LEGISLATIVE COUNCIL

Wednesday 18 March 1992

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

PETITION: ABORTION

A petition signed by 44 residents of South Australia praying that this Council amend the South Australian law to prohibit abortions after 12 weeks of pregnancy except to prevent the mother's death and prohibit the operation of free-standing abortion clinics was presented by the Hon. J.C. Irwin.

Petition received.

PETITION: CITIZENS INITIATED REFERENDA

A petition signed by 480 residents of South Australia concerning Citizens Initiated Referenda, based on the Swiss system of citizens initiative, referendum and recall, and praying that this Council calls upon the Government to hold a referendum, in conjunction with the next South Australian local government elections, as a means of determining the will of all citizens of South Australia in this matter was presented by the Hon. J.C. Irwin.

Petition received.

MINISTERIAL STATEMENT: CHILD DISCIPLINE

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement about the rights of parents to discipline their children.

Leave granted.

The Hon. C.J. SUMNER: Mr President, I wish to take the opportunity of informing the Council and the public on the rights of parents to discipline their children. There are a great number of myths circulating in our community, particularly in relation to the rights and obligations of parents on the one hand and of children on the other.

In recent months I have attended a number of public meetings to discuss issues to do with the criminal justice system, crime and crime prevention and juvenile crime. This issue of discipline is almost always raised at these meetings and elsewhere. The assertion is often made that parents have no right to take physical action to discipline their children. The prevailing popular belief or myth has a number of elements, namely:

1. parents cannot physically discipline their children;
2. parents/guardians cannot cuddle or hug their children;
3. teachers and social workers encourage and assist children to undermine parents' disciplinary authority; and
4. children are encouraged to report their parents for physical and/or sexual abuse.

None of these assumptions is correct; they are all wrong. I would therefore like to take the opportunity to advise the Parliament and the public of exactly what the legal situation is, in fact. The authority to punish a child is a power which accompanies the parents' right to custody. The established common law defence is that of 'lawful correction' with the permitted degree of punishment being 'reasonable chastisement', which is determined according to the stature and health of the child and the circumstances of the infliction of punishment. The sole intention of the action taken by a parent must be to correct the child, not out of rage or a desire for revenge.

The 'reasonable' standard will depend on prevailing community standards. Parents then can discipline their children by inflicting 'reasonable' and 'moderate' corporal punishment. Such discipline would not constitute 'maltreatment' or 'neglect' for the purposes of the Children's Protection and Young Offenders Act.

The provisions of the Criminal Law protect all persons, including children, from the application of excessive and unreasonable force. Section 92 of the Community Welfare Act makes it an offence for any person having the care, custody or control of a child to mistreat or neglect that child. A number of professionals, including teachers and social workers but also doctors, dentists and others have an obligation under section 91 of the Community Welfare Act to report cases of child maltreatment or neglect. It is important that these people, especially teachers and social workers play an appropriate role in the education of children and others in respect of their rights under the law.

The guidelines of the Department for Family and Community Services in relation to child abuse, neglect or maltreatment are that:

> In general, child abuse and neglect refers to injury or damages to a child, other than accidents, which is caused by the actions of parents and caregivers of children or by other people known to the child or by the failure of those people to take reasonable action to prevent injury to the child.

Another method of controlling and/or disciplining a child is to withdraw certain privileges. Again, there is a very wide scope for parental discretion without outside interference. While the Family Law Act 1975, the Family Law Amendment Act 1987 and the Child Support (Assessment) Act 1989 impose minimum standards of financial maintenance, they do not specifically state what may or may not be included in such maintenance.

In conclusion, parents have significant rights with respect to the disciplining of their children, as long as they acknowledge that those rights must be exercised within the constraints of the criminal law and the laws relating to the protection of children.

MINISTERIAL STATEMENT: LOCAL GOVERNMENT FINES

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I seek leave to make a statement about an article in today's *Advertiser*.

Leave granted.

The Hon. ANNE LEVY: It would be difficult to imagine a more garbled and misleading report of the proposals contained in the Local Government (Reform) Amendment Bill than the one which appears in this morning's *Advertiser*. The article states that 'fines for breaching council laws would soar under sweeping changes proposed to make councils more powerful and independent'. The reform Bill to be introduced makes no change to the current provisions concerning fines for council by-law offences.

Councils have power under the present provisions of the Local Government Act to make by-laws covering various local matters and to specify a penalty for breaches of fines of up to $200. These are, of course, fines imposed by a court after the offence is proved, and the maximum level set—currently $200—has remained unchanged since 1978.

Councils have also had the power since 1988 to set expiation fees in relation to by-law offences of up to 25 per cent of the maximum fine—that is, up to $50. Alleged offenders can then choose to pay this fee rather than have the matter

go to court. The *Advertiser* chooses to call these expiation fees 'on-the-spot' fines. The reform Bill to be introduced today makes no change to councils' powers concerning by-law offence expiation fees.

At some future date it is proposed to increase the maximum fine which can be imposed for a council by-law offence to the next standard level, which is $500, in conjunction with a review of the purposes for which councils can make by-laws. This would mean that councils could impose expiation fees for by-law offences of up to $125, but the types of offences which these might relate to can only be speculated about since the matters which councils can make by-laws about will be reformed at the same time.

The article suggests that the expiation fee for walking a dog without a leash contrary to the Dog Control Act could rise from $50 to $125. As far as I can determine this is a complete red herring. The penalty under the Dog Control Act relating to a dog not under effective control in a public place is a maximum fine of $200 with an expiation fee of $50. I am not aware of any immediate plans the Minister for Environment and Planning may have to increase this.

Certainly, in negotiations, the Local Government Association has raised the need for penalties fixed in State legislation, which is policed by councils, to be kept up to date so that they maintain their deterrent effect. Where offences policed by, and fines collected by councils, are set under State legislation, not council by-laws. I am hoping that any relevant expiation fees can gradually be consolidated into the Expiation of Offences Act, which will make for a consistent approach and appropriate parities between different sorts of offences.

The article states that I said 'proposals to increase fines for breaches of council by-laws, including dog control and planning and building guidelines, would be put to State Parliament at budget talks during the next session'. I said no such thing. The reporter here has become hopelessly confused between two completely separate matters. I have talked about the fact that maximum penalties for breaches of council by-laws will be increased at some time in the future. This has nothing to do with dog control or planning and building 'guidelines', whatever they are. The reform Bill to be introduced does contain a proposal which would allow certain fees, not fines, collected by councils for work which councils perform to be set by the local government sector rather than by the State Government. Further details on that matter will, of course, be given when I introduce the Bill later today.

Perhaps the most spurious part of the article is the attempt to link these proposed and potential changes to a statement, allegedly from State Government sources, that Government contributions to councils could be reduced and a statement by Federal Local Government Minister, Mr Simmons, that 'the days of big government "handouts" were over'. The suggestion is that rational proposals to give local government some control over the fees it collects for work which it performs, or future proposals to update penalties so that they are appropriate deterrents, is connected to the extent to which the State funds local government. The funding and management of a whole range of functions is under review in the negotiation process, but this has nothing to do with setting appropriate fees and penalties. Mr Simmons' remark, for example, was in response to a question concerning the level of financing made available to local government by the Federal Government under the recent Federal economic statement.

It is unfortunate that it is so difficult to tell from the article what the proposed changes in the reform Bill to be introduced will mean, because they are important changes to do with structural reform in local government. I hope I will be able to correct any remaining confusion when the Bill is introduced later today and subsequently debated.

QUESTIONS

VICTIMS' RIGHTS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about his *Pravda* statement.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday I asked a question relating to the reported experiences of Cindy, a rape victim. That report was in the *Advertiser* last Friday. The case was scheduled to be heard in April 1991 and was finally scheduled for the end of February 1992—10 months later. The Attorney-General, in his reply, made some offensive remarks about the *Advertiser* being *Pravda*, alleging censoring of the Chief Justice's statement about the reason for the delays and adjournments by not reporting verbatim the last four paragraphs of the Chief Justice's statement. In his answer yesterday the Attorney-General not only read those four paragraphs—after I had interjected that he should do so—but also his own press release. Among other things, his press release stated:

> The facts were that on the first adjournment a judge was not available due to a trial running longer than expected .
>
> On the second adjournment, the case had a priority listing, but defence counsel was not available and it was thought that in the interests of justice the case be relisted.

It is interesting to note that his press release also censored the Chief Justice's statement by conveniently omitting the fact that, when the second trial date was released, the Chief Justice said:

> On 19 August 1991 there were again insufficient available judges for the number of cases to be tried. The present case would have had priority, but the defence had a problem. Defence counsel was involved in a part-heard case, and the accused would have had to find a new counsel at very short notice. Ordinarily he would have been expected to do so, but, as all cases could not be reached, it was thought best in the interests of justice that this case be relisted.

I take that to mean that there were not enough judges. If there were, defence counsel's other part-heard case would not have prevented Cindy's rape case from being heard. My questions to the Attorney-General are as follows:

1. How can the Attorney-General in all seriousness accuse the *Advertiser* of being *Pravda*, with all the connotations that that carries, for not reporting fully the Chief Justice's statement, although the emphasis of the story that there were not enough judges on two occasions to hear all cases is correct, when his own statement misrepresents in a material respect the Chief Justice's statement?

2. Does the Attorney-General set one standard for the press and another for himself?

3. Does he accept that his own press statement was guilty of the fault for which he blamed the *Advertiser*?

The Hon. C.J. SUMNER: The answer to questions 2 and 3, at least, is clearly 'No'. Whatever gloss the honourable member is now trying to put on the situation, the fact of the matter is that, in respect of Cindy's case—and I have considerable sympathy for the circumstances in which she found herself—it is not true to say that there were not enough judges to hear Cindy's cries on three occasions.

The Hon. K.T. Griffin: On two of them.

The Hon. C.J. SUMNER: No, on one occasion. It was arguably on one occasion, on the first occasion. The *Advertiser*—if that is what they still call it—said in its report:

There weren't enough judges to hear Cindy's cries.

The report went on to say:

And then she was told to wait again, and then wait again.

Well, she was in fact told to wait twice. On the third occasion it was one day, which I would have thought was not something that could really be complained about. On the second occasion she was not told to wait again because there were insufficient judges: she was told to wait again because defence counsel were involved in another case. That is what the Chief Justice's statement said, and that is clear from the statement that I read out yesterday. On the second occasion the defence had a problem. That is what the Chief Justice said.

The Hon. K.T. Griffin: He also said there were again insufficient available judges for the number of cases to be tried.

The Hon. C.J. SUMNER: There is no point whatsoever in that particular statement. The fact of the matter is that, had the listing judge determined it, he could have said to defence counsel or the defendant, 'I am sorry, you will have to get alternative defence counsel, and the case will go on.' I said yesterday that one might be able to be critical of the judge in making that decision, because the independent or separate bar is supposed to be able to provide a pool of barristers available to take up cases when other barristers are involved in cases that go on for too long. In this case the listing judge could have said, 'I am sorry, defendant, you will have to get alternative counsel, and the case will go on', because it had a priority listing.

On the first occasion it could not go ahead because a case went on longer than the estimated length and, as the honourable member knows, that occurs from time to time, despite the best efforts of counsel and the courts to properly assess the length of a case. The honourable member knows as well as I do—and it has been common practice in the courts for years, going back to his time, I am sure—that, on a particular day, more civil and criminal cases are listed than there are judges to hear them. As the honourable member knows, if the courts do not do that, judges will be sitting around for long periods of time doing nothing, and the lists will not be dealt with efficiently.

In civil cases there is a high rate of settlement and, if you do not list in the manner that I have indicated and all the cases settle on the day, if there is only one judge to hear each case, the judges have nothing to do, and three, four or five judges will sit around with nothing to do for three days, and that is clearly unacceptable. The system of listing which I have outlined applied when the honourable member was in office. Similarly, in relation to criminal cases, it is regrettable that, although the best efforts are made by the courts to ensure that only those cases that will go on are listed, at the last minute there are changes of plea.

Sometimes defence counsel is involved in a case that has gone on for too long, so cases have to be put off. Unless we list enough cases to ensure that the judges are fully occupied, then it is an inefficient use of resources. That is clear to the honourable member. The point I made yesterday remains valid, namely, that the three paragraphs of reasons that the Chief Justice gave in his statement were not included in the *Advertiser's* first report on the topic and they were summarised in my statement.

Members interjecting:

The Hon. C.J. SUMNER: They weren't even referred to in the *Advertiser* report. The three paragraphs were totally left out; they were censored, as I said yesterday, and not even referred to. The fact of the matter is that if you do refer to them the question of there not being enough judges is only something that can be argued in Cindy's case in regard to the first occasion.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is nonsense. On the second occasion it had a priority listing. Had the judge decided to say to the defence, 'You will have to get alternative counsel,' the case could have gone on. It was not a fact that there was not a judge to hear it: the fact of the matter was that defence counsel were involved in another case. That is crystal clear.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Sure, and one does not know what he would have done had there been sufficient judges to hear all the cases on that day. I have explained the reason for that listing practice, and any other listing practice, if we adopted it, I am sure would result in our being taken to task by members opposite, the taxpayers, the public and probably the *Advertiser* for wasting public moneys because the judges would be sitting at the court with nothing to do. I have full and complete sympathy for the situation in which Cindy found herself, and I have said that if there is any complaint in relation to her treatment by the agencies concerned I will have the matter examined.

My point, however, remains valid and correct: the three paragraphs explaining why the case had been put off were not included in the *Advertiser's* first story and in my view should have been because that statement fully explained the situation. I must confess that I was in Launceston, Tasmania, when the article appeared and I was not very happy when I read about it. I contacted the Chief Justice and he said, 'Oh, well, I am sorry but the *Advertiser* did not report three paragraphs.' When the Chief Justice sent me a copy of his full statement I could see that obviously the situation was not as had been outlined in the *Advertiser's* first report.

So, that is my complaint: the three paragraphs explaining the situation were not included. They should have been included. Had they been included it would have given a different impression of the situation, and those three paragraphs do not support the *Advertiser's* lead in relation to this story. That is not to say that I do not have considerable sympathy for Cindy's position and perhaps, in retrospect, on the second occasion the listing judge should have insisted that, as the case had been put off once and as it was a sexual assault or rape case, it should go ahead. In my statement I said that I intend to write to the Chief Justice. I have asked him to examine the court listing procedures to avoid a repetition of the circumstances surrounding the Cindy rape trial case. That is what I intend to do, and presumably the Chief Justice will act on it.

GAMING MACHINES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question relating to revenue from gaming machines.

Leave granted.

The Hon. DIANA LAIDLAW: The Minister's submission to the Minister of Finance as part of the Government Agency Review Group (GARG) process recommended in part:

... that consideration be given to new revenue generated by an extension of gambling facilities (say, in hotels and clubs), at least, in part being directed towards tourism marketing activity.

According to the submission, this recommendation followed an assessment of alternative funding sources to improve Tourism South Australia's budgetary position. The hypothecation or dedication of a percentage of revenue generated from gaming machines in hotels and clubs to TSA for

enhanced marketing activity has the unqualified endorsement of key operators in the tourism industry in South Australia: the South Australian Tourism Industry Council, the Hyatt Regency Adelaide, The Terrace, The Grosvenor, the Hindley Parkroyal, the Hotel Adelaide, the Ramada Grand, The Adelaide Convention and Tourism Authority and the Australian Hotel and Hospitality Association of South Australia.

The State Lotteries Act includes a provision for gambling revenue to be paid into the Recreation and Sport Fund and the Hospitals Fund. However, the Gaming Machines Bill introduced by the Minister of Finance in the House of Assembly on 12 February makes no provision at all for revenue from gaming machines in hotels and licensed clubs to be dedicated to any worthy community project, let alone to tourism marketing. The Government share of revenue is simply to go into general revenue, so it is little wonder that the Bill is being seen as just another way to raise money by a Government desperate for cash.

Therefore, I ask the Minister why she failed to convince the Minister of Finance and her Cabinet colleagues of the merits of the case presented by the tourism industry in South Australia to include in the Gaming Machines Bill a requirement that a percentage of revenue generated by these machines in licensed clubs and hotels be dedicated to tourism marketing activities.

The Hon. BARBARA WIESE: The short answer to the question is that there is more than one way to skin a cat. I would remind the honourable member that, although there is no reference to hypothecation of taxation money in the Gaming Machines Bill, it does not mean that the topic is closed. In most respects the Gaming Machines Bill is modelled upon the Casino Act and, if she studies the Casino Act, the honourable member will find that there is no provision for hypothecation of taxation moneys to certain purposes in the Casino Act, either. However, in fact, the Government has taken an administrative policy decision that part of the money collected through taxation from the casino be given over to the Hospitals Fund. The very same idea could apply, if the Government chose to take that decision, to moneys that might be collected through gaming machines being allowed into hotels and clubs, should the Parliament decide that that was its wish.

The Government takes the view generally that it is a matter for Government as to how taxation receipts should be spent. The general policy is proper, namely, that the Government must balance priorities when it is making decisions about how to spend money from consolidated revenue and, in general terms, that is a principle that the Government has applied. It was not, as the honourable member indicates, applied in the case of the Lotteries Commission Act, and I really do not recall the debate, so I am not able to say whether the hypothecation in that circumstance was provided for in the legislation by the Government, or whether it came from the Parliament by way of amendment and was subsequently accepted by the Government.

However, getting back to the Gaming Machines Bill, the Government has modelled this legislation on the Casino Act, and the hypothecation question has not been dealt with in that legislation, but that does not mean that the matter is dead. At some stage the Government will be considering the question of hypothecation for tourism, because it is my intention to keep that matter alive.

The Hon. Diana Laidlaw: Will you move an amendment?

The Hon. BARBARA WIESE: It is not my intention to move an amendment because, as I indicated to her, it is the general view of the Government that it is a Government decision to hypothecate money for purposes that it feels are appropriate, according to Government priorities. That is a principle that I support. As I was trying to say before I was interrupted, that does not mean that the matter is dead. It is still a matter that can be considered by the Government at a later time. However, I remind the honourable member, and anyone else who has an interest in money being hypothecated from gaming machines for the purposes of tourism marketing, that the first step that must be taken is for the Bill to pass the Parliament. We must not count our chickens before they hatch. It is important that anyone who believes that this could be a source of new revenue for tourism marketing should consider very carefully lobbying her or his colleagues to ensure that the Bill in fact passes the Parliament in the first place.

LOCAL GOVERNMENT FUNDING

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

Leave granted.

The Hon. J.C. IRWIN: Federal Local Government Minister Mr David Simmons made the following statement in a press release on 16 March:

> Prime Minister Keating's One Nation package contains many opportunities for local government in the areas of transport and communications infrastructure and services, workplace reforms, training and work experience programs and industry and enterprise initiatives. It is in your interest to assist the Commonwealth in its efforts to improve the economic and social well-being of all Australians.

Inherent in that statement is an amount of what I call traditional local government responsibility and an amount of new responsibility. In other words, local government is the recipient of other governments' micro-economic reform. Some funding for the traditional responsibility has been provided by Federal grants funding to State Grants Commissions, allocated by formula to councils. It appears now that funding arrangements for new responsibilities will come via contracting arrangements between councils and Federal and State Governments. In his One Nation statement presented on 26 February, the Prime Minister said that he:

> . . . will be writing to Premiers and Chief Ministers seeking their commitment to reform in all relevant areas covered by this statement aiming to achieve a joint review of requirements facing major project proponents. Local government issues will be addressed via the States in the first instance. The Building Better Cities program will be refocused through negotiations with States and Territories to enhance its infrastructure component.

In an answer to a question from me on 20 February the Minister of Local Government Relations said:

> I have had discussions with the new Federal Minister (Mr Simmons) about various approaches regarding Federal funding for local government and the various options that are being considered.

I might add, in relation to the Minister's statement this morning, that I have had no communication at all with the *Advertiser*. Although I am using some of the same quotes, please do not link me to that. Mr Simmons was quoted on the 5AN news yesterday as saying:

> But like many opportunities in life, if local councils think that they can sit back and someone will hand them a cheque, well those days have passed. They have to be much more proactive in their approach.

Even blind Freddy can see that the State Grants Commission will get what Paddy shot at (and I am sorry this question was not asked yesterday) after political deals have been done between the State Government, some councils and the Commonwealth Government—$40 million or half of the States' Better Cities money is not even going to local

government. It is about time that the handballing and the silence stopped and that this Government came clean on the future of Federal Government funding, tied or untied, for local government in this State. My questions are:

1. Will the Minister assure me and local government that the State Government is arguing strongly with the Commonwealth Government on behalf of South Australian councils for the State Grants Commission allocation for 1992 to be at least equal to last year's allocation?

2. What has happened to the fiscal equalisation debate regarding Federal grants moneys to State Grants Commissions, which was much in evidence last year?

The Hon. ANNE LEVY: I can assure the honourable member that discussions are occurring between the State and the Federal Government regarding the matters he has raised. The question of fiscal equalisation is certainly not dead; it is being considered in relation to the overall review of State relativities, which is being proposed by the Federal Government. There is correspondence between the Premier and the Prime Minister in relation to this matter. I am not aware of replies having been received at this stage, but I will certainly inquire as to what stage these discussions and the correspondence has progressed.

SCHOOL SECURITY

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about security in South Australian schools.

Leave granted.

The Hon. M.J. ELLIOTT: Recently I received a copy of a letter sent to a principal of a South Australian primary school seeking an assessment of the security of the school premises by the Department of Education's security officers. The letter states:

> Unfortunately, because of the restructuring of the Education Department in general, and the Security Section in particular, security surveys of schools will have to be curtailed for the foreseeable future.
>
> Telephone advice is still available and where possible product and service information on security matters may still be able to be forwarded to you, where it can be ascertained if the problem can be solved from the telephoned information I receive.
>
> If things change and I am able to re-start security surveys again, I will advise you of when your survey can be conducted.

It was signed by T.B. Davidson, Security Officer. The principal who forwarded the letter to me added a comment of his or her own saying that 'short-term cuts and bandaid treatment lead to long-term costs'.

That particular school has been the subject of break-ins and arson in the past, with an incident late last year leaving a bill of $100 000. At its own expense the school upgraded its locks and safe facilities, but it was also seeking further advice on security measures and inclusion in SACON's silent alarm system. I have been told that this school is not alone in being denied a security survey. I have also been told that the department has a backlog of five years worth of surveys which recommended action, but which have not been undertaken because of lack of funds.

Media and political focus has recently centred on juvenile crime, much of which is focused on school buildings and property. The cost of the damage caused by vandals, arsonists and thieves is a cost borne by the whole community. My questions to the Minister are:

1. What is the value of the damage done to South Australia's school system last year by vandals, arsonists and thieves?

2. Will the Minister ensure that security surveys are made available immediately to schools seeking advice on security matters?

3. Will the Minister ensure that work recommended for schools where surveys have been carried out is undertaken immediately to minimise the cost of arson and vandalism for the community in the future?

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

SOUTH AUSTRALIAN CERTIFICATE OF EDUCATION

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about failure rates for the new South Australian Certificate of Education.

Leave granted.

The Hon. R.I. LUCAS: This is the first year in which the new two-year South Australian Certificate of Education, which replaces the old years 11 and 12 in secondary schools, has operated. The new assessment guidelines for the certificate are such that a student must satisfactorily complete 16 of the 22 units in the certificate and a literacy requirement before being awarded the certificate. Assessment for stage 1 or year 11 subjects is ongoing and requires the satisfactory completion of a number of tasks within the subject. For some subjects all tasks must be satisfactorily completed before a satisfactory achievement is given to the student.

In recent weeks a small number of principals and year 12 subject coordinators have raised with me a number of questions about the new certificate. They have estimated that in a small number of schools in South Australia up to 30 to 40 per cent of students will not be able to pass the new SA certificate of education. They also believe that the nature of the new stage 1 assessment is such that many students will know early in that stage that they will not be able to complete satisfactorily 16 out of the 22 units for the certificate. Principals and co-ordinators believe that these students will become discouraged and will then present with behavioural problems in their schools.

Some teachers have expressed the view to me that a 30 to 40 per cent failure rate for the SACE in a small number of schools will be a damning indictment on the Bannon Government's education policies and administration of our education system for most of the last 20 years. There is also concern that the Government response to this situation will lead to a further lowering of standards in the SACE to attempt to reduce the estimated failure rate for the SACE. My questions are:

1. Is the Minister or the Senior Secondary Assessment Board of South Australia aware of some estimates by principals that in some schools the failure rate for the SACE will be up to 30 or 40 per cent? If not, what estimate of failure rates has been made?

2. Does the Minister accept that, given the major changes in the make-up of our senior secondary students due to the recession, the one school certificate can satisfactorily cater for all students in our schools?

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

ARTS FUNDING

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about arts funding.

Leave granted.

The Hon. L.H. DAVIS: Yesterday the Hon. Terry Roberts, in a surprising and unexpected but entirely welcome conversion to an interest in the arts, manifested that interest in a question to the Minister for the Arts and Cultural Heritage (Hon. Anne Levy) about the Arts Industry Council campaign focusing on the value of the arts to jobs and tourism. That was the Hon. Terry Roberts' interpretation of the campaign. The Minister, I must say, was unsurprised and had clearly expected the question. The Minister then went on to welcome the campaign of the Arts Industry Council, which has centred on the distribution of thousands of stickers saying 'Arts Equals Jobs', 'Arts Equals Tourism', 'Arts Equals Growth' and 'Arts Equals Ideas', together with a facts sheet of the economic benefits of tourism. The Minister said:

> . . . the 'arts equals' campaign is a very constructive and positive exercise in its aim of convincing the public of the importance of the arts to our community . . . it is impossible to deny that South Australia is the 'State of the Arts'.

The fact is that the Minister has blatantly and deliberately misrepresented the Arts Industry Council campaign. The campaign was not primarily aimed, as the Minister claimed, at convincing the public of the importance of the arts to our community. It was primarily aimed at attacking the Government about widely mooted funding cuts for the arts. I should tell the Minister yet again that half a dozen well respected top arts leaders in South Australia have confirmed that officers from the Department for the Arts and Cultural Heritage have specifically mentioned that budget cuts of 10 per cent in the arts in 1992-93 are in prospect—no ifs or buts about it. In real terms, that means funding cuts of some 15 per cent after taking into account the impact of inflation. The Arts Industry Council, in a media release dated 11 February, said:

> Arts industry to collapse.

This is the same campaign that the Hon. Ms Levy is welcoming. The release quoted the Chairman of the Arts Industry Council of South Australia (Robert Love) as saying:

> The Arts Industry Council believes South Australia is in danger of losing its arts industry as we have known it.

Strong stuff! And the Minister is welcoming this. Only a few days ago the newly formed national arts advocacy body, the National Campaign for the Arts in Australia, called on the South Australian Government to recognise the importance of the arts industry in the economic and cultural development of the State by maintaining current funding levels. Rob Brookman, the well respected Artistic Director of the 1992 Adelaide Festival, was also quoted in the past few days as saying:

> It is appalling that [the arts] are fighting to hold on to what is a tiny percentage of the State budget . . .

At the very time the Government, through its officers of the Department for the Arts and Cultural Heritage, is talking about 10 per cent cuts next year—more, in real terms—we find a bizarre twist: the Cultural Promotions Unit of the Hon. Ms Levy's department is running a series of advertisements promoting the arts in the festival program with lines such as:

> By taking the time to enjoy the arts, you're ensuring the arts will always be there to enjoy.

Of course, with funding cuts, the Arts Industry Council said it might not be there to enjoy, but the department goes on to say:

> And you're doing your bit to keep South Australia 'State of the arts'.

While the department is talking about 10 per cent cuts! The Minister would be aware that at the opening of *Nixon in China*, State Opera Manager Bill Gillespie, sitting next to Gough Whitlam in the front row, was proudly wearing a sticker, as was the usherette at the door, as was I and as were a number of industry leaders. The stickers say 'Arts Equals Growth'—but what else did they say?

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: What else did they say? Do you want to read the small print?

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: We will not censor it: it says 'No funding cuts to the arts'. That's quietened him down!

The Hon. R.I. Lucas: He cut that off!

The Hon. L.H. DAVIS: Right. Game, set and match! The point very clearly is that the Arts Industry Council campaign has been grossly misrepresented by the Minister. My question to the Minister is: why has she blatantly misrepresented the Arts Industry Council campaign on 'arts equals'? It is because it is primarily aimed at attacking the Bannon Government, as, indeed, was Peter Ward's blistering attack in launching the twenty-fifth year anniversary book of the State Theatre Company on Sunday. He made that same point.

The Hon. ANNE LEVY: I wonder whether this tirade is part of a campaign of another putative Liberal Leader. It sounds very much the sort of recycled material. In the same way as Leaders are being recycled, we now have speeches, slogans and attitudes being recycled on behalf of—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. ANNE LEVY: I would point out that I listened to the honourable member's tirade and mishmash in total silence. I challenge him to do the same to my reply.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: The Arts Industry Council campaign has several aims, one of which—

The Hon. L.H. Davis: Why didn't you tell us this yesterday?

The PRESIDENT: Order! The Hon. Mr Davis will come to order. He asked the question: if he wants the answer, I suggest he listens.

The Hon. ANNE LEVY: He could not survive my challenge for more than 20 seconds, Mr President. He cannot control himself and not interject—

The PRESIDENT: Order! The honourable Minister will address the question.

The Hon. ANNE LEVY: It is an undeniable fact that one of the aims of the Arts Industry Council campaign is to ensure that there is interest, enthusiasm and support for the arts throughout the community. This has clearly been stated by members of the Arts Industry Council to me and to other people and broadly. As I stated yesterday, I support that aim. I did not in any way misrepresent matters to the Parliament or to anyone else. I stated, quite categorically, that I support this aim of raising awareness of the value of the arts in our community, that arts does equal jobs, that arts does equal growth, that arts does equal tourism and that arts does equal fun. I also added yesterday that arts equals education, arts equals innovation, arts equals leisure and many other desirable attributes. I fully and unreservedly support the aims of the campaign in this respect. I have stated so before and I am not the least bit ashamed to say it again. I am surprised that the honourable member should suggest that this is not a laudable aim for such a campaign.

The Hon. Barbara Wiese: He should be supporting it.

The Hon. ANNE LEVY: He should be supporting my statements, not in any way criticising them. By pretending to criticise them he is implying that he does not support these aims. For a shadow Minister, this seems totally reprehensible.

