ASSOCIATIONS INCORPORATION BILL 2014

Consideration in Detail

Resumed from 27 November 2014.

Clause 2: Commencement —

Debate was adjourned after clause 1 had been agreed to.

Ms J.M. FREEMAN: Clause 2 is about the commencement. Given the 27-year wait for this legislation —

The SPEAKER: Sorry, member for Mirrabooka, the minister cannot hear. Can members take their meetings outside, please. Member for Mirrabooka, start again, please.

Ms J.M. FREEMAN: It is not very often I cannot be heard! Given the 27-year wait for this legislation, can the parliamentary secretary please outline the time lines in weeks or months for the legislation? Once the act receives royal assent, what are the time lines and will the time of royal assent be affected by consultation? Obviously, it matters when it is passed in this place, so all I need to know is what sort of time lines are being looked at. Will it receive royal assent two weeks, one week or one day after it goes through Parliament? I will then ask a question about clause 2(b). I just want to know what the time lines are.

Mr P.T. MILES: Obviously, the bill has to go through our house and the other house, so the member is referring to when it gets through that long period in the other place. Then there is royal assent. There is no more consultation; the consultation has been pretty much done. Some computer upgrades will be required at the department to allow for the changes coming forward. A couple of years will be needed for the transitional periods. Clubs do not have to change their rules and all the rest of it on day one. The government agency would not be able to accommodate that on day one anyway, so the transitional period is up to three years to accommodate that. If anything comes up in that process within that period, I am sure it can be dealt with effectively. I would say that if it can go through this house and the upper house by the end of this year, there is probably no real reason why it could not start some time next year—possibly around 1 July; we would need to pick a good date to start that.

Ms J.M. FREEMAN: If I am hearing rightly, in terms of the day on which the bill receives royal assent, the parliamentary secretary expects that the bill will go through the two houses probably by the end of the year, and then there will be a six-month period before it receives royal assent because there are a number of departmental issues. Will royal assent of clauses 1 and 2 of the bill happen pretty much straightaway, and, as it says in clause 2(b), the rest of the bill on a day fixed by proclamation, with different days being fixed for different provisions? I will refer to clause 2(b) later, but my first questions are: When does the parliamentary secretary anticipate royal assent being given after the bill has passed through this house? Is there a time line for that? Is there a period during which it will sit in abeyance? This is quite important to the sector, because at the moment the sector knows that there is an Associations Incorporation Bill 2014; people are talking about it. Clarity about the time frame for the bill receiving royal assent and being enacted after having gone through Parliament is quite important, given that there are some new provisions in this bill, particularly with regard to the duties of board members.

Mr P.T. MILES: My advice is that there is actually nothing to stop the legislation commencing from royal assent; nothing at all. We just have to make sure that we have the back office portion done, then the royal assent, and then the legislation can actually come into play.

Ms J.M. Freeman: That's what I want to know. I want to know how long between getting through here and royal assent. What's the time line there?

Mr P.T. MILES: It would be done as soon as possible. There is no defined period, if the member is asking whether it is going to be a week or a month.

Ms J.M. Freeman: Yes.

Mr P.T. MILES: Yes, I do not have any advice on that. The normal process is to make sure the agencies are ready and that the clubs are educated and ready, and then royal assent can take place before the bill is enacted. Obviously, when it receives royal assent, it is the new act. I do not really know why the member wants us to define a time frame.

Ms J.M. FREEMAN: I do really want to know a particular time because we are going through the process of a new bill that many organisations, certainly peak organisations, are aware of. The period between the legislation going through Parliament and receiving royal assent is a period during which we have something that has effectively been legislated but is not yet operating because it cannot operate until it receives royal assent. The parliamentary secretary has just added in that the back office will need to be in place. Consecutive governments

have been waiting 27 years for this bill, and we are now being told that the back office has to be up and running before the bill can receive assent. My question really is: is the government going to spend time on education before the bill receives royal assent or will the education process take place after royal assent? Once this bill is passed, the question is: will the government undertake the education process and then royal assent, or will the education process take place after the bill has been assented to?

