during the past week, in which he said that the eventual losses to the State Bank group may well be about $2 billion.

As I said, we on this side of the Council hope that that is not correct, but Mr McCrann's record is such that there is probably a very good chance that he might be proved correct. In digesting the $1 billion bail out from the viewpoint of the State budget, we are looking at an extra cost of $120 million to $130 million a year.

If we are looking at a bail-out in the order of $2 billion or more, we are probably looking at an annual increased recurrent cost to the State budget of between $200 million and $300 million a year. It will be extraordinarily difficult for the South Australian taxpaying community to digest the extra costs of $120 million to $130 million. However, it will be virtually impossible for the taxpaying community of South Australia, under the current policies of this Government, to digest increased annual recurrent costs of between $200 million and $300 million a year.

Let us put this in some practical terms and look at the effects in the education area of what the Government maintained was an unexpected blow-out of between $20 million and $30 million in its budget for teacher salary increases. The Government had budgeted a certain amount of money, but argued that the unanticipated increase of some $20 million to $30 million necessitated draconian cuts within our schools. As a result of that $20 million to $30 million increase in expenditure, the Government slashed some 800 teaching positions from our schools, broke its promise in relation to curriculum guarantee and took another 100 to 150 ancillary staff positions out of our schools as well. Again, I will not go over all the problems that that has caused, and the resultant decline in the quality of education in our schools, but I use it as an example of the draconian effects of an unanticipated increase in costs to the State Government of some $20 million to $30 million.

What we are looking at next year is a sum at least five or six times greater than that and, if Mr McCrann is right, what we are looking at is a sum at least 10 to 15 times greater than that. If Mr McCrann is right, as I said, in this practical way, we can see how it will be almost impossible for the taxpaying public of South Australia to digest such a large unanticipated increase in annual outlays of some $200 million to $300 million. Our schools will be decimated, our hospitals will be decimated, our public service programs will be destroyed and the State Government, because of the combination of its policies, will have created a fiscal disaster in South Australia. I suspect that if the Hon. Terry Roberts, as convenor of the Left, is sitting in the Caucus and is confronted with this option, he would probably be welcoming the opportunity for the early return of the Bannon Government to the Opposition benches, and leave it to a Liberal Government to try to take the tough decisions that will be necessary to attempt to rescue the State from the disastrous policies of the Commonwealth and now State Labor Governments.

I am sure that the Hon. Terry Roberts will not publicly acknowledge that. The prospect of having to front up to the working class constituents of South Australia, those actively pushing for public sector programs, those within the union movement who want more expenditure from State Governments or at least the maintenance of State Government expenditure, must be very difficult, as I am sure the left is finding it difficult at the moment to defend Treasurer Keating.

It will be impossible for those of the left within the Labor Caucus who have some vestige of a social conscience left to defend the effects of these Bannon Government policies on ordinary working class South Australians. If this Bannon Government is allowed to continue with its current policies, it will mean the decimation of the Public Service in South Australia and a significant increase in taxes and charges to a level much greater than the 18 per cent increase that the Bannon Government inflicted on taxpayers in its last State budget. Whilst the Government will bend over backwards for some easy fixes like poker machines it is deluding itself if it believes that as a result of that policy there will be an increase of some $50 million into State coffers and that that will solve the financial dilemma with which this State is confronted.

The last matter I want to address is one of the responses of the Bannon Government to the financial dilemma with which we are confronted, that is, the Government Agencies Review Group (GARG) or the so-called Blevins razor gang. I will address the response of the Education Department to the Minister of Education in relation to this review. As members know, for some seven years the Liberal Party has been pushing for a review of the Education Department's bloated bureaucracy. In fact, for some four or five years as shadow Minister of Education I have been pressing the Minister of Education and the Bannon Government for a leaner Education Department. For years the Minister of Education in particular has rejected that notion; he has been a continuing defender of the Bannon Government's decision to establish five area offices of the Education Department. Again, I will not go back over that ground.

Having defended the five area offices of the department that have been under Opposition attack for some five years now, the Minister of Education has been left with egg on his face. One of the most senior officers in his department, Rosemary Gracanin, in a confidential report within the Education Department late last year, recommended the abolition of two of the Education Department's five area offices leaving just three: one in the metropolitan area and two in country areas. If implemented, that would mean the abolition of the positions of at least six to eight area directors and assistant area directors, who earn between $50 000 and $80 000 a year, and many other departmental staff.

That report confirmed what the Liberal Party had been saying for some years and, having become aware of it about four months ago, we have been pressing the Minister of Education to start implementing it. As I said, four or five months later we have still seen no action from the Minister of Education in relation to developing a leaner bureaucracy within the education area.

From the latest edition of the PSA *Review* (and even the Hon. Terry Roberts would agree that that is an independent view) it is apparent that the Education Department's review document has still to be submitted to the GARG group. I can only suspect that the Minister of Education is more concerned about getting himself off the hook as a result of the confidential report that he has received. On the one hand, there is overwhelming evidence that money can be saved within the Education Department bureaucracy, because one of his most senior officers has prepared a report saying so. However, if he agrees with it, all he has said and all he has fought for in the past five years will be proven incorrect publicly.

As I said, he is trying to worm his way out of the dilemma that confronts him. I can only hope that he will be prepared to accept that what he has been saying for five years is wrong and has always been wrong, and that, for the sake of the long-suffering taxpayers of South Australia and all those concerned about what is going on in schools, he will be prepared to eat humble pie and concede that we can make savings in the department. Hopefully, he will be strong enough within the Bannon Government Ministry to argue that those savings can be channelled into necessary programs in our schools.

Whilst on behalf of the Liberal Party I support the second reading of the Supply Bill, I am sure members will know that we are extraordinarily critical of the economic and financial policies of both the State and Commonwealth Labor Governments. We have given, at least in broad detail, an indication of where changes can and should be made in the area of education, and these are the areas that must be addressed by the Bannon Government if we are to start to work our way through the economic and financial crisis that confronts South Australia at the moment.

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.
(Continued from 13 March. Page 3526.)

The Hon. J.C. BURDETT: I support the second reading of the Bill. When the Attorney-General introduced it, he stated that this was the first of a series of portfolio Bills, and I will comment on that matter first. He explained that in February 1990 Cabinet approved guidelines to reduce the volume of legislation. The guidelines were designed to ensure as far as practicable that minor amendments to legislation can be dealt with in portfolio and statutes law revision Bills instead of introducing separate Bills to amend (in this case) 11 separate Acts. He said that this is the first portfolio Bill introduced under these guidelines and is said to represent a considerable saving in parliamentary time.

This is no doubt true, but I hope that the guidelines as to the amendments being of a minor, non-controversial nature are observed, because I do not think they have been in this Bill. To call a substantial change to the common law definition of murder minor and non-controversial just amazes me. The Minister even had the explanation of the actual amendments, I do not mean the clauses, inserted in *Hansard* without reading it.

If the amendments were minor and non-controversial, why was the one in regard to murder reported on the front page of the *Advertiser* yesterday? Is the reporter slipping, or is the amendment not minor and non-controversial? I do not believe that Rex Jory, who was the reporter, is slipping. The truth of the matter is that this is not a minor and non-controversial amendment. In fact, controversy was raised in the article in the *Advertiser*, and I will come back to that matter later. I have noticed in the past that, when statute law revision Bills are said to be making minor amendments to the law, which do not matter very much and are different amendments, these are the Bills one has to watch, and that is true in this case.

In relation to the amendments made by the Bill to the Administration and Probate Act, the Bill formalises the requirement of the recommendations of the Chief Justice for the appointment of the Registrar of Probates. This is already honoured in practice, and I support that. Secondly, it enables wills deposited to be held in places notified by the Governor in a notice in the *Gazette* away from the Supreme Court. This is because of pressure on court space, and I can see no harm in that. The Crimes (Confiscation of Profits) Act adds to the list of offences that come within the provisions of that Act. Certain offences under the National Parks and Wildlife Act, for example, taking and selling brush, are added to that list of prescribed offences, and I have no difficulty with that.

The major area of difficulty is the one to which I have already referred and that is removing the year and a day rule from the definition of murder. The classical definition of murder, as set out in *Coke's Institutes* is:

> The unlawful killing of a reasonable creature who is in being and under the King's Peace with malice aforethought either express or implied the death following within a year and a day.

The Minister's explanation is singularly ill-researched, referring to the year 1800 for the possible explanation of the rule, whereas Coke wrote it in about 1600, and the rule was obviously well settled then. It is very clearly of the order of 500 years old.

The Bill abolishes the requirement that for homicide the death must follow within a year and a day. While a year and a day sounds dramatic, it is really 365 days. It is the way reckoning was made when they did not have the benefit of the Statutes Interpretation Act to say how time ought to be reckoned. It is said that there is no present rationale for the rule. It is explained that the rule may cause injustice where an offender injures a victim who lies in a coma for a long period or where the offender infects the victim with AIDS.

When I contacted the Law Society about this aspect of the Bill, I found that it had not heard about it; in fact, that was the first that the Criminal Law Committee of the Law Society had heard about it. I had to fax a copy of the Bill and second reading explanation to it so that it could consider it. It did consider it, and its view was that it felt it was not necessary to tamper with the common law in this regard. However, it said that, as the move had been made, it should not be resisted, and that would be my view. I cannot resist the change. However, the side effects of the change must be taken into account, and they have not been.

The committee raised two points. First, the Bill should be amended to write into the legislation a requirement that any sentence incurred by the offender in regard to the same incident, for example, on a charge of wounding with intent, must be taken into account if the offender is subsequently convicted of murder. It should be taken into account in fixing the non-parole period. It is hard to conceive that this would not happen but, as the law is being changed anyway, the committee felt that this provision should be written in.

At the moment, if an offender commits a serious offence and his victim does not die but is in danger of death, he is not charged until a year and a day later. When this Bill is passed, he will be charged straightaway with wounding with intent, or whatever is the appropriate charge. In one, five or ten years time, his victim may die, and, in the meantime, he may have been convicted of some other offence such as wounding with intent, and he may have been sentenced and be imprisoned. The committee is saying is that, in such cases, it ought to be prescribed in the statute that, in fixing the non-parole period, if the offender is subsequently charged and found guilty of murder, the previous sentence must be taken into account.

The second and probably more serious concern of the committee is that it is not sure what the implications of the Bill are in relation to double jeopardy, the rule being that one should not be in jeopardy twice in respect of the same matter. The committee raised this example: if the accused is charged with wounding with intent, raises the defence of self-defence, and is convicted by a jury and the victim dies, can the accused be subsequently charged with murder, because the verdict of not guilty by a jury would not indicate whether the grounds of the verdict were self-defence or something else? Of course, a jury simply brings in a verdict of guilty or not guilty, and one does not know what were the reasons or the motives that led the jury to come to that verdict.

The Criminal Law Committee has indicated to me that, if it has time—and I will suggest in a moment that it should have time—to consider the matter, it may decide that it cannot see any harm in the Bill as it stands. I faxed a Bill to the Criminal Law Committee of the Law Society on the day before members of the committee were due to have a meeting. They considered it, but felt that they should not have been put in the position of making recommendations to the Government (which had not consulted them) after just one meeting. They want time to consider the implications of the law relating to double jeopardy in connection with this Bill.

To interfere with the common law in such a serious matter as murder, in such a summary way, as in this Bill, and without the Law Society being consulted, is disgraceful. I ask the Attorney that, in future, he give the Law Society time to consider a matter—even if he considers it to be something minor, although as in this case he enables it to get on the front page of the *Advertiser*. The Law Society has its various committees. They meet regularly and, as with most organisations like that, they are not geared to operate in a day or two days, or something like that, as they had to do in this case.

I also ask the Attorney that, following the second reading of this Bill—and I have said that I support the second reading—the further stages of consideration of the Bill be held over until the next session. I cannot see any harm in that. This provision has not been changed for a long time and I cannot see that there would be any problem in holding the matter over until the next session, particularly if the second reading stage of the Bill has been completed in this place, and it can be reinstated at that level.

I refer to an article in yesterday's *Advertiser*, which states:

> The AIDS Council of South Australia General Manager, Ms Andi Sebastion, said later the changes would have limited use in relation to murder and would apply only in cases where, for example, someone had deliberately injected a victim with HIV-positive blood.
>
> A Flinders Medical Centre doctor said people who used intravaneous needles in a threatening situation probably would not be deterred by the prospect of being charged with criminal offences.

It is reported in that article that the Attorney referred to the case of Cameron and to a case in New South Wales of an AIDS-infected person. When the Attorney replies, can he say whether, over the last, say, 50 years there have been any other cases where the year and a day rule has proved to be a problem? Further on in the article, a Dr Dennis Rhodes, who deals with the treatment of AIDS patients and patients with HIV infection, said:

> . . . if people were going to be deterred by legislation they would not be creating the offence in the first place.

He was further reported as follows:

> He said there was a risk some people might not have a test because they believe if they did not know they were HIV positive they could not knowingly transmit the disease and be charged.

The article further stated:

> A lecturer in health law at the University of Adelaide, Mr Chris Reynolds, said it was generally 'far better for public health officials to deal with public health problems than policemen'. He feared application of criminal law to health problems such as those raised by HIV sufferers could become 'a variation of gay bashing'.

It is interesting to see criticism coming not so much, as reported, from the legal area but from the health professionals, from the people operating in that field. This supports my request to the Attorney to delay proceeding with this Bill, after the second reading, until the next session, to enable the Criminal Law Committee of the Law Society, and, doubtless, other people who want to do so, to have a look at its implications and consider what they may be. This could include people in the health areas. It would give them an opportunity to look at the matter.

The next amendment to the Criminal Law Consolidation Act concerns amending the definition of 'unlawful sexual intercourse'. I support this. It is merely a semantic change, changing the definition from 'mentally deficient', which may be offensive to some people, to:

> . . . is by reason of intellectual disability unable to understand the nature or consequences . . .

I have no objection to that. The next amendment relates to section 357 of the Criminal Law Consolidation Act. It extends the time of appeal from 14 days to 21 days. This is sensible. I take issue with the next amendment, which relates to section 360 of the Criminal Law Consolidation Act. Section 360 provides:

> A judge may assign to an appellant a solicitor and counsel or counsel only if any appeal for new trial, or proceedings preliminary or incidental to any appeal or new trial, in which, in the opinion of the judge, it appears desirable in the interests of justice that the appellant should have legal aid and when, in the opinion of the judge, he has not sufficient means to enable him to obtain that aid.

That seems to me to be a proper provision. However, it is proposed to repeal it. In his second reading explanation, the Attorney explained:

> Section 360 can be repealed in view of current arrangements as to legal aid. Section 360 provides that a judge may assign to an appellant a solicitor and/or counsel if it appears in the interests of justice that the appellant should have legal aid. Legal aid is now provided by the Legal Services Commission.

It is unclear where the money to provide the legal aid assigned by a judge would come from. In the past, the Opposition has supported the retention of section 360, and I oppose its repeal now. The question of where the funds were to come from does not seem to me to be a great problem. Obviously, funds would come from the Legal Services Commission. If the Attorney considers that there is a problem in that regard as to where the funds should come from, then the section could be suitably amended—because the section does provide:

> . . . and when in the opinion of the judge he does not have sufficient means to enable him to obtain that aid.

So, it is clear that the person is to be publicly funded. But the merit in section 360, I suggest, is that it is at the discretion of the judge who is dealing with the case. It seems to me that there is merit in leaving it at the discretion of the judge who is dealing with the case rather than at the discretion of the Legal Services Commission.