I should also add that the remarks by Peter Ward at the book launch dwelt on the future and were addressed equally to me and to the Hon. Mr Davis. It would seem to me that in trying to make capital out of this he is completely misreading the intent of those remarks. I suggest that they were very clearly aimed at him and at me, and both of us were present in the audience at that book launch.

I have stated on numerous occasions, but for some reason it does not seem to penetrate members opposite—though I agree they are probably so concerned with other matters at the moment that they are unable to concentrate on what is happening in the Chamber—that we are in the middle of a recession. In consequence, Governments are having to make cuts. It is not a question of the arts being singled out—but obviously there are going to be cuts in the forthcoming budget. I can also repeat that the budget and the magnitude of cuts have not yet been determined. It certainly has not been decided. Therefore, talk about particular percentages is speculation, and can only be speculation, until decisions are made. No decisions have been made at this stage. This is hardly news. I have said so on many different occasions before, but obviously members opposite are not capable of understanding the English language.

The Hon. R.I. Lucas: You had better talk to the Arts Industry Council.

The Hon. ANNE LEVY: I have talked to people from the Arts Industry Council. They have been to see me. I have had discussions with them not just once, but on several occasions.

The Hon. J.C. Burdett: So there will not be any cuts?

The Hon. ANNE LEVY: The interjection by the Hon. Mr Burdett shows that he has not been listening today any more than on any other occasion. Certainly it will be a tight budget. There are likely to be cuts in many areas of State Government activity. The fact that we are in the middle of a recession is not a secret.

The Hon. Diana Laidlaw: No; we have noticed that.

The PRESIDENT: Order!

The Hon. ANNE LEVY: The degree of cuts in any part of the State budget has not yet been decided; no decisions have been taken in this regard. There may be speculation in various quarters, but no decisions have been made, and I can state that categorically. I am sorry that the Hon. Mr Burdett was not listening earlier this afternoon or on the numerous occasions on which I have stated this. Perhaps if he is unable to understand my words he can read them in *Hansard* on the numerous occasions on which I have made this statement.

The Hon. L.H. Davis: You have said that five times already.

The Hon. ANNE LEVY: It does not seem to matter how many times I say it; you do not hear it.

REPLIES TO QUESTIONS

The Hon. I. GILFILLAN: I understand that the Minister for the Arts and Cultural Heritage has answers to my questions of 19 February regarding Riverton Railway Station, 26 February regarding Whyalla City Council and 27 February regarding rail services. I am content for her to have them incorporated in *Hansard* without reading them.

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

Leave granted.

RIVERTON RAILWAY STATION

In reply to **Hon. I. GILFILLAN** (19 February).

The Hon. ANNE LEVY: My colleague, the Minister of Transport, has provided the following responses:

1. The Government has not changed its disposal policy in relation to surplus State Transport Authority property. Disposals are conducted in accordance with Premier and Cabinet Circular No. 114.

2. Eudunda District Council had the 'Memorial Gardens' and the 'Centenary Gardens' transferred to it at no cost in 1988 on the condition that it relinquished its lease over further STA land in the Eudunda Station Yard. Value of surplus land is determined largely by the use or utility that can be gained by its ownership. The current market value of the two gardens was, as a result, considered notional. A figure of $2 000 was set by the Valuer.

3. The surplus railway stations such as Riverton, Kapunda, Hamley Bridge and Tanunda are not under lease to the local authorities and all have higher and better uses. As a consequence, values for the properties are not notional or insignificant. Riverton Railway Station was tendered for sale after the District Council of Riverton had refused to purchase it at current market value.

A tender for Riverton Railway Station has been accepted at a figure which is acceptable in light of the valuation for the property.

Similarly, a tender has been accepted for the Kapunda Railway Station building. In both cases, the purchasers intend to restore the respective buildings in accordance with heritage standards. The Riverton Railway Station is to be used for tourist accommodation which should be of great benefit to the town of Riverton.

WHYALLA CITY COUNCIL

In reply to **Hon. I. GILFILLAN** (26 February).

The Hon. ANNE LEVY: Whyalla City Council adopted the following resolutions at its meeting on 1 July 1991 in respect of the sale of the Foreshore Motel:

1. that a decision in respect to the issue under reference be deferred pending council obtaining at least one further valuation on the property from a separate valuer;

2. that the property be subdivided in accordance with the plan attached to the City Manager's report dated 26 June 1991, and that the balance of section 293 be merged into the adjacent foreshore reserve which is under council's care, control and management;

3. that subject to a satisfactory price being offered to council, agreement in principle be granted for the sale of the Foreshore Motel;

4. that a media release be prepared stating that council is seeking up-to-date valuations on the property, after which it may sell that portion owned by council—that is, the building but not the fixtures and fittings, and that the current lessees will be given the first right of refusal should council decide to sell.

Included in the agenda for the council meeting held on 26 August 1991 was a report from the City Manager which included a valuation from Ballieu Knight Frank of $600 000 for the Foreshore Motel. The report from the City Manager also indicated a previous valuation on 13 April 1991 by Egan Lindblom and Hadley had valued the motel at $610 000.

The City Manager, in his report, recommended:

that in accordance with previous resolutions of the council the proprietors of the Foreshore Motel be given the first option to purchase at a value of $610 000 and that if they choose not to exercise that option that the motel be placed in the hands of the local land agents for sale.

At the council meeting held on 26 August 1991 the following resolution was adopted:

that in accordance with previous resolutions of the council the proprietors of the Foreshore Motel be given the first option to purchase at a value of $750 000 and that if they choose not to exercise that option that the motel be placed in the hands of the local land agents for sale.

The price of $750 000 was established by Councillor Reymond who moved the motion which was subsequently adopted for the sale at that value.

The method of sale of the Foreshore Motel was determined by the elected members of the Whyalla City Council by formal resolutions and under such circumstances there are no grounds for my intervention. It is regrettable that the honourable member did not seek to clarify the matter with the parties involved rather than raise unsubstantiated claims in this House.

RAIL SERVICES

In reply to **Hon. I. GILFILLAN** (27 February).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that it is too early to specify what the effect of standardisation will be on the STA's Belair line. Officials are meeting to decide the technical details and planning of the project. Until options are presented by them, no decision can be made.

ROSEWORTHY AGRICULTURAL COLLEGE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Employment and Further Education a question about Roseworthy Agricultural College.

Leave granted.

The Hon. PETER DUNN: There are reports that there is to be a change in the courses offered at Roseworthy Agricultural College. I guess that is understandable in the light of the transfer from TAFE to the University of Adelaide and its wing at the Waite Research Centre. However, a couple of country people have contacted me following reports in the rural press that there are to be marked changes in the provision of service and the courses being offered at the college. It has also been suggested that Roseworthy should no longer be used as a demonstration farm, that it be run on a commercial basis, that the students should have their demonstrations off college and that associate diplomas be abandoned. Those diplomas include the associate diploma in farm management, which is usually taken up by young people after they have been farming for some time.

I am aware that the Minister is somewhat snookered when it comes to this matter because it is mainly under Federal jurisdiction. However, I have some questions, as follows:

1. Is Roseworthy College to become a commercial farm?
2. Will the associate diploma courses—for example, farm management—continue?
3. What degree, diploma, associate diploma or other courses will be provided in this old, well established and important learning institution?
4. If students are required to work off Roseworthy, who will cover their liability claims should accidents occur?

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

TUBERCULOSIS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the increase in TB infection.

Leave granted.

The Hon. BERNICE PFITZNER: As we know, TB is an infection usually by mycobacteria tuberculosis. The bacteria usually attacks the lungs but it may infect any part of the body. The disease is transmitted by inhaling droplets from infected persons. There has been a program worldwide and in Australia of case finding and BCG vaccination, and it is reported that TB is under control in Australia. However, looking at the latest statistics one has some concerns. For example, in the United States the prevalence is 10 cases per 100 000 population, while in Australia it is 34 cases per 100 000 population. Furthermore, in Australia in the epidemiology notes, we can see that for the years 1986-90 the average was 79 cases, while in 1991 there were 71 cases, not a remarkable reduction of a disease that one can potentially eradicate with immunization and treatment, especially in this developed country. Further, the trend from 1988 to 1990 shows the number of cases increasing from about 60 to about 80 cases.

Again one notes that males are more prone to the infection than females, that the over 60 year olds are more susceptible, and most importantly that areas denoted as (1) West Coast, (2) Central Western Urban (this includes the suburbs of Port Adelaide and Woodville, the heartland of Labor) and (3) Far North have a significant and alarming increase in numbers of cases, compared to the rest of the population. I understand that these areas relate to communities with a high population and proportion of Aborigines and migrants from South-East Asia. Screening and immunisation for TB was curtailed approximately five years ago, as was Federal funding for the program. With this alarming trend towards an increase in infection, especially in certain areas, my questions are:

1. What were the number of cases during the BCG immunisation program and after the program was curtailed?
2. Are the areas of high case numbers related to specific groups in the community? If they are, what are the characteristics of these groups?
3. If there is a specific group or groups, what strategy will the Government, through the South Australian Health Commission, implement to address the issue in terms of case finding and vaccination?
4. Will the Government set aside funds to implement a program for TB testing and vaccination of target groups?

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

PROBATE FEES

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question about probate fees.

Leave granted.

The Hon. J.C. BURDETT: Until the first of this month, the fee for lodging an application for probate or letters of administration for estates under $15 000 gross was $103 and, for estates exceeding $15 000, the figure was $308. These fees have escalated rapidly in the past few years. A regulation gazetted on 27 February 1992 and tabled yesterday in this place abolished a lower fee for small estates and struck a single fee of $308. Therefore, the small estates will now have to pay $308 whereas, before, they paid $103.

I have been contacted by solicitors who specialise in estate work, and they have expressed outrage at the taking away of the concession for smaller estates. One letter dated 9 March 1992 reads in part:

> It would be interesting to know how much extra revenue the increased charge will raise. Not much I suspect. It is ironic that I read in today's paper that Mayes has decided to give extra water to Housing Trust tenants on the grounds of 'social justice'. Is it also 'social justice' to 'rip off' the estates of the poor?

The explanation given to the Legislative Review Committee gives the reason for the regulation as being that probate value is not real value. The number of cases which cannot be administered without formal administration and which

are under $15 000 must, I am informed, be small. Solicitors have told me that the reason given why probate values are not real values is ridiculous. In cases where the gross value is less than $15 000, real estate is rarely involved. The usual reason for requiring formal administration for small estates is that there is more money in a bank account than the particular bank is prepared to allow to be uplifted without formal administration.

Banks may set their own limits. In most banks it is $3 000 to $4 000. The State Bank has the high limit of $10 000. Notwithstanding this, in some areas accounts of more than $10 000 are quite common in the State Bank, probably because of a tradition built up in the days of the Savings Bank of South Australia. I am informed that the State Bank is quite intransigent in not bending its rules where an estate is more than $10 000. Practitioners have informed me that the reason given for ripping off the estates of the poor—namely, that probate value is not real value—is totally unacceptable, because in these estates real estate and any substantial share portfolios will rarely be involved. The only assets are likely to be cash in the bank (and, even with the present Federal Government, the value of this asset should be quite unarguable) and personal chattels such as furniture and a motor car, which should not be too hard to value. My questions to the Attorney-General, the first two of which I know he will not be able to answer off the cuff, are:

1. How many applications for probate are lodged per annum for estates less than $15 000 gross?

2. How much additional revenue will be generated by this regulation?

3. If there is a problem about the difference between real value and probate value in regard to small estates, why cannot the valuation problem be resolved?

4. Why does the Government want to rip off the estates of the poor?

5. Is this just another desperate grab for money?

The Hon. C.J. SUMNER: I dispute that we are ripping off the estates of the poor. Nevertheless, the honourable member has asked some specific questions which I will have to take on notice, and I will bring back a reply.

REPLIES TO QUESTIONS

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

Leave granted.

SOUTH-EAST RAIL SERVICE

In reply to **Hon. T.G. ROBERTS** (27 February).

The Hon. ANNE LEVY: My colleague the Minister of Transport has advised that he will take up with the Minister for Land Transport the matter of the future role and status of rail services between Bordertown and Mount Gambier and Heywood and Snuggery.

The letter from the Prime Minister to the Premier which gave details of the Economic Statement included the paragraph:

> As a result of standardisation of the Adelaide to Melbourne railway and the low usage of the passenger service to Mount Gambier, I note your acceptance of the Commonwealth's decision not to restore this service.

Although the State Government had not accepted the Commonwealth's decision not to reinstate the Mount Gambier passenger service at that time, Commonwealth funding for standardisation is conditional on the State not insisting on the restoration of the 'Blue Lake' service. The State has since, reluctantly, withdrawn its opposition to the closure of the 'Blue Lake' passenger train.

With standardisation of the Adelaide to Melbourne railway, the future of the Mount Gambier railway line must be in doubt. The Mount Gambier branch line joins the Adelaide to Melbourne line at Wolseley, some 200 km from Mount Gambier. Without standardisation of the Mount Gambier branch, there will be a need to transfer freight from standard gauge to broad gauge at Wolseley. This will be expensive, time consuming and operationally unacceptable.

The alternatives are to either standardise the Mount Gambier branch line or provide dual gauge, that is broad and standard gauge, track between Adelaide and Wolseley. The cost of redrilling sleepers and moving one rail inwards by six and a half inches could be $20 000/km, giving a total cost of at least $4 million. However, some sections of the Mount Gambier line are, reportedly, in poor condition and additional rehabilitation work may be required.

The provision of dual gauge track between Adelaide and Wolseley (about 300 km) would be expensive and involve the provision of complicated and difficult to maintain switchwork.

Just before the Prime Minister's Economic Statement, a letter from the Minister for Land Transport to the Minister of Transport stated that 'the current and projected levels of traffic on this (the Mount Gambier line) would not warrant either gauge conversion between Wolseley and Mount Gambier or dual gauge operations between Adelaide and Wolseley'. This effectively rules out Commonwealth funding for either gauge conversion of the South-East line or a dual gauge line from Adelaide to connect with it.

Mount Gambier is also connected into the Victorian broad gauge railway system through Heywood and Portland. I am not aware of any moves to scale down the level of service on this line. If no action is taken with respect to the Wolseley to Mount Gambier branch, it is likely that rail traffic to and from Victoria on the Heywood link will increase.

SHACKS

In reply to **Hon. PETER DUNN** (20 February).

The Hon. ANNE LEVY: My colleague the Minister of Lands has provided the following responses:

1. The Coast Protection Board has set out policies on Coast Protection and New Coastal Development which were endorsed by the Government in May 1991. The policies include protection against flooding from storm surge, and apply to all new coastal development and have been adopted as the criteria against which shack sites are to be assessed.

The flooding standard is the 100 year average return interval (ARI) sea level. The standard is commonly used for stormwater flooding. It is important to note that the 100 year ARI event could occur at any time in the future and has a 1 per cent chance of occurring in any year.

The standard levels around the coastline have been determined from a statistical assessment of tide gauge records from eight major ports in South Australia and the levels which apply to any particular location on the State's coastline have been extrapolated from this information taking into account any local tidal data.

2. and 3. The Coast Protection Board policies as set out in the May 1991 document affirm the policy not to protect private property as established by State Governemnt in 1980. The policy on protection of private property states:

> The Board will not protect private property nor provide councils with funding for this purpose unless:
>
> - there is an associated public benefit
> - there is a simultaneous protection of public property
> - a large number of separately owned properties are at risk
> - the erosion or flooding problem has been caused or aggravated by Government coastal works.

4. The Coast Protection Board has set a standard for building site levels which has been accepted by the community to provide responsible guidance to the public for avoiding an unacceptable risk of flooding from the sea.

It should also be recognised that the consequences of any flood accrue not only to the shackowner but also to the general community where there is a need to reinstate any public utility services and amenities (for example, electricity lines and roads).

The Hon. C.J. SUMNER: I seek leave to have inserted in *Hansard* without my reading them replies to questions asked previously.

Leave granted.

GAMING MACHINES

In reply to **Hon. J.F. STEFANI** (22 August 1991).

The Hon. C.J. SUMNER: The Premier has provided the following response:

Video gaming machines purchased by the Adelaide Casino were manufactured by IGT (Australia) Pty Ltd and Aristocrat Leisure Industries. Both firms are based in New South Wales and assemble video gaming machines using local and imported components. IGT estimates that its machines are 85 per cent local content. Aristocrat estimates that its produce has 62 per cent local content.

I am advised that there are no licence fees, royalties or other payments payable on the gaming machines. The machines were purchased outright with a one year warranty period. Spare parts are purchased as required.

IMMIGRATION REVIEW TRIBUNAL

In reply to **Hon. J.F. STEFANI** (27 August 1991).

The Hon. C.J. SUMNER: In addition to the answer given on 16 October 1991 the Minister of Ethnic Affairs has supplied the following report:

I have received a reply from the Minister for Immigration, Local Government and Ethnic Affairs (Hon. Gerry Hand, MP) who has advised that when the original decision was made to establish a registry of the Immigration Review Tribunal (IRT) in Adelaide, it was estimated that the caseload for the office would be around 350 applicants a year. In 1990-91 the registry received 40 applications, 10 of which were from the Northern Territory and it is estimated that only about 70 applications from South Australia and Northern Territory will be received in 1991-92. Under the present legislative framework this level is unlikely to increase.

In view of this much lower than expected caseload and the current pressures on portfolio resources to meet a number of high priority competing needs, a review of the size and structure of the South Australian registry was undertaken.

Following this review it was decided that an IRT presence, commensurate with the low level of applications likely to be received for the foreseeable future, should be maintained in Adelaide to provide a service to the South Australian community. While this does not warrant the resourcing of a fully operational registry, a senior member and part-time member will be located in Adelaide together with appropriate operational support. Arrangements for the receipt of applications, guidance to applicants and the conduct of meetings and hearings will continue to be provided in Adelaide for South Australian applicants.

Other options were explored such as the transfer of applications from other busier States, but these do not provide any long-term solution. While some work has been transferred to South Australia from New South Wales in response to a one off increase in the level of applications in that State, this is not a preferred approach, particularly for applicants. The senior member in Adelaide has also travelled to Sydney on a number of occasions to assist with the work there and this practice is likely to continue in the future.

The actual timing of implementation of the new arrangements will depend on negotiations, particularly relating to future accommodation. These discussions are focusing on the possible co-location of the tribunal with a similar body which will allow a sharing of resources including support staff and facilities.

The outcome of this is that there has not been any adverse effect on the South Australian community, nor is it anticipated that any future administrative changes which may be made will affect the ability of persons resident in this State from bringing appeals to the Immigration Review Tribunal.

OUTER HARBOR CONTAINER TERMINAL

In reply to **Hon. DIANA LAIDLAW** (20 February).

The Hon. C.J. SUMNER: The Minister of Marine has provided the following response:

1. The Department of Marine and Harbors started negotiations with the owners of the container terminal lessee company for termination of the lease in early 1991. This process was interrupted by the purchase of the ACTA group by the P&O Group later in 1991. Negotiations continued, but no agreement on termination could be reached. The stage of negotiations in each case did not reach the point of offers being made.

2. The State Government is obliged to pay compensation for resumption of the lease. The quantum of compensation may be agreed between the parties, or, failing agreement, will be arbitrated in accordance with the provisions of the Harbors Act. All discussions with the lessee about the amount of compensation are confidential at this stage and I cannot comment on what might be the upper limit of compensation payable.

3. Satisfactory progress in the negotiations to establish a new terminal operator, under favourable lease provisions, is being achieved and I anticipate a smooth transition between operators.

The Government has high regard for the corporate citizenship of the P&O Group and believe that they will withdraw with dignity and due consideration of the ongoing trading needs of the State. In particular, I am of the opinion that they will agree to transfer the terminal equipment to facilitate continuity of operations.

4. The nature of the arrangements being negotiated with a new terminal operator are confidenial. The basis of the agreement will ensure a mutually satisfactory commercial outcome for the Government and the operator.

The Hon. BARBARA WIESE: I seek leave to have inserted in *Hansard* without my reading them replies to questions asked previously.

Leave granted.

SMALL BUSINESS

In reply to **Hon. L.H. DAVIS** (21 November 1991).

The Hon. BARBARA WIESE: The information the honourable member is seeking can be located from the Australian Bureau of Statistics 'Small Business in Australia 1990' Catalogue No. 1321.0, ABS, Canberra 1991.

SCRIMBER

In reply to **Hon. L.H. DAVIS** (27 November 1991).

The Hon. BARBARA WIESE: In response to your questions concerning Scrimber the Minister of Forests has advised that:

1. Mr Gilmour first proclaimed his interest in Scrimber when he approached SATCO and expressed an interest in becoming a sub-licensee of the technology at some future stage.

When the Minister of Forests announced the Government's decision to cease funding Scrimber, he said efforts would be made to find another company willing to complete the task of commercial development. Mr Gilmour subsequently informed the Chairman of SATCO of his interest in raising the capital to complete the research and development necessary to commercialise the process.

A proposal from Seymour Softwoods was one of six submitted to the Scrimber parties. However, it was withdrawn on 5 December as a result of what Mr Gilmour described as criticism of him personally and his company by yourself under parliamentary privilege.

Mr Gilmour generated his own interest in Scrimber. He was not 'courted' by the Government.

2. The credentials of every organisation lodging bids involving Scrimber will, as a matter of course, be reviewed by the Scrimber parties—CSIRO, Rafor Ltd, SATCO and SGIC. There is little logic in undertaking such checks prior to a bid being received.

3. Given the withdrawal of the Seymour Softwoods' proposal, the question of its intended sources of funds becomes irrelevant. The lack of commercial production to date is also irrelevant as any new party to the venture will do so in the clear knowledge that the project is still in the research and development phase, with the attendant investment risks this involves.

4. As the circumstances outlined by the member are either erroneous, illogical or irrelevant, they raise questions only about his own judgment and fitness.

SOUTH AUSTRALIAN COMPANIES

In reply to **Hon. I. GILFILLAN** (30 October).

The Hon. BARBARA WIESE: In response to the honourable member's question, the Minister of Industry, Trade and Technology has advised that:

1. It is an accepted business principle that the cost effective application of promotion resources requires concentration of effort on the State's best prospects. Consequently, it is unreasonable to expect that South Australia can achieve a high level of awareness in the full range of global markets. There is a conscious strategy

by the State and by most companies to target their efforts in relation to specific products and particular market segments.

In this context, the Government recognises that South Australian businesses often need support and assistance in establishing export markets.

A number of initiatives have been developed to do this, including:

- a recent joint venture between the Chamber of Commerce and the South Australian Government aimed at providing advice and guidance to small and first time exporters.
- the current development of a joint venture proposal between the South Australian Government and Austrade aimed at adapting Austrade's revised strategic approach. The objective is to identify specific market opportunities in South East Asia, particularly in infrastructure development, which suit the capabilities of South Australian-based businesses.
- the South Australian Government also has overseas representation in the United Kingdom, Hong Kong, Thailand, Japan and Singapore.

One of the main objectives of the offices is the promotion of South Australian companies and their goods and services, with staff available to assist individual companies to arrange appointments, including the provision of negotiating and interpreter services, to coordinate trade missions and seminars, and identify new market opportunities in their regions.

2. The South Australian Government is a signatory to the National Preference Agreement, which specifically precludes giving preference to suppliers solely on the basis of their State of origin. Overall, we believe South Australian business is substantially advantaged by applying this principle throughout Australia, as it does not limit them to the relatively small Government market in this State. South Australian companies can and do successfully compete for projects, products and services required by other State Governments.

Given the structure of IT in Australia and the many constraints of small companies, it is difficult for these companies to promote and coordinate their property, therefore the State Government has been doing what it can to promote networking amongst these companies.

Notwithstanding the above, local companies which can compete on product, service and cost have the added advantage of being close to customers in the State and should be well placed to win business for the South Australian Government.

3. Under the National Preference Agreement, Australian suppliers are given preference of 20 per cent over overseas suppliers for purchases by the South Australian Government. All Government authorities are required to apply this monetary preference margin as a means of supporting local industry.

4. The South Australian Government, through both the South Australian Development Fund of the Department of Industry, Trade and Technology, and the Technology Development Corporation, has been very active in providing financial and other support for the establishment, growth and development of overseas market opportunities for South Australian technology-based companies, including Cadds Man Limited.

Financial and other support has been provided for specific cooperative ventures such as the development of the South Australian Software Export Centre, and its specialised software marketing company in Thailand, Australian Gateway Pty Ltd. Additional support has recently been provided to extend the overseas operations of software companies into Japan and the USA, under the auspices of the Software Export Centre.

5. In addition, individual companies, including Cadds Man, have also been given financial assistance for product development overseas and market research through the South Australian Development Fund.

In summary, the South Australian Government has recognised that the high-tech knowledge base which exists in the State is vital to the development of our economy, and is focusing strategically on ensuring these technologies are accepted in both the domestic and international market places.

I am sure the honourable member, Mr Gilfillan, will agree that the task is a difficult one, with significant hurdles for small local companies to overcome in being recognised internationally. The South Australian Government will continue to use a range of measures which strengthen our existing high-tech industry base, and improve our international competitiveness.

SELECT COMMITTEE ON THE CONTROL AND ILLEGAL USE OF DRUGS OF DEPENDENCE

The Hon. CAROLYN PICKLES: I move:

That it be an instruction to the select committee that its terms of reference be amended by adding the following paragraph:

(v) Should the committee determine not to disclose or publish any evidence taken by the committee, the Council will not require such evidence to be tabled in the Council.

As members are well aware, this committee comprises members of the Opposition, the Australian Democrats and the Government. There was unanimous support for the moving of this motion, as will be indicated by the seconder and further speakers. There are precedents for this motion, and ones that I can think of in recent years include the select committees on child protection policies in South Australia and on the Christies Beach women's shelter to name just a couple. This motion is designed to ensure the confidentiality of the witnesses who wish to give evidence to the committee. In this case the evidence given by witnesses may well compromise them, as those witnesses are admitting to taking part in an illegal activity. For this reason the committee heard the evidence *in camera*, but we wish to ensure that the evidence will not be called to be tabled before the Council.

The other aspect with the witness referred to is that there have been past offences, and the witness is now living in a different situation and does not want past misdemeanors paraded before the public. The committee needs this type of evidence. It is a select committee that is looking in detail at aspects of illegal drug taking in this State, and we would be remiss in our duty if we did not ascertain the effects on the lives of individuals if they take part in illegal drug activity. We will not get this kind of evidence if it becomes known that witnesses, names will be before the Council. So, it is important that we have this term of reference added.

The committee does seek not to censor any evidence but merely to protect the identity of witnesses. The Council can be assured that, because of the tripartisan nature of the committee, this additional term of reference will be used sensibly and with discretion and not in any way to censor evidence.

The Hon. R.J. RITSON: I support the motion moved by the Hon. Ms Pickles, who has given most of the reasons for it. There was indeed a precedent in the case of an earlier prostitution select committee also. When witnesses go off the record there is no transcript of what they say, so the evidence really becomes of little value in guiding the deliberations of committees. However, in this case the material offered us was worthy of being taken down for the committee's deliberations on matters of principle, but the witnesses, in our view, had quite good reasons for concealment of their identity and for protection from the transcript itself becoming public property. Nevertheless, it was material of which the committee needed to have notes for its deliberations. I commend the motion to the Council as it is most reasonable and, as both Ms Pickles and I have said, there are precedents for it.

The Hon. M.J. ELLIOTT: The Democrats support the motion. The arguments have already been put. It is only in exceptional circumstances that one would expect that a committee would want to exercise its discretion here, but when we see that all three Parties in this House are represented on the committee, I do not believe the potential exists for the committee to withhold from the public information that it should be getting. Importantly, if we do not

have this sort of amendment, some information that the committee should receive and consider would not be received. For that reason, such an amendment is necessary and we must use it cautiously. I believe that the Committee will do so.

Motion carried.

OPPOSITION LEADER

The Hon. T. CROTHERS: I move:

That this Council condemns the Leader of the Opposition for—

I. his weak and inept leadership of the Liberal Party and the Opposition;

II. allowing the faction bosses and the factions to control the operations of the Liberal Party and the Opposition; and

III. for being more concerned about the factional warfare and division in the Liberal Party rather than the need to resolve the critical economic and social issues confronting South Australia and, in particular, the need to reduce the tragic level of unemployment.

The Hon. T. CROTHERS: Mr President—

The Hon. Peter Dunn: Is that Mr Lucas you are talking about?

The Hon. T. CROTHERS: No, it is the Leader that I am talking about.

An honourable member: Which one?

The Hon. T. CROTHERS: You only have one Leader, don't you? Just a moment—you might well ask which one! You tell us!

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Casting aside those clodhopping interjections, I will carry on with my remarks. In the almost immortal words of a former British Prime Minister, Harold Wilson, 'A week is a long time in politics.' Indeed, when one looks at the chain of events that have unfolded in another place in this Parliament over the past week or so, one can see the truism of Wilson's statement. As there is no doubt in the minds of anyone as to what I am talking about, all these events emanated from the loins of the Liberal Party. Coincidentally, I happened to notice that the Hon. Mr Lucas has a similar motion to which I believe he has already spoken, also on the Notice Paper. Dare I suggest that the saying of Harold Wilson may take on a whole new meaning for him.

It is quite obvious that the political infighting which has bubbled to the surface is simply an ongoing continuance of the Tories versus the Whigs argument that has so beset the Liberal Party of this State for many years. Going back to the time of the Liberal Movement under the then leadership of Steele Hall, Robin Millhouse and Martin Cameron, it is equally obvious that, if there were in existence here a Conservative Party similar to that of the British Isles, many of the current members of the Opposition both here and in another place would choose to be members of that Party instead of the Liberal Party of the late Robert Menzies.

It is enough for me to say that, if any of the old time Asquithian Liberals were still alive, I am sure that the events of the past week would make them want to cry into their ports. Even honest Ted Chapman said yesterday that the best thing the present Leader could do would be to go back to his farm, as he felt that Mr Baker would have more support there than he does in this place. He further commented on the same program that, as he had heard four different versions of the same story from his Party colleagues about the resignation of the Hon. Roger Goldsworthy, only one of the four stories could be right and the other three at best would be confections of the truth. It makes me pose the following thought to myself: in future am I to be able to believe only 25 per cent of what the Liberals tell me, or is this some temporary aberration of convenience? In any event, it does not augur well for the future directions of the Liberal Party. Indeed, if there are any more early resignations, it may well be that the Opposition in another place will very shortly be outnumbered by their National Party colleagues.