Mr P.T. MILES: My advice is that the legislation will come into play on the day of royal assent. The education process is already happening, as are some of the back office computerised areas in anticipation of this legislation being enacted and coming into play. The other point is that between the day it is ticked off in the other place to the day it reaches the Governor, the bill has to go through the Governor's diary of appointments, and that could be a week or it could be a month; that is the bit of information I cannot give the member —

Ms J.M. Freeman: But you're not anticipating it being anything more than a month? Because previously you were telling me it was going to be six months.

Mr P.T. MILES: It should be done without a problem; there are no issues. The member is right: it has taken us some years to get to brand-new legislation, but we want to make sure that everyone is on board with it. Like everyone else in this Parliament, I have been in clubs in which people can get very testy about rule changes and legislation changes. I have attended two AGMs over the last couple of days, and I can tell members that some people read these acts inside out and ask about every little detail, and forget about their own constitution. We believe that once the legislation has passed through the other house and is before the Governor, it will start off. There will not be any delay in enacting this legislation, because we do not want it to be delayed any further than it has been already going through these houses.

Ms J.M. FREEMAN: I acknowledge that. I suppose I expected that there would be a priority for such an important piece of legislation that will have such an impact on whether people can find themselves in breach of the law. In particular, the government is incorporating into this new legislation implied duties of board members, and other elements along the lines of reporting requirements and other aspects of how boards and organisations must operate. The issue I have is that any delay beyond what is reasonable for a Governor's diary will put the government in a situation of legal difficulties in respect of which legislation will apply if someone is found to be in breach. I suppose I want assurance that, as soon as this bill passes through the house—because people have expected it and are becoming educated about it and are out there doing stuff—it will go basically to the Governor's pleasure; it will go straight to assent by the Governor, and there will be no delays because of bureaucratic, educational or other procedures. When I first asked the question, the parliamentary secretary said that there would be back office issues and a few others, that we will finish in December and it will receive royal assent in July. Now we have come back to a month. I suppose I want the assurance that there will be no procedural delay, other than the fact of getting it into the Governor's diary.

Mr P.T. MILES: The member is right: there will be no legal or procedural reason to prevent the legislation being enacted straightaway. As soon as the legislation has gone through both houses, it will go to the Governor for royal assent through the normal process for bills. Once it has gone there and been proclaimed by the Governor and has come back, the agencies will have already started and completed their educational processes. We also must bear in mind that we have put three-year transitional provisions in the legislation, so there will not be any wielding of the big stick on day one, because that would be totally unfair. There is provision for a three-year transition into the new legislation, so on the face of it most organisations would be very comfortable with sliding into the new legislation. There will be those that are ready on day one, and most of them will be very welcoming of the reduction in red tape in the legislation.

Going back to what the member said, there is nothing to stop the legislation from going to the Governor as soon as possible. I tried earlier to give the member some sort of time line to get the mechanics happening, but it will not go to the Governor the day after it has gone through the other place, I can assure her. It has to make the same transition as any other bill that goes through both houses before it can come into play, but on day one of royal assent, it will be in play.

Ms J.M. FREEMAN: I thank the parliamentary secretary for that clarification. I am glad that we went from six months to the day. As the parliamentary secretary well knows, part of my strength is attention to detail, and as he also well knows, attention to detail when we are doing legislation is very good because it means that if there is a question about legislation, it can be referred. This legislation will have legal ramifications and I think it is important that we ask questions about all parts of it. I do not want to delay the bill any further, but I want to make sure that it has had the proper scrutiny that it deserves.

Dr A.D. Buti: I am sure that the member who is a doctor would of course be in favour of attention to detail.

Ms J.M. FREEMAN: Yes, and he is used to me.