The amendment to section 364 is semantic and I have no objection to it. The next amendment in the Bill concerns the Criminal Law (Sentencing) Act. This will allow a reminder notice where a fine and costs are overdue, and this seems to be sensible. The next amendment is to the Judicial Administration (Auxiliary Appointments and Powers) Act. This expands the class of persons eligible for appointment as judicial auxiliaries—temporary, acting judges—to include retired judges from the superior courts of Australian States and Territories and New Zealand.

The next amendment is to the Justices Act. Where a young child is concerned, this enables a video tape interview to be admitted in evidence with proper safeguards, but not an audio tape at present. Because video taping facilities are not available, it is commonsense to admit audio tapes and that is what the amendment does.

The next amendment is to the Law of Property Act. Under the law at present all such applications are referred to the Land and Valuation Division of the Supreme Court in terms of the Act but most applications are, in effect, property settlements between separated *de facto* spouses. The ordinary jurisdiction of the Supreme Court is appropriate for that and is applied by the amendment.

The next amendment is to the Prisoners Interstate Transfer Act. This provides for the automatic recognition of

interstate laws, and I support that. The next and final amendment is to the Supreme Court Act which allows for a realistic scale of interest on the unclaimed suitors fund, and I certainly support that very strongly.

I support the second reading of the Bill. However, in regard to the year and a day rule, if the Bill proceeds at this stage, I will move an amendment and I will particularly request that the Attorney-General hold this Bill over after it has passed the second reading. I would request that to enable the implications of the abolition of the rule to be considered not only by the Criminal Law Committee of the Law Society but also by people in the medical field and others who have not had much chance to consider its implications. I indicate that I will oppose the repeal of section 360. Subject to that, I support the Bill.

The Hon. R.J. RITSON: The Bill has many aspects, some of which have been canvassed by my colleague Mr Burdett, and I am sure that other aspects will be canvassed extensively by the Hon. Mr Griffin. However, I want to make a few comments about the year and a day law and, subsequent to those comments, I want to express some concern about the use of portfolio Bills, if they are to be used in this fashion in the future.

First, in relation to the year and a day rule, I understand that it is centuries old and is not an ingredient of a crime but is a limitation upon prosecuting the crime. Indeed, its origins may lie in a notion that the evidence becomes so attenuated with time that some of its detail may be lost in the mist of time, and that there ought to be a point beyond which it would be unsafe to prosecute for such serious crimes as murder.

Of course, one can imagine all the intervening factors that might have contaminated the issue of causation in the seventeenth century so that people might have wondered whether a person had, in fact, died of the leeches or of the arsenic that was administered to the patient. Certainly, medicine in those days was much more dangerous than it is now. If the reason was related to the possible attenuation of evidence, notwithstanding that one can demonstrate a very clear chain of causation, clear evidence of a guilty mind and an intention to cause death, the current effect is that, nevertheless, further prosecution is barred by this rule. In this day and age it would seem, at first sight, to be unreasonable to have such clear cases barred.

The issue of AIDS has been raised and I think that that is why it attracts the interest of journalists. There is the issue of coma in cases such as the guard who died from head injuries some time after the Great Train Robbery, but more than a year and a day after it. Of course, those sorts of cases are more numerous than AIDS but, if it had been one of those cases, it might not have got in the *Advertiser* at all. But that is more a comment on what interests journalists than about actual causes of death and the significance of the change in the law.

In the past, with history's famous poisoners, heavy metals were fashionable and were administered slowly, over a long period of time. The ultimate cause of death may very well have been kidney failure more than a year and a day after the last dose of Lucretia's favourite substance, or the cause may have been infection due to suppression of bone marrow by the toxic effects of various poisons. I am sure that, historically, this has been—and in the case of head injuries, will be—a numerically much more common manner of delayed death than AIDS, AIDS deliberately inflicted.

So, the problem has always been there and, as my colleague said, it is hard to resist, particularly now that medical treatment has improved to the extent where people can be kept alive for longer periods after grievous injury. In the case of, let us say, kidney failure due to heavy metal poisoning, people can be kept alive by a kidney transplant which, in some cases, may fail at a later date and result in death. I do not see any particular reason why people should escape their responsibility for acts that cause delayed death.

However, I very much support the remarks made by Mr Burdett. First, upon reflection, the sorts of problem which seem to arise are not dealt with in the Bill. Mr Burdett made the point about double jeopardy. If someone is acquitted on the facts or put before a jury on a lesser charge, and is subsequently charged with murder when delayed death occurs, how do you know whether the jury failed to believe, let us say, an alibi (that it was someone else; that the accused was not there)? How do you know the jury failed to believe that causation was satisfied, or failed to believe that the person intended to cause harm?

We do not know; that matter may well be able to be resolved by way of amendment in consultation with legal authorities but, as my colleague pointed out, the Law Society had about 24 hours in which to consider this matter before the Bill was introduced, and it does not know where these problems begin and end.

I wonder what the status of a confession or a guilty plea to a lesser charge should be, because it may be that a person considering the matters of cost and likely penalty for, say, a first offence of a lesser degree may plead guilty or may confess. Should that evidence be admissible in a trial on a murder charge three years later, perhaps after the accused has served six months of his 18 months period of imprisonment?

I do not know whether juries should consider a confession to a lesser charge or a guilty plea or whether they should be screened to make sure that they know nothing of previous events. As I say, I am not a lawyer and I know nothing about rules of evidence, but I am entirely convinced that none of these problems has been addressed in the Bill and that professional advice as to whether they should be addressed has not been obtained by the Government.

I join with my colleague in expressing very severe concern about this matter being introduced in a portfolio Bill. I think the Government has been very naughty indeed. I am reminded of an episode of the *Yes Minister* program. A matter which Sir Humphrey thought was controversial, which he wished the Minister to approve and which he feared the Minister would not approve if he actually understood, was inserted in a very brief and cryptically written docket at the bottom of an extra large ministerial bag of quite complicated and lengthy matters. The Minister, having sat up all night grappling with apparently difficult problems, eventually signed this little cryptically worded docket with a sigh of relief and with little consideration. Of course, in the style of the program that action came home to roost towards the end of the episode and demonstrated Sir Humphrey to be the winner on the night.

Well, Sir, if portfolio Bills are going to be used to bring in a controversial amendment, amongst 10 or 15 or, who knows next time, 25 little amendments, without consultation, that is getting towards the equivalent of Sir Humphrey's action. After all, if a portfolio Bill can change a couple of words in 15, 20 or 30 Acts of Parliament, one must get out those 15, 20 or 30 principal Acts and read sufficient of them to understand their whole purpose and place in the scheme of things, and then look at the effect of the extra two words upon the section in question. That is quite a job that must be done properly. A couple of pages containing those sorts of amendments look flimsy and simple, but they may amount to a minefield that would require

a lot of trust on the part of an Opposition and a lot of responsibility, sincerity and no tricks on the part of a Government to give credibility to this scheme of portfolio Bills—and we have been let down on the first one.

I think the Government should be allowed a second chance, and I support fully the suggestion that the matter be allowed to lie on the table until the interested parties and the people with coalface professional knowledge of the criminal law have had an opportunity to contemplate it and suggest any amendments. I think that is very important and that the Government should have enough moral courage to say '*Mea culpa, mea culpa*; we will never do that again,' because it is only with that much trust in the system and that much confidence on the part of the Opposition that it is a matter of honour, and that nothing will be sneaked through a la Sir Humphrey, that the system can work. If we have many more episodes of this, a groundswell against these portfolio Bills will arise. Who knows what might happen, given that no political Party controls this Chamber absolutely? So, I put the Government on notice and I say, 'How dare you, and don't you ever do that again!'

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

PARKS COMMUNITY CENTRE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 3527.)

The Hon. J.C. IRWIN: The Opposition supports the general thrust of the amendments outlined in this Bill. The Parks Community Centre was established under its own Act in 1981 when our former colleague the Hon. Murray Hill was Minister of Local Government. The centre was established as a social justice initiative to meet the social, recreational, cultural and welfare needs of the local community.

This local community can best be defined to include the suburbs of Angle Park, Mansfield Park, Ferryden Park, Woodville Gardens, Athol Park, Wingfield and Ottoway. The facilities offered by The Parks include a high school; a sporting complex, including an outdoor and indoor swimming pool; youth services; arts complex; catering; TAFE; community youth support scheme; information advisory service; library; a children's house; community health; DCW and legal services.

The Parks Community Centre services an area of high need. Housing is predominantly public housing. The annual report of the centre for 1990 states that in excess of 75 per cent of all households receive social security as the primary source of income. The social justice strategy of the centre focuses on two main priorities: economically disadvantaged families and employment and training for local people of all ages.

Although I have visited The Parks on a couple of occasions to attend particular functions, until recently I had not had an opportunity to become familiar with its layout. I thank the Chief Executive Officer (Mr John Mitchell) for spending some time with me before Easter showing me the layout of The Parks and explaining its functions. I really have not scratched the surface, but I appreciated having the chance to look at the site.

I have to say, first, how difficult it is, having a rural community background, to come to terms with a complex where everything is provided by the Government—albeit that there is an element of user pays in some of its activities. I recall my involvement with my rural community over the past 30 years, a situation that is reflected in every rural community of which I know. I know that the Hon. Peter Dunn would have had the same experience and would support me in what I am saying.

For instance, I helped to raise funds for and build my local area school, the kindergarten, the hospital (which is still owned by the community), the football oval and clubrooms, the golf course, the three churches and the local institute and many other facilities. Of course, it will be argued that collectively my community was in a more fortunate position to provide these facilities. However, the point I make is that the facilities were provided as the need arose in the community, and only when that need arose. It was not expected that all those facilities would be there in one hit. As the need arose, there was an attempt to provide them, and literally thousands of voluntary person hours went into those projects. It involved not so much cash—although certainly that was needed—but certainly an awful lot of voluntary time was given by many people. I make that point as well, because it is very good for the community itself to be involved in what it is building.

Apart from the school and part-funding from the Government for the hospital, all those facilities were locally funded and are still maintained. Despite a dramatic economic downturn in rural areas, many of those facilities will still have to be maintained by the community. I instance, particularly, the social welfare areas rather than the sporting areas, although to my mind both are very important to members of a community at all times for their mental and physical health and well-being. For instance, any welfare services that can be made available in the country, provided by the Government for country people, are only accessed after driving, in some cases, many hundreds of kilometres to some large rural area or centre. They are not on tap and just around the corner.

From the last Auditor-General's Report it appears that the net annual cost to the community of running The Parks was in excess of $4 million for the year 1989-90. That does not include its school. Part of that cost, albeit a small one, is remuneration paid to the Chair and members of the board under section 9 of the principal Act. Can the Minister detail the allowances and expenses received by the present board for this current financial year, and does the Minister envisage any great change to the remuneration paid to the Chair and the board members when the board is reduced in size from 13 members to 11?

Of a population of about 100 000 people who can in one way or another make use of The Parks facilities, 75 000 live in households that receive social security as a primary source of income. I am quite open to advice on my figures, because I have tried to extract them from Grants Commission figures of population, particularly in relation to the Enfield and Woodville councils and assess how many people would be around the immediate area of The Parks. Going on the annual general report of The Parks, 75 per cent of families receive social security payments; a very high number is concentrated in that area. We have this large group of people residing in metropolitan Adelaide who are dependent on the State for their livelihood and the facilities that they can and do enjoy at The Parks.

I do not wish to criticise The Parks establishment, the philosophical background to it or the group of people and individuals who make use of the facilities. Neither the establishment nor the people deserve that. However, I must say that, even if The Parks establishment was born out of necessity in 1981, it should not—leaving the school aside—be an economic drain on the taxpayers of South Australia

and Australia forever. It is an indictment of both the Commonwealth and the State Governments that the economic climate has not improved for the people in the general Parks area since 1981. Despite buoyant overseas economic conditions for the past five or six years, Australia has managed to go backwards, both in industrial and in debt terms. That very much reflects on the figures that I gave earlier.

Even if The Parks model gives economy of scale and efficient joint use of facilities, it should in my view not be a philosophical model for the rest of metropolitan Adelaide. It would be far better to create the economic climate which would return most people to a job and wean as many people as possible from the State milch cow. I always argue that it is far better to have The Parks example of shared multi-use facilities run so that there is not a net cost to the taxpayers of the State. I am sure most people would support that statement.

The Bill now before us is quite simple and seeks to do two things in the fine tuning of The Parks. It restructures the board to provide a more outward looking, community oriented membership that will be better able to respond to community needs as they change. I note that the Minister for Local Government Relations will now nominate six members of the board, out of a reduced board membership of 11, the current membership being 13. Four board positions were previously filled by the Ministers of Education, Community Welfare, Ethnic Affairs and Health.

As these positions are abolished in this Bill, I expect the Minister for Local Government Relations will be able to pick people who can best represent the various community interests and who now, I am advised, number far more than the new board of 11, or even the old board of 13. If the establishment of The Parks had to try to cater for all the community of interests in that area with that population of about 100 000 people, there would be a very large board. So, I certainly accept the move to reduce the size of the board to 11 members, and I wish the Minister well in trying to choose the best people for the six that she is to nominate to the board, because they have a very serious job to do there.

The Enfield council still has a board representative, as do three registered users and one elected staff. The Bill allows for casual employees to be able to be elected as staff representatives. The role of the Chief Executive Officer will include being responsible for the effective management of the centre, for the management of the staff and for the implementation of management plans and budgets determined by the board. With those comments, I wish the new board of The Parks and the Chief Executive Officer well, as they tackle the new phase of development at The Parks.

Finally, it has been brought to my attention that there is a reluctance by some members of the community near to The Parks to use the facilities, and that it is a fact that some users come from far and wide within the metropolitan area to use The Parks facilities. I ask the Minister whether she is aware of this and if she knows why some local people are reluctant to use The Parks. As I understand a record is kept of persons who use The Parks (under section 6 of the Act), this should enable some analysis of where the users are coming from. I do not expect answers to these questions, because they are not particularly relevant, except that the matter was raised with me.

I wonder whether the Minister would be able to table the latest register of users, which may give some indication where those users come from—not only within the immediate area around The Parks, but also from the larger metropolitan area of Adelaide. I would like to be given some broad idea of those numbers and users, but not down to the last person. With those remarks, not only do I reiterate my desire that The Parks go on from here in a more strengthened way because of the amendments that this Bill provides, but also I support the second reading of the Bill.

The Hon. ANNE LEVY (Minister for Local Government Relations): I thank the Hon. Mr Irwin for his support of this Bill. I am sure that he appreciates the value of the Parks Community Centre to the people of the area. The honourable member spoke about the register of users. I am reluctant to table in Parliament the names of the users; I feel that that would unnecessarily invade the privacy of those people. About 500 people are registered users of The Parks, and I can assure the honourable member that they are all resident in the area, which is a prerequisite for registration. Of course, that does not mean that there are not many more people in the area who make use of The Parks but who have not taken the trouble to register as users.

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

LAND AGENTS, BROKERS AND VALUERS (INCORPORATED LAND BROKERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 March. Page 3528.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill. It is also supported by the two professional organisations which have a direct interest in land broking, namely, the Land Brokers Society and the Real Estate Institute. Both those organisations raised several matters to which I will refer later. The Land Brokers Society indicated that it is most anxious to see the Bill pass. Whilst the Opposition is not anxious to delay consideration of it, there are several matters about which I believe the Council should have the benefit of a response from the Minister. The Land Brokers Society made the point that it had been waiting for some three years to get this legislation into operation, and I concede the desirability of it and express my concern that it has not come up earlier.