However, let us be honest; what is going on at the moment with the Liberals in this place involves the same old antagonisms as before, in other words, the wet wing of the Party versus the dries. The Hon. Mr Lucas, when making his contribution on a motion similar to mine, was quite scathing in his remarks about the factionalism of the Australian Labor Party and the leadership of that Party by John Bannon. What does he say now?

The Hon. R.I. Lucas: You give us the truth.

The Hon. T. CROTHERS: Well, we heard what Ted Chapman said about the truth, and that is a bit of a dodgy issue with you people. What does he say now when his own Party is being torn apart by factionalism in a much worse fashion than anything the ALP could ever do to itself? At least anything which could ever occur—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: —within the ranks of my Party has never cost the South Australian taxpayer a brass razoo.

Members interjecting:

The Hon. T. CROTHERS: The Hon. Mr Dunn interjects.

The PRESIDENT: Order!

The Hon. T. CROTHERS: I had a glance down to my notes to make sure that I said 'brass razoo', not a brass monkey, when I heard him. I said 'a brass razoo', which is more than could be said for the in-fighting in the Party to which Mr Lucas belongs. For instance, this latest joust—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: —within their ranks will cost the South Australian taxpayer in excess of $200 000, and all this brought about by a Party whose spokespersons consistently berate the Government for bad financial housekeeping. It does not sound good, does it, Mr President—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: —when this happens in the Party which is the alternative Government of this State. Perhaps the numerate Mr Davis (he said he was numerate) may care to give this Council a synopsis of this cost, which has simply been brought about by the political infighting of the Liberal Party, resulting in two early retirements from the other place. However, I suspect that the plot thickens and that we have not seen the last of it yet.

I believe that the inventor of the game of chess, were he still alive and well and living in this State over the past week or so and, having gone to school on all the moves and counter moves of the Opposition in that time, would be able to come up with a game that would never be able to be fought out to a conclusion. In any event, we all know where the real leadership of the Liberal Party lies: it lies not in another place, even though it properly should reside there. Dare I say it? It lies in the hands of members of this Chamber—members such as the Hon. Mr Lucas and the Hon. Mr Griffin, and the South Australian electorate should be well warned of that fact. We call it a House of review. Ha, ha!

All the happenings of the past weeks have occurred against the backdrop of the Liberal Party's imminent pre-selection of candidates for the next election. Is it coincidental that

this has occurred over the past week? I would like to conclude my contribution by saying 'I think not,' but I urge all members to watch the political stop press, as I am sure there is more to come.

The Hon. R.I. LUCAS (Leader of the Opposition): It is with much pleasure that I rise to speak to this motion after that whimsical contribution from the Hon. Mr Crothers. I must say that at the start I was marginally comforted, because, having read the motion and noted that it condemns the Leader of the Opposition for his weak and inept leadership, I thought that my good friend the Hon. Trevor Crothers was attacking me in a vicious and premeditated fashion. In order to defend myself, I came armed with letters of support and tribute from my mother and my wife.

The Hon. Anne Levy: Table them! I challenge you to table them.

The Hon. R.I. LUCAS: You might show me to be the liar that I am. As I said, it is with much pleasure that I rise to oppose this motion after the contribution from the Hon. Mr Crothers.

An honourable member: It was half hearted.

The Hon. R.I. LUCAS: Yes. I will not be churlish, as I suggest the Attorney-General was when I moved a somewhat similar motion, as the Hon. Mr Crothers indicated earlier, some three or four weeks ago, of censure and condemnation against the Premier. I will not be churlish along the lines of the Attorney-General when he said:

> It is a flagrant waste of time. The motion is devoid of content, devoid of any positive contribution to the problems of South Australia. It is these sorts of motions that bring the Legislative Council into disrepute.

I will not be churlish, as the Attorney-General was. It is every member's prerogative to move motions in private members' time and have them debated in a sensible and constructive fashion in this Chamber, and I will not be churlish, as was the Attorney-General. As I suspect, there is just a small touch of hypocricy from the Attorney-General, because he supported the Hon. Mr Crothers in bringing this motion before this Chamber this afternoon. It was only with the agreement of the Attorney-General that the Hon. Mr Crothers was able to move this motion and have it debated, and I gently remind the Attorney-General—

The Hon. T.G. Roberts: Name your source.

The Hon. R.I. LUCAS: 'Very close to the Attorney-General' is all I can say. I would gently prod the Attorney-General to look back at his comments when the Council debated a similar motion three or four weeks ago. As I listened to my friend and colleague, the Hon. Mr Crothers, I was reminded of a religious parable of a man burning for eternity in hell, looking up from his troubled predicament and laughing at the doubtful future of the soul in limbo. This Government and members like the Hon. Mr Crothers are burning in political hell at the moment, and they will burn in political hell for eternity—for a political eternity.

The Hon. K.T. Griffin: They've gone through purgatory.

The Hon. R.I. LUCAS: They have been everywhere, but they are in political hell, and they deserve to be there and to remain there. Their record of mismanagement and incompetence for the past eight or nine years in South Australia means that that is where they should be, and that that is where they should remain.

The Hon. Peter Dunn: They are so ashamed that they are not game to be on the front benches.

The Hon. R.I. LUCAS: Well, as we indicated previously, they are devoid of leadership, and they are devoid of leadership in this debate this afternoon. I refer to their record of 83 000 people unemployed at the moment and 42 per cent of our 15 to 19 year olds in South Australia who cannot get a job in areas that the Hon. Mr Crothers should be representing, such as Elizabeth and Salisbury; 60 per cent of our young people cannot get a job in Elizabeth and Salisbury at the moment as a result of the policies of his Government and his Federal colleagues in Canberra.

There is a $2 billion State Bank debt, which means that every year our schools, our hospitals and our housing crises worsen here in South Australia. Our schools do not have the money and resources to cope with the ever-increasing problems that they face. Again, in recent weeks we have seen schools in Hon. Mr Crother's area, in Elizabeth, reported on the front page of the *Advertiser* crying out for help and assistance and for anything from a Labor Government that is meant to be there to represent them. They have got nothing. All they have is a couple of Labor Independent members—or prospective Independent members—clambering onto the political bandwagon and trying to gather political support out in that area. We have mentioned the record of the SGIC and the Timber Corporation. I need not go on, as we have explained that in this Council on a number of previous occasions. The Government's record of financial and management incompetence across financial institutions and all Government departments is there for all to see.

As I have said before, we have a party and a Government bereft of leadership and hopelessly split amongst themselves with the faction bosses—or as some in the Labor Party call them 'the bovver boys'—busily dividing up the spoils in preparation for Opposition. There is more concentration and concern within the factions at the moment about preparing for Opposition, about ensuring that they are in a good position to forward their faction's particular concerns within an Opposition party than there is about the genuine concerns and problems that we have in the South Australian economy at the moment.

As I indicated on a previous occasion, that is why we had Michael Atkinson and company, from Labor Unity, worrying about getting an extra two or three members in safe seats so that it will have four members in the Caucus.The factions are talking about a much reduced Caucus—perhaps only 15 to 18 members in the House of Assembly for the Labor Party after the next election. Members around here know that and they know why the other factions have tried to stick Mr Paul Ackfield—a member of the Bolkus Left—into the Labor Caucus to try to cause problems for my friend and colleague the Hon. Terry Roberts, who is a convener of the Left faction within the Labor Caucus. Of course, he is a diehard, true blue—or true red perhaps—supporter of Peter Duncan and the Duncan Left.

So, those sorts of deals are being done by the faction bosses within the Labor Party at the moment. I do not intend to go over all the deals I have listed on previous occasions, but I will refer to the continuing nature of some of these deals—the dirty deals done dirt cheap, as a recent song indicates—that are continuing within the Labor Party at the moment.

As I indicated earlier, I understand Mr McKee was seen in recent days trying out a few seats in this august Chamber. I notice he tried out the Hon. Anne Levy's seat first and that was not comfortable enough. He certainly tried out the Hon. Mr Feleppa's seat, and he sat there for a little while.

The Hon. M.S. Feleppa: How do your know?

The Hon. R.I. LUCAS: We know. The Hon. Mr Feleppa is a champion of the Italian community in South Australia and a man who is working as hard as he can for that community, but we know that the faction bosses rolled up to the Hon. Mr Feleppa's door and said, 'Mario, how about it—are you prepared to make the sacrifice for the Party to get Colin McKee up here?' Mr President, if you do not

know already—and I am sure that you probably do—you can understand the response from the Hon. Mario Feleppa, and I agree with him 100 per cent. Indeed, I told him so; I said, 'You tell those faction bosses, Mario, what they can do with their particular offer.' I am sure the Hon. Mr Feleppa—who is much too cautious to talk to me at any great length at all—would indeed—

An honourable member: A wise Mr Feleppa!

The Hon. R.I. LUCAS: A very wise Mr Feleppa, yes. However, I am sure that the Hon. Mr Feleppa would have told those faction bosses where to get off. He will not give up his seat and his representation of the ethnic communities, and the Italian community in particular, for Mr McKee—a failed politician after only two years, from another House whom no-one wants. But the Labor Party is now trying to come up with a particular deal and a particular seat for Mr McKee.

The Hon. Peter Dunn: You don't reckon they knocked on Mr Roberts's door, do you?

The Hon. R.I. LUCAS: Well, there were some threats about the Hon. Mr Roberts, but we will not go into those again. They are a source of some problem within the Labor Caucus and we will not stir over those particular coals. The solution that the Labor Party has hit upon is, of course, the honourable Attorney-General. I will say on the record here that the honourable Attorney-General will not serve in the Legislative Council as a member of the Labor Opposition after the next election in 1993 or 1994. If there is one member of the Labor Party who would like to have a quiet wager out the back—if that is legal, and if it is illegal we will not do it—of a relatively small denomination because I am not a big better, then I will take up that matter with any member of the Labor Caucus who wants to take it up.

The Hon. Anne Levy: Are you taking bets on who your Leader will be?

The Hon. R.I. LUCAS: We will get to that in a minute. Just hold on. There are ceaseless interjections from the Minister; she is always at it. The only other deal that I want to refer to is the position of the Independent—or supposed Independent—member from Elizabeth, Mr Evans. I just want to place on the record the state of the nature of the deals with Mr Evans at the moment. Let me place on the record the fact that there was a discussion between Mr Evans and the Premier on Friday 7 February. Mr Evans, who had been offered the position of Minister of Education in the Bannon Government from whenever he wanted it, told the Premier on 7 February that he would take up that offer and that he would join the Party. However, on Sunday 9 February—just two days later—he rang the Premier and told him that he had changed his mind. He said that he could not give up his independence at this stage and could not take the position as Minister of Education in the Bannon Cabinet.

The Hon. Peter Dunn: He had a visitation!

The Hon. R.I. LUCAS: I am not sure; I cannot speculate on what happened between Friday and Sunday. Perhaps he had been to church early Sunday morning; but he rang the Premier on that Sunday and refused that position. Let me make another prediction: the nature of the discussions at the moment is that Martyn Evans, the Independent member for Elizabeth, will not contest the next election as an Independent Labor member. The deal that has been done is that he will contest the next election as an endorsed candidate for the Labor Party and he will contest that election with a view to being Leader of the Opposition. He has very high hopes for his own future and I think that perhaps he overestimates his capacity and support. I suspect that he may well settle for the position of Deputy Leader of the Opposition after the next election. That is the nature and the status of the deals that are being done within the Labor Party at the moment, and they continue. Some members indicated earlier that the Liberal Party does have some short term problems at the moment.

The Hon. Anne Levy: It still has! Who is your Leader? Who is he—or she?

The Hon. R.I. LUCAS: The Minister asks, 'Who is he?' That is a very sexist comment.

The Hon. Anne Levy: I said 'or she'.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: That is a very sexist comment from the Minister, but we in the Liberal Party believe in equal opportunity and there may well be contenders of both sexes for the leadership when it comes up in two months. We in the Liberal Party do not rule out the female members of our Party from contesting the very top position as it would appear, by the nature of her interjection, the Minister for the Arts and Cultural Heritage would eliminate even the prospect of a female member of the Liberal Party. As I said, even I would concede that the Liberal Party is going through some short-term problems at the moment. I want to refer briefly to some statements made by the Leader of the Opposition (Mr Dale Baker) just yesterday on this issue when he conceded that there were some internal problems in the Party. Let me quote what he said:

> I can tell you now that we have made some tough decisions to fix it up. I made that decision on South Australia's future because, if South Australia does not get a Liberal Government in this State, there will not be just 40 per cent of our young people unemployed—God knows where we will be! These people have mismanaged this State for the 10 years that they have been in power. It is an absolute disgrace.
>
> I am proud that the Opposition in South Australia has made some decisions to fix up things on this side of the House to ensure that there will be a Liberal Government in South Australia after the next election, and that will give some hope to South Australians.

I support that statement from Dale Baker and I pay tribute to him for having involved himself in some of the tough decisions he has outlined that the Liberal Party had to take in relation to its short-term and, more particularly, long-term future. I and all members of the Liberal Party have great respect for the position Dale Baker has taken in this matter. I will refer just briefly to some independent assessments that have been made in the past two days, and refer the Minister to the front page of the *Sunday Mail* where, under the headline, one of the candidates for leadership—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No, this is an independent poll conducted for the *Sunday Mail*. It is an exclusive poll—

The Hon. Anne Levy: Done by whom?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —commissioned by the *Sunday Mail*, canvassing the voting intentions of 500 persons indicating that, under one of the candidates for the leadership of the Liberal Party the Liberal Party would poll 47 per cent as against the Labor Party's meagre 31 per cent—16 per cent—

The Hon. Anne Levy: Who did the poll?

The Hon. R.I. LUCAS: Even in the midst of this short-term political turmoil confronting the Liberal Party, an independent and exclusive poll commissioned for the *Sunday Mail* indicates that the Liberal Party would win an election by 47 per cent to 31 per cent. The next day in the *Advertiser*, the paper that the Attorney-General viciously smeared and slandered yesterday as *Pravda*, the Attorney-General, who wept crocodile tears for years about smears and slander against him, who viciously slandered the morn-

ing newspaper by referring to it as *Pravda* with all that that name means—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: What did I call him? Let the Minister, by way of interjection, indicate what I called the Attorney-General. There is no response. Let the record show silence from the Minister, because she has nothing—not one word. Let the silence indicate that she has no response to that. On Monday in the *Advertiser*, an exclusive poll commissioned by the research department of the *Advertiser*—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Minister continues to want to know who does these polls. It was the research department of the *Advertiser*—that is who by.

The Hon. Anne Levy: Who did the *Mail* one?

The Hon. R.I. LUCAS: Would the Minister like me to say it any more slowly: by the research department of the *Advertiser*, on Monday it indicated again—

The Hon. Anne Levy: Who did the *Mail* poll?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Mr President, I do not mind the ceaseless squawking from the Minister on the front bench. This Minister does not like interjections when she is on her feet but, of course, she does not apply the same rules to herself. That does not worry us at all.

The Hon. Anne Levy: Why don't you tell us who did the *Mail* poll?

The PRESIDENT: Order! The Council will come to order.

The Hon. R.I. LUCAS: If I can address the Minister through you, Mr President, the Minister can squawk and interject all she likes, because that does not worry us at all. The poll on the Monday indicated again that under one of the particular contenders for the leadership of the Liberal Party, again, the Liberal Party would have comfortably won an election if it had been conducted at this time.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I think I heard an interjection from behind the bookcase that indicated some displeasure with the interjections of the Minister, and I think it came from one of her own colleagues. I will not indicate who it was. There was not much in the contribution of the Hon. Mr Crothers: I guess he was brave to stand up to attempt something along these lines, given the flimsy ground he was on, but the only aspect of his claim that I seek to rebut is that he sought to make great play of the fact that the by-elections—and I think he was adding to that a by-election held some 18 months ago in the seat of Custance—that if the total cost of these by-elections was $200 000, what a scandal that would be.

Let me remind the Hon. Mr Crothers that $200 000 represents about eight hours' worth of interest repayments on the State Bank debt! If the Hon. Mr Crothers wants to wait from 2 o'clock this afternoon to 10 o'clock tonight, he and his Government will have spent or wasted the same amount on the repayment of the State Bank debt, the $2.2 billion, as the total cost of the three by-elections. The State Bank debt is costing South Australians $600 000 each and every day of the year for every year until the end of this century and well into the next—just to repay the interest: not to repay the principal at all, but just to repay the interest. If one looks at $200 000 as the price of democracy and compares it to the size of the debt and the interest repayments this Government has inflicted upon the taxpayers of South Australia, it pales into insignificance.

Let me conclude by saying that that is the essential difference between the Liberal Party and the Labor Party. The Labor Party has major, continuing problems with leadership, with the factions and with the divisions within its own Party, but it is snap-frozen. Its members cannot make a decision about major development projects, about getting rid of Bannon (as they know they would like to do), as people like Rann, Lenehan, Blevins and Arnold position themselves for the future—and now Evans, as I have indicated, by way of the deal that he has undertaken. They are positioning themselves for the future.

The Caucus is snap-frozen. It will not take a decision it knows in its heart it must take to get rid of a leader who has lost all integrity, all credibility in the community and support within his own Caucus at the moment. It will not make a decision and, because it will not, it will continue to burn for eternity in political hell! The Liberal Party concedes that it has some problems: it will have some problems for six or seven weeks as it resolves, from three or four outstanding candidates for the leadership, who will lead the Party to the next election. Once it has made that decision, the Liberal Party will unite behind that new Leader, whoever he or she might be. In the long term we will be better off for it, the community will be better off for it and we will be heading for the equivalent of political heaven. I oppose the motion.

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

PUBLIC UTILITIES

Order of the Day, Private Business, No. 1: Hon. M.S. Feleppa to move:

That the regulations under the Roads (Opening and Closing) Act 1991 concerning public utilities and access, made on 31 October 1991, and laid on the table of this Council on 12 November 1991, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

REFUNDS AND FEES

Order of the Day, Private Business, No. 2: Hon. M.S. Feleppa to move:

That the regulations under the Roads (Opening and Closing) Act 1991 concerning refunds and fees, made on 31 October 1991, and laid on the table of this Council on 12 November 1991, be disallowed.

The Hon. M.S. FELEPPA: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

PUBLIC TRANSPORT

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council—

1. Censures the Minister of Transport for his arrogant pursuit of policies and practices that are undermining the quality and quantity of public transport services in the Adelaide area and are repelling South Australians from utilising the system.

2. Demands that the Bannon Government reverse its negative reactive approach to the management and promotion of public transport so that once again regular passengers and prospective users have access to a safe, clean, user-friendly public transport network in the metropolitan area at a cost that both the travelling and taxpaying public can afford.

(Continued from 19 February. Page 2921.)

The Hon. T. CROTHERS: I oppose the private member's proposition introduced into this place by the Hon. Ms Laidlaw on 12 February this year, aimed, among other things, at censuring the Minister of Transport and demanding that the Government 'reverse its negative reactive approach to the management and promotion of public transport'. Mr President, I will stop the quote there, if I may, for the time being. If there is anyone in this place who can make sense of the Laidlaw proposition, please tell me, for I cannot. This seems to me to be the latest in a whole stream of Laidlawisms put before this place for its consideration and apparently emanating from those portfolios for which the honourable member has Opposition responsibility, but really, in my view, at best contributing nothing to the better running of this State, and perhaps, because of their Cassandra-type contents, acting in a most negative and destructive way in respect of the State's public instrumentalities.

If the motion that this place is currently debating were up for judgment in some English literary contest, then perhaps it might score well for its use of a whole stream of colourful English language adjectives which, if taken in their collective order, really do nothing for public transport in this State. I trust that the Hon. Ms Laidlaw will notice my correct use of the word 'English' on two occasions. This, I would hope, would compare favourably as against her use of the same word in the most shabby way possible in her contribution. When a speaker has to play the man and not the substance in a debate, one is forced to conclude that there cannot be too much of any substance in the subject matter. Let us now look at what the Hon. Ms Laidlaw says. Her motion states:

That this Council—

1. Censures the Minister of Transport for his arrogant pursuit of policies and practices that are undermining the quality and quantity of public transport services in the Adelaide area.

I wonder whether we can now zero in on some facts in respect of the matter that was elucidated upon by the Hon. Ms Laidlaw. The facts are that never before in the history of public transport in Adelaide has so much capital funding been injected into public transport infrastructure and services as has been invested in the terms of the present and past Labor Governments. For instance, the Government is committed to the purchase of 307 new buses, the first of which arrives in April of this year, and this new fleet will progressively replace the old Volvo B59s over a six-year period. In addition, the first of 50 new railcars enters service in a program designed to replace the ageing Redhens over the next five years.

Added to the foregoing is the fact that the Mile End Bus and Maintenance Depot opens later this year, which allows the Government's promise to return the Hackney depot site to the parklands to come to fruition. These initiatives and others are hardly the work of a moribund department or an incompetent Minister, as the honourable member would suggest. I put it to this Council that the opposite is the case and that this Council and the South Australian public should be grateful to the department and the Minister for the very creative manner, in spite of serious difficulties, in which they are succeeding in dragging our public transport system into the twentieth century.

I shall commence to wind up by tabling some more facts for members to consider: for instance, the introduction of transit guards aimed at making train travel safer for the travelling public and railway employees. It should be noted that this form of assault has significantly decreased. All sorts of other creative initiatives are being introduced: computerisation, for instance, in respect of customer information; and help phones are being installed at interchanges and stations where security problems persist. In addition, closed circuit TV monitors are assisting in improving passenger safety at key interchanges. The decentralisation of the transit squad to the Elizabeth and St Agnes depots as well as to the Noarlunga and Salisbury interchanges will speed up response times.

I could go on and on as the list of innovations introduced by the Minister and his department has been by no means bottomed out by me. To do that would take up far too much of the time of the Council. However, suffice to say that there will not, at least in the foreseeable future, be a return to the halcyon days of yesteryear in the utilisation of public transport both by freight and by passengers. The motor vehicle, unfortunately, has seen to that. However, the present Minister measures up well as Transport Minister and appears to do his homework well at all times, which is more than I can say about his opposite number in this place. If she had her way, we would still be riding around in Mr Stevenson's Penny Rocket. On the other hand, I am equally sure that the Hon. Frank Blevins' English forebears must be proud of him. I oppose the motion.

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

CRIMINAL LAW CONSOLIDATION (DETENTION OF INSANE OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November. Page 1811.)

The Hon. I. GILFILLAN: I would like to speak briefly in support of the Bill. I believe that it identifies an injustice and a discrimination against a small but still important section of our society. As members know, I have been involved in a wider committee looking at the penal system in South Australia, and for a while I believed that this matter should properly be referred to that committee. However, in looking more closely at it and after discussions with the mover of the Bill, I realise that it can more properly be dealt with as a separate matter, and I believe it has come forward as a constructive law reform measure. It is an area fraught with the potential for subjective and emotional interpretation whenever someone commits a crime which has some spectacular newsworthiness and which, for that reason, is highlighted as a particularly savage or obscene form of offence. On the spur of the moment the public and the media tend to overreact and go away from the basic tenets of the justice system that we have in this country, a system which I believe has been one of the precious exports of Great Britain to countries that have taken, as their base, human rights and freedoms and the justice system.

It has been an area which has been uncomfortable for Governments and Parliaments to deal with and, because the numbers are relatively small, it has not had a high priority in legislative reform. For that reason, it is particularly admirable for Dr Ritson to have taken up this matter with the energy and determination he has shown, and to get it to the point where it is fair to expect that it will pass this place with substantially unanimous support from all members.

I have seen some amendments on file but have not had a chance to analyse them in detail, so I expect that some work will have to be done in the Committee stage. I will also be waiting—as I think the Hon. Dr Ritson will be waiting—with some interest and impatience for the Attorney-General to actually contribute to the debate. I indicate

support for the Bill and congratulate the mover, Dr Ritson, for having identified the problem and singlemindedly pursued it to get it to this point.

The Hon. C.J. SUMNER (Attorney-General): I am pleased to speak in support of the second reading of this Bill and in so doing to commend the Hon. Dr Ritson for its introduction. The major measure of reform in this Bill is the abolition of the Governor's pleasure system of detaining persons found unfit to plead to a criminal charge or not guilty of a criminal charge on the grounds of insanity. Under that system, all such people are detained indefinitely at the pleasure of the Governor which in effect means that they are to be imprisoned without a release date, and that release is a decision for the Governor-in-Council.

The abolition of the Governor's pleasure system has been a matter of controversy for many years. In particular, there has been controversy about the crucial fact that release decisions reside in the political process. For a variety of reasons, most, if not all of the persons held in this system, have been charged with homicide; perhaps gruesome homicide. Inevitably, difficult questions arise for Cabinet to decide to release such a person, even though he or she has not been found guilty of any offence and even though he or she may have been released after a definite term, had he or she been found guilty. I confess that, as I have thought about this issue from time to time, I have seen both sides to the question. After all, the voluminous literature on the scientific prediction of dangerousness boils down to a certainty rate of less than 50 per cent. If the release decision goes horribly wrong—as it has recently in Queensland—it is the Government that will bear the brunt of any community outrage no matter where the decision is taken. With responsibility comes rights: if the Government will wear the blame in any event, no matter who makes the decision, surely the Government should take the decision. Arguably, the Government should bear the responsibility of considering the wider public interest and the preservation of public confidence in the administration of justice.

In the end, I have come to the conclusion that all of these reasons apply equally to release decisions made in respect of other detained people. We have decided, as a community, that these decisions should rest with the courts as guardians of the public interest and the due administration of the criminal justice system. It is not obvious why these people, all of whom have not been found guilty of any crime, should be treated differently. In the end, the move in this State and elsewhere has been to depoliticise these kinds of decisions. Whether the release decision should reside in a court or a specialist tribunal or board is a question to which there is no one right answer. Current Queensland legislation diverts the decision making from the courts to a Mental Health Review Tribunal. The Victorian Law Reform Commission recommended a specially constituted parole board headed by a judge. The New South Wales legislation splits decision making between a court and a Mental Health Review Tribunal.

In general terms, the argument for having a court make the release decision is that it fixes accountability and it locates the decision about liberty in a forum best fitted to address it in terms of custom, procedures, accountability and openness. The argument in favour of a specialist tribunal or board is that it enables the decision to be made by a specialist body having special knowledge, and it enables the decision to be integrated with public policy and other areas of decision in relation to the legal and moral decisions about the mentally ill generally, and the person concerned specifically. In South Australia, we have moved to a system of court-based sentencing and court-based release. I think that, on balance, a court can hear, and can be obliged to hear, expert evidence and that considerations of public accountability and responsibility tend to favour the court option.

There is only one matter in the Bill with which I find myself in disagreement with the honourable member's initiative. The Bill provides that the victims—if any—of the offence with which the person has been charged have a right to make submissions, personally or by counsel, to the court which is making the release decision. While I can understand the motives that impelled the honourable member to so provide, I cannot support that part of the Bill. I have a number of reasons for this view. While I take considerable pride in the undoubted fact that South Australia has led the nation in formulating rules and principles which confer rights upon victims at all stages of the criminal process, I have also consistently taken the view that victims' interests should be represented in disposition hearings by the representative of the Crown. This is the principle that lies behind the introduction of victim impact statements in the sentencing process via section 7 of the Criminal Law (Sentencing) Act. A major part of this principle is that victim impact should be provided to the court in an objective, factual manner, preferably through the prosecutor. I will move an amendment to give effect to this policy. If that part of the Bill is amended, the court may still receive information about the victim or victims through the prosecutor. The court may inform itself as it sees fit. Further, the Bill provides for counselling for victims. This is right, proper and commendable.

This Bill is a very important first step in the reform of this area of criminal law, which is overdue for reform. It will be the subject or recommendations by the National Criminal Law Officers Committee—which is the officers' committee looking at codification of the criminal law in Australia—in the near future.

The Government, while congratulating the honourable member on his initiative, recognises that there is much work still to be done in this area. Issues such as fixing a maximum length of detention, testing the Crown case where the accused is unfit to plead, providing the courts with a variety of disposition option and other issues must be addressed. I hope to be in a position to bring a reforming Bill on these issues to the Council in the near future, probably in the budget session. In the meantime, I commend the honourable member and I am pleased to support the second reading.

The Hon. R.J. RITSON: In closing the debate, I will make a few brief comments as most of the points can be addressed in Committee. With regard to the Hon. Mr Gilfillan's reference to the select committee on the penal system, I have become impressed with his keen sense of justice in dealing with other matters. It may be in times to come that some of the problems involving mentally abnormal offenders who are in a prison system may be fruitfully addressed by the Hon. Mr Gilfillan using the insight that he has obviously gained from that committee. So, I assure the honourable member that that aspect of the committee work that he has done will certainly not be a waste in considering any future legislation with regard to mental illness within the prison system. I thank the Attorney-General for his remarks, and I think that we can now get down to the practical and rational debate that is so frequently evident in this Council and deal with the Committee stage. I commend the Bill to the Council.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Insanity affecting capacity to plead.'

The Hon. R.J. RITSON: I take this opportunity to draw the Attorney's attention to the clause relating to those people detained indefinitely because they are unfit to plead. There can be many reasons for one being unfit to plead, but the common one is mental illness. Some of these patients are so ill that they are not aware that they have been detained for an offence or that they are liable to be tried. They are not aware of where they are, of the date or in fact the decade in which they are living. Clause 3 specifies that they must be detained in a hospital, and I draw the Attorney's attention to the supplementary provisions of the Mental Health Act which are modelled on an English Act of 1806 and which basically deal with the proclamation of prisons or parts of prisons as hospitals for the purpose of detaining the people called, in those provisions, the criminally insane.

Theoretically, it would be possible for a cell in Yatala's B division to be proclaimed as a hospital for the purposes of detaining these people. Transfers between prison and hospital of prisoners who are mentally ill but not subject to the Governor's pleasure occurs regularly on an administrative basis, but my information is that seldom if ever have the supplementary provisions of the Mental Health Act been drawn upon. I ask the Attorney-General to consider in any general view of the law in this area whether they will, before too long, be worthy of repeal.

The Hon. C.J. SUMNER: I will have those matters examined.

Clause passed.

Clause 4—'Special provisions relating to detention of insane offenders.'

The Hon. R.J. RITSON: I move:

Page 2—
Line 7—Leave out 'after six months'.
Line 8—Leave out 'from' and insert 'after'.

Most of my amendments on this clause are brief and of a technical nature. The first part of the amendment is to leave out 'after six months' and 'from' and insert 'after'. The original draft required a treatment plan to be lodged with the court as soon as practicable after six months but in any case before the expiration of a year. It placed a minimum as well as a maximum time limit on the lodgment of the files. The psychiatrists whom I have consulted within the system have informed me that the usual situation in these cases is that almost from the date of apprehension of the perpetrator the illness is fairly obvious and, by the time the trial is dealt with and a verdict delivered, many months or even a year has passed.