The SPEAKER: Thank you for that, member for Armadale.

Ms J.M. FREEMAN: I am coming back, Mr Speaker; I apologise. I want to ask about clause 2(b), which states —

> the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

I assume that the rest of the bill comprises the regulations. Although I have a copy of the draft rules, are the draft regulations out for discussion? It is so long ago that I have forgotten. Has a copy been made available to the opposition? Firstly, does that mean regulations? Secondly, have the regulations been put out for public consultation and have they been made available to the opposition?

Mr P.T. MILES: The member said that she has read the legislation. The regulations are part of the consultation; they have to be because some of those regulations form part of the rules. Therefore, they are being consulted on and discussed. They are sort of combined; we cannot just say one or the other. Although all the regulations have not necessarily been put out for consultation, the ones that affect the rules have been consulted on. The agency obviously will take note of those consultations before the regulations come into play.

Ms J.M. FREEMAN: I thank the parliamentary secretary. I apologise; I probably was not listening quite as well as I should have because my son was having a little nervy turn on the phone so I had to text him. The parliamentary secretary is saying that the regulations have not yet been produced. Are they currently out for consultation?

Mr P.T. MILES: No, they are not finalised; they are still a work in progress. The ones that are associated with the model rules are being consulted on. They are still in the consultation phase and that is why they have not been finalised. We will not see the regulations until the bill has passed through the other house.

Ms J.M. FREEMAN: Will the regulations lay on the table of Parliament? The clause provides that the rest of the act will come into operation on a day fixed by proclamation, and different days may be fixed for different provisions. We have not seen the regulations yet. We have seen the rules and consultation is taking place on the rules. Can the parliamentary secretary confirm for me that Parliament will not have the capacity to look at the regulations until after this bill is passed, so the capacity for Parliament to scrutinise those regulations will be as is the case for most regulations; that is, they will lay on the table and if Parliament does not agree with the regulations, it can move to disallow them?

Mr P.T. MILES: The member is correct. Obviously, the delegated legislation committee days are coming back! Any gazettal that is done by the government can be disallowed if a member does not like it, and exactly the same will apply in this case. When they are gazetted, obviously they will come to Parliament in the normal manner and will go through the Joint Standing Committee on Delegated Legislation and other committees preferably. The committees or an individual member can move to disallow them. The member is correct.

Ms J.M. FREEMAN: We have talked about the regulations. I now want to move on to the draft rules. The draft rules are not dated, but I received them prior to Christmas. Firstly, have there been any amendments to those draft rules since they were first put out? Have they been put out for broad public consultation or have they gone only to specific groups and clubs such as the Western Australian Council of Social Service and the Law Society of Western Australia? There are a couple of questions there. Firstly, am I looking at the same draft rules that everybody else is looking at? Secondly, how many people are looking at those draft rules?

Mr P.T. MILES: I thought the member would ask some of these questions when we got to the rules provision of the bill. The draft rules that the member has are current. Every organisation that is registered has received a copy of those rules, and they should be assessing them. Obviously, those organisations that wish to put in a submission can do so. The little clubs have not bothered but the major ones have. There has been no change to the rules that the member sees. Consultation is still talking place.

Ms J.M. FREEMAN: I was going to have fun with the parliamentary secretary when we go through the draft rules at the consideration in detail stage, but I just thought we would get the procedural aspect of it out of the way. Can the parliamentary secretary confirm whether the draft rules will be like the regulations and lay before Parliament and be open to disallowance or will they have a different status and be more like codes of practice or guides?

Mr P.T. MILES: The model rules will form part of the regulations, because they are regulations. That is why, when the model rules change from time to time, those changes will have to be gazetted. Therefore, clubs that are using just the model rules will be able to accept that gazettal. Again, because they will be gazetted, Parliament has the right to review that new gazetted model rule and object to it or what have you. I think the consultation on those rules has been very good and has been well received. I have not received any issues. There have been only 11 submissions on the model rules, which I think is pretty impressive overall. It means that we have got the model rules pretty much right. That is why there have been no real changes.