In my discussions with the Land Brokers Society several years ago I indicated that I would support the thrust of this Bill, which is to allow land brokers to incorporate their practices whilst remaining personally liable for any act undertaken by them or by their employees whilst acting in the course of their business.

I draw to the attention of the Minister the fact that the second reading explanation contains a number of errors. I am surprised that it was not checked before it was presented to Parliament. The first is a reference, in the fifth paragraph, to a person carrying out activities that may incorporate separately under the Companies Code. Well, the Companies Code has not been in operation since 1 January when the Corporations Law came into effect.

There are also some typographical errors. In the same paragraph there is a reference to a land broker meaning a person other than a legal practitioner who for 'fee or award' prepares any instrument as defined in the Real Property Act, when it should in fact be 'fee or reward'. In the sixth paragraph there is a reference to the 'affect' rather than the 'effect' of certain provisions ensuring ownership of a company remains with a licensed land broker. I know that that might be regarded as being pedantic, but I like to see second reading explanations checked and presented correctly, and

with the resources available to the Government I would have thought that that would happen as a matter of course.

There is also another matter that is not accurately expressed in the explanation, and that is at the end of the sixth paragraph and relates to the Bill effectively ensuring that ownership remains with the land brokers who are active in the business by requiring that shares be acquired by the company when a person ceases to meet the criteria for membership set out in the Bill. Technically I think it is redemption rather than acquisition, but I am prepared to be flexible with respect to that particular description and not be so critical of that as I have been of the other problems in the second reading explanation.

The form of the incorporation follows the incorporation of professional practices, which had its origin in the Legal Practitioners Act of 1981, which allowed lawyers to incorporate their practices but to retain joint and several liability and not have the benefit of limited liability which would normally apply in relation to companies carrying on business. It then was followed by legislation relating to medical practitioners; and, in the current session, a number of Bills such as the Chiropractors Bill and the Pharmacists Bill have allowed incorporation of practices.

I suppose that there are several advantages in incorporation of a professional practice. One relates to the involvement of members of one's family in taking some of the profits; they would be shared rather than being attributed only to the principal. There is the advantage of being able to take out superannuation as an employee of the company, and that does have some benefits from a tax point of view, as well as provision for one's retirement. Another short-term advantage is the fact that, as an employee of the company, a land broker would have pay-as-you-earn tax deductions taken out on a regular basis from his or her salary so that the tax is paid up-front rather than in arrears and provisional tax applied.

There are some advantages in incorporation; there are also some disadvantages. If it is a small practice, the practitioner is subject only to State law but, if the practitioner incorporates, that practitioner is also subject to the Corporations Law, which is extensive and places even further legal burdens upon directors, in particular, and also, to some extent, shareholders. It also makes the small business liable to all the statutory obligations, with their consequential costs, imposed by the Corporations Law, and their operations as a company are then subject to surveillance by the Australian Securities Commission—an agency that is essentially Commonwealth in nature and based in the Eastern States. This Bill allows land brokers to exercise choice either to remain as individual practitioners or to incorporate.

An interesting aspect of the Bill is that a distinction will be drawn between land broking, strictly defined, and, on the other hand, mortgage and finance broking, which has got a lot of brokers into difficulty with quite exceptional losses being incurred and small investors suffering as a result. Hodby, Schiller, Field, Winzor and a number of others have all been defaulters, largely because they got involved in lending their clients' money on mortgages and lost because of poor security.

Whilst I do not want the Minister to provide details immediately, at some stage after the Bill has been considered I would appreciate it if the Minister would be able to give me some updated information on the extent to which the creditors of various defaulting brokers have not yet been satisfied out of the Agents Indemnity Fund, some indication of when satisfaction will occur, and what funds are currently in the Agents Indemnity Fund. That is a question that I periodically raise, and it is helpful to have an update on those matters.

The Real Estate Institute wrote to me, enclosing a copy of a letter that it also sent to the Senior Legal Officer in the Office of Fair Trading, and I presume that the Minister has seen that. The institute raises two issues as follows:

> The first of these is in regard to the new section 57a outlined in paragraph 6 on page 3 of the draft—section 57a *(a)* (ii) which reads—'the directors of the company must be natural persons who are licensed land brokers (but where there are only two directors one may be a licensed land broker . . .'—it is suggested that the word 'may' should read 'must'.

I am not convinced by that. However, I would like the Minister to indicate what response she might have to that proposition. Further, the Real Estate Institute says:

> Secondly, it was not possible to find within the draft Bill the number of shares which may be held by a spouse or relatives.

That is an issue that I will address in more detail in a moment as I consider particular clauses. That is of more substance than the first issue.

The Land Brokers Society also wrote to me, and I sent it a copy of the Bill. It raised one matter which it suggested ought to be addressed in the Bill but which might more appropriately be addressed in the regulations. I do not know whether or not the Minister has seen that letter, but I ask her to respond to it at the appropriate time during the course of consideration of this Bill. The letter, from Mr Robert Sidford, who is the Chief Executive Officer of the Land Brokers Association, states in part:

> I refer here to the requirements of regulation 20 of the Land Agents, Brokers and Valuers Regulations. Under subregulation 20 *(c)*, where money is transferred from one trust account to another, the transfer must be clearly noted in both accounts, and the notation must indicate the authority given for the transfer by the client or other person entitled to the money. It would seem that this requirement would have to be complied with by every land broker who incorporated his or her practice in relation to each trust account maintained by the broker before incorporation, since section 63 requires that any trust account must be in the name of the broker. Perhaps clients should be advised that a land broker has incorporated his or her practice, but requiring written authorisation in this instance seems onerous where, in effect, only the name of the account is to be changed. I believe something ought to be included within the Bill to relieve land brokers who incorporate from this obligation.

There may be a point here on the transfer of a trust account to a land broker practising individually to a land broker practising as a company. It might be that it can be accommodated by a change to regulation, although some amendment to section 3 might also be required in the light of the requirement that the trust account must be in the name of the broker. I would appreciate a response from the Minister on that matter.

There are several other matters in the Bill to which I wish to refer. In relation to new section 57 *(a)* paragraph *(a)*, there are three subparagraphs in relation to which I raise some questions. Subparagraph (iii) provides that the memorandum and articles of association of the company must contain a stipulation that:

> No share in the capital of the company, and no rights to participate in distribution of profits of the company, may be owned beneficially except by—
>
> (A) a licensed land broker who is a director or employee of the company;
>
> (B) a prescribed relative of a licensed land broker who is a director or employee of the company;
>
> (C) an employee of the company.

Subparagraph (iv) provides:

> Not more than 10 per cent of the issued shares of the company may be owned beneficially by employees who are not licensed land brokers.

There is no restriction on the number of shares that a prescribed relative of the land broker may hold. I suppose

it is possible for the land broker to hold one share or no shares whilst the majority of shares are held by prescribed relatives.

Some attention might need to be given to that, in the light of subparagraph (v), which says that the total voting rights exercisable at a meeting of the members of the company must be held by licensed land brokers who are directors or employees of the company. What I am not clear about is the relationship of the voting rights to the beneficial ownership. Presumably, that refers to a licensed land broker actually holding the voting rights. That may be as a result of the shares held by prescribed relatives being non-voting shares, or it may be that it refers more particularly to voting rights on shares held beneficially by others than the licensed land broker, and the land broker exercising the voting rights by proxy.

That ignores the legal position that, when a proxy is appointed, the proxy acts at the direction of the person who grants the proxy. So, it may be that some clarification of this has to be included in the Bill. I know that the provision in that subparagraph is in other legislation, which allows incorporation of professional practices, but it seems to me that it does not all necessarily tie up when one tries to put it into practice—and think of all the variables of share ownership and directorships. I suppose, also, the issue of total voting rights is relevant, because, subject to the memorandum and articles of association, the quorum at an annual general meeting, according to the Corporations Law, for a proprietary company is two. If only one person attends, even exercising votes by proxy, there is a question whether the quorum requirements of the Act are satisfied. That could be overcome by providing in the articles of association that a quorum for a meeting is one person. That does happen, but I think it is not usual for that to occur.

The other provision to which I draw attention concerns section 186 of the Corporations Law, which really fixes the number of members of a company, below which certain difficulties arise. A minimum number of members of a proprietary company is fixed at two. Therefore, there is the possibility that, under the scheme set out in section 57a, a prescribed relative may hold all of the shares beneficially. The land broker may be a director and an employee, but I suppose may hold one of the shares in trust for the prescribed relative who may own them all beneficially.

As I say, some technical matters need to be addressed. It may be that, in the short time I have had to consider that issue, I have not interpreted it correctly, and I am certainly willing to be corrected or otherwise persuaded that the Bill is sufficient as it stands. It may also be that, if there is a technical difficulty, it can be remedied by amendment quickly, or it may be allowed to pass and be amended further next session. But I am open to suggestions as to the appropriate way to deal with this and to ensure that it is passed in the current session by both Houses.

The only other matter to which I wish to refer (and I will not move any amendment) is the reference to putative spouse. Members will know that I have a very strong view that putative spouses really have no part to play in the incorporation of professional practices and in other areas. I do not intend to oppose the provision here, because the battle that I have fought I have lost on previous occasions. But it is rather curious that a putative spouse is defined as a person who is a putative spouse notwithstanding that a declaration has not been made under the Family Relationships Act in relation to that person.

I suppose that that presumes that the putative spouse criteria under the Family Relationships Act of 1975 would apply, except that there has been no declaration by the court that at a particular time a person has been a putative spouse. I do not think that is altogether clear. The other difficulty is that the Family Relationships Act defines a putative spouse on the basis of a person satisfying the criteria at the date of a declaration being made. So that, in some respects, the satisfaction of the criteria by a putative spouse is something of a movable feast, and if cohabitation ceases a person may not at a particular time be a putative spouse, which might then bring into operation the provisions of subparagraph (vii) (E).

Notwithstanding that, as I say, I have lost the battle on the inclusion of putative spouses in these sorts of commercial arrangements. I merely make the observation that I have difficulty in accepting the appropriateness of that in legislation of this kind. The other issue to which I have constantly referred over the years I have been here is that, at least with marriage, there is a defined point at which it occurs, defined by the law; it is not subject to any argument at all, whereas whether or not a person is a putative spouse is open to both interpretation and to evidence being produced, and it is certainly an area of argument.

As to clause 9 of the Bill, I suppose the provision in paragraph *(c)* adequately covers the matter of disciplinary action. It provides that disciplinary action can be taken before the Commercial Tribunal if:

> . . . the land broker is an undischarged bankrupt, or is bound by a subsisting composition or deed or scheme of arrangement with or for the benefit of creditors, or, being a company, has insufficient funds for the payment of creditors . . .

However, it is interesting that the reference to a company is only in the context of having insufficient funds for the payment of creditors, whereas if a land broker is an undischarged bankrupt or is bound by a subsisting composition or deed or scheme of arrangement with or for the benefit of creditors, then disciplinary action can be taken. I raise the question whether, for the sake of completeness and clarity, it is necessary to refer not only to a company having insufficient funds for the payment of creditors but also to when a receiver is appointed, or when a scheme of arrangement is entered into, or some composition, for the benefit of creditors by a company—because in those circumstances I would have thought that a basis for disciplinary action could well have been established. Subject to those points, I indicate support for the Bill. I have no desire to hold up the consideration of the Bill, but I do believe that these matters need to be addressed before the Bill passes through the final stages of consideration.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

[*Sitting suspended from 1 to 2.15 p.m.*]

QUESTIONS

PAYNEHAM PRIMARY SCHOOL

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about the Payneham Primary School.

Leave granted.

The Hon. R.I. LUCAS: I refer to the decision taken by the Bannon Government last year to close Payneham Primary School at the end of 1991, presumably because of declining enrolments. The Government has also announced that one of two other primary schools in close proximity to the Payneham area is also being considered for closure as

part of a rationalisation program of inner suburban schools. These are Trinity Gardens and St Morris Primary Schools.

I understand that an Education Department assets study was conducted late last year of these two schools to determine which of the two should be retained and which closed and sold off. This study found that to have all students attend an amalgamated primary school at an upgraded Trinity Gardens site would cost at least $2 million. To close Trinity Gardens and congregate students at an enlarged St Morris Primary School site would cost about $1 million. Of course, no mention was made of what costs would be involved in amalgamating students from St Morris, Trinity Gardens and Payneham Primary School at the Payneham Primary School site. This assets study was conducted in November on the clear understanding that Payneham would close, even though a wide range of community groups and municipal bodies were crying out for a reconsideration of the decision to close Payneham.

It has been put to me that Payneham Primary School could easily accommodate students from St Morris and Trinity Gardens Primary Schools, besides its own, at its Briar Road site with little or no capital expenditure. It has also been put to me that Payneham already has access to a wide range of recreational facilities both on, and near its school site. The school is also well situated for public transport. Parents associated with the Payneham Primary School are very concerned that all options for rationalisation were not considered. For example, why had the Government decided not to include Payneham Primary School in the school assets study so that all options and the costs of all options could be considered? They believe that potentially significant sums of taxpayers money could be saved under this third option. My questions to the Minister are:

1. Why was Payneham Primary School not included in the Education Department's school assets study conducted in November last year?

2. What are the current valuations of the land involved at St Morris, Payneham and Trinity Gardens Primary Schools and why was no reference made to this value in the assets study?

3. Given the high cost of amalgamating the St Morris and Trinity Gardens Primary Schools on one or other site, has the Education Department conducted an assessment of the costs involved in amalgamating the two above schools at the nearby Payneham Primary School site? If not, why was the decision taken to close Payneham and exclude it from the assets study?

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

VIDEO GAMING MACHINES

The Hon. K.T. GRIFFIN: My questions are directed to the Minister of Consumer Affairs, as follows:

1. Does the Government propose to take any steps to ensure that children under 18 years of age will not have access to the gaming machines proposed by the Government to be installed in hotels and clubs, such as yacht, football and cricket clubs, as there is a restriction in the Adelaide Casino; if so, what steps; or is it proposed that there will be no prohibition against minors using the machines?

2. What steps will the Government now take to honour the Premier's 1983 commitment to establish an inquiry into gambling in view of the interstate and overseas experience that readily accessible gambling machines result in significant increases in compulsive gambling with consequent trauma, family disruption and community cost?

The Hon. BARBARA WIESE: I imagine that the question of under-age gambling, if I can use that term, will be one of the issues that will form part of the community discussion that will take place in South Australia during the next few months following the resolution in support of some form of electronic gaming machines that was carried in another place earlier today.

As the honourable member would be aware, the Premier has already indicated to the other place that, following the passing of the resolution in support of the introduction of these machines into hotels and clubs in South Australia, it is intended to prepare an options paper that will be widely circulated in South Australia for comment prior to the preparation of legislation that is likely to be introduced later this year.

So, I expect that the possibility of restrictions on gambling for people under the age of 18 years will be one of the issues canvassed in the options paper and one of the policy decisions that will have to be made prior to the preparation of a Bill. At this point, the Government has not considered the matter because it has only just come before the Parliament and, as indicated by the Premier earlier this week, if the resolution were carried in another place the Government would take up the matter and consider the detail of implementation of such a policy.

As to the reference by the honourable member to the statement that he says was made by the Premier in 1983—

The Hon. K.T. Griffin: Made on behalf of the Premier by Mr Groom.

The Hon. BARBARA WIESE: The Hon. Mr Griffin now says that the statement was made by the member for Hartley on behalf of the Premier in 1983 that there would be an investigation into gambling at the Adelaide Casino—

The Hon. K.T. Griffin: Gambling *per se.*

The Hon. BARBARA WIESE: I specifically recall the honourable member referring to the Casino. However he now says that the reference was to gambling *per se.* As I am not familiar with that matter, I will have to refer it to the Premier, or to the member for Hartley if that is the more appropriate place, for a report.