They are usually in a position to give a report almost from the beginning of the detention order. So, those words simply remove any minimum time period before which the report cannot be made and I commend that alteration to the Committee. The next amendments are to leave out 'two' and insert 'three' and to leave out 'one' and insert 'two'. This simply expands the minimum number of psychiatric opinions and the type of psychiatric opinions that must be considered by the court.

The original draft requiring one legally qualified practitioner and one psychiatrist with an interest in forensic psychiatry would allow perhaps as a minimum the Director of James Wright House and a psychiatric trainee to be the only people presenting evidence. I do not think that that would be so in practice as there are other parties to the matter and quite a few psychiatric opinions would be given. However, I think it will give more comfort to the world of psychiatry to have a minimum of three practitioners, two of whom are forensic psychiatrists and one of whom at least is an outsider who is not a salaried employee within the psychiatric unit caring for the patient. It expands the size and quality of the minimum psychiatric panel of witnesses. Of course, it will be up to the administrative branch of Government within the mental health services to discuss what it thinks is perhaps over and above the minimum or within the parameters of this Act and the most suitable way of presenting professional evidence to the court.

Lines 9 and 10 were the lines which prompted the Attorney-General to consider the matter with which he is now dealing by amendment. If we leave out 'and a reasonable opportunity to make submissions to the court', then subsequently the Attorney-General will move as to how he thinks that the victim's interests ought to be represented. So, if we leave out the reference to submissions to the court (that refers to submissions by victims and next of kin), it paves the way for the Attorney's amendment by way of insertion of a new subclause. Line 14 is really semantic. The amendment to line 15—

The Hon. I. GILFILLAN: Mr President, I cannot keep up. I suggest that, with your consent—

The PRESIDENT: The Hon. Dr Ritson is canvassing the whole scope of his amendments and those of the Attorney-General. I have been prepared to let him run, but a bit of confusion is entering into the debate at the moment. I therefore think we will take the amendments as they are moved, because we will vote on them separately. At the present stage we are confined to the amendment to clause 4, page 2, line 7, leave out 'after six months' and line 8, leave out 'from' and insert 'after'. We are dealing with these amendments now. Does the Attorney-General wish to respond to that?

The Hon. C.J. SUMNER: I am happy with those two amendments.

Amendments carried.

The Hon. I. GILFILLAN: I have a question relating to subclause (5), which provides that a person does not, in disclosing information about the person to whom the application relates during the course of providing counselling pursuant to subsection (4), breach any code or rule of professional ethics. I would ask Dr Ritson to explain the significance of that.

The Hon. R.J. RITSON: In counselling the next of kin, particularly where there is an application for release on licence, it is very important that they know the patient's condition and understand it, that they know the sort of treatment that is planned upon release, the sort of conditions that the court might be asked to accede to, the patient's likely behaviour and, particularly in the case of one controversial patient, the question of where the patient is likely to live upon release is important.

The Hon. I. GILFILLAN: Where would the code be infringed? What are you actually protecting?

The Hon. R.J. RITSON: We are looking at a medical practitioner who reveals the contents of someone's case notes to a third party. Normally, there is a professional taboo on that, which could result in censure or other sanctions by the Medical Board of South Australia. This simply indemnifies the medical staff in counselling the affected people against charges of professional misconduct through breach of confidentiality. In other words, it entitles them to tell the next of kin and victims what is wrong with the patient, what treatment he is having and what his likely behaviour upon release will be.

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

Page 2, after line 44—Insert new subclauses as follows:

(8a) The Crown must, for the purposes of assisting the court in determining an application under this section, furnish the court with particulars of the views of the following persons as

to the impact it would have on them should the application be dismissed or granted:

(a) the next of kin of the person to whom the application relates; and

(b) the victims (if any) of the offence with which the person was charged.

(8b) The validity of the court's determination on an application under this section is not affected by non-compliance or insufficient compliance with subsection (8a).

My amendment deals with allowing the views of the victim and the next of kin on the effect that a release would have on them to be made known to the court, through the Crown. This amendment is moved for the reason that I outlined in my second reading contribution, and it dovetails in with the amendment that has already been foreshadowed by the Hon. Dr Ritson, to remove from the Bill the at-large right that was given to next of kin and victims to make submissions to the court, presumably in person or by their counsel as originally envisaged by the honourable member. However, my amendment is consistent with the general role given to victims in court hearings in this State, namely, that their views are put to the court through the prosecutors, and it is for that reason that I move this amendment.

The Hon. R.J. RITSON: I find the amendment eminently sensible, and support it.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3, line 2—Leave out 'pursuant to an application'.

This is consequential on the Attorney-General's amendment.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3—

Line 3—Leave out 'two' and insert 'three'.

Line 5—Leave out 'one' and insert 'two'.

I have already spoken to those amendments, which merely involve the expansion of the minimum quantity of psychiatric evidence.

Amendment, carried.

The Hon. R.J. RITSON: I move:

Page 3, line 6—

Leave out 'is a psychiatrist' and insert 'are psychiatrists'.

After 'psychiatry' insert '(one not being employed in the part of the institution in which the person is being detained)'.

These are purely semantic amendments, which are consequential on expanding the minimum quantity of psychiatric evidence.

Amendments carried.

The Hon. R.J. RITSON: I move:

Page 3, lines 9 and 10—Leave out 'and a reasonable opportunity to make submissions to the court'.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3, line 13—Leave out ', the interests' and insert 'and'.

This is purely semantic and consequential.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3, line 14—After 'charged' insert '(so far as those interests are known to the court)'.

These are clarifying words and no new principle is involved.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3, after line 15—Insert new subclause as follows:

(9a) Notice is not required to be given under subsection (9) *(b)* to a person whose whereabouts cannot, after reasonable inquiries, be ascertained.

This simply makes it clear that the prosecution is not bound to search forever to the four corners of the earth to notify interested parties.

Amendment carried.

The Hon. R.J. RITSON: I move:

Page 3, lines 23 to 25—Leave out ', the detention order will be taken to have been discharged on the expiration of that period, unless the court that made the order, on application by the Crown, orders otherwise' and insert the following:

the court that made the detention order to which the person is subject—

(a) must review the order; and

(b) on completion of the review, must discharge the order unless the court is satisfied that there are proper grounds for the order to remain in force.

This amendment provides for a mandatory review by the courts, even if there is no application by the patient or the Crown, of people who have been released on licence for three years. I am informed that the original draft followed the provision relating to other indefinite detainees under other provisions of the law—habitual criminals and persons unable to control their sexual behaviour—and that there is for them an eventual release, with the efflux of time, after three years good behaviour, on licence. However, the psychiatric world is a little bit different in that the three years good behaviour might have been a consequence of supervised medication, and that supervision, in my view, should not cease with the efflux of time but as a result of a considered judicial assessment of the suitability of discharging the order.

I foreshadow another small amendment. The provisions that we have just dealt with requiring the courts to consider a certain minimum amount of evidence and have regard to certain interests deal with hearings pursuant to an application, whereas a hearing under this clause involving a mandatory triennial review would not be pursuant to an application but pursuant to statute. Yet, I believe that any court discharge of an order should always be after a hearing and consideration of the matters that we have already dealt with.

The rights to apply for a hearing at any time already exist in an earlier part of this amending legislation. So, the Act loses nothing by the deletion of the words 'pursuant to application'; application is still referred to elsewhere. It would just mean that with the mandatory review, as proposed here, the court would still be obliged to consider the same factors as would occur if a patient had applied for a hearing. I support the mandatory review over the efflux of time. The person goes into detention as a result of a jury verdict and should leave as a result of a court condition.

The Hon. C.J. SUMNER: I have a question for the honourable member. He is actually stating that after the three years the court must discharge the order unless there are proper grounds for the order to remain in force. I just wonder, in the light of his explanation, whether that injunction to discharge the order is perhaps overstating the position beyond what is desirable. In other words, it places an obligation on the court to discharge the order, but the court need not do it if it is satisfied there are proper grounds for the order to remain in force. I do not suppose that that makes a lot of difference, but one way of putting it would be to say that it must review the order and may discharge it, or something of that kind. I am not sure that it is a big problem, but there is an injunction to release unless there are proper grounds for release, so it may come down to on whom the onus of proof rests to establish certain things. I would probably be happier with the word 'may'.

The Hon. R.J. RITSON: I am happy with the Attorney's suggestion. It would really mean then that a hearing pursuant to this section would be conducted in exactly the same way as if the patient had applied. However, the only effect of it is that the case will be reviewed even though

no-one thinks to apply. It will be reviewed at the three-year mark. I seek leave to amend my amendment as follows:

In paragraph *(b)* leave out 'must' and insert 'may'.

Leave granted; amendment amended.

The Hon. I. GILFILLAN: I am not in favour of 'may'. I think that the wording is appropriate in the intention as I see it and which I welcome, that there have to be proper grounds for the order to remain in force. I see that as the essence or the spirit of the legislation—that there cannot be an indeterminate waffling on. If this is to be the only wording change I feel there is some difficulty with the rest of the wording in the provision. Frankly, I think the options are just as wide in the current wording, with 'must' applying—as seemed to be the intention of the Attorney and accepted by the Hon. Dr Ritson. So, I argue against that word change. I really do not think it helps the Bill and I would prefer that it remain 'must'.

The Hon. K.T. GRIFFIN: I do not want to enter the debate and speak at length. However, when I saw the amendment I had the same concern as the Attorney-General. It seemed to me that it was mandatory to discharge the order unless there were proper reasons for not doing so. I suppose the question of the court's reasons could be subject to appeal as to whether or not they are proper. Changing the word 'must' to 'may' will increase the discretionary aspect, but the intention is still fairly clear; that the court has a discretion but, if there are proper grounds for not making the order for discharge, that will be the obligation upon the court, rather than the other way round. I understand what the Hon. Mr Gilfillan is suggesting: that it then becomes a floating provision rather than a more direct one; but it seems to me it still retains jurisdiction in the court. After all, as my colleague the Hon. Dr Ritson has said, the emphasis of that whole clause is on ensuring that a review will be undertaken automatically and not left to some bureaucratic decision.

The Hon. I. GILFILLAN: I wish to ask a question of the mover of the Bill. As the amendment is drafted, does he believe that that would lock the court into continuing the same order or the same conditions applying without the power of altering them?

The Hon. R.J. RITSON: No, it is fairly clear that the Parliament intends the matter to be reviewed after a period of time, even if neither party chooses to apply. In a sense, it calls people to account to explain why a person is still detained, and prevents people being forgotten administratively. There was a case in Broadmoor, I think, in England where the doctors used the index of case notes to determine whom they would see each day, and someone was forgotten for 30 years after being cured, because the administrative system fouled up. The Government then introduced a system of annual review, which consumed endless time of psychiatrists in preparing reports for hearings. We will not have that problem here.

The general flavour is that, if no-one applies, they still must review to make sure that there is a good reason for the custody continuing. I was persuaded by the Attorney's remarks that it may have some effect on the onus of proof. I do not understand how it would, because I am not trained in the law, but proving matters of clinical opinion is never easy. Doctors are not always good witnesses, and I would not want a release to occur on a technicality just because the onus of proof was reversed by the effect of the word 'must'. The Attorney may have a comment on that.

The Hon. C.J. SUMNER: I do not think much turns on it, but I am more comfortable with the word 'may', which leaves the discretion clearly to the court. With the discretionary word 'may', the starting point for the court is open, whereas the starting point with the mandatory 'must' is that they must discharge unless satisfied to the contrary. The point raised by the Hon. Mr Gilfillan is another point, if I have understood him correctly. He is concerned to know whether a court might vary the order. Perhaps that could be fixed up. Here we are again being Parliamentary Counsel—they are not here, so I suppose it is too bad. If we muck up their legislation, it is their problem. They should be here. However, if any minor change needs to be made, we can certainly look at it when it goes to another place. Perhaps it would solve it if after the word 'discharge' we put 'or vary'. Would that help the honourable member?

The Hon. I. GILFILLAN: Yes, but it really would be wise to consult with Parliamentary Counsel for the actual wording. It seems that we are agreed about the intention, first, that there will be a discretion of the court to discharge or not but, if it does not, that it needs to be reasonably soundly convinced that there are proper grounds for an order to remain in force. It may not necessarily be the same order with the same requirements that existed before. That capacity to vary the order is what I was asking, and the Attorney has picked that up. I assume that the honourable member accepts that.

The Hon. R.J. RITSON: The court can vary the order any time either party wants to apply to vary the order. The sort of variation could be a minor one to allow a person who is in strict custody to be moved to another part of the hospital to take advantage of occupational therapy under escort. At the moment, he or she is in strict custody and cannot be taken for an escorted walk in the park or transferred to another non-strict security psychiatric hospital, so the licence could be applied for at any time for a variation of anything from a minor relaxation of the strictness of custody for therapeutic purposes to being allowed to go home on leave and seen once a fortnight.

This really refers to someone who has virtually been rehabilitated and who is already on licence, and the question is whether it is time to relinquish all legal control over that person's behaviour. There must be a date somewhere. A great deal of money is expended on people in custody. Not everyone is able to be fully rehabilitated, but some are. The question is, if neither the patient nor the psychiatrists raise the question of final discharge of someone who is living usefully in the community and who has done so for three years, then at least the court ought to ask after three years why has not this patient been discharged? That is the purpose of this as distinct from the other provisions for varying or discharging the order on application. My preferred position is simply to leave it as it is, except for altering the word 'must' to 'may'.

The Hon. C.J. SUMNER: The Government will agree to that.

Amendment as amended carried.

The Hon. I. GILFILLAN: I wish to ask a question of the mover on subclause (13). With the amendment that is now in place, is it still important to have this six month restraint? I am not quite clear how it would apply. The clause itself seems to allow the court some option to allow less than six months. I wonder whether that subclause serves any purpose by being retained in the Bill.

The Hon. R.J. RITSON: If the court refuses an application, it would do so on the basis that the patient's clinical condition was considered to be such that the person was not suitable for release. I think that it protects the mental health services from perhaps vigorous counsel on behalf of the patient involving them in endless preparation of reports for the court due to the lodgment of monthly or fortnightly applications. I have no strong feeling about it. It was some-

thing that was suggested to me. I do not think that it is an essential part of the Bill, but it is useful if carers can be protected from perpetual attendance at the court in relation to one patient. I move:

Page 3, after line 32—Insert new definition as follows:
'next of kin' of a person means the person's spouse (or putative spouse), parents and children:.

This is simply a definition of 'next of kin'. It is mechanical. Unless any other member objects to it, I commend it to the Committee.

Amendment carried; clause as amended passed.

Clause 5 and title passed.

Bill read a third time and passed.

STATE GOVERNMENT INSURANCE COMMISSION

Adjourned debate on motion of Hon. L.H. Davis:

That this Council condemns the Government and Treasurer for their failure to fulfil the duties and responsibilities set down in the State Government Insurance Act and demands the Government agrees publicly at the earliest opportunity to—

1. Introduce appropriate legislation to ensure that the State Government Insurance Commission complies with the appropriate Federal insurance legislation and the requirements of the Insurance and Superannuation Commission.
2. Ensure that the SGIC makes public its 1990-91 annual report no later than 31 October 1991.
3. Ensure that the 1990-91 SGIC Annual Report contains a separate revenue statement, profit and loss account and balance sheet for both the life insurance business and general insurance business.
4. Ensure that a supplementary report should be published no later than 31 October 1991 which contains a separate revenue statement, profit and loss account and balance sheet from both the life insurance business and general insurance business of SGIC for the financial year ended 30 June 1990.
5. Seek an independent detailed assessment from persons acceptable to the Government and Opposition of the investment strategy, investment guidelines and any conflicts of interest in respect of property transactions and commercial mortgage loans entered into by SGIC since 1984.

(Continued from 16 October. Page 1122.)

The Hon. T.G. ROBERTS: I rise to oppose the motion on the basis that the Government and the Treasurer have put together a series of measures that will come to terms with the effectiveness and efficiency in the management of SGIC. I remind the Hon. Mr Davis that on 8 August last year the Premier, in another place, made a ministerial statement on a release of findings of the Government Management Board Review of the SGIC. That report stressed the viability and strength of the SGIC and also identified a number of shortcomings in the commission's operations and promised to amend the legislation. Consequently, a Bill was introduced and referred to a select committee of members of the House of Assembly, being chaired currently by the Premier. Other members of the select committee include Mr S.J. Baker, Mr M.J. Evans, Mr R.B. Such and the Hon. J.P. Trainer. Many of the issues that were raised by the Hon. Mr Davis will be subject to discussions in that select committee.

The Premier also made a statement on 13 February, in another place, about the introduction of that Bill and included a lot of explanation, into which I will not go at this time, to define the powers and functions of the commission and to repeal the SGIC Act 1970 and for other purposes. The Government is coming to terms with those problems. On that basis I oppose the motion put forward by the Hon. Mr Davis.

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

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

The Hon. ANNE LEVY (Minister for Local Government Relations) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934 and to make related amendments to the Building Act 1971, the Land Agents, Brokers and Valuers Act 1973, the Planning Act 1982, the Real Property Act 1886, the Strata Titles Act 1988 and the Subordinate Legislation Act 1978. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This Bill is the first of a series of reform Bills which will result from the negotiation process between the State Government and local government, established under the Memorandum of Understanding signed by the Premier and the President of the Local Government Association in 1990. As members will be aware from other statements made in this place, the intent of the memorandum is to establish new relationships, reflecting a cooperative approach to the development of the State and the productive and efficient provision, planning, funding, and management of services to the South Australian community. It was evident from the outset, with the winding up of the Department of Local Government, that interaction between the State and local government would change significantly as a result of the negotiations. Each agreement which has been concluded to date, such as the recent agreement on the funding and servicing of libraries and community information services, has clarified State and local roles and responsibilities so as to produce a better outcome for the community. Common features of these agreements are clear and agreed objectives about what is to be achieved, greater local self-management and secure funding arrangements with built-in incentives for efficient financial management.

This Bill is a major step towards a legislative framework which reflects and consolidates the new level of cooperation between local government and State Government. It revises the current processes for changing council areas, reviewing council representation and ward boundaries, making council by-laws, and setting fees payable to councils. The features of the negotiated agreements which have been made in other areas have been translated into legislative models. Provisions which require supervision of local government activities by a Minister of the State are removed or replaced by provisions which state the objectives and principles to be observed in the public interest. New processes are proposed which maximise local self-management. Local government is given new authority and responsibility for the fees imposed for certain functions it performs and for the cost of its own structural reform.

The changes proposed do not remove checks and balances—every Australian system of government has and wants those. Local government remains primarily accountable to its own constituents and clients and to the Parliament. Rather, the changes proposed in this Bill indicate local government's commitment to its own management and development and the State's commitment to working with local government in partnership for the benefit of the South Australian community. The result we are looking for is a very practical one: elimination of duplication and delay and more creative use of public resources. The Bill includes the provision that the operation of the systems for changes to council areas, membership and ward boundaries be reviewed after five years and a report laid before Parliament, so there will be a formal opportunity to consider whether they have been successful.

I would like to make some specific comments on the key proposals contained in the Bill.

1. Process for Constitution Amalgamation, and Changes to Boundaries or Abolition of a Council

The Local Government Advisory Commission was established in its present form in 1984 to provide advice to the Minister on any matters affecting local government. Almost all of its work has involved investigating and recommending local government boundary changes and reviewing reports of councils' periodical reviews of elected membership and ward structure. As a system for facilitating change, the advisory commission process has been more successful than methods such as parliamentary select committees, royal commissions with a master plan, or legalistic petitions requiring the signature of a majority of electors. Since its establishment, the commission has finalised 76 proposals for constitutional change referred to it. Of those, 44 have resulted in some change, including significant amalgamations and boundary changes. Commissioners and commission staff, past and present, deserve the respect of both State and local government for the complex and occasionally thankless task they have performed.

In line with the principle of greater self-management by local government of its own affairs, the Bill proposes that the Local Government Advisory Commission be wound up as of 30 June this year and be replaced by a process for council constitution, amalgamation, boundary change and abolition which is managed by local government. A panel of four will be constituted by the Local Government Association to facilitate and report on each proposal. Each panel will have a representative of the association, the State Government, and local government sector unions, and an expert in council administration.

Proposals may be initiated by either electors or Councils but if any party to a proposal objects to a change recommended by the panel, the change cannot then proceed. Electors may also demand a poll on any panel recommendation. If the panel, after considering the poll results, decides to continue with a recommendation which has been rejected by a poll, it must explain its reasons.

The role of the panel includes conflict resolution and adjudication, but the process proposed relies heavily on a consultative and non-adversarial approach. In this sense it builds on the experience of the Local Government Advisory Commission. In 1989 it became apparent that the administrative practices and procedures which governed the operation of the commission should be reviewed to ensure that people concerned could participate more effectively in the decisions which were being made. As a result of the review the commission developed and adopted procedures which emphasise consultation, mediation, and conciliation. The rationale of the system now proposed is that councils will be prepared to co-operate in an objective way, secure in the knowledge that if any party to a proposal disagrees with the changes ultimately recommended those changes cannot be implemented against their will.

The proposed disbanding of the Local Government Advisory Commission does not mean that the State government has no interest in structural reform in local government. It does mean accepting that local government has an equal or greater interest in structural reform which will enhance its capacity and reputation. The objects of making structural changes to local government are explicitly stated in the Bill, and it is clear that amalgamation and boundary change are not the only ways in which these can be achieved.

2. Periodical Reviews of Council Membership and Ward-Structure

Councils are presently required to undertake a review of membership and internal electoral boundaries at least once every seven years. Before the end of June this year all councils, with the exception of one which has been deferred due to that council's involvement in an amalgamation proposal, will have conducted at least one review since 1985 when these provisions were introduced. As a result electors are now more fairly and adequately represented because of the application by councils and the advisory commission of the principle of one vote one value. Within each council area numbers of electors per electoral district have generally been equalised.

Other trends are also evident. There are now 23 councils without wards compared to only four in 1984. The number of councils with aldermen has dropped from 21 to 15 and a further five councils have reduced the number of aldermen. Representation ratios between councils still vary widely and some council areas in South Australia appear to be over-represented.

The Bill retains the requirement for councils to conduct periodical reviews of representation and electoral boundaries. The object of these reviews is made quite clear by the inclusion of principles consistent with those set out in the Constitution Act and applying to State electoral redistributions. Reports of these reviews will no longer be referred to the Minister for investigation by the Local Government Advisory Commission. However, they will be referred by councils to the Electoral Commissioner for certification that they have been duly conducted.

There is a difference of perspective between State and local government as to whether the Electoral Commission should be the only body which performs this check of council periodical reviews. The State perspective is that it is appropriate for the Electoral Commissioner who is disinterested in State and local political outcomes, who has wide knowledge and experience in electoral matters, and who has the necessary resources and information, to perform this role. The State Government does not believe that it is any more appropriate for the local government sector to conduct peer assessments of periodical reviews than it would be for this Parliament to make electoral redistributions. The fairness of the electoral system is absolutely central to representative government and the State government believes that South Australian electors will have the most confidence in a system which involves the Electoral Commissioner.

Local government agrees with the need for an independent check but tends to see the certification process as a professional service to councils which could be performed by other experts. It believes that Local government should have an alternative available to it which might be competitive in terms of cost.

3. Terms of Office for Elected Members

The question of terms of office for local government elected members has been an issue since at least 1984, when after much debate two-year terms on an all-in, all-out basis were introduced in place of the system of two year staggered terms which kept councils on a continual election footing. Both State Government and local government are interested in obtaining longer terms of office for council members but disagree about the form this should take, the Local Government Association favouring staggered terms and the State Government remaining convinced that it is fairer if all members retire simultaneously, as does the House of Assembly. I understand that the association's official policy remains one of seeking four year staggered terms. However, at its 1991 annual general meeting the association resolved to request that terms now be extended to three years on the

all-in, all-out basis which presently applies. Longer terms for elected members will be of great assistance in allowing councils to plan for and achieve worthwhile, long-term goals.

4. By-Law Making Process

The new process proposed for the making of local by-laws removes the necessity for vetting by the Minister and Executive Council. However, by-laws will remain subject to disallowance by the Legislative Review Committee of Parliament, as is the case for all subordinate legislation. The Bill establishes a set of principles relating to the objectives and forms of by-laws which will guide councils when making by-laws. Councils are also required to give their communities notice of the fact that they intend to consider making a particular by-law.

The Local Government Association will be able to adopt as a model any by-law made by a council which has gone through the process of parliamentary review. Councils will be able to adopt a model by-law by resolution, which makes for an efficient sharing of resources and ideas within local government. It is important to note that the association's role is restricted to selecting those by-laws made by directly-elected representatives of the community which may have some application for other councils.

5. Fees and Charges

The Bill provides a mechanism which will give the local government sector the authority and responsibility for determining the fees to be charged for certain functions performed by councils. The mechanism chosen is one which *(a)* allows the range of fees to be progressively added to as fees currently set by State agencies, by regulation, are transferred, or new functions and associated fees are devolved to local government, *(b)* also transfers to local government the decision as to whether any particular fee will be standard across the State or may vary from council to council.

The Local Government Association will have power, to the extent declared by the Governor by notice in the *Gazette*, to make regulations governing fees imposed by councils. Initially only an agreed set of fees under the Local government Act, the Land Agents Brokers and Valuers Act, the Strata Titles Act, the Real Property Act, the Planning Act and the Building Act will be involved, but it is expected that responsibility for other fees collected by councils for work which they perform will be routinely transferred by Governor's notice. Regulations made by the Local Government Association will be reviewable by the Legislative Review Committee of Parliament and subject to disallowance. If the Local Government Association determines not to require uniformity across the State for any particular fee, then each council may set its own.

The Local Government Association and State agencies will cooperate to ensure that the transition to this new process is a smooth one. The association has agreed that it would make regulations fixing these fees for the first two years so that planning and building approval fees, in particular, remain standard over the State. It will also seek the advice of State agencies and consult with bodies currently consulted by State agencies in setting these fees.

It is clearly understood and agreed that this new system will not jeopardise the development of proposed or potential schemes for 'one-stop shop' inquiry and approval, in which one level of government is the contact point and fee collector for work carried out at both levels of government. Examples of such systems include the proposal that persons be able to obtain all necessary details of State and local council encumbrances on titles by inquiring through the Department of Lands, and the new procedures for control of the planning and development of land being developed by the planning review. Such schemes will be the subject of ongoing negotiations with the association.

In addition to these major reforms, the Bill removes a number of requirements for ministerial notification and approval. The changes which are occurring in the relationship between local government and State Government are evident from the manner in which this Bill has been developed. The Local Government Association has taken responsibility for consultation on these proposals with councils and other interested parties and has participated in joint briefings for members of Parliament. Despite the one issue that I have described about which State and Local Government take a different view, this Bill is evidence of a new level of respect and understanding between the local and State sectors in South Australia.

As a result of a process of discussion and negotiation conducted in a spirit of co-operation, local and State government have arrived at a virtually unanimous agreement concerning the provisions of this Bill. Above all, we have in common the desire to reshape former ways of managing things in favour of new practices which will allow us to function more effectively. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure. It is noted that the provisions relating to the structure of local government and the abolition of the Local Government Advisory Commission will come into operation on 1 July 1992.

Clause 3 relates to the definitions used in the Act. Reference is made to the use of 'chairperson' in the Act (meaning the principal member of a council that does not have a mayor).

Clause 4 provides for the substitution of those provisions of Part II of the Act that relate to the structure of local government. In particular, new sections 6 to 13 (inclusive) are similar to the existing provisions except that in some cases change will be able to be effected through notices published by the relevant council in the *Gazette*. New section 14 sets out various objects and principles that are to be taken into account in the formulation of a proposal under the new provisions. Section 15 is similar to sections 15, 15a, 16 and 17 of the existing Act. In particular, a proclamation will be able to be made in pursuance of an address of both Houses, or in pursuance of a proposal recommended under the new provisions that provide for the constitution of local government panels. New sections 16 to 22 relate to a proposal in relation to the constitution, amalgamation, boundaries or abolition of a council. Such a proposal can be initiated by the relevant council or, if the proposal affects more than one council, by all of the councils for the areas, or by 10 per cent of electors for an area or 50 per cent of electors for a portion of an area (if the proposal directly affects that portion of the area but not the whole of the area). The proposal will then be referred to the Local Government Association and a panel of four persons constituted to oversee the preparation of a report by the representatives of the parties to the proposal. These representatives will be persons nominated by the councils affected by the proposal and, in the case of an elector-initiated proposal, persons (being three in number) nominated at the time of the formulation of the proposal. A program of public consultation, and consultation with any interested employee association, will be undertaken by the representatives of the parties to the proposal. The panel will then prepare a report in which it makes recommendations in relation to the proposal. If a representative of a party expresses serious opposition to any recommendation and the matter cannot be resolved within a reasonable time, the proposal will not be able to proceed. The report will be available to the general public. Ten per cent or more of the electors for an area can request that an indicative poll be conducted on any recommendation contained in the report. Any proposal can then be forwarded to the Minister and thereafter the Governor may, if he or she thinks fit, proceed to make a proclamation.

New sections 23 and 24 relate to proposals to alter the composition or ward-structure of a council. These matters are 'internal' to a council. A council will be required to carry out a review in accordance with section 24. A council must ensure that all

aspects of the composition and wards of the council are reviewed at least once in every seven years. It is proposed that the review process will include the preparation of a report, public submissions, and the formulation of appropriate proposals. The report will be considered by the Electoral Commissioner to ensure compliance with the statutory standards and requirements. The council will, in due course, be able to give effect to any appropriate recommendation by notice in the *Gazette*. A recommendation will come into operation at the first general election held after the expiration of five months from the date of publication of the notice in the *Gazette*.

New sections 25 and 26 relate to proposals to alter the status of a council or its name. Public submissions will be sought. The council will then be entitled to effect any appropriate change by notice in the *Gazette*.

It is noted that this scheme is to be the subject of a review by the Minister and the Local Government Association after five years and an appropriate report prepared and tabled in Parliament.

Clause 5 provides that the title of the principal member of a council that does not have a mayor is at the discretion of the council.

Clause 6 is a consequential amendment to section 47.

Clause 7 provides for the continuation of the Local Government Superannuation Scheme. The board will be able to amend the scheme by regulation (and the regulation will then be subject to the disallowance under the Subordinate Legislation Act 1978).