The SPEAKER: I just remind the member for Mirrabooka that this is the commencement of the act. You are starting to drift off a little.

Ms J.M. FREEMAN: The commencement clause provides that the rest of the act will come into operation on a day fixed by proclamation, and different days may be fixed for different provisions. As I understand it, the different provisions are regulations and model rules, which is why I asked the question about that. I apologise, Mr Speaker, if you do not think it fits within that clause, because I thought this would be the appropriate time to talk about it.

Can the parliamentary secretary give me an indication of any other different provisions that may be involved? Is it just the regulations and model rules or is there something else that may fall within the broad terminology of "different provisions"? Usually, this type of clause would state that the act will come into operation on a day fixed by proclamation and different days may be fixed for regulations or whatever. This clause refers to "different provisions". I am just trying to work out whether that means different provisions within the legislation, whether "different provisions" just means regulations and model rules, or whether another category fits within "different provisions".

Mr P.T. MILES: Member, no, it is only to do with regulations—nothing else apart from the regulations incorporates the rules. The advice is that there is nothing else there that we are planning to do; it is only the regulations associated with the Associations Incorporation Bill 2014 that obviously take in the rules.

Ms J.M. FREEMAN: For clarification, why does it not read "for regulations"? Why does it have such a broad term called "different provisions"? Is the parliamentary secretary telling me that "different provisions" exclusively means regulations and models rules and that is it? Are they are the parameters of "different provisions", and there is nothing outside those different provisions?

Mr P.T. MILES: No; it is any regulation associated with the act—I think the member knows that. It is anything associated with this bill; it is just that there is absolutely nothing else that we are aware of for which we need a regulation, apart from the rules being in place that are coming up. There is nothing else that we think we need to put into regulation; it is all there. Clause 2(b) is a fairly standard clause in most bills, as I understand it, and it is there to make provision for further regulations to be created in the act.

Clause put and passed.

Clause 3: Terms used —

Mr C.J. TALLENTIRE: Clause 3 includes a range of terms, but I want to focus on the definition of "officer" and my question relates to the term "management committee". All members in this place who have had extensive experience with community organisations know that there can be tension between people on the management committee tasked with the visioning and defining of goals and objectives for an organisation—the defining of an organisation's strategic plan—and people on the operational side of things who would normally come under the definition of "officer". We are missing an opportunity with these definitions to save that angst that occurs in community organisations when someone who is on the management committee periodically steps in to tackle operational issues. My question to the parliamentary secretary is: why have we not sought to clarify the distinction between someone in a management committee role versus someone in an operational role? As it stands at the moment, these definitions will serve only to exacerbate that problem that occurs so often when people with the very best of intentions want to merge their management committee functions with operational matters. There could have been a way of tightening these definitions so that we could have avoided that possibility.

Mr P.T. MILES: Paragraph (d) under the definition of "officer" reads "a person in accordance with whose instructions". A past chairman or maybe the past treasurer or somebody who is not necessarily an officer of the board may have asked to come on board and offer advice or give some direction or history on how the club or association has been running, and that is why, I guess, the term "officer" has been used. Paragraph (d) under the definition of "officer" answers the member's question.

Mr C.J. TALLENTIRE: I do not think paragraph (d) really does solve the situation. The problem is actually paragraph (a) under the definition of "officer", because someone can be an office-bearer of an organisation—the management committee–type person. The problem arises when people who are management committee officer-bearers are allowed to also describe themselves as officers of an organisation. It would be parallel to a situation whereby a public servant is an officer in a department of the public service, and a member of the government is the overarching policy-setter for a government agency; somebody in this place cannot step into the operational role of a public servant. That is one parallel I could draw. The problem could be solved, I think, by not allowing people who are on management committees to describe themselves as officers. That is where we get this confusion between those who are often volunteers on a management committee and paid employees working as

officers for an organisation. That is the tension we are seeking to avoid. It is one, believe me, that can cause a lot of tension in organisations, so it is one that we really do have to try to solve.