STA BUS FLEET

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Transport, a question about the STA bus fleet.

Leave granted.

The Hon. DIANA LAIDLAW: On Tuesday this week the Minister announced that nearly half of the STA's 723 strong metropolitan bus fleet, some 307 ageing Volvo B59 buses, will be phased out of operation over six years and replaced by MAN buses at a cost of $76 million. It is unclear, however, how the STA and the Government propose to pay for the new buses. Currently, some 77 buses in the STA fleet are subject to sale and lease-back arrangements involving the STA, SAFA and two German third parties, Daimler Benz and the Deutsche Bank.

Sale and lease-back arrangements on terms and conditions that the Government insists are commercially confidential are becoming increasingly common practice with this Government—the sale and lease back of our power stations to Japanese financiers is a controversial example. But essentially all the sale and lease-back arrangements are controversial because they are used to avoid Loan Council borrowing limits set by the Federal Government and conceal the true magnitude of the State's debt.

I note that in Victoria, where about 65 per cent of the Public Transport Corporation's rolling stock assets are leased back, the Auditor-General in that State has stated that the leases should fall within Loan Council borrowing limits and be reported as borrowings in the Treasurer's statement because the deals create a public debt. They also generate a deferred rent payment which has been equated by the Auditor-General in that State to a 'debt hand grenade' for a future date. I therefore ask the Minister.

1. Are the 300-plus new Volvo buses to be purchased by the STA over the next six years to be acquired by sale and lease-back arrangements involving an overseas third party or parties, or does the Government propose to insist, as the New South Wales Liberal Government now insists, that the buses be funded from STA's own capital equipment expenditure budget?

2. If the buses are to be the subject of a sale and lease-back arrangement, what are the terms and conditions, including the deferred rent payment?

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

ELIZABETHAN THEATRE TRUST

The Hon. ANNE LEVY: I wonder whether I could give a reply to a question asked by the Hon. Ms Laidlaw yesterday in my absence. I read the *Hansard* this morning and would like to respond at the earliest possible opportunity to her question about the Elizabethan Theatre Trust.

The PRESIDENT: I see no reason why the Minister cannot respond.

The Hon. ANNE LEVY: The Elizabethan Theatre Trust has unfortunately gone into receivership, as I am sure many members are aware. There are throughout Australia, of course, a number of companies to which donations had been made through the Elizabethan Theatre Trust but which had not received those donations, and they may well never receive them as a result of the financial straits of the Elizabethan Theatre Trust.

I noticed that the *Age* newspaper this morning indicated that its best guesstimate was that close on $600 000 would be lost to various arts organisations throughout the nation. In South Australia publicity has already been given to the fact that the Barossa Music Festival may be deprived of $30 000 as a result of this receivership. A number of other South Australian companies have been affected. We do not at this stage necessarily know the full amounts, because this is a matter between individual donors, the particular companies, and the Elizabethan Theatre Trust. However, I do have some estimates of amounts that have been donated to certain South Australian groups, none of them very large amounts, but I am sure, despite that, amounts that the companies would have preferred to receive.

The Hon. Diana Laidlaw: So would the donors.

The Hon. ANNE LEVY: As indeed would the donors. I understand that the State Opera Company has not received donations of about $3 500, not in one donation but several. The State Theatre Company has not yet received expected donations of about $7 500. The Adelaide Festival of Arts, likewise, has not received a donation of about $7 500.

The Adelaide Symphony Orchestra has not received a donation of $1 000. The National Music Camp has not received an expected donation of $1 000. The Corporation of the City of Adelaide has not received a donation of about $250, and I do not know for what artistic purpose that was to be given. Another casualty is the Crafers Organ and Choral Society, which has not received a donation of $58.33. These are not large sums, but I am sure that they would be very welcome to the organisations concerned.

Yesterday the honourable member made mention of the Federal Government's list of various organisations to which donations can now be made direct and be tax deductible. The decision to introduce such a scheme was taken at the Cultural Ministers Council meeting that was held in May last year, so it is certainly not unexpected that the Elizabethan Theatre Trust knew that this was in the pipeline, as have many arts organisations since the end of May last year.

The list that has so far been published, I understand, is of organisations that are already specifically mentioned in the Income Tax Act as being ones to which tax deductible donations can be made and those that are predominantly Commonwealth Government funded. There is every expectation that many other organisations throughout the country will be added to this list. Negotiations have been occurring between officials of the Department of the Arts and Cultural Heritage and both the Australian Taxation Office and the office of the Federal Minister for the Arts about adding many South Australian companies to this list. Many South Australian art organisations will very shortly receive letters indicating procedures to be followed if they wish to be part of this list. I am sure that this matter will be raised at the Cultural Ministers Council meeting which is to be held in six weeks time.

I am sure that within a short space of time a very large number of South Australian organisations will be listed so that donations made directly to them will be tax deductible, and there will be considerable advantages to them once they are on this list. The fairly artificial scheme whereby for many years donations had to go through the Elizabethan Theatre Trust meant that organisations received the donation minus 2 per cent, which was deducted by the trust for its administrative costs in acting as a post-box. At least under the new scheme organisations will receive the full amount of the donation, not the amount minus administrative costs. Obviously this will be to their financial advantage. Discussions are proceeding, and we expect that before very long a considerable number of South Australian organisations will be formally added to the list so that tax deductible donations can be made to them.

UNPAID WORK IN THE HOME

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Family and Community Services, a question about the value of women's unpaid work in the home.

Leave granted.

The Hon. CAROLYN PICKLES: The issue of the value of women's work as home-makers and mothers was once again placed on the public agenda when Mr Michael Lavarch, the Chairman of the Federal parliamentary committee inquiring into equal opportunity and equal status for Australian women, told the media something that we have known for a long time—that housework and mothering is unpaid and undervalued. My questions are:

1. Does the Government support the concept of financial compensation for women for their household work and parenting?

2. Would the Government also support a system whereby the skills developed by women while they are working in the home are recognised by employers?

The Hon. BARBARA WIESE: I know that the matters raised by the honourable member have been considered at

various times over a number of years by many organisations in Australia representing women's interests. I recall some time ago that a paper was prepared by the Women's Adviser to the Premier, which addressed some of the questions relating to the value of the work undertaken by women in the home, particularly with respect to the caring of children. I am not aware of any action that was taken following the production of that paper. I am certainly happy to refer the honourable member's questions to my colleague in another place and bring back a report on his views and those of the Government.

PRISONS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Correctional Services, a question about prisons.

Leave granted.

The Hon. I. GILFILLAN: Chief Justice King highlighted in his report, which was tabled in Parliament yesterday, the problem of overcrowding in our prisons. He claimed on page 10 of that report that:

> . . . it is now apparent that sentences are remitted in part by administrative action as a means of reducing overcrowding in the prisons.

He also wrote on page 11 of the report that, in relation to the proposed abolition of early release under section 39 (2) of the Correctional Services Act, the Attorney-General's Department had informed him in writing that:

> . . . the timing and extent of the changes will depend on the stabilisation of prison numbers as well as planned increases in prison capacity.

Chief Justice King added that:

> . . . there is irony, in the light of long history of complaints at parliamentary and even ministerial level about supposedly unduly lenient sentences, in the fact that it is now said that there is insufficient prison accommodation to carry out fully the sentences which the judiciary in fact imposes.

This morning on the 7 a.m. ABC radio news bulletin I heard the Minister of Correctional Services (Hon. Frank Blevins) state that the problem of prison overcrowding is to be redressed. He said that 170 new prison cells were soon to be built, with 95 to be located at Yatala, presumably in the new F Division of that gaol, with the remaining 75 to be spread among institutions around the State. My questions are:

1. Will the Government indicate precisely where the new cells will be?
2. When will the upgrading program be completed?
3. What type of security rating will the new cells have, that is, low, medium or high security?
4. What is the overall cost of providing each new cell?
5. For how long does the Government believe the provision of 170 new cells will solve the problem of prison overcrowding?

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

AUCTION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about State Bank involvement in an auction.

Leave granted.

The Hon. T. Crothers: You wouldn't get much if you were on the block!

The Hon. R.R. Roberts: You wouldn't get two bob for that bow tie!

The Hon. L.H. DAVIS: Mr Roberts, if you were at an auction you would just get passed in!

The PRESIDENT: Order!

The Hon. L.H. DAVIS: On Sunday 3 March and again on Sunday 10 March, Du Plessis auction gallery conducted an auction under instructions from the State Bank of South Australia as mortgagee in possession of a leading Adelaide antique print gallery. Advertisements in the *Advertiser* of Saturday 2 March and Saturday 9 March described the items for auction in some detail. The first auction was allegedly of 774 items—framed and unframed prints. Mr Lou Kissajukian, the Director of the Antique Print Room, Hyde Park, attended the auction on Sunday 3 March and inspected the items on offer in the short time available before the auction.

Mr Kissajukian's gallery is the largest gallery in South Australia selling antique prints and maps and is arguably the second largest in Australia. He enjoys an excellent reputation and is often used as a reference point by South Australian gallery owners and auctioneers. He is an approved Government valuer and on the committee of the Antique Dealers Association of South Australia. In a letter to the President of that association, Mr Kissajukian, described the 3 March auction as:

> . . . one of the most blatant misrepresentations of goods offered by public sale that I have witnessed in Adelaide. Of the approximately 250 lots which were advertised as antique, the majority were reproductions or modern reprints.

I have spoken to Mr Kissajukian and he claims that 50 per cent of the items on offer were incorrectly dated or misdescribed. For example, reproductions were described as lithographs. In the advertisement in the *Advertiser*, Fores' 'Fox Hunting' after J.F. Herring published 1852 would have been taken from that description to be an original antique print of 1852. However, it was a modern reprint. Again in the *Advertiser* advertisement, 'Charles XII' (Winner of St Ledger) circa 1839 was, in fact, a modern reprint. In other words, the advertising was both misleading and false and created a misconception of what was offered for sale.

Mr Kissajukian's concerns were in fact confirmed by the President of the Antique Dealers Association, who accompanied him to the auction. Although the prices paid would have represented very good value had the items been what they were claimed to be, in fact many of the items were bought for prices above their market value. Before the auction, Mr Kissajukian expressed his concerns to Mr Du Plessis, who was, of course, the auctioneer. Mr Kissajukian stood up at the beginning of the auction on 3 March and said:

> My name is Lou Kissajukian from the Antique Print Room in Hyde Park. I am a Commonwealth approved valuer for antique prints and maps. Perhaps it is unknown to you that some of the descriptions in the catalogues have incorrect dates; there are items which are described incorrectly and ambiguously; and on that basis will you be receipting and invoicing items sold today as described in your catalogue.

Mr Du Plessis apparently replied that he would not. Mr Du Plessis subsequently wrote to Mr Kissajukian on 7 March advising him that public admission to the Du Plessis auction gallery was by invitation only and that in future he would not be allowed to enter their premises. The plot thickens, Mr President. On 8 March, solicitors acting on behalf of the State Bank of South Australia warned Mr Kissajukian against attending the auction on Sunday 10 March. To quote from their letter:

We are instructed by our client that on the occasion of the last sale you caused nuisance at the sale . . . Should you attend at the forthcoming auction and cause any disturbance there which has the result or may have the effect of affecting the proceeds of the sale then we shall forthwith be taking action against you.

However, Mr Kissajukian had spoken to a representative of the State Bank immediately after the auction of 3 March, advising who he was and expressing concern that the bank was allowing its name to be associated with an auction where the description of items for sale had been misrepresented. Notwithstanding Mr Kissajukian's warning, the State Bank persisted in advertising on 9 March the sale of 10 March and ignored Mr Kissajukian's advice altogether.

My question to the Minister is: given the strong provisions in the Fair Trading Act regarding misrepresentation of items offered for sale, will the Minister immediately investigate why the State Bank of South Australia allowed items to be offered for sale by the Du Plessis Gallery which were not properly described in public advertisements, notwithstanding the strong warnings of Mr Kissajukian?

The Hon. BARBARA WIESE: I am not in a position to comment on whether or not the claims being made by the Hon. Mr Davis are accurate. This matter has not come to my attention, but I shall be happy to refer the issues raised by the honourable member to the Commissioner for Consumer Affairs for a full report.

LOCAL GOVERNMENT GRANTS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about local government grants.

Leave granted.

The Hon. J.C. IRWIN: As the Minister is aware, there is a severe economic downturn in the economy, particularly in the rural areas. Farmers are walking off their properties, small businesses are going broke and the result has been a massive reduction in the value of these properties. Local councils are now in a dilemma trying to provide better services as demanded by a community with reduced earnings and are trying desperately not to put up the rates.

In the District Council of Lacepede, for instance, rural values have declined by 35-40 per cent. The Grants Commission funding has been reduced from $202 000 in 1987-88 to less than $166 000 for this year. It is estimated that the cost of operating the council will be $100 000 more over that period. Quite obviously, services and perhaps staff will have to be reduced.

There are many examples of where the horizontal equalisation formula used by the Grants Commission shows a significant drift of grant money—in real terms—from rural to urban areas, just as there are countless examples of the capital value system having no relationship to the ability to pay rates and/or taxes.

Lacepede is not unique in its problem. It is the same story all over the rural areas of South Australia. Some councils are in an even worse position than that of Lacepede. My questions to the Minister are:

1. Does the Minister acknowledge that there is now a very obvious impediment in the Grants Commission formula which will mitigate against the increasing incidence of rural poverty—on and off farms? This may have been unforeseen when the formula was designed, particularly where people were blinded by the proven fallacy that capital value means an ability to pay.

2. In line with other reviews of Federal and State tax sharing arrangements, did the recent meeting of State Ministers of Local Government, which I understand the Minister has just attended, discuss this subject with a view to having the States Grants Commission formula altered?

The Hon. ANNE LEVY: It is very interesting that the honourable member should raise this question. Horizontal equalisation is a principle that has been adopted by the Local Government Grants Commission within each State for the past five or six years. Horizontal equalisation was to be phased in over seven years in South Australia, so it has not yet been fully achieved. I for one make no apology whatsoever for the principle of horizontal equalisation, which, in effect, ensures that all councils have disabilities taken into account and compensated for by the grant they receive from the Federal Government, so that they are then more equally able to provide the same services at the same standard to their residents.

That is the principle, and I should have thought that all members would endorse it wholeheartedly, particularly as, at the instigation of the Premier of South Australia, the Commonwealth Grants Commission has just carried out an exercise to discover what would be the effect on Commonwealth grants for local government in each State if the principle of horizontal equalisation were adopted between States as well as within States.

Members may not know that, currently, the grants are allocated between the States on a *per capita* basis, even though they are then distributed on an equalisation basis within States. It was at the insistence of our Premier that the other States and the Commonwealth agreed that the Grants Commission should undertake this exercise, the result of which is that the Grants Commission has published a report that would result in a great deal more money coming to South Australia if the principles of horizontal equalisation between States were adopted by the Federal Government.

The Hon. J.C. Irwin: Because your Government hasn't done the job; that's why.

The PRESIDENT: Order!

The Hon. ANNE LEVY: I do not think that the honourable member understands. This is Commonwealth money allocated for local government. At the moment, the whole pool is divided up, giving a lump sum to each State on a *per capita* basis. Each State having received it then has its own Grants Commission, which distributes it among the councils of that State on a horizontal equalisation basis.