Clause 8 relates to the board. The presiding member of the board will be appointed after consultation with the associations referred to in section 74 (3).

Clause 9 deletes the provision that requires the approval of the Minister for the board to appoint investment managers.

Clause 10 will allow a council to grant an exemption from the operation of section 80 (5) of the Act. The provision presently provides that an officer of a council cannot act in relation to a matter in which he or she has a personal interest without an exemption from the Minister. An exemption will expire at the first meeting of the council after a general election (but may then be renewed).

Clause 11 provides that elections to determine the membership of a council will, as from 1993, be held at three-yearly intervals.

Clause 12 relates to a determination of a council under section 122 of the Act to change the method of counting votes at an election of the council. Notice of such a determination must be published in the *Gazette* and given to the Minister. A council will no longer be required to give such notice to the Minister.

Clause 13 will allow a council to determine a basis other than a basis specifically allowed under section 176 of the Act for the purposes of differential rating if it is appropriate to do so after an amalgamation or boundary change.

Clause 14 will allow a council to determine the method of payment for separate rates or service rates without the need to obtain Ministerial approval.

Clauses 15, 16 and 17 relate to the fixing of fees by councils. In particular, the Local Government Association will in declared circumstances, be able to make regulations governing the fees and charges imposed by councils.

Clauses 18, 19 and 20 delete the requirement to obtain Ministerial consent for certain functions undertaken by councils.

Clause 21 relates to the granting of leases or licences by councils under section 375 of the Act. The new provision will strengthen the public's opportunity to make submissions in relation to such matters. A council will no longer be required to obtain Ministerial consent under this section.

Clauses 22, 23, 24 and 25 relate to the by-law making powers of councils. New section 668 sets out various principles that are to apply in relation to by-laws. Many of these principles express rules that already apply to by-laws. Other principles are intended to ensure that by-laws do not unreasonably interfere with the rights and liberties of the person, or with principles of justice and fairness. A by-law will be able to incorporate other material. New section 671 is of particular note. This provision will require a council to give at least 21 days public notice of its intention to make a by-law. New section 682 will allow the Local Government Association to adopt an operative by-law of a council as a model by-law, and councils will then be able to adopt the model by-law.

Clause 26 is a consequential amendment to section 855c.

Clause 27 is a transitional provision. It particularly addresses the issues that arise by virtue of the winding-down of the Local government Advisory Commission after 1 July 1992.

The schedule sets out amendments to certain other Acts to enable certain fees payable to councils under those Acts to be fixed under the Local government Act. The amendments to the Subordinate Legislation Act 1978 will bring by-laws under the operation of that Act (and to make by-laws subject to consideration by Parliament under that Act and not the Local Government Act), and will ensure that by-laws, and regulations made by the Local Government Association and Local Government Superannuation Board, are not subject to Part IIIA of the Act.

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

BUILDING SOCIETIES (SHARE CAPITAL) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Building Societies Act 1975. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to amend the Building Societies Act 1975 to permit the listing of permanent shares on the Australian Stock Exchange. The Hindmarsh Adelaide Building Society merged with the Cooperative Building Society on 1 January 1992. As a result of that merger, the capital adequacy ratio of the Cooperative Building Society has fallen from approximately 12 per cent to approximately 8 per cent. This has largely occurred because of substantial provisions and write-downs to the assets of the Hindmarsh Adelaide Building Society, which has substantially reduced reserves.

The Cooperative Building Society has assets of approximately $2 billion and represents approximately 95 per cent of industry assets in South Australia. The society intends that a capital raising program be undertaken as soon as possible (in March or April) to increase capital to more acceptable levels. The Society undertook its first capital raising in December 1989 and currently has approximately $28 million of permanent shares on issue. These permanent shares are currently traded on an exempt stock market which the society is able to operate, having registered appropriate rules pursuant to a Ministerial Council for Companies and Securities declaration. However, a public listing, as opposed to exempt stock market trading, will make any offer of permanent shares more attractive to institutional investors, because market value will more closely approximate the asset backing of the shares.

The Cooperative Building Society has a significant and important position in the South Australian market as a repository for domestic savings and as a major source of housing finance. They are for many South Australians the secure, efficient and preferred alternative to the banking sector. If the St George Building Society in New South Wales converts to a bank, which is their stated intention, the Cooperative Building Society will become the largest building society in Australia. The South Australian Government is supportive of the aim of maintaining a strong and viable building society industry in South Australia. A public listing will assist the Cooperative Building Society to raise its capital adequacy ratio and this will afford protection to depositors.

The Bill is consistent with the Building Societies Act 1990 (which has now been proclaimed) and the proposed financial institutions legislation, which does not prohibit public listing. Clause 1 is formal. Clause 2 amends section 47 of the principal Act by striking out subsection (13), which prevents shares in a building society from being sold, or offered for sale, on any stock exchange.

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

SOUTH AUSTRALIAN OFFICE OF FINANCIAL SUPERVISION BILL

The Hon. C.J. SUMNER (Attorney General) obtained leave and introduced a Bill to establish the South Australian Office of Financial Supervision. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to establish the South Australian Office of Financial Supervision to regulate building societies and credit unions in South Australia. This is a matter which needs to be resolved as part of South Australia's endorsement of the financial institutions agreement which provides for a new uniform scheme for prudential supervision of permanent building societies and credit unions throughout Australia.

There are three permanent building societies registered under the Building Societies Act 1975, with total group assets in the order of $2.1 billion. There are 15 credit unions registered under the Credit Unions Act 1989 with total group assets of approximately $900 million, giving an aggregate for those industry assets of approximately $3 billion. Credit unions are currently supervised by the Credit Union Deposit Insurance Board, which is a statutory authority with a board of five members, established under the Credit Union Act. The Corporate Affairs Commission administers both the Credit Unions Act and the Building Societies Act, and these functions are performed by the State Business and Corporate Affairs Office.

I will shortly be introducing the complementary application of laws legislation as contemplated under the financial institutions agreement, which will apply the Australian Financial Institutions Code and the Financial Institutions Code as law in South Australia. That legislation will also repeal the Credit Unions Act and the Building Societies Act in so far as it relates to permanent building societies, on the effective operation of the cooperative scheme. The scheme is proposed to commence on 1 July 1992. As a result the Credit Union Deposit Insurance Board will cease to operate.

The Bill provides for the State Supervisor to have the powers as set out in the proposed financial institutions legislation. These powers will therefore be common with the State Supervisors in other participating States and will include powers to effectively supervise building societies and credit unions and to carry out registration and investigation functions currently performed by the State Business Office.

The structure, powers and mechanisms set out in the Bill will allow the State Supervisor to be co-located with the State Business Office and will allow the State Supervisor, to the maximum extent possible, to make use of the skilled resources of the existing regulators of building societies and credit unions.

The State supervisor will be an independent authority established as a board with a maximum of five members and will have the freedom to make prudential decisions in a similar manner as the Credit Union Deposit Insurance Board does now in relation to credit unions. The supervisor will be required to effectively supervise the institutions in accordance with the uniform standards and practices which will be set by the Australian Financial Institutions Commission. It will need to be adequately resourced to perform this function, to ensure the continuation of a strong and viable non-bank sector in South Australia and its activities will be monitored by the national authority.

The scheme contemplates that the ongoing costs of supervision should primarily be borne by financial institutions and not governments. The State supervisor will determine the supervision levy which is to be paid by building societies and credit unions in this State. Credit unions already pay for supervision to the Credit Union Deposit Insurance Board. The supervision levy will be a new cost for building societies, who have up to now paid minimal registration fees. This levy will need to be determined in consultation with industry.

The Bill permits arrangements to be made between Governments, for the South Australian supervisor to act as a delegate to the supervisor of another State, to carry out some of its functions. It is expected that the Northern Territory Government will seek to enter into such arrangements in relation to the one building society and one credit union in the Northern Territory.

The working group reporting to Premiers is continuing consultations with the friendly society industry, with a view to finalising a report on uniform regulation of that industry throughout Australia. The Bill does not preclude proposals from that industry sector at a later date, for a board nomination on the South Australian supervisor, if Premiers agree that the friendly society industry is to become part of the supervisory scheme. The Bill is not inconsistent with proposed legislation establishing the state supervisors in other participating States and will facilitate the adoption of a uniform supervisory framework. I commend the Bill to the House and I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clauses 3 and 4 deal with the interpretation of words and expressions used in the Bill.

Clause 5 establishes SAOFS and provides that it is a body corporate.

Clauses 6 and 7 set out the functions and powers of SAOFS.

Clause 8 provides that, subject to statutory exceptions, SAOFS is not subject to Ministerial direction.

Clause 9 requires SAOFS to comply with the financial institutions agreement and to strive to attain the principal objects of the cooperative scheme.

Clause 10 provides that SAOFS does not represent the Crown.

Clause 11 provides that SAOFS is an exempt public authority for the purposes of the Corporations law.

Clauses 12 to 22 deal with appointments to the Board of SAOFS and the conditions on which its members hold office.

Clauses 23 to 28 deal with procedure at meetings of the Board.

Clause 29 requires disclosure by Board members of possible conflicts of interests.

Clauses 30 to 32 deal with the staff of SAOFS.

Clause 33 prevents persons with a substantial interest in a financial institution from being involved with SAOFS as a member or employee.

Clause 34 requires members and employees of SAOFS to act honestly and impartially in the performance of their functions.

Clauses 35 and 36 confer some protection on members and employees of SAOFS who act honestly in the performance or purported performance of official functions.

Clause 37 deals with the keeping of the seal of SAOFS.

Clause 38 provides that judicial notice is to be taken of the signature of a member of the Board, or the chief executive officer of SAOFS.

Clause 39 empowers SAOFS to delegate powers.

Clause 40 empowers SAOFS to accept, with the Minister's approval, a delegation of power by the State Supervisory Authority of another State.

Clause 41 requires SAOFS to keep proper accounts and provides for audit by the Auditor-General.

Clause 42 provides for an annual report.

Clause 43 is a regulation making power.

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

FINANCIAL INSTITUTIONS (APPLICATION OF LAWS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to make provision for a uniform legislative scheme for certain financial institutions; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to apply the Australian Financial Institutions Commission Code and the Financial Institutions Code, which has been introduced into the Queensland Parliament, as a law of South Australia; and to repeal the Credit Unions Act 1989 and the Building Societies Act 1975 except in its application to Starr-Bowkett societies. The current Building Society Act will be amended by changing its short title to Star-Bowkett Societies Act 1975. The Bill also makes provisions of a savings or transitional nature consequent on the enactment of the Act.

The crisis in NBFIs, particularly in Victoria, highlighted the need for more stringent and uniform prudential standards governing the operations of building societies and credit unions throughout Australia. In December last year, Premiers signed a formal agreement committing the States to a uniform process which culminates in consideration of cooperative scheme legislation, and, if all States secure its passage, a new scheme for State-based prudential supervision of permanent building societies and credit unions throughout Australia. This scheme involves national coordination of high uniform standards and practices and will enhance the prudential standing of the industry. It will also provide a framework for a stronger and more competitive industry to develop in the future.

The Premiers communique from the Adelaide Conference of Premiers stated that:

> The formal agreement represents a notable example of the States and Territories working together to effect reform in an area of important concern to all jurisdictions. It also reflects a constructive spirit of cooperation between Governments and industry.

The cooperative scheme legislation has been drafted in such a manner so as to neutralise any State references and in so doing may be known as the Australian Financial Institutions Commission Code and the Financial Institutions Code. The elements of the supervisory arrangements which are underpinned by the legislation before the Council are:

- First, an independent national body, with the working title Australian Financial Institutions Commission (AFIC) to be established in Brisbane under the AFIC Code, to develop prudential standards and practices and to coordinate the application of those standards by supervisors in each State;
- The State supervisors are to be established as independent authorities in each State and are to undertake day-to-day prudential supervision of building societies and credit unions registered in their State, with the objective of protecting the interest of depositors in accordance with the uniform rules set by AFIC;
- AFIC will co-ordinate uniformity, ensure that intermediaries providing banking services to industry are appropriately supervised and will oversee and coordinate emergency liquidity schemes for institutions experiencing temporary liquidity stress; and
- The costs associated with supervision are to be borne primarily by industry.

If the State supervisors performance is, in the opinion of AFIC, lax, there are mechanisms built into the legislation for reporting the matter to the Minister, Ministerial Council and the Premier.

The prudential standards which are no longer prescribed in the legislation are to be set by AFIC in consultation with industry. The working group reporting to Premiers has established a steering committee to commence preparation of draft standards for consideration by the working group and exposure to industry. These standards, which will effectively be subordinate legislation, will be published in the *Queensland Government Gazette* and in book form in a similar manner as the Reserve Bank publishes bank prudential standards. At the core of those standards will be a risk-based approach to maintaining capital, which acts as a break on high risk ventures, whilst not obtruding into legitimate management decisions and provides protection for depositors.

Additionally, the standards will address in detail prudent practices relating to liquidity, large exposures, ownership structures, risk management systems, relationship with subsidiaries and accounting standards, etc. It is expected that AFIC will set standards and practices which will be equal to those applying to banks and in some instances could be greater. State supervisors will be required to regularly inspect the institutions to ensure compliance.

The responsibility for prudent management of building societies and credit unions rests with their boards and management, not with Governments, supervisors or regulators, and supervision should focus on the prevention of problems. It is the role of Governments to provide the right legislative environment in which this can occur. The package of supervision and the underpinning cooperative scheme legislation provides this environment. To maintain industry identity and enhance public perceptions, the legislation provides that building societies and credit unions should maintain their traditional focus by meeting certain character criteria.

The Financial Institutions Code provides character criteria for building societies to reflect their ongoing commitment to provide residential finance to Australians and has regard to the evolving role of societies specialising in servicing the changing financial needs of the community. The Financial Institutions Code provides for a prime purpose test where a minimum of 50 per cent of a society's group assets must be held in the form of residential finance either owner occupied or tenanted.

Credit unions are required by the Financial Institutions Code to maintain 60 per cent of their assets in financial accommodation to members and no more than 10 per cent of such financial accommodation may be for commercial purposes. Because all the institutions will not comply with the standards on commencement of the scheme, for example, the capital adequacy requirements, AFIC will, in the published standards, provide for transitional periods for compliance.

Apart from the prudential standards not being prescribed in the legislation, and the State supervisor being given power to determine the supervision levy to be paid by the institutions, the Financial Institutions Code provides for a system of governance for building societies and credit unions not dissimilar to that provided for in current building societies and credit unions legislation. The accounts and audit provisions in the Financial Institutions Code have been drafted to incorporate the recent amendments to Corporations Law, which apply the economic entity concept to consolidated accounts.

Interstate societies will be required to be registered as foreign societies under the Financial Institutions Code if they trade in South Australia. To be eligible for such registration, they must comply with the prudential standards published by AFIC. Societies already trading interstate, which

do not meet the prudential standards on commencement, will be subject to the same transitional timetable for compliance as applies to activities in their home State.

The regulations under the initial Financial Institutions Code have been approved by the Premier. Future regulations are to be approved by the Ministerial Council for Financial Institutions established by the Financial Institutions Agreement. To ensure that the scheme complies with the obligations of the States under the Heads of Agreement on future corporations regulation agreed between all States, the Northern Territory and the Commonwealth in 1990; the regulations will provide that the Corporations Law will apply, according to its tenor, to the out of home State activities of the institutions, in the same manner as it applied immediately before the commencement of the scheme.

The future application of Corporations Law to the institutions which are referred to as 1.3 bodies in the Heads of Agreement, is the subject of current negotiations between the Commonwealth and the States.

Building societies and credit unions have a significant and important position in the South Australian market as repositories for domestic savings, as major sources of housing and consumer finance and they are for many South Australians the secure, efficient and preferred alternative to the banking sector. Building societies remain committed to providing housing finance for as wide a spectrum as possible of prospective home buyers, and credit unions are committed to providing consumer lending to their members. The South Australian Government is supportive of the aims of maintaining a strong and viable building society and credit union industry in South Australia. The proposals contained in the Bill have been discussed with the building society and credit union industry and they are fully supportive of the Bill proceeding. The Opposition has been alerted to the proposals.

The Bill is consistent with proposed legislation to apply the Queensland Bills as law of all other States and the Territories, and in so doing will facilitate the adoption of a uniform supervisory scheme. The Government supports the early establishment and implementation of a cooperative scheme incorporating high prudential standards and adequate depositor protection to achieve a stable environment for building societies and credit unions. I commend the Bill to the House, and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 sets out definitions that are required for the purposes of the Bill.

Clause 4 provides that references to a Queensland Act extend to the Act as in force from time to time or as substituted by some subsequent Act.

Clauses 5 and 6 apply to the AFIC Code and the regulations as laws of South Australia.

Clause 7 provides that certain expressions used in the AFIC Code and regulations, as applying in the State, are to have appropriate local connotations.

Clauses 8, 9 and 10 are corresponding provisions with reference to the Financial Institutions Code.

Clauses 11, 12 and 13 provide, out of an abundance of caution, for the conferral of powers, and jurisdiction, in accordance with the scheme legislation, on AFIC, the AFIC Appeals Tribunal, and the Queensland Supreme Court.

Clause 14 provides that the South Australian Office of Financial Supervision is to be the State Supervisory Authority for the purposes of the legislation as applying in this State.

Clause 15 provides that the Crown is to be bound by the legislation.

Clauses 16 and 17 impose the fees and levies for which provision is made in the legislation.

Clause 18 provides for Parliament to be informed of failures by the State Supervisory Authority properly to enforce the legislation in this State.

Clause 19 provides that local adaptations may, if necessary, be made to Queensland laws in order to ensure that they operate effectively in the State.

Clause 20 provides for the payment of fees and penalties, in the absence of any contrary provision, to the State.

Clause 21 is an interpretation provision.

Clause 22 provides for the repeal of the State's existing legislation dealing with credit unions and building societies. However, Starr-Bowkett societies will continue to be regulated under the Building Societies Act (which will become the 'Starr-Bowkett Societies Act').

Clauses 23 to 30 deal with various transitional matters.

Clause 31 provides for the making of regulations of a savings or transitional nature.

It is proposed that this scheme should start operating by 1 July, provided that legislation can be passed by all the Parliaments involved. Whether that can be achieved, I do not know, but I seek the cooperation of the Council and the other place in achieving that objective. Some concern has been expressed by Victoria about this scheme, although I am not able to say at this point whether Victoria's worries about its operation have been resolved. However, I will attempt to report further on that during the passage of the Bill through this Chamber. Needless to say, the industry in this State supports the legislation, and I have done what I can to provide information to the honourable shadow Attorney-General as the proposals have been developed, to try to ensure an expeditious passage of the legislation.

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

[*Sitting suspended from 6 to 7.45 p.m.*]

SURVEY BILL

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Delegation.'

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

Page 3, line 29—Leave out 'to any person'.

The Liberal Party in another place, through its shadow Minister, considered this aspect of delegation of powers from the Surveyor-General. Representation had been made to the Liberal Party that there was concern within the industry about this power of delegation. It is fair to say that, in consideration of the attitude expressed by the Minister in another place, the Liberal Party understood some of the argument put forward by that Minister for this delegation-making power. As a result of a briefing I had from departmental officers, for which I thank the Minister responsible, I, too, understand the reason for the position the Government and the Minister took. As is proper in relation to the bicameral system of Parliament and with a House of review, the Liberal Party in consultation with the shadow Minister has slightly refined its position in this Chamber and seeks to move the amendment now before us.

The industry's concern is that persons other than licensed surveyors might be asked to undertake work that only licensed surveyors ought to be asked to undertake. This amendment seeks to remove the delegation-making power that says that the Surveyor-General may delegate to any person powers or functions that the Surveyor-General has under the Act and states that the delegation-making power should be only to a person who is or is eligible to be a

licensed surveyor and who is suitably qualified to perform or exercise the power or function. That does not go as far as some within the industry would wish the Liberal Party to go but, as I indicated, the Liberal Party accepts in part the reasoning of the Minister and the Government on this issue. Nevertheless, we do believe that there is some substance in the attitude of some within the industry, and believe that this amendment is a compromise of two extreme positions.

The Hon. ANNE LEVY: The Government opposes this amendment. The delegations that the Surveyor-General is able to make under this Act apply to numerous other areas where the Surveyor-General is involved but where he currently delegates responsibility to officers of the Department of Lands.

These delegations are for other Acts as well as the Survey Act and include the Surveyor-General's functions in matters such as geographical names, administrative boundaries and the procedures for roads, opening and closing, none of which requires a licensed surveyor or anyone with the qualifications to be a licensed surveyor. These delegations are currently in operation to appropriate officers in the Department of Lands. If such delegations could be only to licensed surveyors or people eligible to be licensed surveyors, it would greatly add to the cost of providing the service and mean that licensed surveyors who are employed in Government would be diverted from the more important functions which they are required to perform and for which their qualifications are necessary.

I should point out that this is not new. The Surveyors Act, in section 46a, provides a similar authority to the Surveyor-General to delegate. This provision for the Surveyor-General to delegate has been in operation since 1975, and to the best of my knowledge it has never been cause for any complaint at all. This is merely intended to continue the existing arrangements that have worked satisfactorily for the past 17 years.

The Hon. M.J. ELLIOTT: I suppose that, while it is worth noting that this clause as it stands echoes what is in the existing Act which is being replaced, the more important point is that a number of non-surveying functions are to be carried out, and it is nonsense to require a surveyor's qualification to carry out that work. Frankly, I am not persuaded by the amendment and I shall not be supporting it.

Amendment negatived; clause passed.

Clause 7 passed.

Clause 8—'Committee.'

The Hon. R.I. LUCAS: I address a question to the Minister in relation to the Survey Advisory Committee. Has the Government advanced far enough to indicate the potential membership of the committee should this piece of legislation pass through the Parliament soon?

The Hon. ANNE LEVY: I understand that the actual membership of the committee has not yet been established. Obviously paragraphs *(a)* and *(b)*—the Surveyor-General and the Registrar-General—would be known. However, the three persons appointed by the Minister, of whom two must be nominated by the Surveyor-General and one must be a person who is not a surveyor, and the five persons nominated by the Institution of Surveyors, have not yet been determined. I understand that the committee will be in place before the Act is proclaimed, which would be expected to occur in two or three months.

The Hon. R.I. LUCAS: The Minister may or may not be aware—certainly her advisers would be—that in relation to paragraph *(d)*, 'five persons appointed by the Minister on the nomination of the Institution of Sureyors', concern has been expressed to me by some members of the Association of Consulting Surveyors that a large number of those nominations from the Institution of Surveyors may be what they term Government surveyors, or surveyors employed by the Government, as opposed to those in private practice. Has the Minister, on behalf of the Government, any attitude towards the concern that has been expressed to me and to the Liberal Party and will she indicate Government thinking on those matters?

The Hon. ANNE LEVY: I understand that the rules of the Institution of Surveyors provide that at least two of the currently four members who are nominated by the institution to the Survey Advisory Committee must be from the private sector. Consideration is being given as to whether that should be changed from two to three of the now five having to come from the private sector. I reiterate that this is part of the rules of the institution itself.

The Hon. R.I. LUCAS: I understand that. I guess that the two options, as the Minister has clearly outlined, are that the rule stays as two and then potentially three of the five nominees are from the Government sector, if I can put it that way.

The Hon. Anne Levy: Public sector.

The Hon. R.I. LUCAS: The public sector is a better way to put it. Or it could be changed to three. My question relates to the fact that if it stayed at two and three were to come from the public sector, what attitude, if any, has the Government in relation to the other subclause, where there is some flexibility under paragraph *(c)*, 'three persons appointed by the Minister of whom two must be persons nominated by the Surveyor-General'? I presume that the Government, the Minister and the Surveyor-General have some flexibility in relation to the persons appointed by the Minister on the nomination of the Surveyor-General. What is the attitude of the Government and of the Surveyor-General to paragraph *(c)* in relation to the possibility of both options?

The Hon. ANNE LEVY: I understand that for the past 10 years nominees appointed by the Minister, either from public or private practice, have been chosen on the basis of the balance between public and private in the rest of the committee. Attention has been paid to the balance between public and private practice. The persons appointed under paragraph *(c)* have been chosen to ensure a good balance after the other members are known.

Clause passed.

Clause 9—'Functions of committee.'

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

Page 4, line 30—Leave out 'to the Surveyor-General' and insert 'to the Minister'.

As the Minister agrees, I see clause 9 as a potential test for what I see as the substantive amendment that the Liberal Party is seeking to move in relation to this Bill, although the amendments that I seek to move to clause 43 are really the substantive part of this particular point. We can have the debate now in relation to clauses 9 and 43. Whilst I will formally move the amendment in clause 43 if we are unsuccessful in clause 9, I will certainly not repeat the debate, but I would like to have the amendment on the record.

I will briefly retrace the history for the benefit of the Hon. Mr Elliott, because I am not sure how well briefed he is, given that he has just flown in from other areas for this debate. The Liberal Party in the House of Assembly, through the shadow Minister, received a series of representations from the surveying industry in relation to what people in private practice saw as the excessive power of the Surveyor General in relation to the issuing of survey instructions and in other areas. Given the late nature of some of those representations, the Liberal Party in the House of Assembly

sought to amend clause 43 in relation to the Survey Advisory Committee and the issue of survey instructions in the following way. At the moment clause 43 provides:

> The Surveyor-General may, after consulting with the *Survey Advisory Committee*, issue such survey instructions in relation to cadastral surveys and records of cadastral surveys as the Surveyor-General considers necessary or desirable.

The Liberal Party in another place sought to amend that by saying:

> . . . after consulting with and with the concurrence of the Survey Advisory Committee . . .

In effect, the intention of the amendment in another place was to put some restriction on the Surveyor-General in relation to the issuing of survey instructions, and that restriction was going to be that not only should the Surveyor-General consult with the committee but the Surveyor-General should have the concurrence of the committee.

As I indicated earlier, one of the benefits of the bicameral system is that we can look at the debate in another place and, on some occasions—not that you would read about it in the newspapers—see the partial wisdom of the attitude of the Government or the Minister on a particular issue. On reflection, the Liberal Party has seen the wisdom of some of the arguments used by the Government against the amendment that the Liberal Party sought to move in another place. Therefore, we have not proceeded with that amendment in the Legislative Council. However, we believe an important issue has been raised by the private section of the surveying industry, and we believe that it must be tackled in some way. Therefore, we have moved the package of amendments that the Committee has before it at the moment.

The essential premis of the amendments that we now move is that the Parliament, through the normal regulation-making capacity which the Government has, and through the review of the regulation-making capacity of Parliament, ought to retain a role in the area of issuing survey instructions. Under the Government proposition the Surveyor-General, after consultation with—but not necessarily the agreement of—the Survey Advisory Committee, can issue survey instructions that can have extraordinarily wide ramifications, not only for the industry but also for the public. I do not intend to repeat the examples of the obvious interest of the public in relation to the work and activity of surveyors on occasions. However, there is no doubt that there is public interest in the work of surveyors, and we in this Parliament must be mindful not only of the attitudes of the industry but also of the public interest.

It is our view that, under the Government Bill, it is possible that the Surveyor-General—perhaps not even with the agreement of the Survey Advisory Committee—could issue survey instructions with which the Parliament and the public would be unhappy. Once the Surveyor-General has issued those instructions, there is no recourse by any member of Parliament, the Parliament generally or the public. One cannot go to the Survey Advisory Committee or to a member of Parliament and have those survey instructions overturned in any way. In effect, it is an executive or administrative action in which the Parliament can have no role.

It is the view of the Liberal Party that, because of the importance of the area of survey instructions, the normal regulation-making process should be applied. Therefore, the Government and the Surveyor-General can issue regulations, but the Parliament should retain the power to disallow those regulations, should it so choose. The public would be able to lobby members of Parliament and seek the concurrence of members to overturn those regulations, should they wish to do so.

I know the attitude of the Government and the Surveyor-General's staff is that the Surveyor-General generally acts only with the agreement of perhaps the Survey Advisory Committee and the industry. But, again, the Liberal Party puts the view that not only the views of the industry ought to be taken into account: the public interest ought to be considered as well, and it is possible that the Surveyor-General, together with the Survey Advisory Committee or the representatives of the surveying industry—both public and private sector employed—may well be of the one view that particular survey instructions should be issued. However, it may well be that that single view of the industry and of the Surveyor-General is contrary to the public interest, and it is therefore the Liberal Party's view that the public ought to have an opportunity, through its elected members, to put a point of view and to disallow those regulations, should there be the need to do so.

The other argument that has been used against regulations is that, in some way, survey instructions are much quicker than the normal regulation-making power. That might be true in some cases. I think that, in the first instance, in the actual construction of a new survey regulation there is really no logical reason why the drafting of a new survey instruction ought to be any quicker than the drafting of a new regulation. I presume that the experts in the department and whomever else is consulted would assist with the drafting and that there really should be no significant difference in the initial drafting. It may well be that administrative arrangements from thereon mean that the processes through which regulations go for approval within Government, take a little longer than survey instructions. Although I do not know, I would presume that it must go through Cabinet or a Cabinet committee in some manner for approval.

However, I would believe that, if the Surveyor-General was issuing survey instructions, there would have to be some element of consultation with other departments that might have an interest, other than the particular department in which the Surveyor-General happens to be, in the issuing of new survey instructions. It may well be that survey instructions also involve an element of consultation with other Ministers and departments.

So, the Liberal Party would concede that it might take a little longer for regulations, but we believe that from our viewpoint and on behalf of the public interest it is a small price to pay to ensure that the interest of the public can be protected on those perhaps small number of occasions when something might occur and the public interest is contrary to the interest of the Surveyor-General and those of the industry. That is the essential argument for the amendment which I move on this clause and, more substantively, which I will move to clause 43. I urge the Committee, in particular the Hon. Mr Elliott of the Australian Democrats, to consider this amendment. It is the most important amendment that we will move in Committee, and we believe it to be consistent with the usual attitude of the Australian Democrats in relation to regulations to allow some role for the Parliament in oversight of those regulations as opposed to the issuing of the administrative instructions or, in this case, survey instruction by the Surveyor-General.