Mr P.T. MILES: The advice I have on that one, member, is that the definition of "officer" has been broadened, clearly —

Mr C.J. Tallentire: And dangerously so.

Mr P.T. MILES: They are the member's words; I do not believe so. "Officer" has been broadened, so that the management committee can get external advice —

Mr C.J. Tallentire: External from where?

Mr P.T. MILES: From past members. As I said before, there might be a past treasurer or chairman who knows the history of a club or an association who may not necessarily be duly elected but still needs to provide advice along the way.

Mr C.J. Tallentire: But that person has not been elected.

The SPEAKER: One person at a time, please.

Mr P.T. MILES: They can then provide that advice and are captured in the definition of an "officer"; basically, it will bring them under the duties of the management committee. Therefore, they would still have to abide by certain rules. They may not be a committee member or management member, but it still provides them with certain duties of care and they still have to act in the best interests of the club to be there. They cannot sort of skip in and out of committee meetings, tell people outside what is going on and then come back inside. All the rules of the incorporation still exist for that person who is acting in an officer role.

Mr C.J. TALLENTIRE: The parliamentary secretary's thinking is going in the right direction, but we still have the problem that what the parliamentary secretary is presenting to us allows for this blurring of boundaries between someone on a management committee and someone who is an employee of the organisation. I am suggesting that we should tighten the definition so that a person who is a paid employee has a different title from someone who is a management committee member. They are not officers, and there would be two separate categories of people. Not being clear about the boundaries will lead to further problems in a lot of our volunteer community sector organisations. I wonder whether there is a way the parliamentary secretary could consider amending the bill just to make it clear where someone sits. In some cases it may be justifiable that someone is on the management committee and also has some paid role, but if we have well thought through definitions in this legislation, it will help those people understand when they are acting as management committee members and when they are acting as officers and employees of the organisation.

Mr P.T. MILES: I understand where the member for Gosnells is coming from. To clarify it for myself, this is consistent with what happens in other states. It is not new to Australian law at all. It is about the person who comes on board who will offer advice to the management committee. They are still going to be collectively responsible for that decision. That is what it is about. That person who helps the committee or the management committee to make a particular decision also takes on board the responsibility of that decision and, therefore, would be ultimately responsible as an officer.

Ms L.L. BAKER: My question is about the definition of "officer". I refer the parliamentary secretary slightly further down page 3 of the bill to paragraph (c), which refers to "a person who has the capacity to significantly affect the association's financial standing". I imagine that could be lots of people. I am thinking about Gina Rinehart, but it could be all sorts of people.

Ms J.M. Freeman: The Premier.

Ms L.L. BAKER: Yes, the Premier. I seek clarification so that whoever reads *Hansard* in the future will be clear about what is really meant when the parliamentary secretary says that the officer of an incorporated association includes a person who has the capacity to significantly affect the association's financial standing.

Mr P.T. MILES: Again, that term is about making sure that in a club—rightly so—the elected members, moneys or assets are being looked after, and that anybody who is elected or asked to participate in a particular project or whatever for that club will be duly bound to act appropriately and properly. Paragraph (c) says "significantly affect", so it relates to a big decision.

Ms L.L. Baker: Could you give an example?

Mr P.T. MILES: An example could be a decision to purchase a building or something or to sell off an asset. That person becomes part of that decision-making process and is responsible, as part of the collective, in making that decision because they are advising the board or the management committee about what to do with that asset, or to buy an asset. Therefore, it has to be a very large and significant portion, because quite often clubs might

want to purchase boats or cars or whatever, and a third party might be asked to give advice on that purchase. If that third party is going to influence the decision—which I guess they are because they are saying that they want the organisation to buy this car, this building or boat—the management committee will obviously listen to that person. That is how it is.