What the Premier suggested and what the Grants Commission has done is to allocate which portions of the total cake would go to each State if it were done on a horizontal equalisation basis. The result would be that we would receive a great deal more and local government in South Australia would benefit enormously.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: This is Commonwealth money—it has nothing to do with the States. I do not think that members opposite understand the importance of this, Mr President. Certainly, it was discussed at the Local Government Ministers Conference yesterday. There was considerable discussion about it and, if the figures are looked at, the effect of bringing in horizontal equalisation between the States for local government grants would mean that South Australia would receive up to $27 million more a year for local government.

Western Australia, Tasmania, Queensland and the Northern Territory would also receive considerably increased grants, particularly in the case of Queensland, but there would be a decrease in the local government grant money going to the States of Victoria and New South Wales. As can be predicted, when this was discussed at the Ministers

conference yesterday, Victoria and New South Wales were not very keen on the principle of horizontal equalisation being applied, although the other States were.

I will not go into the very lengthy arguments that were put forward. A presentation was made to the Ministers conference by the Chair of the Commonwealth Grants Commission about the principles the Grants Commission had used in making its study. For the interest of members, I emphasise that it was made very clear that, in assessing capacity to pay, the commission did not take into account the different property values in the different States.

They did take property values into account when considering commercial and industrial properties as they said that was a legitimate business cost, but when it came to residential and rural properties, which comprise the vast majority of properties on which rates are struck throughout this country, they did not take property values into account; rather they used household income as the figure in their calculations. So, suggestions from New South Wales that the figures are inflated by the high property values in Sydney are totally irrelevant. In fact, they used household income as the parameter, thus getting away from any impact of property values and the way they differ between and within States.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It is very interesting that the Opposition keeps interjecting and making comments on a matter which, I suspect, they know very little indeed about. In fact, they are reiterating a number of the comments that were made by New South Wales at the Ministers' conference. Presumably they picked up these comments on the Liberal grapevine from the Liberal Government in New South Wales and, in so doing—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —they are acting against the interests of local government in this State. Quite obviously, it will be of great benefit to local government throughout this State if the principle of horizontal equalisation, either using the methodology adopted by the Grants Commission or some modified form of it, is implemented—it will result in considerable benefit to local government in this State.

I would be very surprised if the LGA gives any support whatever to the ramblings and complaints of the Opposition. As I understand, the LGA in this State is enthusiastically backing the Premier in trying to get more money for local government. It is incredible that we have an Opposition which, through Party political affiliation with the New South Wales Government, is acting to the detriment of local government in this State. I cannot understand it when they call themselves South Australians.

EMERGENCY FINANCIAL ASSISTANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Family and Community Services, a question about emergency financial assistance.

Leave granted.

The Hon. M.J. ELLIOTT: As the recession bites, more and more South Australians, including many from what can be described as middle-class backgrounds—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Elliott has the floor.

The Hon. M.J. ELLIOTT: —are turning to Government, church and community agencies for assistance, especially short-term or emergency financial assistance. Non-government agencies in the Elizabeth-Munno Para area have experienced a dramatic increase in demand for help. Figures provided by one agency show a 42.6 per cent increase in the total value of assistance provided over the past three years, while the number of clients assisted over the same period rose by 64.6 per cent. The situation for some of them is becoming critical.

Another agency in the northern suburbs had to close its doors for part of last month because it had run out of food coupons to provide to people. For three of the four past financial years, the Government's budget papers show that not all the money allocated for emergency financial assistance Statewide has been used. As I recall, in the past financial year $65 684 was left over. A paper prepared by the Anglican Community Services claims the amount of financial assistance granted by the Department for Family and Community Services in that area (that is the northern area) has declined by 41.8 per cent over the past three years while the number of appointments for clients has declined by 47.1 per cent. My questions are:

1. Is the Minister aware that there has been a marked increase in demand upon the non-government welfare agencies for emergency financial assistance over the past three years?

2. Will the Minister confirm that, over the past three years, the Department for Family and Community Services has experienced a decrease in demand for emergency assistance, presumably because of constant rejection?

3. Will the Minister please advise what has been done with the unspent moneys budgeted for the Department for Family and Community Services to use for emergency financial assistance in 1989-90 and other years?

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

REMM-MYER DEVELOPMENT

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Premier, a question about the Remm-Myer site.

Leave granted.

The Hon. J.F. STEFANI: I have been informed that during the most recent strike at the Remm project, the Premier (Mr Bannon) visited the site and was involved in certain discussions with the union and the developer aimed at resolving the dispute. It has been suggested that strike actions during the construction phase of the project have been responsible for serious blow-outs in the cost of the construction of this building.

Members would be aware that the State Bank is heavily involved in the financial arrangements of this project and that it is also involved in the Remm-Myer centre in Brisbane through the Interchase Corporation, which announced today that it was going into liquidation. It has been suggested further that, because of a *force majeure* clause in the financing agreement, the State Bank is committed to fund all cost overruns at the Adelaide Remm-Myer site. My questions are: what effect will the *force majeure* clause have on the financing arrangements and eventual returns to the State Bank; did the Premier initiate the withdrawal of a pending court action against the union as part of the trade-off for a return to work; what is the amount of exposure

involved with the Interchase Corporation and what are the likely losses to be incurred by the State Bank?

The Hon. BARBARA WIESE: One of the things the honourable member did not do in his explanation was to welcome the news announced yesterday that the Remm development will be opened in June of this year. I would have thought that the very best result for all involved, including the State Bank, would be for that development to open its doors and get on with serving the public of South Australia. It is interesting that the honourable member did not take the trouble to welcome that news. I will refer the honourable member's questions to the Premier in an effort to seek the sort of information that he is looking for, if indeed it is available.

ETSA

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Mines and Energy, a question about ETSA.

Leave granted.

The Hon. PETER DUNN: It has been reported to me that ETSA intends to reduce its services, staff and depots in country areas. I know that for some time there has been a small reduction in and a rationalisation of services, but it appears from information I have received that there will be quite a dramatic cutback in staff and service provided to rural areas. It is also indicated that charges may be made for call-outs; for instance, if there is a power failure in an area, there may be a charge for that call-out. My questions are as follows:

1. Will ETSA be reducing its services in rural South Australia?

2. If so, what are the planned service points for South Australian rural areas?

3. Is ETSA planning to introduce service call-out fees and, if so, how much?

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

CHILD ABUSE

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Family and Community Services, a question about assessment of alleged child abuse.

Leave granted.

The Hon. BERNICE PFITZNER: As we all know, it has been reported that child abuse appears to be on the increase, which may be 'true' in terms of increase in actual numbers or which may be apparent, due to an increase in reporting. However, whatever its cause, this increase is having an effect on the services that investigate these alleged child abuse cases. Such services are mainly Family and Community Services, Flinders Medical Centre, Adelaide Children's Hospital and the police.

It has been brought to my attention that, possibly because of this increase there is a waiting list for investigative interviews by the Child Abuse Team at the Adelaide Children's Hospital. This is of concern, as these children cannot wait due to their particular problem. I also am concerned that some medical officers checking these children are seconded from the casualty area and therefore are not a permanent part of the team. My questions are:

1. Is there a waiting list and, if so, what is being done about improving the waiting list?

2. Why are the medical officers working in this specialised area only seconded on a temporary basis and are then perhaps not expert nor experienced, nor can they provide the continuity required?

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

CASINOS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about casinos.

Leave granted.

The Hon. R.I. LUCAS: Members may be aware that for at least the last 12 months a consortium of investors has been lobbying the Bannon Government for the establishment of a second casino in the Mount Gambier area. The Liberal Party has in its possession three letters written over the past nine months indicating Government opposition to proposals to establish a casino at Mount Gambier, one of those letters, signed by the Premier and dated November 1 1990, states in part:

> I do not believe that South Australia needs a second casino licence. There is little evidence to support such a proposition, and it would appear that the financial viability of regional casino operations such as those at Townsville, Alice Springs and Launceston is questionable.

A second letter dated 21 January this year—only 10 weeks ago—also signed by the Premier—advises the Mount Gambier council, as follows:

> I do not believe that Parliament would be receptive to a proposal for a casino to be established in Mount Gambier or anywhere else in the State at this time. Consequently, I see no point in discussing this matter further.

I am also aware that the Minister of Tourism has been contacted by a number of people this year about the proposal, seeking her support for the necessary amendments to the Casino Act. Given the about-face, or flip-flop, by Premier Bannon in the last 24 hours on the question of gaming machines in South Australia, supposedly on the basis of increased competition for the gambling dollar from Queensland and Victoria, the South Australian community is rightly wondering whether Mr Bannon will also flip-flop on this question. My questions to the Minister of Tourism are:

1. What response did the Minister of Tourism give earlier this year to the submissions seeking her support for amendments to the Casino Act?

2. If her answer was 'No', is it possible that her view and the Premier's view might now be reversed, given the Premier's reversal on the question of gaming machines for South Australia?

The Hon. BARBARA WIESE: I do not believe that the Premier's view is likely to change on the question of the need for or the viability of a second casino in South Australia proposed to be located in the South-East of the State. When I was approached earlier this year by the consortium interested in developing such a casino, I referred them to the correspondence that it had received from the Premier and indicated that that represented the Government's position on this issue.

I also indicated to officers from Tourism South Australia, who had been approached by the representatives of that consortium, that it was not my intention to introduce legislation that would enable a second casino to be established in this State. I suggested that, if they were interested in

pursuing that matter, they should approach their local member for Mount Gambier (Hon. Harold Allison) and seek his support in sponsoring a private member's Bill.

TANDANYA

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about Tandanya and the former Director's salary.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday in the Minister's absence an answer was provided to a question I had placed on notice about employment levels, salaries and wages. In part, the Minister said:

As at 25 March 1991 there were 13 full-time employees at Tandanya, at a cost of approximate $10 500 per fortnight, which included the previous Director Mr P. Tregilgas, whose contract expires on 2 May 1991.

This advice in respect of Mr Tregilgas came as a surprise to me and others who have taken an interest in this subject, including former employees of Tandanya. I therefore ask the Minister:

1. At a time when Tandanya is fighting for its financial survival and has closed the cafe, curtailed the exhibition program and retrenched Aboriginal employees and trainees in order to save money, is it correct that the former Director, Mr Tregilgas, is still on the payroll?

2. If so, how much and why is Mr Tregilgas being paid each fortnight, and how much will he have received between the time he was told to take recreation leave at the request of the board at a special meeting on 31 January and when his contract expires on 2 May?

The Hon. ANNE LEVY: As I understand it, Mr Tregilgas was asked to take his recreation leave, to which he was entitled. I understand also that while he was on leave Mr Tregilgas applied for sick leave, but that then ceased and he returned to recreation leave. The board of Tandanya at the time indicated that it would consider his position for the remaining period of his contract when his recreation leave had terminated. I am not sure whether it has yet terminated, but certainly he has a contract, which is legally binding on both parties, until 2 May.

The board has certainly informed Mr Tregilgas that his contract will not be extended beyond 2 May, but it has not suggested that it wishes to break the contract unilaterally, which of course would have legal consequences. As to the Director's salary, I will inquire of the Tandanya board if it will release that information.

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: I seek leave to have the following replies to questions inserted in *Hansard.*

Leave granted.

COUNCIL AMALGAMATIONS

In reply to **Hon. J.C. IRWIN** (20 March).

The Hon. ANNE LEVY: As the honourable member is aware, the Local Government Advisory Commission is an independent body, established by an Act of Parliament in 1984, to examine and make recommendations in relation to boundary change and any other matter referred to the commission by the Minister.

The commission recently adopted new procedures for the development and investigation of boundary change proposals which emphasise the need for detailed research by proponents of boundary change and, wherever possible, cooperation and negotiation between councils and affected parties. Experience has shown that full consultation is required if an acceptable level of community support is to be established.

Consistent with these guidelines, the commission recently sought submissions from the community regarding the proposal to amalgamate the three councils of Port Adelaide, Hindmarsh and Woodville and will shortly conduct a public hearing on the matter.

The commission has also had a number of discussions with the councils and affected members of the community to address matters of concern. These discussions can be expected to continue with the commission taking an advisory and facilitating role wherever possible.

The commission will continue to consult with all parties affected by the proposal and will seek improved communication between the parties where it is considered by the commission that this is required.

GRANTS COMMISSION

In reply to **Hon. J.C. IRWIN** (14 March).

The Hon. ANNE LEVY: Neither the quantum of Commonwealth general purpose funds for Local Government for distribution between the States and Northern Territory for 1991-92 nor the share of those funds to be allocated to South Australia has been determined at this stage. These decisions will be made at the Premiers Conference on 23-24 May 1991.

The reports in the *Australian* and the *Age* newspapers on 12 March 1991 refer to a recent report by the Commonwealth Grants Commission on the methodology for distributing the local government funds between the States. The report is not concerned with determining the quantum of funds to be distributed.

The current arrangement for determining the overall level of general purpose grants for local government for 1991-92 is to escalate the 1990-91 grant at the same rate as general purpose payments to the States. In this respect, the Commonwealth indicated at the 1990 Premiers Conference that general revenue grants would be maintained in real terms for each of the three years 1991-92 to 1993-94 provided that there was not a major deterioration in the nation's economic circumstances.

A decision taken to the special Premiers Conference in October 1990 in relation to Commonwealth funding for local roads could also impact on the overall funding level. It was agreed at that conference that 'funds for local roads will also be untied and paid at the same real level as at present to local governments, or to State Governments where they are responsible for local roads, via general purpose grants'. A mechanism for implementing this decision in 1991-92 is currently under discussion by representatives of the three levels of government.

Since 1989-90 the local government general purpose funds have been distributed between the States as equal per capita grants based on the estimated resident populations of each State and the Northern Territory at 31 December in the previous year. South Australia has received a declining share of the funds as a result of this arrangement.

Concern with the inequity of this situation led the Premier of South Australia to propose to the 1989 Premiers Conference that the Commonwealth Grants Commission be

asked to examine the distribution of funds on the basis of the principle of fiscal equalisation which applies both to the distribution of State general purpose grants and to the intrastate distribution of the local government funds.

This proposal was accepted and the Commonwealth Grants Commission released its Report on the Interstate Distribution of General Purpose Grants for Local Government on 7 March 1991. As already indicated the newspaper reports refer to the findings of the commission in relation to this matter.

The Commonwealth Grants Commission has used the principle of fiscal equalisation to calculate two sets of relativities. These have been termed 'institutional' and 'complementary' relativities.

The 'institutional' relativities disregard the extent to which State governments receive general revenue assistance for local government functions and the commission does not recommend their adoption.

The 'complementary' relativities overcome this problem by including adjustments for fiscal equalisation of the combined State and local government sectors in each State. However, the commission has recommended that they not be adopted for 1991-92 because of problems with data and methodology.

Notwithstanding this, the commission accepts that the use of fiscal equalisation in calculating interstate relativities is preferable to the current equal per capita distribution and it has suggested three options for consideration by the Premiers' Conference as a basis for the distribution in 1991-92. These options are as follows:

1. application of relativities calculated by the commission in its State relativities reviews;

2. initial phasing in of complementary relativities followed by a more thorough inquiry;

3. initial phasing in of the revenue assessment portion of the complementary relativities followed by a more thorough inquiry.

The following table shows the actual distribution of funds for 1990-91 and the notional distributions based on the 1990-91 funding level for the complementary relativities and for each of the three options referred to above.