The Hon. ANNE LEVY: The Government opposes the amendment. As did the Hon. Mr Lucas, I will speak not only to the amendment moved to clause 9 but also to that to be moved to clause 43 which is the substantive amendment on which this amendment to clause 9 is consequential. The Surveyor-General has a very important role in this State as guardian of the State cadastre and in ensuring that the land in South Australia is surveyed to the very highest standard. To achieve this, it is necessary to have established

standards and procedures that need to be followed in carrying out cadastral surveys. Currently this is being done through survey regulations, together with administrative instructions issued by the Surveyor-General which expand on the regulations. I assure members that the regulations are very technical in nature. By way of example, I will quote regulation 56, as it currently exists. It provides:

> The bearing of the datum line for the survey must be a plain bearing derived from the Australian map grid coordinates of two tertiary network marks to which the survey is connected and must be verified by connection to any other tertiary network survey mark.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: They are very technical. It is hard to imagine that they can in any way claim to be of public interest. They are technical regulations that are of concern only to surveyors.

The Hon. M.J. Elliott: What about regulation No. 43?

The Hon. ANNE LEVY: I do not have it here, but I am sure I can obtain it for the honourable member if he would like to see it. Certainly, other regulations deal with things like setting accuracy standards for surveys, prescribing the size of pegs and other survey marks. They indicate when and where survey marks are to be placed, and so on. They deal with technical matters. In assessing the appropriate method of setting surveying standards for the future, the Government considered the continuation of regulations as has applied in the past, but concluded that, due to the highly technical nature of surveying and the impact of rapid technological advancements that are occurring in the survey industry, it would be extremely difficult to produce regulations that would be flexible enough to allow surveys to take advantage of these new technologies. I should have thought that the Parliament and the Legislative Review Committee would have enough to do without being bombarded with changes to technical regulations, of which I doubt very much that members would have any understanding.

It is certainly true that changing surveying instructions involves a certain amount of work. Changing regulations involves a great deal more work and time. The Hon. Mr Lucas suggested that it might have to go to Cabinet or to a subcommittee. As the procedures now stand, it requires Cabinet consideration twice before changes to regulations can occur. The extra time and work involved would seem totally unnecessary when this enables examination of the regulations which are so technical in nature and of no possible interest to the people who thereby have an extra chance to see them. Certainly the Government is of the view that there will be far greater efficiency for both Government and the surveying profession if the technical aspects of surveying are now dealt with under survey instructions which are issued by the Surveyor-General after consultation with the surveying industry.

I will quote from a letter received from the President of the Institution of Surveyors of Australia (South Australia Division) which was sent between two and three weeks ago when this matter was being debated in another place. The letter states:

> I am writing to you in regard to the above [Survey] Act. The Institution of Surveyors unreservedly supports this Act. This Act has been widely discussed within the institution in committee meetings and at general meetings of members over the past three years during the Act's formation. The institution seeks to see this Act passed in its present format and would be extremely concerned if the Act were to be changed to allow for the reintroduction of regulations.

This, I reiterate, comes from the President of the Institution of Surveyors, which covers more than 90 per cent of all surveyors in South Australia and is divided roughly equally between surveyors in private employment and surveyors in public employment. Both sections of the profession do not wish to revert to regulation instead of instructions.

The Hon. M.J. ELLIOTT: The Hon. Mr Lucas is quite correct in saying that as a general rule the Democrats prefer to see matters handled by regulation and that as far as possible Parliament should keep a watching eye over what Governments are doing. There is an increasing trend for Governments to govern administratively rather than through the Parliament. What is missing so far in this argument is the Hon. Mr Lucas giving a specific example of the sort of thing which could go wrong and about which we need to be concerned. Although the Minister read out the letter from the Institution of Surveyors, I could not work out why they were so worried about regulation. There has not been a clear indication either way of the disaster with having regulations or the necessity for having them. I invite the Hon. Mr Lucas to give an example of where he thinks that the use of survey instructions, as distinct from regulations, would cause a problem. Likewise, I invite the Minister to give a specific example as to why regulations would create such a problem.

The Hon. J.C. BURDETT: I support the amendment moved by the Hon. Mr Lucas. I should have thought that the argument set forth by the Minister would have been valid for the standards to be in regulations, not in the Bill, but it is not a valid argument to remove the process from parliamentary scrutiny altogether. I am not impressed by the Minister's argument. I believe in democratic government and that matters which can affect not only the surveying profession but also the consumers of the services of that profession—the members of the public, who are the ultimate people who are concerned—should not be removed from parliamentary scrutiny. If members of Parliament cannot understand most of the matters—and the Minister gave an example—they can get advice on that. All that happens through putting them in regulations, apart from a small delay, perhaps, is that Parliament does have the power of disallowance. That usually happens when members of the public or the profession raise matters with members of Parliament and there are the procedures of disallowance by the Houses and the Legislative Review Committee.

It seems to me to be improper to remove this from that scrutiny, and I am not impressed by the Minister's argument, because it is not only the surveying profession that is concerned. I have spoken to members of the surveying profession, and those to whom I have spoken do not object to the regulation procedure. They say that they have had that in the past. They do not readily understand the difference between survey instructions and regulations but, when that is explained to them, they do not object to the fact that the advantage of regulations is that Parliament has a power of disallowance—it does come within the purview of Parliament and within the democratic system.

The principal reason why I support the amendment is that not only the surveying profession but also members of the public—the consumers of those services—have a right to be protected, and there could be cases where, if Parliament had no say, and if survey instructions could go to their full ambit as set out in this Bill, it could disadvantage members of the public. For those reasons, I support the amendment moved by the Hon. Mr Lucas.

The Hon. R.I. LUCAS: During my second reading contribution I indicated some of the areas of concern for the public, and I will recount some of those. I have only recently soldiered my way through a lot of these regulations, and I must confess to not being a licensed or registered surveyor, so I concede to the Minister that some of them are technical

and therefore not of much significance. I could put it a different way: a member of Parliament struggles sometimes to understand some aspects of the regulations but, if one looks at the whole package of regulations, one can see a number of areas where there may well be issues of public interest or issues where members of the public may have an attitude different from that of the profession. The regulations that were issued under the Surveyors Act of 1982 provided the surveyors' code of ethics regulations and, under the Surveyors Act, a code of ethics for the profession which was issued in 1982 indicated the accepted code of behaviour for surveyors.

I am not sure whether this is the most recent copy of those regulations of the 1982 code of ethics, but it goes through such headings as false information, gross neglect or delay, confidentiality of work, appointment to survey work previously assigned, competence of particular people, additional recompense in the event of something going wrong, undue influence, conflict of interest, appointments with dishonest purpose, arrangements pertaining to clients, and fees that can be charged to people; there is another regulation that provides that fees can be charged to the industry by the board. I presume that that would be charged by the Surveyor-General under the new arrangement. I guess there will still continue to be fees of some form, but that is not the significant part of it. There are within the regulations restrictions on advertising by the industry in that area.

A number of the submissions that were put to the Liberal Party indicated that significant areas of Adelaide evidently have problems with correct surveying; that is, the boundaries in a number of suburbs of Adelaide that have been established by fences between residential properties do not correspond with the actual survey boundary lines. As I understand it, (and again, it is a difficult area to comprehend completely), it is primarily on the basis of old surveys which have been done but which were inaccurate for whatever reason. It can be a matter of great controversy when one finds that the fence that one thought divided one's property from the next property happens to be a metre out. This is particularly so if one finds that the boundary line as measured by the current fence between the residential properties is a metre out and if one happens also to have been having an altercation with one's neighbour as a result of a tree dropping leaves onto his or her property, or whatever the reason, and the neighbour wants to do something about reclaiming that one metre of property.

It is not really one's fault that one has bought a property with the boundaries that happen to be a metre out and, as the Surveyor-General's office has explained to me, if it is out a metre on one side, perhaps it is out a metre on the other side and, if the whole block has been surveyed incorrectly, everybody's boundary should more properly be one metre further north, south, east or west. It is the responsibility of the Surveyor-General's Department and others to try to resolve these sorts of conflicts, but it is an indication. The point I put to the Hon. Mr Elliott is that it is not just an esoteric exercise in relation to regulation No. 56, which is of interest only to the surveyors and to the Surveyor-General. What we are talking about is the real world of one's house, property or land, or where the boundaries might be and the charges that the surveying industry may well impose for their services.

I am not suggesting that the survey instructions set the level of fees that can be charged, but the regulations establish the qualifications of who can practise, the technical requirements of what must be done and a code of ethics, and all those things must in effect be reflected in the cost structure of the private surveying industry. If it is reflected in the cost structure, it means that it affects what they will charge the consumers of those services.

So, in Committee it is very difficult to take the Hon. Mr Elliott through every aspect of the regulations. I am sure he would not want that, but I indicate that it is not just an esoteric concern to the industry. There are genuine reasons why the public interest ought to be protected, and there are genuine reasons why the Parliament ought to retain the flexibility of being able to say on occasions—and perhaps on very rare occasions—'No, go back and do it again; redraft those regulations and get them right.' It is our very firm view, as the Hon. Mr Burdett has indicated, that the Parliament should retain that option, for the reasons I have now indicated.

The Hon. ANNE LEVY: I trust that the honourable member will give me as long to reply as he took to explain his point. I think he is misunderstanding—

The Hon. R.I. Lucas: I had no option.

The Hon. ANNE LEVY: Without interjections! I think the honourable member has misunderstood the intention and what is in the Bill. The Bill, as it is before us, requires regulations for non-technical issues; that is, questions such as educational qualifications required for surveying, fines that may be applicable and disciplinary action that may be required. These matters are to be set out in regulations and there is no suggestion that they would be determined merely by the Surveyor-General's survey instructions.

These matters, which I readily agree are of public interest, will be set out as regulations under this Bill. But what the Bill is proposing is that solely technical matters will not be set out in regulations but will be promulgated by means of survey instructions. Matters that are of public interest, such as licensing, registration and educational requirements, and so on, will remain in regulations. These matters, which certainly are of public interest, will remain in regulations and there is no suggestion that they will not. What is proposed to be removed from regulation is solely the technical matters. As indicated by the Hon. Mr Lucas, it is unlikely that any member of Parliament would have much interest in these technical regulations. As I said, if they deal with the positioning of pegs and so on. I imagine we can presume that they will not be positioning square pegs in round holes!

It is perhaps worth recording that regulation of technical matters has applied in South Australia since 1935. Ever since then—in more than 50 years—not once has the public or the surveying profession ever questioned any of the regulations, nor have any been disallowed by Parliament and nor has there ever been a disallowance motion. So, the public interest in technical regulations cannot be suggested to be very high. Furthermore, the survey instructions are not produced in isolation from the community. The survey advisory committee has to be consulted in the process of drawing up these technical instructions. There are non-survey members on the advisory committee who can certainly bring non-surveying attitudes to the question. They provide appropriate advice to the Surveyor-General in these matters. It would certainly be a very foolish Surveyor-General who ignored the advice of the advisory committee and tried to issue instructions that were opposed by the committee, particularly as the advisory committee has direct access to the Minister if it wishes. The committee does not have to go through the Surveyor General if it wishes to convey an opinion to the Minister.

Finally, the honourable member referred to the code of ethics. The Government feels that it is not appropriate for a code of ethics for a profession to be either in technical survey instructions or in regulations. There is no other profession in this State that has its code of ethics detailed

in regulations; it does not apply to accountants, lawyers or engineers. There is no other profession that has its code of ethics incorporated in regulations. It is considered everywhere else that the code of ethics is a matter for the professional body. It is expected that the Institution of Surveyors will be responsible for the code of ethics, not the Surveyor-General, and that the professional body will have the same responsibility for the code of ethics as applies for any other profession where the professional association has that responsibility.

The Hon. J.C. BURDETT: I know that we are discussing clause 9, but it has been agreed that clause 9 relates to clause 43. Clause 43 sets out the matters that may be prescribed by survey instructions. Clause 43 (2) provides:

Without limiting the generality of subsection (1) survey instructions may—

It then sets out a series of things. I stress that it is without limiting the generality of subsection (1), so it may go further than this. However, if we go through in detail the matters that may be done by survey instruction, not by regulation and not subject to disallowance by Parliament, paragraph *(a)* states that the instructions may:

regulate the manner in which cadastral surveys are to be carried out (including the records to be kept in relation to cadastral surveys);.

I suggest that it may very well be in the interests of the public and of the Parliament to know about the manner in which cadastral surveys are to be carried out, especially in relation to the records that are to be kept. They could be vital to the profession and to the public, more importantly. Paragraph *(b)* provides that the instructions may:

provide for tolerances in relation to the accuracy of cadastral surveys;.

While doubtless Parliament would have to be told about the tolerances, the tolerances are obviously important. If the tolerances are too loose then that will destroy the whole system. Paragraph *(c)* provides that the instructions may:

regulate the standard of equipment to be used in cadastral surveys;.

That could be of interest to the public and the Parliament if the standard of equipment is not what it ought to be. Paragraph *(d)* provides that the instructions may:

regulate the form, establishment, custody, maintenance, removal or reinstatement of survey marks;.

This is another matter of importance. Paragraph *(e)* provides that the instructions may:

regulate the form or certification of plans or other records of cadastral surveys;.

The form and certification have been matters of interest before. The form or certification are matters to which the Parliament can properly apply itself. Paragraph *(f)* provides that the instructions may:

regulate the manner in which cadastral surveys are to be carried out in designated survey areas with a view to those areas forming part of the coordinated cadastre under this Act.

I suppose there is not very much in that. Paragraph *(a)* to paragraph *(f)* raise legitimate reasons why there ought to be parliamentary Government and not bureaucratic Government and what the Surveyor-General puts into practice ought to be able to be reviewed and disallowed by Parliament.

The Hon. ANNE LEVY: The matters listed by the Hon. Mr Burdett are all technical matters. I can quote the existing regulations relating to these technical matters that would come under the survey instructions. He mentioned the accuracy of the survey. Regarding accuracy of surveys, the regulation currently states:

(1) Subject to subregulation (3), the accuracy of the survey must be tested by connection to tertiary network survey marks and the linear misclosure between the survey and the Australian Map Grid co-ordinates of those marks must not exceed—

(a) where the land surveyed is in a central business area—0.02 metres plus one linear unit in 7 000;

(b) where the land surveyed is in an urban area—0.03 metres plus one in 5 000;

(c) where the land surveyed is in a rural area—0.10 metres plus one in 5 000;

(d) where the land surveyed is in more than one of the above areas—the smallest tolerance applicable to a survey in any of the areas.

(2) Subject to subregulation (3), the angular misclosure of the survey must be tested and the linear displacement (caused by the angular misclosure) between the survey connection to tertiary network survey marks and the Australian Map Grid co-ordinates of those marks must not exceed—

(a) where the land surveyed is in a central business area—0.05 metres;

(b) where the land surveyed is in an urban area—0.06 metres;

(c) where the land surveyed is in a rural area—0.12 metres;

(d) where the land surveyed is in more than one of the above areas—the smallest tolerance applicable to a survey in any of the areas.

(3) Where the survey is carried out by establishing survey marks using co-ordinate based techniques or verified radiations and linear and angular misclosure cannot be tested, the position of suvey marks as placed or accepted in the survey must not differ (in either a northely or easterly direction) from the position of those marks as determined from their Australian Map Grid co-ordinates shown on, or derived from information shown on, the survey plan by more than—

(a) where the land surveyed is in a central business area—0.04 metres;

(b) where the land surveyed is in an urban area—0.05 metres;

(c) where the land surveyed is in a rural area—0.15 metres;

(d) where the land surveyed is in more than one of the above areas—the smallest tolerance applicable to a survey in any of the areas.

These are technical matters, the type of technical requirements that are of great importance to the profession and of great importance in maintaining the integrity of the South Australian cadastre but hardly of great public interest. One of the prime functions of the Surveyor-General is to maintain the integrity of the South Australian cadastre. It is proposed to do so by means of survey instructions such as the one I have just read out, which are extremely technical in nature and which will have been thoroughly discussed with the profession, with the advisory committee and with anyone with an interest in this matter before they are issued.

It seems unnecessarily inefficient to suggest that they should have to go through the subordinate legislation procedures. We are looking for greater efficiency, at cutting out red tape and cutting out unnecessary procedures which slow things up and which cost the taxpayer money. If we can achieve efficiencies by removing such highly technical matters into survey instructions, this will serve the taxpayer much better by eliminating unnecessary waste and doing things far more efficiently in matters that, as I have indicated, are strictly technical.

The Hon. J.C. BURDETT: A number of members of this Chamber have served on the Legislative Review Committee (the former Subordinate Legislation Committee), and they include the Minister, yourself, Mr Chairman, the Hon. Mr Weatherill and the Hon. Mr Feleppa, the present Chairman, and we know that the Legislative Review Committee and the Parliament are the final court of appeal for people who feel themselves aggrieved. There have been many occasions on which technical matters have been brought before the committee, which the committee would not have understood unless told about them or unless evidence were given, in all sorts of areas (although not in regard to surveying, as the honourable Minister has pointed out, but in other matters). There would be a real possibility, from my discussions with surveyors that in some of the areas I have set out there could be complaints by surveyors and, more importantly,

by consumers, by members of the public who are the consumers of survey services.

If it is not regulations, if it is just survey instructions, there is nowhere to go. I have the greatest confidence in the present Surveyor-General, and there will be subsequent Surveyors-General at some time, but it could happen that members of the profession and of the public could have complaints. If it is not regulations, if it is survey instructions, then there is no final court of appeal. If you have regulations, there is a final court of appeal, and that is the Legislative Review Committee and the Parliament itself. The honourable Minister has said that in the past 50 years there have been no survey regulations in respect of which even a disallowance motion was moved. I accept that because she said it, and I accept what she says on matters of fact although not on matters of principle. But that does not prove that it will not happen in the future. I cannot see any reason to deprive the profession and the public of a last court of appeal to the committee and to the Parliament.

The Hon. ANNE LEVY: I fail to see why the honourable member suddenly expects there to be complaints, since there have been absolutely none in 57 years. More importantly, the matters he quoted come from subsection (2) and are examples of what the instructions can contain. It is subservient to subsection (1), which clearly states that the instructions can deal only with matters of cadastral surveys and records of cadastral surveys. These technical matters are the only topics they can deal with. They cannot deal with matters of broad public interest which, as I indicated, will remain in regulations where there can be a final court of appeal, as the honourable member called it, by members of the public going to the parliamentary Legislative Review Committee. That is not being changed. The instructions can deal only with the technical matters.

The Hon. M.J. ELLIOTT: I do not think that the world will end, no matter which way this amendment goes. The mover of the amendment has concentrated perhaps on the manner of the carrying out of the cadastral survey. It seems to me that, if there were a point where there could be conflict, it would be more likely to be in the area of records of the cadastral survey on which we have not touched up to this point. Could the Minister give an example of the regulation which covers recording of the cadastral survey? If there is an area of possible conflict, it might be there. I do not believe that the carrying out of the cadastral survey is likely to cause great conflict or find its way before this or the other place.

The Hon. ANNE LEVY: Perhaps I may read from the present regulations regarding records. Under division 3, 'Field work', regulation 35 (1) provides:

> For the purposes of these regulations 'field notes' shall mean the original record of the field work undertaken in connection with any survey and made directly during the course of the said field work.
>
> (2) The field notes shall be in any form suitable as a permanent record of the field work.
>
> (3) *(a)* The field notes shall constitute part of the permanent record of any survey.
>
> *(b)* Every surveyor shall be responsible for the permanent custody of any field notes prepared by him or under his supervision.
>
> *(c)* A surveyor shall, on a request in writing from the Surveyor-General, produce his field notes to the Surveyor-General.

I would also point out that the Bill provides:

> Survey instructions must not be issued under subsection 2 *(e)* in relation to plans or other records to be lodged in the Lands Titles Registration Office except with the approval of the Registrar-General.

The matter which the honourable member raised of perhaps every boundary in a street being one metre out would relate to plans to be lodged in the Lands Titles Registration Office, and that would be subject not to instructions, but to regulations. The survey instructions are very limited in their extent. The examples which members are quoting as a possible abuse of an instruction system would not be in instructions anyway under the legislation before us but would be in regulations. They cannot give any examples where it would be detrimental to the public interest to have these matters dealt with in instructions. Every time they try they find an example which would not be in instructions but would be in regulations.

The Hon. R.I. LUCAS: I should like to respond to the Hon. Mr Elliott with regard to records. Clause 43 (2) provides:

> Without limiting the generality of subsection (1), survey instructions may—
>
> *(a)* regulate the manner in which cadastral surveys are to be carried out (including the records to be kept in relation to cadastral surveys).

I am responding to the question by the Hon. Mr Elliott. It is clear from the Bill that survey instructions, as opposed to regulations, pertain to the records to be kept in relation to cadastral surveys. Irrespective of what the Minister might say, that is the Bill before us. The records to be kept in relation to cadastral surveys are part of the survey instructions, not the regulations.

Having responded to that question, I want to put two questions to the Minister. Can the Minister indicate, in whatever fashion her officers are able to provide it, the number of suburbs or areas of Adelaide where there are problems with survey lines at the moment? They might not be a metre apart but, from the discussions that I have had with departmental officers, there are a number of suburbs in Adelaide where, because of poor survey work in the past, there is now, with the new survey techniques which are available, significant potential for conflict between the new survey work and survey lines and the old survey lines done in the old ways. I ask the Minister for an indication, as best her advisers can provide it, of the number of suburbs or areas in metropolitan Adelaide where there are, to the knowledge of the Surveyor-General's department, significant problems in relation to existing survey lines.

The Hon. R.R. Roberts: Serviceton.

The Hon. R.I. LUCAS: How do you know that one?

The Hon. Anne Levy: I did not hear it.

The Hon. R.I. LUCAS: I will relay it. I have been reading with interest some debate about the survey line between the State of South Australia and the State of Victoria and the attitude that has been adopted by the Surveyor-General. I understand that there is a significant dispute about the accuracy of the surveying work that has been done in the past. I would have thought that there might be some interest in that. That is just an example. Obviously, where there is a conflict between the work that was done in relation to the survey line many years ago and the survey line that I presume the Surveyor-General and his officers have done more recently, it is a matter of interest to South Australians and Victorians and those who live along the border as to where that survey line goes. My question relates to that, because I have been advised that there are many other examples of suburbs in Adelaide where there are significant errors in the survey lines and, therefore, the boundaries that exist between residential properties.

The Hon. ANNE LEVY: I am told that there can be errors in surveys in many of the areas which were surveyed prior to 1900. Without wishing to alarm people, there are small pockets in a number of the older suburbs where inaccurate surveys were carried out. This would include small pockets in Brighton, Norwood, Parkside, Glen Osmond, Glenelg, Semaphore, Port Adelaide, Burra, Gaw-

ler, Goolwa and Kadina. I hasten to reassure people that it does not mean that those entire suburbs have errors, but there are small pockets. I know that there are slight errors in the central square mile of Adelaide, having had experience of one which was 7 centimetres wrong at one end and not at the other end.

The Hon. R.I. Lucas: Did that cause any problems?

The Hon. ANNE LEVY: Not to me.

The Hon. R.I. Lucas: To anyone else?

The Hon. ANNE LEVY: It might cause problems to a few rats—the four legged kind. More seriously, I would point out that clause 51 of the Bill deals with surveys within confused boundary areas. It sets out what is to occur where there are old surveys in which slight errors are found. That matter has been considered and dealt with in legislation—not instructions, not regulations. That matter has been covered in the Bill, so we do not need to worry about that for the purpose of clause 43.

The Hon. R.I. LUCAS: It is difficult to consolidate all the regulations, but regulation 28 (1), (2) and (3) talks about boundaries originally marked being the true boundaries and regulation 29 deals with differences in measurements. Is it the intention of the Surveyor-General and the Minister that that be superseded by survey instructions or regulations, or is it part of clause 51 of the Bill?

The Hon. ANNE LEVY: I am informed that section 28 of the regulations is in many ways unnecessary, because it states the common law provision. It has been put there and may well be put into regulations and/or instructions as a reminder for surveyors, but it states the common law position and would be the legal situation, whether or not it appeared. It is there purely as a reminder of what is the common law situation.

The Hon. R.I. LUCAS: Does that apply to clause 29 as well?

The Hon. ANNE LEVY: Yes, again, that is the common law situation, which is put there as a reminder, but it would apply whether it was there or not.

The Hon. M.J. ELLIOTT: How frequently are survey instructions issued in relation to cadastral surveys and records?

The Hon. ANNE LEVY: As I understand it, currently the Survey Advisory Committee issues periodic instructions which can be regarded as explanations of the regulations for the assistance of surveyors. The committee meets regularly and considers various matters, both on its own initiative and those brought to it for consideration. It probably issues four or five suggestions per year as a result of its deliberations after, of course, thorough consideration and consultation regarding each one. It is certainly not an inactive committee or one which is token in nature. It works most conscientiously and seriously on matters which are undoubtedly of great importance to all members of the profession.

The Hon. R.I. LUCAS: I have one last throw to try to convince the Hon. Mr Elliott. I suppose the key to the proposition which the Government is putting hangs on the definition of the word 'technical'. The Minister seeks to portray 'technical' as being of interest only to the industry and the Surveyor-General and not of much interest to the public in general. The proposition that I put to the Hon. Mr Elliott and to the Committee is that, whilst the public and even members of Parliament might not understand the technicalities of the instructions, the end result of the work of surveyors affects us all. In response to that question, the Minister indicated that, perhaps in six or eight of the more established suburbs of metropolitan Adelaide and another half a dozen areas of South Australia, poor survey work in the past has meant that there are errors in the measurements of boundaries, and residents in those suburbs, country towns and locations will have considerable interest in the legislation before us and its effects.

The final matter that I put to the Hon. Mr Elliott is that the Minister has made great play of the fact that, in about 50 years, there has never been a cause to seek to disallow a regulation under the current Act. I am not in a position to dispute that claim, but the point I put to the Committee is that this Bill is significant to the surveying industry. After its green paper of three or four years ago, the Government sought to go down the road of the deregulation model for the industry. It had three options before it: one was the *status quo*, which is a highly-regulated industry with the Surveyors Board in control of it; the second model was the partial deregulation under the green paper which was, in effect, the half-way house of deregulation; and the third model was, in effect, self-regulation or complete deregulation of the industry, and that is the model the Government has chosen. We accept the arguments from the Government that the particular option which we should support is self-regulation or deregulation. However, I have heard the Hon. Mr Elliott rail against the excesses of the banking industry in relation to financial deregulation, and I have heard him rail against the excesses of deregulation in some of the agricultural areas.

The Liberal Party is putting to the Committee that, whilst we are having deregulation, which I presume the Hon. Mr Elliott supports along with the abolition of the Surveyors Board, as the Hon. Mr Burdett so eloquently put it, there ought to at least be a final right of appeal, and if it has not been used for 50 years and will not be used for the next 50 years, that is terrific; there is no problem. Perhaps it is a bit like the Privy Council—very rarely used, but it was a source of comfort and a last right of appeal for some people. But we are now moving into an area under the option, which the Government has adopted, of deregulation or self-regulation, and the Liberal Party believes that these issues are of genuine interest to the public, and the Parliament ought to retain at least some small right to oversee the industry, the effects of the industry practice and the actions of the Surveyor-General on the public. It can do that only by regulation.

As the Hon. Mr Burdett indicated, we make no criticism of the current Surveyor-General, but we are passing law for years to come and for many Surveyors-General to come, and they may not all be as competent as the current Surveyor-General. We ought to retain some authority and role, limited though it may be, for the Parliament, in relation to this area.

The Hon. ANNE LEVY: I can only point out that we are retaining this role for the Parliament in the areas which are of prime public interest. There will be regulations relating to educational requirements, licensing, registration and such matters, which are of public interest.

What will not be under regulation is these technical requirements, not the broad matters which the Opposition has attempted to show should be regulated and which in fact are regulated. It is the technical matters that are of no interest to anyone other than to the surveyors themselves which will be dealt with not through regulations but through instructions drawn up after extensive consultation.

The Hon. M.J. ELLIOTT: This has gone on for quite some time.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: We should be getting to that point. Earlier on in debating the clause I issued a challenge to both the Minister and the mover of the amendment. I

asked the mover to give a specific example of where things would go wrong. I agree with the Minister that the examples he gave were not relevant to the clauses that he is attempting to mend. I also issued a challenge to the Minister to say what problems it is creating in having it done by way of regulation. Neither confronted that fairly basic challenge. Since we have been going on for over an hour and it is now half past two in Oregon—the time on which my biological clock is operating—

The Hon. Anne Levy: You should have gone home two hours ago.

The Hon. M.J. ELLIOTT: I will second that. At this stage I will take the conservative line, namely, that the *status quo* prevail and that the regulations remain in place. If in a year or two the Minister comes along and produces a case which says that we have had to bring in regulations five times a month and it is quite plain that these things are not capable of being abused, I am open to further persuasion. It is about time we called things to a close and maintain the *status quo*. For that reason alone and in the light of the debate, I will support the amendment.

Amendment carried; clause as amended passed.

Clauses 10 to 14 passed.

Clause 15—'Obligation to be licensed to carry out cadastral survey for fee or reward.'

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

Page 6, line 17—leave out 'for fee or reward'.

The clause currently states:

A person must not carry out a cadastral survey for fee or reward unless—

(a) he or she is a licensed surveyor; . . .

The Liberal Party seeks to remove the words 'for fee or reward'. It was put to the Liberal Party that there was some concern that persons who were not licensed surveyors might well in the course of other work that they do on a construction site, carry out a cadastral survey not for fee or reward—they do it at no cost at all—but that in some way, in charging for the other work that they do, subvert this clause. We might well have an engineering or mining surveyor who is not a licensed surveyor carrying out a survey but not for fee or reward. However, that engineering or mining surveyor does a whole range of other things for which the engineering or mining surveyor charges the client the normal charge, but bumps it up by the fee or reward for the cadastral survey.

The submission put to the Liberal Party was that in the current Government drafting of this provision, given the feeling between the various sections of the community, the licensed surveyors and those who are not licensed or registered surveyors (which, I understand, and as explained to me by departmental advisers, is a form of wording that Parliamentary Counsel usually uses and advises) there appears to be a potential loophole. If there is, we would seek from the Committee agreement to the amendment before it.

The Hon. ANNE LEVY: The Government opposes the amendment. The Leader is not appreciative of some of the problems that would be caused. The basic premise on which the clause is built is that carrying out of land boundary surveys should be involved; this is obviously to protect consumers and the integrity of the State cadastre. The difficulty is that land boundary surveys are quite often and quite properly carried out from time to time by ordinary people with no surveying qualifications at all.

The Hon. R.I. Lucas: Cadastral surveys?