NOTIONAL DISTRIBUTION OF 1990-91 POOL: OPTIONS FOR IMPLEMENTATION IN 1991-92

	Existing Distribution $m	Complementary Relativities $m	Option 1 $m	Option 2 $m	Option 3 $m
New South Wales	243.1	81.9	208.8	227.0	232.4
Victoria	182.4	90.3	153.6	173.2	174.3
Queensland	120.4	260.4	130.0	134.4	130.9
Western Australia	67.7	111.3	77.9	72.1	70.0
South Australia	60.0	86.7	73.7	62.7	63.6
Tasmania	19.0	37.4	26.0	20.9	21.6
Northern Territory	6.6	31.2	29.3	9.0	6.3
TOTAL	699.3	699.3	699.3	699.3	699.3

Source: Commonwealth Grants Commission 'Report on the Interstate Distribution of General Purpose Grants for Local Government 1991'.

It can be seen that full implementation of the 'complementary' relativities would result in an additional allocation of $26.7 million to South Australia while options 1, 2 and 3 would provide an additional $13.7, $2.7 and $3.6 million respectively. These figures do not take into account any real increase in the base grant and options 2 and 3 assume a 10-year phase-in period for the new relativities.

As already indicated the commission's report will be considered at the forthcoming Premier's Conference with a view to a decision being made on the basis to be adopted for the future interstate distribution of the local government funds.

LOCAL GOVERNMENT FINANCE AUTHORITY

In reply to **Hon. J.C. IRWIN** (12 February).

The Hon. ANNE LEVY: Section 23 of the Local Government Finance Authority Act contemplates the provision of capital advances by the Government to the Local Government Finance Authority of South Australia. To ensure that the LGFA was well capitalised, the Treasurer made available a total of $50 million to it between 1983-84 and 1986-87. This amount was provided by way of interest bearing, non-repayable capital. Since the advances take the form of non-repayable capital, there is no intention to have the LGFA make repayment.

It is worth mentioning that the Government supports the LGFA in a variety of ways, including the provision of a Government guarantee of all its borrowings (including liabilities in respect of funds accepted on deposit from local government bodies).

UNLEY COUNCIL

In reply to **Hon. J.C. IRWIN** (12 March).

The Hon. ANNE LEVY: My colleague, the Minister for Environment and Planning, has advised that the house at 17 Arthur Street, Unley, was assessed in the 1985 'City of Unley Heritage Survey' as being of only local heritage significance. The Unley council telephoned the State Heritage Branch on 18 January 1991 and was informed that the house was only of local significance. In late January the Unley council passed a motion to have the building demolished.

The Minister for Environment and Planning believed the house to be of local significance only but received strong representations urging intervention in the matter. In response to these representations, the Minister wrote to the council on 20 February 1991 offering to review the status of the house in the light of any new evidence. Council declined this offer on 22 February 1991. There is no conflict between the advice given by the State Heritage Branch and the actions taken by the Minister in offering to have the matter reviewed.

COOPER BASIN (RATIFICATION) (ROYALTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April. Page 3966.)

The Hon. I. GILFILLAN: The Democrats support the intention of the Bill. Some concern has been expressed on

one matter, that is, the alleged retrospectivity of the date on which the Bill comes into operation in relation to increased royalties. The briefing that I received from officers of the Department of Mines and Energy and the Office of Energy Planning satisfied me that there had been adequate preparation and discussion over the matter of the royalty change, but there was some procrastination in getting to a final agreed position. The arbitrary decision by the Minister of a fixed date upon which any determination would apply was very effective medicine in getting agreement between the parties, and I believe that it was a reasonable step in the circumstances.

Virtually no complaints about it have been addressed to me, except for a letter from ACI stating principally that consumers would be retrospectively charged for gas they had already received through the commercial retail market. I inquired and was assured that that was not the case, so I reassured the manager of ACI that that was not the case, and that settled his concerns. On behalf of the Democrats, I have no problem supporting the second reading of this Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. L.H. DAVIS: I move:

Page 1, line 15—Leave out this clause and substitute:

2. This Act will come into operation on 1 July 1991.

It is quite clear that there is no point in prolonging this debate, because, in his contribution, the Hon. Mr Gilfillan made it obvious that the Democrats would support this legislation in every respect. He said that he had had a briefing from officers of the Department of Mines and Energy. Certainly it is true that there have been long discussions between the Cooper Basin oil and gas explorers or producers and officers of the department, and I have no doubt that that discussion, which continued over 18 months, canvassed every possibility.

However, what the Hon. Mr Gilfillan omitted to say was that there was no discussion whatsoever with the end users. The point that was made very cogently and clearly last night was that some 80 industrial customers will suffer an immediate 1.5 per cent increase in the cost of their gas with very little, if any, possibility of passing on that increase. In discussions that I had with Adelaide Brighton Cement and Penrice Soda Products it was made quite clear that there had been no consultation whatsoever between them and the department.

I am disappointed that the Australian Democrats, who make it a concern to research many issues (given that they have the so-called 'balance of reason', as the Hon. Lance Milne coined it), for the second time in as many weeks have failed to take into account the realities of commercial life. Just as they supported the Government line allowing a council rating for commercial plantations (where there was also no consultation with private sector forestry companies), so too on this occasion they have taken the Government line.

That disturbs me. I think that that is a very unfortunate trend, and a Liberal Government would not behave in this fashion. It is quite immoral for a Government to introduce important legislation that slices $200 000 off the bottom line of Adelaide Brighton Cement and $170 000 off the bottom line of Penrice, a company which has just gone through the rigours of a management buy-out and which is fighting fiercely to increase exports of its product, trying to put a stem on Paul Keating's J curve.

The irony is that this Government's legislation will aid imports. It certainly will aid the Treasury coffers, but its primary effect on Penrice will be to make more difficult its competition against the imported product. I resent Government legislation introduced in this fashion. The Liberal Party has had a consistent line on this, and I am disappointed that the Australian Democrats cannot see that point. I will offer an olive branch to the Hon. Mr Gilfillan, notwithstanding his intransigence to date. We have proposed in this amendment that this Act will come into operation on 1 July 1991, to overcome the problem of retrospectivity. Will he not accept the possibility of an amendment from the floor of 1 April 1991? Some members might see some grim irony about that, given that 1 April is Fool's Day.

I wonder whether the Hon. Ian Gilfillan, given the reality of the commercial situation, will take my word for it that these people cannot pass on these price increases, and will accede to that very reasonable compromise. I cannot underline this point too strongly: Adelaide Brighton Cement has to go through the Prices Surveillance Authority before it can pass on price rises, and in a climate like this it is battling to hold its profit margins as it is. If this Government is serious about helping industry through this economic trough, I think the least it could do is accept this amendment. Obviously it will not, so the balance lies with the Democrats. I plead with the Hon. Ian Gilfillan to accept at least a compromise of 1 April.

The Hon. BARBARA WIESE: I do not want to take up too much of the Committee's time because this issue was canvassed extensively in another place. Members here have also had the opportunity to fully acquaint themselves with the facts of the matter and the details of the extensive negotiation process that has led to the drafting of this Bill. As the Hon. Mr Davis has already acknowledged, negotiation concerning this matter began in 1989, and it has always been fully understood by the producers that there would be what one could call an element of retrospectivity in this matter as to the commencement date.

It is agreed by the producers that 1 January should be the commencement date. Whilst I acknowledge that a new burden might be placed upon the consumers or the customers as a result of this measure, it is really rather unrealistic to suggest that more consultation could have taken place with all those people prior to this occurring. The honourable member is most concerned about some of the bigger companies, but a large number of smaller consumers will be affected by this legislation. They are just as important as the larger groups. The consultation effort that would be required to fulfil the Hon. Mr Davis's perfect world, of course, would be extremely difficult to deliver.

In summary, this matter has been agreed between the Government and the producers. Therefore, it is reasonable for the Committee to agree to allow the Bill to stand and to oppose the amendment being moved by the Hon. Mr Davis.

The Hon. I. GILFILLAN: I recognise the Hon. Legh Davis's genuine concern for South Australian corporate customers of gas, and I also share the concern of those private individuals who may have to pay a little more for gas. It is important to recollect, though, that the royalties from South Australia's mineral wealth are the entitlement of the people of South Australia. In other situations the Hon. Legh Davis and the Opposition would argue that mining and the extraction of the wealth of this State does benefit the State because of the flow of royalties to the Government and to the people of South Australia.

It is interesting that the argument to support the amendment is for a flow-on of what is a fair royalty charged on a

group of companies, which are extracting South Australia's own wealth in the form of gas. Other consumers in other States may have to pay an increased price. If the consumers made proper representation to the producers, I believe they could expect the price rise structure to be modified.

Santos is an extremely efficient and profitable company. It is not automatic that an increase in the royalty should flow directly, dollar for dollar, to impact on the price paid by the consumer. Bearing in mind that there is a commercial relationship between large and long-term customers, such as Adelaide Brighton Cement, Penrice and ACI, it is reasonable that there could be some accommodation over any price rise between the producers and the consumers. That is the normal traffic that takes place in the commercial world, and, in many cases, it is what the Liberals and the Hon. Legh Davis would like to see operating in South Australia.

In spite of eloquent and impassioned plea on behalf of some modification of the Bill, and even the 'olive branch'—as it was so called by the Hon. Legh Davis—it is an unnecessary, although minor, modification of what is a reasonable Bill. I believe that all major consumers would have been aware many months ago that they were likely to have an increase and how much it would be.

I cannot believe that Adelaide Brighton Cement or Penrice would not have had some indication that royalties were being negotiated, and the likely effect of that on the cost of gas. I believe the Bill is effective and reasonable as it is. Therefore, I am not prepared to support this or any consequential amendments that the Hon. Legh Davis has on file.

The Committee divided on the amendment:

Ayes—(9) The Hons J.C. Burdett, L.H. Davis (teller), Peter Dunn, K.T. Griffin, J.C. Irwin, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes—(10) The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, G. Weatherill and Barbara Wiese (teller).

Pair—Aye—The Hon. C.J. Sumner. No—The Hon. Diana Laidlaw.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 3—'Contiguous areas, etc.'

The Hon. L.H. DAVIS: I indicate that the subsequent amendments I have on file are consequential, and I will not be pursuing them.

Clause passed.

Clause 4, schedule and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (CRIMINAL LAW SENTENCING) BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 3853.)

The Hon. K.T. GRIFFIN: This is a comprehensive Bill of some 45 clauses. It seeks to amend the Criminal Law (Sentencing) Act, the Children's Protection and Young Offenders Act and the Correctional Services Act, on a wide range of matters relating to sentencing of adults and young offenders. The Bill was introduced the week before last and as soon as it was introduced I took the opportunity to refer it to a number of practitioners in the criminal law field, including the Law Society. Because of the Easter break and because of the need to look at each clause separately, the members of the Law Society charged with the responsibility of reviewing this sort of legislation have indicated to me that they would like some further time to consider the detail of it. I can appreciate that.

It may be possible for me to have the Liberal Party position resolved by next week, to still enable the whole Bill to be considered next week in both Houses. However, before Easter, the Attorney-General wrote and suggested that, although it was desirable in his view to pass the whole Bill, if there were any difficulties with aspects of it, he would very much like to see clauses 5 and 32 passed by the Council and also by the House of Assembly before the winter recess. The object of those two clauses is to ensure that, even without a court proceeding to record a conviction where an offender has been found guilty of an offence, the court is empowered to impose not only a bond and a fine but also a sentence of community service, as well as a fine. That applies in respect of clause 5 to adult offenders and, in relation to clause 32, to young offenders.

The Liberal Party has been a very strong advocate for community work orders, for both adult and young offenders, as a sentencing option available to the courts in all circumstances, provided, of course, that the community work which is ordered and which is required to be undertaken by the offender is real work and not just playing around or undertaking some educational course which might benefit the offender but be regarded as a soft option. Real community work, putting something back into the community against which a person has offended, is in our view a very important ingredient of rehabilitation, as well as deterrence. If the community can see that community work really means what it suggests, that is, real work, and putting something back into the community and doing something for it, as well as for victims of crime, then there will be an enhanced respect for the law which the community has enacted through its Parliament.

So far as community work orders for both adult and young offenders is concerned, we are quite comfortable with a proposition that, even though there has been a finding of guilty but no conviction recorded, the offender should be able to be required to perform community work. There is no difficulty with those clauses. Today, I have given notice of an intention to allow the Bill to be split in the Committee stage, which will accede to the Attorney-General's request to ensure that at least part of the Bill is passed. As I say, by next week it may be possible to deal with the other aspects of the Bill, to enable the whole Bill to be passed, but that is something that I am not yet in a position to indicate to the Council. For the moment, therefore, I indicate the Liberal Party's support for clauses 1, 5 and 32, and I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the House of Assembly's amendment:

Clause 10, page 6, lines 26 to 28—Leave out paragraph *(b)* and insert—

(b) a person who holds a practising certificate issued by a prescribed professional body;.

The Hon. ANNE LEVY: I move:

That the House of Assembly's amendment be agreed to.

This amendment refers to the question of qualifications of auditors for local government. As the Bill left this Chamber it specified that, before being appointed as an auditor for local government, an auditor had to be a member of at least

one of two professional associations, which would be a guarantee (administered through the professional body) of a level of competence.

It was suggested that a third professional body should be included in the legislation, but the House was reluctant to accept this, on the basis that this third body, the National Institute of Accountants (NIA), covers a very wide range of people in its membership, some of whom have very high qualifications and who would make very competent auditors for local government, but others of whom have qualifications that could not be classed as tertiary and whose experience and general training were much less. I indicated at the time that by not including this body we were not, in fact, changing the current situation regarding auditors for local government, but I also indicated that if one of two things happened I would be happy to include the NIA as a professional body from which local government auditors could be drawn.

Those two matters are, first, whether the NIA would look again at its membership qualifications and perhaps subdivide into categories of membership, which would give a better guide to the tertiary qualifications achieved by those members and, if such action were taken by the professional body, it would be possible to include it in that group which had the appropriate qualifications. Alternatively, if local government wished to look at the general qualifications or standards required of people to be auditors in local government, I would be very happy to have a thorough examination of just what training is required to be a local government auditor and if, as a result of that inquiry, it was felt that general membership of the NIA was sufficient, I would be happy to include it.

However, at that time I was not willing to include it without first having had a proper analysis whether the current standards, which were merely being repeated in a different form, should be altered, and indicated that, obviously, an examination of this matter would require consideration by members from local government, by academics involved in accounting and auditing teaching and by someone from the Auditor-General's Department. In other words, it would be a proper examination by well qualified people able to determine the appropriate qualification for an auditor in local government.

The amendment that has come to us from the other place is saying that a person can be an auditor provided that he has a certificate issued by—which means membership of—a prescribed professional body. This means, of course, that the bodies to which auditors must belong can be expanded or reduced much more readily merely by means of regulation. This would permit changes in the qualifications through membership of different associations to be achieved more simply following the careful inquiry into auditors' desirable qualifications to which I have already referred. I am very happy to accept this amendment, because it will enable changes to be made in the future without the necessity of bringing legislation into Parliament.

However, initially I do not propose to put forward regulations that prescribe the NIA without one of the two alternative courses of action to which I have referred having first occurred. I would welcome an examination of the desirable qualifications for auditing in local government, should the Local Government Association feel it is desirable, and the results can then be accommodated more readily by having this amendment.

The Hon. J.C. IRWIN: I thank the Minister for her accurate recapping of the Committee debate on this point and for her indication of acceptance of the House of Assembly's amendment. The Opposition also accepts the amendment, which leaves the Local Government Association to its own decision making in the purest form. By the amendments to this Bill, we have taken away the committee that was previously set up in the interests of auditing to look at people who could practise as auditors in local government, and we still were prescribing two bodies. I say 'purest form' because, if we accept this amendment, we have now taken out all direction to local government and it is up to those people to decide, through the processes of regulations which will be written by the Bureau of Local Government in consultation with the Minister.