The Hon. ANNE LEVY: No, land boundary surveys. An example may be where neighbours are determining where to put a fence or when a person is measuring a boundary for the purpose of deciding where to put a garden or gazebo. We have no desire in any way to restrict these activities or to say that they cannot be carried out without the involvement and expense of a survey. These are ordinary activities that people carry out, and they should be free to do so. The problem comes from the fact that it is very difficult to define 'cadastral survey' in sufficiently precise terms so as to include the surveys that one would expect only a licensed surveyor to do and exclude the sort that anyone does. It is very difficult to get a definition of 'cadastral survey' which will discriminate between what only a licensed surveyor should do and the sort of activity that people carry out all the time.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: But, it is very hard to get a definition which will make this distinction. The sort of thing about which we are talking and which is done by ordinary people all the time is done without fee or reward. We do not wish to stop that happening. If the Leader's amendment is carried, it will mean that that sort of activity cannot be done any more and licensed surveyors would have to be called in when people want to put up a gazebo. That expense, we maintain, is quite unjustified and would be bitterly resented as an intrusion into the perfectly respectable affairs of private citizens. However, I share the honourable member's concern about the integrity of the State cadastre, but this in fact is guaranteed in clause 14 and not clause 15.

This is because the really essential control of the cadastre is that survey marks determine its integrity, and survey marks cannot be placed anywhere, other than by a licensed surveyor. So, the integrity of the cadastre is protected by clause 14, not by clause 15. We wish to allow in clause 15 for the type of activity for which there is no fee or reward to be able to continue as it does now. The integrity of the cadastre is not in danger, thanks to the protection of clause 14.

The Hon. M.J. ELLIOTT: I believe that the Hon. Mr Lucas's amendment will create the very difficulties that the Minister has alluded to and for that reason we will oppose it.

Amendment negatived; clause passed.

Clauses 16 to 42 passed.

Clause 43—'Survey instructions.'

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

Page 16, lines 42 to 44—Leave out subclause (1) and insert—

(1) The Governor may, by regulation, issue survey instructions in relation to cadastral surveys and records of cadastral surveys.

This is consequential on the debate on clause 9.

The Hon. ANNE LEVY: For the record, we oppose it.

The Hon. M.J. ELLIOTT: The Democrats support the amendment.

Amendment carried.

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

Page 17—

Lines 11 to 17—Leave out subclauses (3), (4) and (5).

After line 19—Insert new subclauses as follows:

(7) The Survey Advisory Committee must be consulted before survey instructions are promulgated.

(8) The Registrar-General must be consulted before survey instructions are promulgated under subsection (2) *(e)* in relation to plans or other records to be lodged in the Lands Titles Registration Office.

These amendments are consequential, so I move them as a package.

Amendments carried; clause as amended passed.

Clauses 44 to 62 passed.

Clause 63—'Regulations.'

The Hon. R.I. LUCAS: I want to clarify one matter from the earlier debate. I read clause 63 (3), which provides that

regulations may apply, adopt or incorporate any code, as being some sort of intention that that code of ethics in the regulations would in effect be regulated in this way. However, the Minister indicated that the code of ethics would not be regulated or issued by survey instruction or anything; it would be left to the industry. Therefore, if this provision does not relate to the code of ethics, could the Minister indicate to which code it relates?

The Hon. ANNE LEVY: One example is a national coordinate system which is classified as a code. It is a means of adopting national standards and national systems, as frequently happens, as with the National Building Code national standards and a whole lot of areas.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3198.)

The Hon. M.J. ELLIOTT: I will make only a few brief comments at this stage and leave other comments until the Committee stage. The question of water is very rapidly becoming one of the most important that we face worldwide. I have just returned from an international conference on the environment, and it is becoming rapidly acknowledged that one of the biggest single difficulties being faced by communities everywhere is the question of water quantity and quality. In the South-East to some extent, the problem superficially presents as one of too much water and, for a long time, an attempt has been made to drain those surface waters. In the process, we are actually starting to create difficulties for ourselves. For instance, the water in the South-East lay on the surface for long periods of time and it was important not just for the obvious environment reasons—for wildlife and so on—but also recharging aquifers. Of course, in many cases the water that is drained is run directly off to the sea, and there are any number of drains doing that in the South-East.

The Hon. T.G. Roberts: It's full of peat.

The Hon. M.J. ELLIOTT: Yes. More recently (and I understand that we are debating this piece of legislation now because there has been some flooding in the upper South-East), the flooding has been caused not just by drainage works but also, as I understand it, by a great deal of laser levelling that has been carried out. The effect is that there is quite rapid run-off of water, and anyone who has been laser levelling their property has been passing their water over to their neighbours next door. We have large quantities of water moving generally in a north-westerly direction in the upper South-East and causing all sorts of difficulties there. So, we are suffering some difficulties, which we have created for ourselves, and now we have updating legislation that sets about tackling some of the problems that we have created perhaps to get some order within that chaos.

The one issue I will touch on, which we will be debating specifically later, is the question of representation of the three zones that the Government is creating—the northern, central and southern zones. There have been some arguments about the proper representation that each of those zones should have. They are all approximately equal in terms of numbers of electors. At this stage I think that the proposal is that there will be one member of the board elected by the voters of the northern zone, one from the central zone and one from the southern zone.

There is some pressure to increase representation of people in the northern zone. As I understand it, those in the northern zone are claiming that they have particular difficulties they want addressed. I also understand there has not been a particularly favourable reaction from the other zones: they feel that they will then be under-represented. It has been put to me that if there is a general desire to increase the number of landholders on the board, there is another way of going about it; that is, to come up with a form of proportional representation or, essentially, quotas by which representatives can be elected. One would expect that in general terms what currently constitutes the three zones would each guarantee putting in at least one representative. If there were any zone, or area—because zones would become irrelevant under a PR system—where there were issues that needed confronting we would probably have a higher voter turn-out and that would be the way representation could be increased in a particular zone. Even if we increase the number of landholders from three to four that might be the way to do it, rather than arguing about which zones should have extra representation. The electoral process could present the answer. It is a suggestion I am simply floating at this stage. The idea was brought to me by interested parties as a possible resolution of a conflict that appears to have built up there between different groups.

Other than that, the Democrats support the legislation. It is quite plainly necessary that we have such a Bill and, eventually, such an Act. The existing South-East Drainage Act and the Tatiara Drainage Act, in general terms, have had very wide acceptance by the people in the South-East. This is really just updating and amalgamating two existing Acts and giving some wider purview. However, in general terms, the Democrats support this legislation.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank honourable members for their contribution and I am glad to see that there is support for the second reading throughout the Parliament. I understand that the Opposition will move some amendments, but they are not yet on file. So, I propose that the Committee stage be delayed until tomorrow so that those amendments can be given the appropriate attention.

Bill read a second time.

TECHNICAL AND FURTHER EDUCATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 2986.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): As far as I am aware there is no specific matter mentioned in the second reading speeches that will not be dealt with in Committee. So, I think it is probably most profitable if we now go into Committee. I thank members for their support for the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Substitution of s. 8.'

The Hon. R.I. LUCAS: I have had the advantage of having some discussions with departmental officers. I again thank the Minister for making the time of the officers available. During those discussions they indicated a number of things that I believe are important enough to place on

the record and I shall therefore ask a series of questions. First, I will address the issue of delegation by the Minister. I will be brief at this stage. I am not seeking to amend at this stage, but I personally have some concerns with the notion of a Minister delegating to the person for the time being holding or acting in the position of presiding member of an advisory committee appointed by the Minister under section 10a.

The shadow Minister of Employment and Further Education and the Liberal Party have taken a position in relation to this, but I wanted to express a personal reservation about it. I believe that the Liberal Party and the Parliament ought to continue to monitor this matter. Will the Minister indicate on the record what the Government's argument is that requires that the Minister should have the power to delegate, in effect, to the presiding member of an advisory committee any power, duty or function the Minister might have under the Act?

The Hon. ANNE LEVY: As I understand, there is no particular matter being contemplated at the moment. The aim is to be pro-active to allow for contingencies that may arise in the future; that the function of the committee may by general consent be broadened and a power of delegation would then be useful. However, there is no particular power, duty or function contemplated at this time.

The Hon. R.I. LUCAS: Is it intended that the presiding member of an advisory committee might have power of appointment of research officers or staff or such other matters?

The Hon. ANNE LEVY: That delegation would occur only in fairly minor matters, but the example quoted by the honourable member could be a possibility.

The Hon. R.I. LUCAS: What practice is adopted by the department and the Minister's office whereby there would be some record of the delegations the Minister would have exercised under this provision? I know that the Minister may by instrument in writing delegate to this, but is it intended that such delegations would be reported in the annual report of the chief executive officer of the department to the Parliament, or is there some other way in which such delegations would be part of the public record?

The Hon. ANNE LEVY: I understand that there would be no obligation for such delegations to be included in the annual report of the department but, even though there is no such obligation written into the GME Act, it is quite likely that such delegations would be reported and thus be common knowledge. The information would never be withheld from anyone who wished to make any inquiries about it.

The Hon. R.I. LUCAS: I place on the record my wish that the Minister and the chief executive officer would adopt as a matter of process that in the annual report they indicate such delegations made under this new provision.

The Hon. ANNE LEVY: I undertake to have the honourable member's comments drawn to the attention of the responsible officers.

Clause passed.

Clause 7—'General powers of the Minister.'

The Hon. R.I. LUCAS: Under subclause (5) the Minister may make available, on such conditions as the Minister thinks fit, any land, buildings, equipment or facilities. How is that different from what is in the current Act and what are the reasons for that amendment?

The Hon. ANNE LEVY: The difference is the addition of the word 'facilities'. The provision currently talks about land, buildings and equipment but not facilities. The addition of that word makes it all-encompassing. It might cover things such as pictures on the walls, which are not land or buildings and probably not equipment. The addition of the word 'facilities' is to make sure that everything is covered.

The Hon. R.I. LUCAS: There is no specific reason for it?

The Hon. ANNE LEVY: Just to be sure that it is all-embracing.

The Hon. R.I. LUCAS: Under subclause *(b)* the Minister may provide assistance to community bodies on conditions that secure for colleges rights to make use of land, buildings, equipment or facilities of the bodies. In the discussions I have had with the officers some mention was made about the Industry Training Boards being private companies under national arrangements which, perhaps, made this section essential. Will the Minister indicate the reasons for this new provision?

The Hon. ANNE LEVY: I am given to understand that it is being put in for pro-active reasons, so that a situation that may arise in future can be covered. The sort of example one might consider is an Aboriginal community, perhaps in the Pitjantjatjara lands. With this clause in the legislation it would enable TAFE to help the community to develop workshops, for example, on terms that allow TAFE to use the facilities for training purposes, but they would be community-owned for other purposes. It is to cover all conceivable situations that may arise in the future where an educational or training good can result for the community.

The Hon. R.I. LUCAS: Does the Department of Employment and TAFE provide assistance to industry training boards at the moment and does this provision in any way relate to current arrangements between the department and industry training boards?

The Hon. ANNE LEVY: I understand that including this clause makes clearer the present role. Certainly there are examples of cooperation with industry training boards. I have had one example mentioned to me where land was provided to enable a facility to be erected which was then of use to TAFE as well. There is cooperation with a number of boards at the moment.

The Hon. R.I. LUCAS: Will the Minister take this up with the responsible officers and perhaps respond in due course? I shall be pleased to receive any other information which might explain the relationship between the department and the cooperative arrangements which exist with the industry training boards if such information exists. However, I do not want to delay proceedings this evening on that matter. Subclause (8) provides:

> Where land, buildings, equipment, facilities or services used or provided for or incidentally to the provision of technical and further education can . . . be used or provided for commercial, community or other purposes without substantially detracting from the provision of technical and further education, the Minister may, by lease, licence or other arrangement, authorise their use or provision for those other purposes.

Will the Minister undertake to provide details of the nature of the arrangement which I understand exists with an art gallery in the Riverland college and which I understand might be catered for under this new provision and might have been somewhat unclear under the existing Act? Can the Minister indicate, either now or at a later stage, what other provisions exist or might be contemplated?

The Hon. ANNE LEVY: I think it would probably expedite matters if I were to take those questions on notice. I assure the honourable member that the Minister's office will supply information in response to his questions as soon as possible.

The Hon. R.I. LUCAS: Subclause 9 provides:

> The Minister may—
>
> *(a)* in order to provide students with practical training and experience in the course of technical and further education—

(i) establish or carry on an enterprise or activity, for commercial, community or other purposes, in which students are to participate.

I guess that one example of that is the College Arms. Has there been any Crown Law or other advice that indicates that, under the present Act, the department does not have power to undertake such a commercial activity?

The Hon. ANNE LEVY: I understand that under the Act as worded it is not possible for business enterprises to be set up. This does not in any way suggest that the ones which are set up have been set up illegally. With Cabinet approval, the Minister has had to be established as a special agent of the Crown through whom the commercial part of the enterprise—not the training part, obviously—can be established. This is a clumsy and inefficient procedure and it is felt that it will be far more efficient of everyone's time and effort to have this clause in the legislation to enable these matters to be dealt with through the department.

The Hon. R.I. LUCAS: I thank the Minister for that explanation, which I accept in part. I place on record the view that there is concern in some sections of industry about certain aspects of operations that go on in TAFE colleges. My view is that TAFE needs to be sensitive to those issues. I know that on occasions the Minister has indicated that he appreciates that fact. This provision, as it is spelt out now, could be interpreted very widely by a Minister, department or Government.

Subclause (9) *(b)* explicitly provides that the Minister may:

provide consultancy or other services, for a fee or otherwise, in any area in which officers or employees appointed under this Act or employed in the department have particular expertise . . .

Why has this provision been included when, as the Minister and members will know, TAFE officers and colleges have been offering consultancy and other services for a fee for many years? Has there been any legal advice that TAFE colleges and officers cannot provide consultancies or other services for a fee?

The Hon. ANNE LEVY: I understand that training consultancies are legal under the present Act, but more peripheral consultancies, such as a consultancy for a training needs analysis, are not covered. They have had to be catered for through the business enterprise establishment of the Minister—again, a clumsy situation. Therefore, it will be more efficient to regularise it. The honourable member was also concerned that enterprises might be set up for the fun of it, as it were.

The Hon. R.I. Lucas: No, in unfair competition.

The Hon. ANNE LEVY: In unfair competition. As he indicated, I am sure the Minister is sensitive to this question, but I point out that clause 9 deals with the powers, functions and duties of the Chief Executive Officer. It states that the Chief Executive Officer is responsible to the Minister for a number of things, the last of which is:

(c) for ensuring that all resources available for technical and further education are managed with the object of securing the highest practicable standards of instruction, training, facilities and services for students enrolled in courses conducted under this Act.

Every activity must be undertaken with that as its goal, and undesirable competition with private industry would not be covered by these responsibilities. The activities of the CEO must be maintained within these boundaries.

Clause passed.

Clauses 8 to 18 passed.

Clause 19—'Substitution of subsections 22, 23 and 24.'

The Hon. R.I. LUCAS: This provision relates to long service leave. Can the Minister indicate the principal reason for the change in relation to long service leave provisions that are offered under this particular clause?

The Hon. ANNE LEVY: I understand that the rewording of the long service leave provisions is to correct an anomaly which was unintentionally introduced the last time this clause was amended. It covers a situation where someone works elsewhere in the Public Service and transfers to the teaching profession. If they had previously taken some but not all of the long service leave to which they were entitled, when they transferred to the teaching service they were not able to bring with them the days to which they were still entitled, nor the time worked in terms of accumulating the length of time one must work before taking long service leave. For example, if someone had worked for 12 years in the Public Service and had taken some long service leave after 10 years, but not all of it, and transferred to the teaching profession after 12 years, they would have only two years counted, and they would have to work for another eight years before they could take any long service leave.

It is intended here that, if someone transfers, the conditions transfer with them so that, if someone has worked for 12 years and taken some long service leave after 10 years, the remainder to which they are entitled after two more years can be taken at any time. They do not have to complete another 10 years before they are entitled to take long service leave.

The Hon. R.I. LUCAS: It is increasing portability.

The Hon. ANNE LEVY: Yes, it is correcting an anomaly which was never intended, but which arose from the wording used when this section was last amended. It matches entirely the portability between the GME Act and the Education Act.

Clause passed.

Clauses 20 to 23 passed.

Clause 24—'Recognition of service as officer in future employment.'

The Hon. R.I. LUCAS: Clause 24 amends section 29 of the principal Act, a close reading of which indicates no provision saying that a TAFE college council holds its property on behalf of the Crown. One of the intentions of this amendment is that, in future, if this provision passes, the college council would hold its property on behalf of the Crown. I ask the Minister: first, what examples of property currently held by TAFE colleges are not already the property of the Crown; and, secondly, has any concern been expressed to the Minister or the department from the college councils that the Government would now own property that previously college councils thought they owned.

The Hon. ANNE LEVY: I understand that college councils are, by their very nature, likely to be characterised as instrumentalities of the Crown, and it is certainly common for such bodies to hold property on behalf of the Crown. There may well be college councils holding property such as equipment or artworks that they may have purchased with their own funds. It should be made clear that the property is held on behalf of the Crown. The Association of College Councils has been consulted on this matter and is in complete agreement with the clause.

The Hon. R.I. LUCAS: I understand that, and I was a little surprised as I thought that the Association of College Councils might have had some concern about it or, if it did not, that some individual councils might have expressed concern. I have not been made aware, nor, I understand, has any member of the Liberal Party been made aware, of any college council's concern about this, and for that reason we have not sought to amend or oppose the clause. As a general philosophy I thought that some would have opposed it, and I express some reservation about it.

Clause passed.

Clauses 25 to 27 passed.

Clause 28—'Repeal of Part V.'

The Hon. R.I. LUCAS: In the second reading debate I sought specifically from the Minister advice on what progress had been made in relation to the current Commonwealth/State negotiations regarding a national framework for recognition of training, bearing in mind that the particular comment from which I quoted in the second reading explanation, was drafted back in September 1991. I hope there has been some progress since then. The Minister stated:

> It is possible that current Commonwealth/State negotiations regarding a national framework for recognition of training may lead to a voluntary registration scheme to allow competent and ethical training providers to receive proper recognition in a national training framework which may be established by legislative means.

I seek the Minister's response.

The Hon. ANNE LEVY: An agreement for a national framework for the recognition of training is in the process of being signed by all State and Commonwealth Ministers with training responsibilities. This agreement provides for nationally agreed principles and processes for the formal registration of training providers and for each State to establish and maintain a system for the voluntary registration of training providers. The national training board will maintain a national register of training providers who satisfy the following principles: they must offer recognised training, minimum competency for training personnel, use of an adequate and safe training environment, responsible and ethical relationships in student relations, evidence of protection for students from financial exploitation and fixed term registration with periodic review, notification by the registered provider of changed circumstances and the adoption of an acceptable code of practice.

A review has been commissioned of legislation and administrative processes relating to the national framework's application within South Australia. Part V of the TAFE Act is not appropriate for this purpose. Arrangements have been developed to cover registration of training providers, and administration of the agreement will be handled by the Office of Tertiary Education.

Clause passed.

Clause 29—'Special provisions relating to rate of remuneration for part-time officers.'

The Hon. R.I. LUCAS: I refer to this clause in conjunction with clause 11. DETAFE for many years has employed part-time officers. I seek from the Minister advice about whether the department had legal advice indicating that the current TAFE Act did not make allowance for the employment of part-time officers and whether that is in part the reason why we have the Bill before us in relation to clauses 11 and 29.

The Hon. ANNE LEVY: I am given to understand that the amendment clarifies that part-time officers can be appointed. It also makes clear that part-time officers receive a part-time salary.

The Hon. R.I. LUCAS: I understand it clarifies it, but did the department or the Minister have advice from Crown law that there was doubt under the current TAFE Act that there was provision for employment of part-time officers?

The Hon. ANNE LEVY: I am told that Crown Law advice was that the Technical and Further Education employment conditions agreement, which had operated since 1989, did validly recognise part-time employment.

The Hon. R.I. Lucas: The agreement?

The Hon. ANNE LEVY: The agreement validly recognised part-time employment, but it was deemed prudent to insert the clauses in the current Bill.

The Hon. R.I. Lucas: And prudent because there was some doubt as to whether it was covered?

The Hon. ANNE LEVY: There could possibly have been some doubt.

Clause passed.

Clause 30 passed.

Clause 31—'Regulations.'

The Hon. R.I. LUCAS: I asked a question about this matter during the second reading debate. DETAFE for many years charged differential or concessional fees for various classes of persons. Will the Minister indicate whether the department received Crown Law advice again that there was no provision within the current TAFE Act to charge differential or concessional fees and that the amending Bill needed to incorporate such power?

The Hon. ANNE LEVY: Currently the regulation-making powers provide for the granting of exemptions from the liability to pay fees; there is no question regarding that. However, during discussions with an officer from Crown Law regarding the fee-making powers, some uncertainty was expressed as to whether the current provisions embraced partial exemptions from fees. As a result, it was considered prudent to clarify this by allowing for exemptions in whole or in part in the Act.

The Hon. R.I. LUCAS: I thank the Minister for that. Paragraph *(da)* (iii) allows for fees to be paid in relation to land, buildings, equipment, facilities or services used or provided under this Act. Can I clarify with the Minister whether that is a new provision under the Act and regulations and, if it is, what is intended to be covered by it?

The Hon. ANNE LEVY: I understand that this is a new provision and that it is being inserted to enable medium to long-term lease-out, should that be felt desirable. An example that one might think of is a particular workshop for apprentices where the number of apprentices dropped temporarily, that is, for a year or two, to very low numbers indeed. It might then be possible to lease out the facility to someone, to make efficient commercial use of it but still to retain ownership of the facility so that, when the apprentice numbers picked up again, the facility would be there ready to be used, rather than having to be sold off and then acquired at a later stage, which could prove very difficult. It is deliberately designed to enable this desirable flexibility, without wasting taxpayers' resources.

The Hon. R.I. LUCAS: I thank the Minister for that, because it is interesting to note that, when we talked earlier about the example of the art gallery proposed for the Riverland (and we understand that some premises have been leased out for that purpose), there were requirements in that provision that it did not detract from the provision of technical and further education, and so on, whereas, under this regulation, as opposed to an amendment to the Act, it would appear that the department and the Government are seeking to provide for workshops. Equally, if a TAFE college were to close down, using similar logic, all the premises could be leased to private enterprise, or whoever might want them while the Government retained ownership of the land. I do not indicate opposition to it, but I draw the attention of the Committee to a comparison between this regulation provision and the amendment to section 9 of the Act to which we referred earlier.

Clause passed.

New clause 32—'Insertion of schedule.'

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

Page 13, after line 31—Insert new clause as follows:

32. The following schedule is inserted at the end of the principal Act:

SCHEDULE

Interpretation of other Acts and instruments

References to officers of the teaching service

1. A reference in an Act or in any other instrument (whether the instrument is of a legislative character or not) to an officer

of the teaching service under this Act will be construed as a reference to an officer.

I have already expanded at length in the second reading on my explanation for this amendment, and I do not intend to go over the explanation again.

The Hon. ANNE LEVY: Although the Government considers that this amendment is quite unnecessary and superfluous, we are prepared to accept it.

New clause inserted.

Schedule and title passed.

Bill read a third time and passed.

ROAD TRAFFIC (ILLEGAL USE OF VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3200.)

The Hon. DIANA LAIDLAW: I support the second reading and note the contributions made by my colleague the Hon. Trevor Griffin and the Hon. Ian Gilfillan. My assessment of this Bill is that it does not say very much at all. It deals with the question of increasing penalties for offences involving the illegal use of motor vehicles. I also note that the Bill seems to be a rather shallow response to a private member's Bill introduced by the member for Hayward in the other place. The honourable member's Bill certainly had more substance in that it addressed the question of the illegal use of motor vehicles by young offenders, a major problem in our community at the present time.

I want to make a few comments in respect of the Hon. Mr Gilfillan's contribution before addressing the Bill in general. Having read his remarks this afternoon, I remain rather confused about where the honourable member wishes to go in terms of this issue of the illegal use of vehicles. He seems to be rather uncertain about what, if any, penalty should apply to what I think is a serious matter and a serious crime. On behalf of the Australian Democrats he rejects the second reading of this Bill and, therefore, the doubling of the current penalties. Yesterday the honourable member was agitated in questioning the Attorney-General about the increased number of people going to prison for defaulting on fines, and I agree with his concern in relation to that issue. That matter is being addressed in the Statutes Amendment (Sentencing) Bill that is also on the Notice Paper.

I note that in his contribution yesterday, the honourable member also expressed some concern about the wisdom of removing a licence from a person who has defaulted on a fine or in lieu of going to prison because of the hardship that that may cause a person in respect of their job. In respect of all those contributions that were made over a period of about four hours I will be interested to learn at some stage where he believes the Australian Democrats are actually going on this issue, let alone where the Parliament should make progress in terms of sending a message to young offenders that we do not tolerate this crime.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Well, it would be if you were trying to follow the so-called wisdom of the Hon. Mr Gilfillan in looking at this argument or penalties for the illegal use of a motor vehicle. Certainly, the community is looking for some guidance from members of Parliament, because people are sick and tired of the increase in theft of motor vehicles. This matter was outlined by the shadow Attorney-General in his contribution to this debate. I note again—for the record and for the benefit of the Hon. Mr Gilfillan—that in 1980-81 the number of motor vehicle thefts was 5 802 and last financial year, 1990-91, that number had increased to 15 303. In 1980-81 the motor vehicle thefts per 1 000 registered motor vehicles was 8.15. Last financial year that figure had doubled to 16.28. That is an increase that the community is finding intolerable.

For most people in the community the purchase of a car is the second highest investment of their life. For many people it is the biggest investment that they make. The increase in illegal use of vehicles is of increasing concern, not only to people who are the victims of such incidents but also to those in the general community, who in many instances know people who have had their vehicles stolen or vandalised. It is also apparent that the increase in illegal use of motor vehicles is costing motorists plenty. In South Australia alone, the RAA estimates the cost to be $10 million a year and, Australia wide, the cost is about $500 million a year. The concern expressed in the Police Commissioner's last annual report is that juveniles now account for 53.5 per cent of the motor vehicles that are being used illegally.

I have spent some time over some years discussing juvenile crime with representatives at the Children's Court and I have made numerous contributions to debates in this place. It is quite apparent from proceedings in the Children's Court that very few kids have any regard for those proceedings. That has been confirmed by youth workers. The young offenders do not see the Children's Court as offering any deterrence from a life of crime and, certainly, no rehabilitation is offered through the Children's Court at the present time. Some kids to whom I have spoken who have been involved in what was earlier called 'joy riding', but which is now fortunately called a crime, enjoy baiting the police. I know of instances where kids have stolen a vehicle and have stopped at a telephone box and rung the police to tell them that they have stolen a vehicle and where they are so that the police will go out and chase them. The kids actually get a thrill from it. One of the reasons they do that is that they are seeking attention.

That is the sad part of the lot of many young kids today. Perhaps because they are not receiving attention at home they seek it in the public arena and at great risk to themselves, the police and the general community, by stealing vehicles. They like the speed, the noise and thrill. Other social workers and youth workers tell me that this increase in juvenile crime in respect of the stealing of vehicles represents a need in young people for status within their group. Again, it is a great pity that our community is not helping to provide these kids with the self-esteem that they need through a variety of other means.

I will briefly refer to one group tonight; that is, Legal Street. I am very pleased to note that the Attorney-General's Department handsomely funds this group. The group was started in 1989 as a youth project team at Kilkenny. It was established to deal with hard core young offenders. At that stage there were eight members in the group. A number of the kids in the group said that they would not be stealing cars if they had a car of their own. The wonderful organiser of that group, Mr Ralph Welsh, was able to encourage the Department for Family and Community Services to provide a small grant so that the youth group could buy an old bomb, do it up as a racing car and take it to drag race meetings.

In the first year the kids won three out of five races, but all the races, including some against Victorian Police who came over to join in these drag race meetings, were organised events on a track designed for the purpose of racing and not on the open streets. This project, Legal Street, has advanced since those days. The project is having more and

more kids referred to it by the Children's Court. The organiser is also approaching families and schools within the Kilkenny area, down to the Parks Community Centre. He is approaching families of kids where it is likely that those kids may turn into offenders if they do not receive support, encouragement and diversion tactics and are not encouraged to develop a wide range of interests in areas other than offending in order to gain some attention.

It is fantastic to witness what has been achieved by this project with kids of whom the Attorney-General has spoken in this place from time to time, that is, hard core repeat offenders. Some of these kids, through their involvement in this project, which varies sometimes in terms of court orders from three to six months, now have jobs. Their involvement in crime is practically minimal. When you think about the fact that some of these kids were involved in crime in order to gain status within their group, it is remarkable that some of them have actually gone back to school but at one grade lower than their peer group, which is a credit to those involved in this project and a credit to the funding agencies—the Department of Employment, Education and Training, Aboriginal Program Branch which, I understand, is funding this project to the tune of $30 000; the Attorney-General's Department, which is funding to $60 000; and there is some funding from the Bicentennial Youth Foundation. To my disappointment, the Department for Family and Community Services has now pulled out of this project altogether, yet I feel very strongly that that department should be involved in prevention rather than cure and this project is about prevention.

I commend the RAA for its Operation Lock-up, which was launched on 5 June 1991 and which, over the past 12 months, has done a great deal in terms of a positive public relations campaign to encourage people to lock up their cars. I note that in the streets generally today there are many more people with locks around their steering wheel, locks between the steering wheel and the brake, locks on their bonnet and a number of other things, and that people themselves are taking a great deal more care with their property, as well as the fact that the manufacturers are paying more attention to safety devices within vehicles.

I want to mention briefly a number of issues I hope the Government will be addressing more actively in this area of illegal use of vehicles, because it is not just a matter of penalties that will address this issue in the longer term. I understand that the Attorney-General is considering the re-establishment of a committee that some time ago looked at this issue of vehicle thefts. It has been or will be re-established to look at what can be done on a national basis.

There are considerable concerns about vehicle wrecks. There is a need for a national wrecks register, which would aim to avoid the interstate trading in wrecked vehicles, and a need for a register of stolen vehicles. My investigation shows that there is a great need in this State for much more to be done in coordinating the computer links and other register systems between the police and the registrar of motor vehicles. About three different registers are kept on these matters, none of which are related in any effective way at the present time, which thwarts the Government's initiatives to try to stem the illegal use of motor vehicles.

While the Government is addressing this issue at the present time through increased penalties—and the Liberal Party supports that—it is a small effort for a very comprehensive, difficult problem. Nevertheless, I support the Bill, having acknowledged that this matter must be addressed on many fronts, looking in particular in terms of young offenders at how we can address diversionary ways and their social needs, and how we must also look at the administrative base in terms of coordination of registers and the effort between State authorities on a national basis.

The Hon. C.J. SUMNER (Attorney-General): The Government is pleased to see that the Opposition has indicated its support for the second reading of this Bill. The Government has for some time recognised that there is community concern about vehicle theft and joyriding, and this proposal was announced by me some time ago at a forum of the RAA on car theft. I believe it is an appropriate partial response to this problem because, as the Hon. Ms Laidlaw has said, it is not just a matter of penalties and enforcement of the law but of other issues to prevent the theft or illegal use of motor vehicles, which is important.

The Hon. Mr Griffin has raised the matter of manufacturers of cars, in particular Holden Commodores, taking some responsibility for theft devices for their vehicles. This has been a matter with which I have been concerned for some time. I am advised that GMH is in the process of fitting Holden Commodore vehicles with ignition switch safety devices which prevent a person from activating the ignition of the car. As we all know, the RAA has also produced for sale the 'Full Metal Jacket' device which is proving most successful. Further, the Motor Vehicle Theft Reduction Committee has been established with representation from a number of key groups, including the RAA, the Motor Vehicles Department, insurance companies, and the Motor Traders Association, as well as representation from my department. Manufacturers of motor vehicles have been invited to attend these meetings to discuss anti-theft devices.

The Opposition has requested information about young offenders who are referred to the adult court for trial or sentencing. I am attempting to ascertain the number of applications under section 47 of the Children's Protection and Young Offenders Act which have been made and the outcome of these applications. I should be in a position to supply those figures in the near future, although I may have to do so by letter.

The Opposition has indicated that it will seek to have the matters dealt with in section 44 of the Road Traffic Act 1961 transferred to the Criminal Law Consolidation Act 1935. The Government does not believe that this is either necessary or appropriate. Frankly, I do not see the point of it. Section 44 of the Act is part of a package of offences, including using a motor vehicle without consent, procuring the use of a vehicle by fraud, careless driving and reckless and dangerous driving. These matters are all clearly serious offences and are currently dealt with under the Act. In my view, it will in no way underline the seriousness with which the community views illegal use of motor vehicles to remove this particular offence from the Road Traffic Act and put it in another piece of legislation. That is simply window dressing.

Lastly, the Hon. Mr Griffin indicated that the Opposition will seek to create a new offence of entering on to premises with the intention to commit an offence of illegal use of a motor vehicle. I am not sure whether the honourable member has really considered this in any detail. Again, I suspect that it is window dressing. I am sure that if he gave it serious consideration he would realise the flaws in it. The offence would clearly have significant difficulties and problems of proof. The Government does not believe that the creation of this new offence would achieve a reduction in the incidence of illegal use of a motor vehicle. There are already offences, such as being unlawfully on premises, which are available. The Government is pleased, however,

to see that the Opposition recognises that a seven-year penalty for this offence is entirely inappropriate.

While opposing the second reading, the Hon. Mr Gilfillan has also raised concerns that the disqualification of driver's licence provisions in the Bill are too inflexible. The Hon. Mr Gilfillan has indicated that he will seek to move amendments to allow the court some flexibility to reflect the personal impact that a disqualification may have on an individual. The Government does not agree with this approach. The Government believes that if it is too flexible on disqualification of driver's licence provisions, it will send the wrong message to the public about people who illegally use vehicles. In order to make the point that this behaviour is not to be tolerated, the Government believes that it must be tough on those who engage in this sort of activity when a driver's licence suspension is appropriate, given that it is the offence of theft or illegal use of a motor vehicle about which we are talking in these circumstances.

Bill read a second time.

SUMMARY OFFENCES (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3206.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. It is certainly a valuable move in the right direction in an important area. When I first came into this place an amendment to the Classification of Publications Act was before the Parliament. This was in 1973, the Dunstan decade, when the then Premier (Hon. Donald Alan Dunstan) was constantly putting forward the right of adults to read and view what they pleased. While nobody, including myself, wishes to be oppressive, I blame the former Premier for the damage caused by this constantly vociferously advocated attitude. It was constantly said that we should not have censorship. That was a ridiculous statement, because we have always had censorship. We have it now and we always will have it. The Commonwealth Government is open and honest on this question. It has an officer honestly called the Chief Commonwealth Censor. The question is not whether to have censorship, but where to draw the line. There may be a great deal of legitimate dissension as to where to draw the line, but there is no serious argument now that a line must be drawn somewhere.

The display on the front cover of a recent *People* magazine has been referred to. *People* magazine went right over the top on this occasion and this was most reprehensible. The particular issue has disappeared from the book stalls by lapse of time, because that magazine is no longer current, and we can be grateful for that. Contacts with *People* magazine which I have made indicate that the management recognises that it did go over the top and that it will take remedial action. Be that as it may, I have considerable sympathy with the Hon. Carolyn Pickles in wanting the material of this group banned from the library of the Parliament. While I can understand the anger of the group which took action involving the breaking of glass, I do not condone taking the law into one's own hands in that way.

Using children for the purposes of producing pornographic material is horrendous and is prohibited elsewhere in the law, but often it cannot be detected at that point. To prohibit the possession of child pornography is a move in the right direction. It is easier to prove than the act of using children to have their photographs taken, and it may help to inhibit that happening, because photographs depicting child pornography are taken in secret.

The definition of 'child pornography' is as follows:

> 'child pornography' means indecent or offensive material in which a child (whether engaged in sexual activity or not) is depicted or described in a way that is likely to cause offence to reasonable adult members of the community.

The words 'depicted or described' make it clear that this goes beyond cases where a child is used in producing pornographic material. It could extend to the printed word, because of the word 'describe', and drawings or similar reproductions. That is as it should be, particularly when one considers that one of the evils at which the Bill properly strikes is that this material may be viewed by children.

I take the point made by my colleague the Hon. Mr Griffin about the dichotomy between 'child' and 'minor' in the Act as it will appear when the Bill is passed, as I hope it will be. I come down in favour of the uniform use of the word 'minor' because I believe that all those under 18 is an appropriate group at which to aim. I also take the point made by my colleague about the definition of 'offensive material'. I think that this has to be cleared up. Therefore, the Bill needs some further attention, which I am sure it will receive in Committee. However, it is a move in the right direction and I support it.

The Hon. I. GILFILLAN: The Democrats support moves to prevent sexual exploitation of children and penalise those who attempt to do so and indicate support for second reading of the Bill. The Government's proposal is to amend the Summary Offences Act 1953 to create a new category of offence relating to child pornography. It does this by inserting a definition of 'child pornography' in section 33 (1) of the interpretation section under the heading 'Publication of Indecent Matter'. A child in this part of the Act is previously defined as a person under the age of 16 years and the new definition in relation to 'child pornography' means:

> indecent or offensive material in which a child (whether engaged in sexual activity or not) is depicted or described in a way that is likely to cause offence to reasonable adult members of the community.

The offence carries with it a penalty broken down into two subclauses:

> *(a)* if the offence involves child pornography—for a first offence, division 5 imprisonment [two years gaol] and for a second or subsequent offence, division 4 [four years gaol].
>
> *(b)* in any other case, a division 4 fine [$15 000] or division 7 imprisonment [six months gaol].

According to the Attorney-General's second reading explanation, the creation of the two levels of penalties is necessary because, in the case of a second or subsequent offence, the Government believes it to be the first link in the chain of sexual exploitation of children that is often done for commercial gain. We recognise and support that assumption. The Government also proposes the creation of a penalty for the possession of child pornography, in this case imposing a division 6 fine or imprisonment of one year in gaol or a $4 000 fine.

On balance, I have decided to support this. I think there is still a case to be made for the freedom of individuals to have for their private use material which, in the public domain, may prove to be offensive. I think we find ourselves subject to excessive swings of pendulums, and there is danger of an emotive reaction to an abuse. The Hon. John Burdett referred to an unfortunate magazine cover which, quite properly, gave offence to women and to men of sensitivity in our community. Of course, the danger is overreaction, and I thought for some time about this clause of the Bill. But, on balance, I believe that, as there tends to always be provision of a product if the market is there, this

may in fact restrict the market by deterring some people who would be prepared to take child pornography.

The amendments are based on recommendations contained in report No. 55 'Censorship Procedure' of the Australian Law Reform Commission, and is in line with the Government's commitment to a national legislative scheme in the area of censorship. It is worth noting that Australia is a signatory to the United Nations convention on the rights of the child, which in part undertakes to protect all children from all forms of sexual exploitation and sexual abuse. Currently all forms of child pornography are banned from commercial distribution in Australia, having been deemed 'refused classification' by the Chief Censor. I indicate that the Democrats support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their support of the second reading. To answer some of the queries, first, on the matter of the definition of 'child pornography', the Hon. Mr Griffin has raised some concerns which indicate there may be problems in prosecuting individuals who are before the courts on these matters because of what he sees as possible defects in the definition. While it is not entirely clear that the current wording would lead to such problems, the Government has no difficulty with amending the definition to ensure that all offenders are apprehended and dealt with appropriately. As already indicated, the Government is committed to protecting children from sexual exploitation and abuse.

The Hon. Mr Griffin has raised two alternative definitions of 'child pornography' which he thinks would be more appropriate. It should be made clear at this point that the Government, in framing the existing definition of 'child pornography', had in mind material which showed children as bystanders or observers of certain activities. I am also advised that this was an issue considered to be of importance by the Australian Law Reform Commission in its recommendations in relation to child pornography. Accordingly, the current definition contains the wording 'whether engaged in sexual activity or not', precisely to take account of such circumstances. Therefore, the Government would be in agreement with the first alternative definition proposed by the Opposition.

The Hon. Mr Griffin has raised the matter of the age at which 'child' has been defined in section 33 of the Summary Offences Act 1953. The honourable member notes that 'child' is defined as a person under or apparently under the age of 16 while, for the purposes of section 33 (2) *(f)* and *(g)*, 'minor' is a person who is under the age of 18 years. This leads to an anomalous situation where a person of 17 years could be depicted in pornographic material but would not be able to view the material in which he or she had been depicted. The definition of 'child' in section 33 (1) fits in with section 58 *(a)* of the Criminal Law Consolidation Act 1935, which makes it an offence under this section to, for prurient purposes, incite or procure the commission by a child of an indecent act. One of the reasons this section was inserted into this Act was to deal with persons who tried to engage children in acts which could lead to the production of pornographic material. The definition of 'child' in section 58 *(a)* means a person under the age of 16 years. The Government concedes that it is confusing and anomalous to have definitions, involving children and indecent act, which are defined differently. This sitution should be addressed once the recommendations of the Australian Law Reform Commission on 'censorship procedure' are adopted. The ALRC has consistently defined 'child' as a person below the age of 18 years. It has also recommended that the defence of parental consent be removed from legislation, as the ALRC concluded that the need to protect children from such material outweighs arguments that parents have an absolute right to allow their children to see or be shown, any material.

The Hon. Mr Griffin also raises a matter which has received significant media coverage in the last few weeks. That is the matter of covers and posters of certain magazines and in particular the cover of *People* magazine of 4 March 1992. The honourable member asserts that this issue demonstrates that South Australia does not act quickly enough under the current scheme of censorship. This is incorrect. I am advised that the South Australian Classification of Publications Board has been active on this topic. The board met on 5 and 12 March 1992 in response to complaints received from the public, and considered this issue. New guidelines for covers and posters have been approved in principle and are currently being sent to all publishers for urgent comment. In two weeks the board is scheduled to meet again to discuss the revised guidelines and consider any comments received from publishers. Guidelines will then be formally adopted and classification of certain magazines will be undertaken. The board has a number of powers under the Classification of Publications Act 1974, one of which allows it to classify a series of publications that are issued periodically or by instalment on the basis of one publication under examination. The board recognises that there is growing public concern in relation to the covers and posters of certain publications and has toughened up on sexist posters and covers which, among other things, depict women in demeaning poses. I expect that the board will make an announcement either itself or through me on this topic in the reasonably near future.

Bill read a second time.

SUBORDINATE LEGISLATION (EXPIRY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3207.)

The Hon. K.T. GRIFFIN: Like my colleague, the Hon. John Burdett, I support the second reading of the Bill. The amendments in the Bill are not controversial, but they give me an opportunity to make some observations about the whole area of deregulation, particularly in the context of the annual report of the Government adviser on deregulation for the year 1990-91. The scheme of automatic expiry of regulations was supported by the Liberal Party when it was introduced. As far as I can recollect, it had briefly been in operation in at least two other States of Australia, and it was designed to focus on old regulations, the need for them and the desirability of either repealing or revising them to bring them up-to-date.

However, the scheme seems to have gone somewhat awry. As was indicated in the second reading speech, a growing number of regulations were exempted from the automatic expiry provisions, with no subsequent review being required. That suggested that departments were not facing up to their responsibility to review regulations before they expired in order to determine whether they should continue in that or some other form. The figures for the regulations revoked on 1 January 1989 indicate that 15 sets of regulations were exempted and 35 lapsed. There was no replacement of them, but 11 were replaced after they lapsed.

For 1 January 1989, 15 sets of regulations were exempted, eight lapsed and were not replaced but 11 lapsed and were

replaced. For 1 January 1991—the date of revocation—36 regulations were exempted, 35 lapsed and were not replaced and six lapsed and were replaced. There has been growing concern about the extent to which regulations were exempted from the automatic expiry provisions. There is a variety of reasons why they were exempted, but I share the view and concern of my colleague the Hon. John Burdett that those regulations would not subsequently be subject to review by virtue of the provisions in the Subordinate Legislation Act, and this Bill addresses this issue and, generally speaking, provides a more effective framework within which that review can occur.

There are several aspects about the report of the Government Adviser on Deregulation to which I want to draw attention. In his overview he states:

> The automatic revocation of the subordinate legislation program has involved considerable allocation of resources within the public sector since 1987. The depressed state of the economy requires greater definition of priorities and all activities and this must apply to regulation review also. There is a need, therefore, to sharpen the focus of regulation review, both in the public sector generally and in the role of the Office of Regulation Review.
>
> This change in focus should include the need to conduct in-depth reviews of only those regulatory mechanisms which have an impact on business, industry and commerce. The automatic revocation program will need revision to enable this prioritisation to occur. The role of the Office of Regulation Review should also change in line with the suggested focus of the regulation review program.

The interesting aspect of that is that there are only three officers in the Office of Regulation Review, and with some surprise I noted that the Acting Adviser, Mr Peter Day, has been Acting Adviser since September 1989. It was a temporary arrangement and has involved, up to 30 June 1991, nine separate extensions, and that is quite undesirable. Similarly, the report says that Mr Chris Bitter, Assistant Deregulation Adviser, was temporarily appointed on 5 February 1990 and his appointment has also involved many extensions. There was the appointment of a part-time secretary on 18 June 1991, and that was the longest temporary appointment term of all staff as at 30 June 1991. However, the report states:

> Staff in the Office of Regulation Review have maintained enthusiasm and commitment to the implementation of the Government's deregulation policy in spite of the negative effect on morale caused by the continued temporary nature of appointments.

I suggest that it is quite unsatisfactory, with a major program of review of regulations, to have temporary or acting appointments. There is the threat to any continuity. There is also the problem that momentum cannot be developed and maintained with any sense of authority. It would seem much more appropriate if in this office there were permanent appointments, even for a fixed period of, say, five years so that there was certainty in the appointments and so that those who were appointed to the respective offices could get on with the job knowing that they had some security of tenure and, more particularly, that they could pursue a longer-term plan for regulation review and deregulation.

That is an important point, and at some stage I would like the Attorney-General (it does not have to be now if he does not have the information readily available) to give some information over the next few weeks about the reasons why these appointments have all been of a temporary nature, whether the Government does intend at any stage to make the appointments more permanent, and what the structure of the office is likely to be over the next two or three years?

A number of areas of review of regulations is being undertaken within Government departments in relation to the real estate industry. A review has been proposed since 1987 and was scheduled to commence in April 1988. However, at the date of the annual report of the Deregulation Adviser, the review had not been undertaken. The report says that the REI released a discussion paper on co-regulation of the real estate industry in December 1989, and I am surprised that nothing formal within the department has been undertaken since that time.

That is a fertile area for deregulation, where a great amount of work and responsibility could be handed to the real estate industry and landbrokers and could work satisfactorily, with advantage to consumers as well as to Government and the enhancement of the status of the real estate industry and landbrokers in consequence of a higher level of surveillance of the activities of both salesman and agents on the one hand and landbrokers on the other.

In other areas review has not proceeded quickly in respect of the Residential Tenancies Act. In July 1990 the Department of Public and Consumer Affairs announced a review of that Act. A green paper, which as at the date of this annual report had not been finalised, states:

> It is anticipated that the provisions of rental housing standards and rent control contained in the housing standards of habitation regulations will be considered in the review of the residential tenancies legislation. The scope of the latter legislation to cover public housing should also be considered.

In that case, one must raise a question why that review has not been completed if deregulation review is a serious initiative of the Government within its various departments and agencies. A number of others are referred to specifically in the annual report where something has been promised by a department but has not been delivered or even been commenced.

There is only one other area to which I want to draw attention, and that is that a number of initiatives have been proposed in this annual report for the reduction of costs and the improvement of effectiveness of Government regulation. They include co-regulation, where industry and business can accept responsibility for setting and monitoring standards with, if required, the Government providing statutory back-up to focus on offenders. That has not occurred in relation to occupational licensing, such as real estate agents and sales persons and land brokers. There is a reference to the encouragement of offenders to expiate their fines at the time of the offence. That is all very well, but in relation to the Office of Fair Trading we have seen blitzes in Mount Gambier, where expiation notices have been issued quite extensively and without appropriate educational focus or warning.

It is all very well to talk about expiation of fines but, on the other hand, it is another matter to do that responsibly in the context of education and promotion. Within that context there are also provisions for further delegations to local government authorities, the use of plain English in Government legislation regulations, and the improvement of accessibility to information on the Government's regulatory requirements, and I suspect that that refers to a one stop shop, which has still not been established, even though it was promised as early as 1985 by the Premier at that election. So, a number of issues were raised in that annual report which will be continuing issues for the Government and for the Parliament.

It is also interesting to note that, in 1991, at least 280 regulations were passed in South Australia. My checking in the library shows that No. 280 of 1991 was promulgated on 19 December 1991. Some of those regulations relate to fees and minor variations, but some are of substance. Those 280 regulations stand at least 50 mm high, which I think is about two inches in the old measurement, and it rather suggests that the pace of regulation is continuing at a rapid

rate and is more than balancing the regulations which expire under the regulations expiry program. It demonstrates also that there is still a focus by Government departments on regulating rather than deregulating, which is the more desirable initiative of the two. I therefore support the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contributions in support of the measure. A number of points have been raised. First, the Hon. Mr Burdett asked whether postponement from expiry should be limited to, say, two or three postponements. I have no objection to the number of times a regulation can be postponed from expiry being limited, as the honourable member suggests. The Hon. Mr Burdett also raised a question concerning green papers and regulatory impact statements. In the development of regulatory proposals a green paper is prepared for public consultation purposes which canvasses, first, the objectives of the proposed legislation; secondly, the background to the proposal; thirdly, the alternatives to Government regulation considered; and, fourthly, the financial and social costs and benefits of the alternatives.

The honourable member indicated that he had not noticed any green papers. Many green papers have been prepared and released for public consultation since this system was developed. Some examples of these include: the Water Resources Act, citrus industry legislation, fruit plant protection legislation, plumbing and drainage, Surveyors Act, dairy industry legislation, dangerous substances and explosives legislation, egg marketing legislation (all green papers); Electrical Workers and Contractors Licensing Act position paper; a green paper covering the licensing and inspection of hire and drive (bareboat charter) yachts; a Motor Fuel Distribution Act and regulations green paper (released for public consultation on 17 February 1992); a green paper on the Marine and Boating Acts; and a dried fruits marketing legislation green paper. Copies of these papers are availble, free of charge, from the State Information Centre, 25 Grenfell Street, Adelaide, the relevant Government agency or from the Government Adviser on Deregulation.

As the member pointed out in his question, the regulatory impact statement was devised to canvass in greater detail the issues raised in the green paper, where it was considered the impact of the regulatory proposal would impose an appreciable burden, cost or disadvantage on any sector of the public. What has happened in practice is that, as Government agencies have developed expertise in developing green papers, the extent of detail of their content has also been increased, especially in cases where the propositions involved an impact on the business and other sectors of our community. As a result of this, no regulatory impact statements, as such, have needed to be developed, although for all intents and purposes the anticipated substance of these documents has been prepared and included with green papers and other reports released for public consultation.

Following consideration of this Subordinate Legislation Amendment Bill, the regulation review procedures referred to by the honourable member will be revised and consideration will be given to the continued reference in that document to regulatory impact statements. Following revision I will ensure that a copy of the document is made available to the honourable member and the Legislative Review Committee. In this regard also, the Government Adviser on Deregulation is currently conducting a small business inquiry and one of the suggestions made to him already is that a business impact statement be prepared for all regulatory proposals. Whether that will be adopted depends on the results of his inquiry, but I think that any green paper should obviously canvass the regulatory and business impact, which is what has occurred in a number of the papers to which I have referred.

The second part of the honourable member's question concerned the Legislative Review Committee having access to green and white papers and regulatory impact statements. These documents are developed to ensure that all the issues are explored and that an assessment of the relevant costs and benefits of the proposals are made. Fundamentally, however, they are discussion documents prepared to elicit public response and comment and are publicly available. The Government has formally agreed in Cabinet that there should be a process of green papers and white papers—and I made a public statement on that some time ago—green papers being produced for discussion without any Government endorsement and white papers being published for discussion but carrying the imprimatur of the Government.

However, I believe it is quite appropriate that the Legislative Review Committee should have access to these papers and get copies as they come out. I suggest that the honourable member arrange through the committee secretary for the committee to get the papers. Probably, he could have a standing arrangement with the Government Adviser on Deregulation or the State Information Centre to have the papers sent to the committee on a regular basis. There is obviously no difficulty about that as far as I am, and indeed the Government is concerned. I am sure that the Government would appreciate receiving from the Legislative Review Committee any comments that it might have on the regulatory aspects of the papers that are produced. There may be broader policy issues which would be more appropriately dealt with by our committees of the Parliament but, in so far as it is relevant to the Legislative Review Committee, I am sure that the Government would welcome any comment.

As I recollect it, though, the deregulation policies of Government were given to the Economic and Finance Committee under its terms of reference, rather than to the Legislative Review Committee. However, I suggest that the honourable member makes the necessary arrangements with his committee to get the agreed papers.

The Hon. Mr Griffin expressed concern about the number of regulations that were being exempted. That concern is shared by the Government, and that is one of the reasons why the Government adviser on deregulation instituted his review. One of the reasons that regulations have been exempted more in recent times is that they generally have been regulations that have been more recently made and the easier part of the job was done early in the piece, when large numbers of old and obsolete regulations were completely done away with. However, extending from seven years to 10 years for the period of existence of regulations is obviously designed to overcome the bottleneck that has occurred in this area. So, the Government shares those concerns and hopes that this legislation will facilitate a situation of getting regulation review and reducing the number of exempted regulations.

The honourable member also raised the question of the staff in the Regulation Review Unit and their acting capacities. Again, I agree with the honourable member that it is undesirable that these people continue to work in an acting capacity, although they have now, as he pointed out, been doing so for some time. The honourable member may not have caught up with the fact that the Regulation Review Unit is not now my responsibility, but was transferred to the Minister of Small Business, because, under the review to which I have referred and the priorities that the dere-

gulation advisor will be giving in the future, it was thought that it was more appropriate for it to be the responsibility of the Minister of Small Business. As the honourable member quoted from the adviser's annual report, in future the deregulation adviser will be looking at major, substantive reviews that impact on business rather than being involved in this relatively mechanical process of automatic regulation review.

I am still responsible for the Subordinate Legislation Act and for the automatic expiry procedure, which is, of course, done through Parliamentary Counsel, but the Minister of Small Business is responsible for the Deregulation Unit and will be responsible for major reviews conducted by that unit, which will principally be in the areas of impact of regulation on business. I can only refer the honourable member's comments on that point to the Minister. I understood that when the transfer was made from me to the Hon. Ms Wiese the question of the staff in the unit and their temporary acting capacities was to be examined and fixed up. Perhaps the honourable member might like to ask my colleague a question about that in due course to see whether or not there has been any change in their status. However, personally, I think the situation should be fixed and that the positions should be made permanent, whether with or without the existing incumbents, because the jobs might well have to be called.

The Hon. K.T. Griffin: Will the Attorney-General refer that to the Minister and get clarification?

The Hon. C.J. SUMNER: Yes, I will refer that issue to the Minister of Small Business and arrange for a reply to be sent to the honourable member. The honourable member has also referred to a number of reviews. I think that the review of the deregulation process and the unit, which was carried out and a copy of which was sent to the Hon. Mr Burdett and the Hon. Mr Griffin, emphasised that the unit should concentrate on major regulation reviews impacting on business. As I said, that is why it was transferred to the Minister of Small Business. So, one would hope that the concerns expressed there will be overcome. However, I should say that I think that there have been significant developments in this area since the regulation review process was established. Certainly, at the mechanical level, large numbers of regulations have been discarded, consolidated and simplified.

There have also been significant numbers of deregulation initiatives taken, and not all in conjunction with the deregulation adviser. Nevertheless, they have been undertaken with his support. Members will remember the petrol trading hours deregulation, which the Opposition opposed, of course. There was also the deregulation of bread baking hours and deregulation in a number of other areas. We have one such issue before the Parliament at the moment, namely, the deregulation of the egg industry. There is also the citrus industry, and the like. So a number of deregulation initiatives have been taken.

While it is possible to say that things should have perhaps been done more quickly than they have, deregulation is not easy because often the industry groups involved are strong supporters of the regulatory regime under which they operate. I know that when the Hon. Mr Burdett was a Minister he had trouble convincing the landbrokers that they should be involved in negative licensing, which was his proposal at the time. They resisted that quite firmly. However, that does not mean that we should not continue to try. As I say, I think significant progress has been made. Changes to this legislation and the other changes that have arisen out of the review of the deregulation process will, I believe, lead to an enhanced program in the future.

Bill read a second time.

HOUSING LOANS REDEMPTION FUND (USE OF FUND SURPLUSES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 February. Page 3118.)

The Hon. L.H. DAVIS: The Opposition indicates support for this Bill, with one small amendment. The Housing Loans Redemption Fund (Use of Fund Surpluses) Amendment Bill is a mouthful, but it really is quite a simple proposition. We have the opportunity of actually repealing a piece of legislation, namely, the Cottage Flats Act 1966 and, with this Bill, we also are amending the Housing Loans Redemption Fund Act 1962. The Housing Loans Redemption Fund Act was established initially to provide home-buyers in South Australia with the opportunity of obtaining State Government guaranteed life insurance cover for the amounts that were outstanding on their mortgages. In 1962 this was quite a novel instrument. As I remember, it was not common for the private sector insurance industry to offer insurance cover for mortgage loans to home-buyers. The purpose of this insurance cover was to protect, for example, the widow of a husband who was killed shortly after the marriage took place, leaving a grieving widow not only with the problem of bringing up children single-handedly but, perhaps, also meeting mortgage repayments on a house. Mortgage insurance, of course, provided a financial safety net for the spouse of the deceased in such a situation.

Recent experience is that the private sector has come into this field in a very big way, and I understand that no-one has taken advantage of the Housing Loans Redemption Fund for some seven or eight years. The private sector, together with SGIC, has offered mortgage insurance. Indeed, it is quite common to see financial institutions such as banks and building societies making mortgage insurance on houses a prerequisite of granting a housing loan.

The decision to amend the Housing Loans Redemption Fund Act is based on the fact that private sector insurance companies and SGIC now provide mortgage insurance and there has been no applicant for the Housing Loans Redemption Fund mortgage insurance since 1985. So, the fund is to be closed down. That will not in any way affect members who are already in the fund, and that is made quite clear. But there is a significant surplus in the fund that has been building up at a very rapid rate in recent years. We understand that the Public Actuary believes that there could be up to $7 million surplus in the fund.

In the past there has been a provision, through the Cottage Flats Act, for payment of sums not exceeding $75 000 per annum from the fund to the Housing Trust for the purpose of building cottage flats to be let to persons in necessitous circumstances. Of course, these days $75 000 does not go very far when it comes to building a group of flats, and the administrative costs of the Cottage Flats Act as currently constituted are not insignificant. So, the proposal before us is a simple one: that the Cottage Flats Act be repealed; that the Housing Loans Redemption Fund be closed down; and that the surplus funds that have accumulated since that Act came into operation 30 years ago should be made available for use by the Housing Trust. Clause 3 (3) specifically states:

> Any amount paid into the Consolidated Account must be paid to the trust, which must apply the amount for the purpose of building cottage flats or other dwellings to be let to persons in necessitous circumstances.

Under the amending Bill the trust is required to include in its annual reports details of the money that has been received, of how it has been expended and of the building works that have been carried out pursuant to that section. There is very little to object to in the proposal. The only comment I have to make is that the Opposition will be moving a small amendment that tries to provide more specifically for the use of this money. We believe that there is an argument to say that, rather than providing the $7 million to the Housing Trust, the legislation should specify that the moneys from the fund should be used by the Housing Trust to assist in the provision of housing for persons in necessitous circumstances, by charitable organisations or providing or assisting the provision of housing for disabled persons in necessitous circumstances.

The Government may quibble and say that that is trying to define the matter too tightly, but we believe that if there is any merit at all in supporting charitable organisations providing for people in necessitous circumstances, then here is a wonderful opportunity for legislation to require the Housing Trust to direct a portion of that $7 million in that direction. One can think immediately of the cooperative housing model that has been adopted by many community housing groups such as Bedford Industries and some of the charitable and community organisations with much success.

I should like to think that the Government may consider an amendment such as that which I propose to place on file, or something similar to it. The Opposition is satisfied that, whilst this $7 million is a beneficial and certainly welcome injection of funds into the Housing Trust, it is required by the Bill to use this money for building purposes. It cannot be used in any other way. The Opposition, therefore, with that one small amendment, supports the second reading of this Bill.

Bill read a second time.

PITJANTJATJARA LAND RIGHTS ACT

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

That pursuant to section 42c (11) of the Pitjantjatjara Land Rights Act 1981, this House resolves that section 42c of the Act shall continue in operation for a further five years.

ADJOURNMENT

At 11.52 p.m. the Council adjourned until Thursday 19 March at 2.15 p.m.