That bureau is made up mainly of Local Government Association nominees, so they will have good control over how they want the debate to go from here in relation to the two institutions mentioned in the amendment, plus the one I have tried to bring in (the NIA). They will be able to decide finally from which body they want to draw their auditors. I also accept the Minister's explanation that this will not be achieved straight away but that a proper investigation process will be carried out, during which the NIA will be able to put forward its credentials.

It may need to modify or upgrade some areas of its issuing of certificates to come in line with what the two other bodies offer, and local government will then be able to accept that. I believe that the amendment before us accommodates all the matters raised by the Minister, by the Hon. Mr Gilfillan and by me and I am very happy that we can all agree to it.

Motion carried.

PRIVATE PARKING AREAS (DISABLED PERSONS PARKING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 April. Page 3947.)

The Hon. K.T. GRIFFIN: I wish to speak briefly to this Bill. In 1986, I had a fairly significant involvement in the consideration of the principal Act. As a result of a number of matters that were raised, substantial amendments were made. Generally speaking, this legislation provides an effective code for persons who own private property to which the public may have access for parking purposes.

As I understand, it has generally worked reasonably well except, of course, for the problem of persons with a disability and who have a disabled person's parking permit gaining access to car parks specifically denoted as being reserved for persons with such a permit. That covers not only the very large but also the smaller parking areas, and I suppose it could extend to the open air parking areas at, for instance, Westfield Marion, the Kings car park, the Festival Centre car park or other places, although it is probably less likely to apply there because usually a parking fee is charged and the conditions are laid down generally on either the back of the parking ticket or at the entrance to the parking area.

I want to reinforce the views which my colleague the Hon. Mr Irwin expressed about the need for adequate consultation with the owners of private parking areas before councils move onto those private parking areas to enforce unilaterally the provisions of the Act in relation to parking for disabled persons.

If this matter is not attended to in a sensitive way following consultation, it seems to me that it will be detrimental to the objective of providing adequate parking places for disabled persons and will encourage the owners of private parking areas to remove either the signs that denote that the Private Parking Areas Act applies or, more likely, it will

eliminate the identified parking spaces for persons in possession of a disabled person's parking permit. I think that would be a very sad result and certainly a backward step in the attempt to provide appropriate access for persons with disabilities not only to parking but also to the facilities adjacent to parking areas.

In other legislation I have expressed some reservation about the incorporation of codes or standards by regulation, as I believe that it is appropriate, generally speaking, to set them out in full so that they are then readily accessible to those who may refer to the regulations. However, that is not an issue I wish to pursue other than to say that I think where there is an adoption by regulation of a code or standard or other document it ought to be readily accessible.

The amendment in clause 4 provides that the Minister must cause a copy of any code to be kept available for inspection by members of the public without charge during normal office hours at an office or offices specified in the regulations. I think that they ought to be not only readily accessible at that office or offices but also readily available for either purchase at a nominal fee or by way of a handout.

Regulations are law. If documents that are not specifically drafted for legislative purposes are adopted but are not set out in full in the regulations, it seems to me that those who would normally be expected to have knowledge of the law on the basis that ignorance of the law is no excuse would be disadvantaged if such information were not readily accessible.

I suggest that the Bill has some fairly wide ranging consequences. It was rather disappointing to see that the committee which had some involvement in addressing the problem of disabled persons' parking areas did not have representatives of some of those persons who have special responsibility for private parking areas or the owners of private parking areas. Hopefully, in the implementation of this Bill that deficiency will be remedied. I am happy to add my support to the second reading.

The Hon. DIANA LAIDLAW: I, too, support the second reading of this Bill and commend, in particular, my colleague the Hon. Jamie Irwin for his analysis of this subject. The issue of travel as it relates to people with disabilities is one in which I have been keenly interested for many years. Perhaps I should open my remarks by quoting from the Link Disability Journal of August-September 1990. An article headed 'Accessibility in Adelaide' states:

> Cities are planned for adults of average size and mobility and in the prime of life. People who do not fit these criteria can therefore be limited or excluded from participating fully in the social life of our city.

I add to that comment the economic life of our society. Having worked with many people who are confined to wheelchairs and whom I count as my friends, I am acutely conscious of the problems of mobility and accessibility.

This issue of private parking as it relates to the disabled is of particular interest because of my current portfolios of transport and tourism. I suppose one could say that in terms of the arts it is important that we find suitable means by which people with disabilities can attend a whole range of arts facilities and performances in this State.

One of the most heartening things that one sees many times when attending the Festival Theatre is the number of signs that are erected on many nights reserving parking spaces for people with disabilities. So, it is apparent that the Festival Centre is catering well for disabled people in terms of car parking and that its understanding of the needs of people with disabilities is recognised in the wider community, because some nights one will find 20 or 30 car parking spaces reserved for the disabled, but on others only two or three.

It is this sort of flexibility and understanding that the Government and the Liberal Party have been keen to promote in this area. Certainly, the Act that we passed in 1986 left this matter to the discretion of owners to set aside any part of a private parking area for disabled persons. It has not worked as well as many of us would have hoped. Certainly, from time to time I have received many angry calls from people with disabilities and/or their family members who have been very frustrated that parking places reserved by a painted sign on either the wall or the floor of that parking station had been occupied by people who had been inconsiderate in taking the first convenient parking place and not thought about the needs of others who were less mobile.

In terms of accessibility and mobility of people with disabilities, a range of excellent initiatives has been undertaken in recent years, and I name the introduction of the Access Cabs system, which now costs—in terms of subsidies to this State—some $1.4 million per year. Access Cabs are now available not only in the metropolitan area but also in six or seven country areas of the State. One of the major difficulties with the scheme is that people suggest that there are not enough such cabs available, or, secondly, that they are not available in the outer metropolitan area. I have certainly made representations to the Minister of Transport about this matter in the past.

There are also difficulties in respect of Access Cabs schemes, because one's entitlement to the use of such schemes is confined to 10 occasions a month. That means that other options must be looked at by people with disabilities and/or their family members. Public transport, of course, is available but, if you have difficulty walking or you are confined to a chair, the use of buses, trams and trains is absolutely out of the question on most occasions. The steps are far too high, and the ramps at suburban railway stations have certainly not been designed or constructed with people in wheelchairs, or even with walking frames, in mind.

I acknowledge that the Government has introduced what is called the 'kneeling bus', and that has been very popular during trial projects in this State. The new bus fleet ordered by the Government may well incorporate more of these 'kneeling buses' to make it easier for people with arthritis or other mobility problems to gain access to public transport and therefore a whole range of other social and employment opportunities in our community.

There is a range of areas to be considered—whether it involves taxis, public transport or the motor car. A whole range of benefits is available now in terms of exemptions from sales tax for people with disabilities who buy motor cars. I understand that a lot of Government fleet cars are offered to people with disabilities. So, there are opportunities, but once they have access to that car it is so important that they have easy, ready access to their destination, and that gets back to this whole issue of private parking.

I am very pleased to see that the Government has, initially through a committee process and now with this Bill, sought to address these issues. I am also very heartened to see, from the Minister's second reading speech, that Cabinet will also be drafting amendments to the Motor Vehicles Act to review and upgrade the eligibility qualifications for a person seeking to obtain a disabled person's parking permit.

This issue again is regularly brought to my attention. Many people who are eligible for such a permit are very angry that they must pay for the right to obtain that permit. They say that any other able-bodied person in the community does not have to pay for the right to park their car

or pay an additional sum for the right to park their car in a parking station, along the street or wherever. However, if you happen to have a disability, you incur a cost to obtain such a permit. I am not sure if that matter has also been addressed in terms of the review of the Motor Vehicles Act provisions, but I will certainly be interested to look at that aspect when the amendments come before the Council during the August session.

There is one other matter that I would like to raise in respect of private parking and the policing of spaces that are reserved for people with disabilities. Quite a heated debate has been raging in Melbourne in recent times since a private company has been established and employed by one council to police the private parking provisions in that council area. This company is using wheel clamps, which are used as a law enforcement device in other countries to deter unauthorised parking.

For a fee, a company erects a sign that says parking is restricted, and a smaller sign then sets out the conditions, including an acknowledgement that unauthorised vehicles may be clamped and towed away if payment is not made. A whole range of penalties have been set. The initial fee—and the private company sends out the notices—is $520. It is reduced to $120 if the fine is paid within seven days, to $240 if it is paid within 14 days or to $360 if paid within 21 days.

This whole issue of the use of wheel clamps, the towing away of a vehicle and the rate of fine being charged by this private company, contracted by a local council, has caused considerable legal and community controversy. I wonder, in respect of this Bill, where the Minister is empowering local council officers to police private parking areas, if this Act can provide for the employment of private contractors, either as agents of the council or by the private parking station itself to seek to police and deter unauthorised parking. I would be most interested to learn from the Minister what powers, in addition to the fines provided by way of expiation fees, can be or may be in future employed in the policing of this Act.

The Hon. ANNE LEVY (Minister for Local Government Relations): I thank members for their support of the legislation. While it may seem minor to many people in the community, it is, I am sure, of great importance to the small number of people who qualify for a disabled parking permit for their vehicle. For such people parking is a constant problem, and it is a matter that the South Australian Government has been pursuing in one form or another for many years now.

As I indicated when introducing the Bill, the problem arises particularly in shopping centres, where a large number of complaints are received. There is no charge for parking in a shopping centre car park and many such car parks have spaces designated for the disabled. I pick up on a comment made by the Hon. Mr Griffin: while it is obviously desirable for people to have access to the detailed regulations, I think the symbol for the disabled is very well known and understood throughout our community. People who are not disabled know that they do not have the right to park in a car park which is designated as being for the disabled and which displays the clear international sign for the disabled.

As I indicated, the problem is primarily that, while spaces in shopping centre car parks are designated for the disabled, they are not policed. Very often people with a disabled parking permit arrive to find the spaces filled with vehicles that do not display a disabled parking permit, indicating that they are being used by ordinary members of the public who have no right to do so. It is true that, as the law currently stands, the owner of a private car parking area can take action against an offender through the courts, but he does not have the right to apply fines or expiation fees. They are not matters that private individuals can undertake against other private individuals. But an owner can take action through the courts and an offender can be fined a penalty of up to $200. Of course, such fines do not go to the owner but to Consolidated Revenue, as do all fines imposed by courts.

Furthermore, in the existing legislation, car park owners can make arrangements with local councils for local councils to police disabled car parking spaces; but very few shopping centre owners have done this. Consequently, there is virtually no policing of disabled car parking spaces in shopping centres, resulting in disadvantage to disabled people who need such spaces. The legislation makes it possible for council employees to police disabled car parking spaces, whether or not there is an agreement with the owner of the car park.

I will now respond to some of the questions asked by the Hon. Mr Irwin in his second reading contribution. He asked whether the sum of an expiation fee imposed by a council inspector will go solely to the council. The answer is 'Yes'. Only a government authorised body, be it State Government or local government, has the power to levy fines, be they in the form of expiation fees, fines or otherwise. Councils will administer this legislation, put tickets on the vehicles that are improperly parked and collect the revenue from it. The amount has been set at $50, which is very high for an expiation fee. That has been done deliberately, with no apology whatsoever, as we regard it as a very serious matter for an able bodied person to park their vehicle to the detriment of someone with a disability who needs that parking space. It is a highly anti-social act and, I do not think an expiation fee of $50 is in any way unreasonable or excessive for such irresponsible, anti-social behaviour.

The Hon. Mr Irwin asked whether council inspectors will have council-to-council agreements or whether they can cross council boundaries. As matters stand, council employees are employed within the area of their own council. There would be nothing to prevent neighbouring councils making arrangements for one person to be a parking inspector for more than the one council, thereby going from one council area to another. But there is nothing in the Bill that requires this; it is entirely a matter for local government to determine.

The Hon. Mr Irwin was also concerned that there might be confusion where both an owner of a private parking area and a council inspector police the provisions of the Act as they apply to disabled parking. I would not expect any confusion whatsoever to occur. At the moment, while owners have the power to issue summonses, they do not do so. Indeed, there is hardly a recorded case of an owner having done so. Owners do not particularly want to be involved in policing their customers in such matters and would much prefer that councils undertook this task.

Both the Hon. Mr Irwin and the Hon. Mr Griffin raised the question of consultation. I point out that the Building Owners and Managers Association (BOMA) was consulted by both the consultant who prepared the initial report and by the steering committee. At all times BOMA expressed support for this legislation and its provisions and thought it was in the best interests of its members for councils to be involved in this way. The Local Government Association was consulted in this matter at all stages. Obviously, councils will be very much involved with this. While it is not mandatory for councils to undertake this policing, it is

permissive legislation. The latest communication from the Local Government Association is as follows:

> The matter of parking for the disabled has been of considerable interest to our members and it is pleasing to note that their views have been taken into account.

I do not think there could be any suggestion that the Local Government Association and its views have not been considered, and that it is not in complete accord with the legislation before us.

The Hon. J.C. Irwin: You set the committee up but they weren't on it.

The Hon. ANNE LEVY: They weren't on it but they were consulted by it. Another question from the Hon. Mr Irwin related to a uniform expiation fee for those committing the offence. The answer is 'Yes' it is an expiation fee set by the State Government regulation, so it is not a by-law or a penalty which may vary from one council area to another.

The Hon. J.C. Irwin: What about the form, the expiation form? Where will the fines be paid?

The Hon. ANNE LEVY: The expiation notice probably will not be uniform; it will have on it the symbol of the council that is issuing it, and that will vary from one council to another, as do the parking tickets now issued by councils. Presumably, the expiation will be payable at the council office, and I would expect that the form will indicate clearly where the fee can be paid. However, it will not be paid to the owner of the shopping centre, nor will he act as an agent in the collection of payment; that would not be appropriate. The council will impose the penalty and collect the revenue that results from it.

The Hon. Mr Irwin made the obvious comment that council parking inspectors and members of the Police Force are not available day and night or on call. However, we expect that they will add private parking disabled spaces to their normal policing rounds. It is quite likely that in some council areas the policing resources will be concentrated at times which studies have identified as peak abuse times. I understand from talking to people with disabilities that it is particularly on Thursday nights and Saturday mornings at shopping centres when the disabled are disadvantaged on a regular basis. One would hope that councils would see fit to be active at those times, thereby helping those with disabilities and simultaneously increasing their own revenue.

I stress that this Bill is not trying to solve the general problems of policing all the restrictions that owners might wish to impose in their private parking areas. If there are matters other than disabled parking that private car park owners want the council to police for them, they will need to enter into agreements with the council to have those matters policed. As a result of this Bill, they will not need to make arrangements for the council to police the provisions relating to disabled parking.

Although it is somewhat tangential to this Bill, members might be interested to know that the question of the recognition of disabled parking permits outside South Australia has now virtually been achieved on a national basis. South Australia and Victoria have legislated to recognise disabled parking permits from any State in Australia. Western Australia is about to do so. Queensland, New South Wales, the Australian Capital Territory and the Northern Territory indicate that they have achieved interstate recognition by administrative means, and that disabled permits from anywhere in Australia will be recognised and afforded the same privileges that apply to that State or Territory. This will now occur throughout mainland Australia.

Tasmania still has not changed its rules, and people with a disabled parking permit from elsewhere in Australia visiting Tasmania need to get a Tasmanian permit before they are eligible for the privileges that apply in Tasmania. I was assured at the Local Government Ministers' Conference yesterday that the Tasmanian Minister would attend to this as a matter of urgency. I expect that he could do so by administrative means so that in the very near future the long desired situation can be achieved where disabled permits are reciprocally recognised throughout the Commonwealth. As that matter arose only yesterday, I thought it might be of interest to members given that we are considering disabled parking permits.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Incorporation of standards.'

The Hon. J.C. IRWIN: New section 16 (2) provides:

> The Minister must cause a copy of any code, standard . . . to be kept available for inspection by members of the public, without charge and during normal hours, at an office or offices specified in the regulations.

I realise that the regulations are not written, but does the Minister envisage a council office being the standard office in which these codes would be on display, or would they be on display in shopping centre offices, or would it be a mixture of State Government offices, local government offices and shopping centre offices?

The Hon. ANNE LEVY: At the moment, it is certainly intended that the documents will be available for inspection at the bureau. Obviously, where they will be displayed once the bureau no longer exists will be a matter of negotiation. Various possibilities could be considered, for example, by council offices or the Local Government Association. I am sure we could all think of appropriate places, and these will be part of the negotiation process that will occur and, when determined, the regulations will be altered accordingly.

The Hon. J.C. IRWIN: So, we can narrow it down. The Minister is saying that copies will be available at a central office somewhere, in the same way as would have been the case had the Department of Local Government still been in existence.

The Hon. ANNE LEVY: Yes. If I can add to that, it would seem to me that it may well be appropriate for it to be available from the offices of local authorities, but I would certainly not want to specify that without consulting with them first. Initially, it will be the Bureau of Local Government Services, but what happens subsequent to that will be negotiated and regulations altered accordingly.

The Hon. DIANA LAIDLAW: In my short contribution to the debate, I raise the matter of wheel clamps, as a means of enforcing regulation of private parking for disabled persons and, possibly, private parking in general. I note from the Minister's second reading speech that, under the regulations, it is proposed to increase the fine from $20 to $50 for a breach in relation to a private park in respect of people with disabilities. Can the Minister tell me whether the committee that made such a recommendation for this increase looked at other methods of policing, in addition to a fine, which methods may have been discounted, and I refer to such things as wheel clamping and towing?

The Hon. ANNE LEVY: As I understand it, the committee did not report on that. It may have considered the matter and dismissed it as being too absurd to even bother commenting on. However, there is no doubt that, in general, the expiation fee is a very efficient way of policing regulations. It is much simpler to administer than towing a vehicle away or other expensive methods. Also, by that means a very much larger proportion of offenders can be caught in the net, and by paying a monetary penalty they are made to realise that society does not approve of the action they

have undertaken, and without acquiring a criminal record they are paying a penalty for having transgressed. The more often they transgress, the more it will cost them. If people do not like paying the money, it is very simple—don't transgress.

Clause passed.

Title passed.

Bill read a third time and passed.

SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE (MISCELLANEOUS POWERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 March. Page 3777.)

The Hon. J.C. IRWIN: The Opposition supports the second reading. The proposal is to amend the South Australian Metropolitan Fire Service Act in relation to methods of operation and expiation of offences. The Bill was introduced on 7 March and provides for amendment of the Act in three main areas, concerning, first, the power to enter and inspect a public building to determine the adequacy of fire and emergency safeguards. In the present Act, the power of the Chief Executive Officer is very restrictive. Amendments in this area enable measures immediately to be put in place to rectify a dangerous situation.

Secondly, the amendments relate to places where the danger of fire may exist, and amendment in this area will ensure that immediate action can be taken to rectify a situation where such danger to life and property may exist. The third area of amendment concerns payment of costs and expenses where a vessel or property is uninsured. The section deals with the recovery of expenses and costs incurred during attendance at a fire or emergency, as outlined in the Act.

In the past, the recovery of costs has become very difficult, particularly in relation to ship fires. Members might recall that in the recent past there have been two ship fires, one of which was quite major, involving the Metropolitan Fire Service, and it experienced difficulty in extracting the expenses and costs involved with that fire.

Debate on this Bill in the other place ranged over a number of matters raised by members and tried to draw out some information from the Minister, in Committee. It was unfortunate that the Minister of Emergency Services was unable to provide answers to a number of questions raised by members of the Opposition. He seemed to be relying on the fact that the Bill was coming to the Legislative Council, and that by some magic waving of the wand the Minister handling the Bill in this place (who is not the Minister of Emergency Services) would be able to answer the questions—some of which tended to be technical and some were legal. As a result of consultation and the debate in the other place, I have put a number of amendments on file, and I note that the Attorney-General also has a number of amendments.

As is usual, I have found in my consultation that a number of people and organisations that are affected by this Bill have not been consulted. I can understand the basis for the proposed amendments in the Bill, but I do not understand why they were not circulated widely, not only to achieve the very best outcome for the Metropolitan Fire Service and the people whom it seeks to protect but also to ensure that organisations such as the Country Fire Service were not insulted by being totally overlooked. Not only have the CFS and others been insulted but they have become very suspicious, understandably, about why they were overlooked. All this could be avoided and more harmonious conditions fostered by better communication. That message seems to be repeated by Opposition members every time we speak on legislation that comes before us.

A number of issues have been raised with me which I have, in turn, raised with Parliamentary Counsel, with a view to formulating more amendments. Many of the fears raised with me have been allayed by Parliamentary Counsel advice. I refer to such matters as the interpretation of 'occupier' and 'an order', the removal of people from overcrowded premises by members of the Police Force, non-maintenance of unsafe conditions, and reference to a building fire safety committee or building referee, which I am told are all covered by existing provisions in the South Australian Metropolitan Fire Safety Act and other Acts relevant to the South Australian Metropolitan Fire Service.

As I mentioned, there are amendments on file that seek to add to the interpretation of public building, additions to section 68—interference with fire plugs, fire alarms, etc.—and in respect of closure orders and rectification where safeguards are inadequate. I have sought by amendment to ensure that the Building Fire Safety Committee is advised as soon as practicable that a notice containing a rectification order has been served. I am advised that the court should be able to grant an order more quickly than by going through the Building Fire Safety Committee or Building Act referees.

I have also been advised by experienced firemen that past experience has shown that there have been considerable delays in instigating court action. If it is shown that there are such delays, I hope that the Minister of Emergency Services will bring to this Parliament amendments to speed up the process. That is a very vital area, and one that should be treated seriously, as people's lives are potentially in danger. I am pleased that the Minister's amendment addresses a problem that we raised about a vessel in transit on a vehicle or a vessel such as a houseboat on the River Murray.

I believe that the amendments will clarify this position, but will certainly listen with interest to the Minister's explanation for the amendments in Committee. I wish to raise another question during this second reading debate rather than in Committee, and that is the question of the legal position of a Metropolitan Fire Service tender operating between the high water mark and the three mile limit off the South Australian coast.

Are there any impediments to the MFS claiming costs for attending a ship fire in this area of sea, and what is the legal position for attending a fire at sea and claiming costs of a ship being attended off Robe in the South-East, say, where the land adjoining the sea in that area is under the control of the Country Fire Service? Whilst on the subject of recovery of costs, on 29 November 1989 it was reported in the *News* that the Government had received a pay-out of $271 290 for the compensation cost of extinguishing the fire in a Saudi Arabian sheep transport ship at Outer Harbor. During the blaze on the *Om Alqora* in March 1989, the MFS and CFS worked jointly to put out the fire. In November 1989 the *Mukairish Al Sades* caught fire, and it was revealed that claims of over $1 million would be sought and paid out by the owners. On 10 December 1989 the *Sunday Mail* reported that:

> The money will be handed to the State Government, then divided between the emergency crews that helped battle the fire.

The CFS volunteer groups backed up and stood by around the clock, working for a total of 3 800 hours, relieving the MFS during the fire on the *Mukairish Al Sades*—and the relief to which I refer was not on the ship itself but as

backup in the MFS areas on land. Many CFS volunteers took unpaid or annual leave to provide that support. Many of the CFS brigades own their own vehicles and equipment apart from that funded by the Government and councils.

Purchase and maintenance of these vehicles and equipment has come in many instances from donations; sadly, not so much now, but that used to be the norm. Has the payment of $271 290, the insurance payout for the *Om Alqora* fire, been distributed to the MFS and the CFS? If so, what was the dollar amount paid to each service, or was that amount swallowed up in the area of general revenue? How much was the final payout for the *Mukairish Al Sades* fire, and have the MFS and CFS been refunded any of that payout?

I ask the same question as previously: how much of the insurance claim was paid to each service? I hope that the answer is that some was paid to each service because, certainly in the case of the CFS, a majority of those people are volunteers and, for the reasons I have already outlined about their equipment and their volunteer time, should be compensated as individuals or as units, rather than that money disappearing into general revenue, and not coming back directly to the fire service area.

As was done in the Assembly debate, I raise the question of heritage and old buildings. There will always be a dilemma in this area, because what is considered good fire safety today will be considered inadequate tomorrow. There will always be a technological progression. This very building is an example of a heritage building with what many consider as inadequate fire safety provisions and design.

The Malcolm Reid building was the example used in the Assembly, because an article appeared in the City Messenger press on the day of the Assembly debate, referring specifically to that building and the experience of its owners. The University of Adelaide buildings—many designed by my father—were recently featured in the media as having inadequate fire provisions by today's standards, but they were designed and built in accordance with the provisions of the day. In fact, most were built only 30 or 40 years ago.

I am advised that most of these buildings, heritage or not, can be well covered by the installation of a modern sprinkler system, exit lighting and some other fairly simple arrangements. Of course there is a cost: there always will be, for the safety of people and property from fire. We must all do many balancing acts as society moves on: the balance between cost and preservation. I make the oft-made plea that part of the balancing act is to apportion costs between the current owners and the people of the State who benefit from the maintenance of heritage buildings.

I am reminded of a recent serious fire in a large public library in Sydney. People will shudder when sprinkler systems are mentioned in connection with book stock, especially valuable book stock in libraries. However, I am advised that, if the sprinkler system is installed, its immediate activation in isolated areas of need will do far less damage than the alternative of an alarm system bringing the Metropolitan Fire Service, where far more water and smoke damage will result.

I hope that those who are interested in this area of heritage building and its preservation, both as a building and as something usable by people, will look very closely at what can be done using overseas experience (which, I understand, is fairly advanced) to overcome some of the problems. Because of the enormous cost of fire safety requirements, we now have a situation in which there are public buildings that are not complying with the Building Act. Private hospitals and nursing homes are required to comply with all regulations of all the relevant Acts. If they do not, the certificate to allow them to operate is withdrawn without question.

On the other hand, we have hospitals such as the Royal Adelaide, the Queen Victoria and the Adelaide Children's that do not comply with the same standards as are required from private hospitals. It seems to me that there are double standards in that area. I find it very difficult to accept a written answer I received on 20 February this year from the Minister for Environment and Planning, following a question I raised when debating the Building Act Amendment Bill on 5 December 1990. The Minister's answer stated:

> The intention is to ensure that fire safety requirements are of the same standard for both private enterprise and Government, including the issuing of notices or obtaining a restriction of use on the building. The Building Fire Safety Committees endeavour to ensure that an adequate level of fire safety is provided in all buildings which are brought to their attention on an on-going basis. There are three country hospitals at the moment which the committee sees as having an inadequate level of fire safety, and the Minister of Health has been notified in these instances. The committee are also involved in ongoing discussions with other major hospitals to ensure that as funding permits—

and I underline that—

> fire safety precautions are upgraded.

This statement underlines the double standards. If it is good enough for the Government to act when funds permit, it should apply that standard to private institutions, or the reverse should apply: the special risks that apply in hospitals should make it mandatory that fire standards are uniform and of a very high standard.

The Minister's reply mentions ongoing discussions. I ask, on advice, 'What ongoing discussions?' I do not believe there are any. Government hospitals, such as the Royal Adelaide, Queen Victoria, Queen Elizabeth and the Adelaide Children's do not in any way comply with the same standards applied to the private sector. Why has the Government refused the right to the Fire Safety Committee to do a complete investigation and a detailed report into the hospitals to which I have referred? The answer is understandable: the right to operate would be refused. That, to me, is a double standard—and I refer, in particular, to the Queen Elizabeth Hospital. I only hope that the Minister of Emergency Services makes every effort to have himself informed about the true situation in our public buildings, hospitals or otherwise.

The question that I asked originally during the debate on the Building Act Amendment Bill was 'How many Government owned public buildings are fire risks?' The answer to that question is rather startling. Again I quote from the Minister for Environment and Planning's letter of 20 February:

> The actual number of buildings owned by the Government which are fire risks is unknown from a total point of view, but each department should be aware of those assets which carry risk. The Building Control Branch and the Building Fire Safety Committee, with their new charters, will be attending to a more consistent standard, better coordination between departments, and more effective expenditure on the provision of fire safety.

Ho hum! What an extraordinary letter from the Minister for Environment and Planning. I do not quite know why she answered the question that I put to the Minister in this place during debate on the Building Act. As I said, a number of Ministers are involved in protecting the safety of people in buildings. It is about time that they sat down together and played the same game with buildings under their care for the benefit of the public who use those buildings.

This is a priority not to be pushed into the too hard basket and not to be ignored hoping that it will go away. The Government should not use the tired old excuse of 'not enough money'. Maybe at least lessons have been learned

in recent times. Governments should govern and provide the essential things and leave other matters to private people to carry out without Government interference. I am not suggesting for one moment that we should close down the three hospitals to which I have referred, but regulations should be drawn up so that privately operated buildings are not penalised while Government buildings are let off the hook. The situation is very clear: not only should Government buildings not be let off the hook they should be taken up to the same standard that the Government demands of private institutions.

Similar confusion can be found in regulations for a class 3 building. Under the Act, automatic fire and smoke detection is required in a class 3 building where more than six residents use the building, but under the regulations the requirement occurs when more than 20 residents use the building.

Some members may recall, although I think it was before my time, that during the debate on the Grand Prix legislation this requirement was included to help those people who wanted to accommodate interstate visitors to the Grand Prix. However, it is not an excuse for overcrowding at any time in a situation that is dangerous for the people in the building let alone during the Grand Prix. I have learnt recently of a backpackers' hotel at Glenelg where a very unsafe condition was discovered and something was done about that.

Finally, I would like to make some brief comments regarding the funding of the South Australian Metropolitan Fire Service, and the same comments can be made in regard to the Country Fire Service. The Government promised before the last election to address the funding of the Metropolitan Fire Service and the Country Fire Service. So far nothing has happened and, as we move inevitably closer to the next election, I do not hold out much hope for any move from this Government to address this situation. The issue of funding comes up every time I move around and talk to personnel in the Metropolitan Fire Service, the Country Fire Service and, indeed, in local government.

A whole range of issues must be addressed by the Government, particularly by the Minister of Emergency Services, in relation to the two fire services, not least of which is the promised review of the Country Fire Service Act following the experience now of two summers and the very real concerns in rural areas concerning the effective working of the Country Fire Service Act and its administration in the rural areas of the State. That review has been promised by the Minister. I know of many individuals and groups that are waiting for a chance to give a report and to take part in that review process.

There are many excellent people in both services, both professional and volunteer. They deserve the very best conditions in which to operate, and they deserve the very best protection under their sometimes most onerous and dangerous work. Not only is the operator's safety of paramount importance, but so, too, is the safety of the people in this State, working or living in the metropolitan or rural areas. There are a number of other matters that are better addressed during the Committee stage of this Bill. I support the second reading.

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

NATIVE VEGETATION BILL

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

ADJOURNMENT

At 5.3 p.m. the Council adjourned until Tuesday 9 April at 2.15 p.m.