Ms L.L. BAKER: I will continue for clarification. Some of the not-for-profit organisations in which I have been involved in the past have purchased significant holdings to develop, for example, a business incubator—so millions of dollars' worth of building. In doing so, those NGOs have involved maybe three or four different consultants to give advice under different contractual relationships—that is, contact with an engineering report and an environmental company to give them reports. What I think the parliamentary secretary is saying, which needs to be clear, is that because those organisations have completed those reports, the definition of "officer" makes those individual organisations "officers" of my not-for-profit organisation that is seeking to buy a business. To me, that is completely unworkable.

Ms J.M. Freeman interjected.

Ms L.L. BAKER: That is right. I cannot imagine a situation in which an environmental company that has been asked to provide a report on the impact of building something on wetlands will want to be treated as a party or an officer of an incorporated association, with the financials, even though they have a significant opportunity to impact on the financial standing of an organisation by issuing a report or by reporting through as a contractor under an agreement to provide advice. I am stringing this out so that the parliamentary secretary can have a chat to his advisers.

Mr P.T. MILES: My answer is similar to the one I gave to the member for Gosnells. Again, it relates to a club member, not an external company.

Ms L.L. Baker: Do they have to be a member of the club?

Mr P.T. MILES: They do not necessarily have to be a member, but they have to be somebody who obviously has influenced that organisation, and who may have a linkage to that organisation. It could be a past member. Let us say that a person has belonged to a yacht club and they no longer want their boat, they are going elsewhere, and they are not a member anymore; therefore, they are going in to influence the committee to purchase their boat and take it on board. That is how the definition of "officer" comes into play.

Ms L.L. Baker: What you are telling me is clearly that somebody who has been contracted to deliver a report at the behest of the organisation is not bound as an officer of the organisation for the purposes of this?

Mr P.T. MILES: No.

Ms L.L. Baker: So my report card from BIS Shrapnel about the health of the organisation will never hold BIS Shrapnel responsible for everything crashing?

Mr P.T. MILES: No, because that is external.

Ms J.M. FREEMAN: I also want to ask about the definition of the word "officer". I note that in the Associations Incorporation Act 1987 an "officer" in relation to an association means a member of the committee, and this is all it meant. Now "officer" will mean a member of the management committee of the association, and it means what is stated in paragraphs (b), (c) and (d), including a person who may not even be a member of the committee, the management committee, or the association for that matter. The parliamentary secretary may have already said this to the member for Gosnells, but I assume that by including paragraphs (b), (c) and (d) they could be brought into the "Duties of officers" in part 4, division 3, and in particular the duty of care and diligence, and that is the reason these areas have been included so that they can act in good faith and with proper purpose. My question is about paragraph (b), which states —

> a person, including an employee of the association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the association;

Will that mean that funding bodies have a duty of care and diligence to act in good faith and proper purpose in terms of funding because they will fall under the definition of "officer"?

Mr P.T. MILES: It sounds like the member for Mirrabooka is asking whether that person is an employee of the organisation. I think that is what the member is referring to in her explanation. I do not know whether she wants to clarify her question, but it sounds as though she is saying they are an employee.

Ms J.M. FREEMAN: I refer to paragraph (c), which states —

> a person who has the capacity to significantly affect the association's financial standing;

I had a question about the employee in a funding body and I probably got myself confused, so I apologise. So the first question —

Mr P.T. Miles: Yes, please. Can you do one at a time?

Ms J.M. FREEMAN: I will break it down. Have paragraphs (b), (c) and (d) been included so that those officers have that broader definition of other than a member of the management committee of the association within part 4, division 3, "Duties of Officers"—that is, that broader definition of who is captured by "Duty of care and diligence", and "Duty of good faith and proper purpose", as outlined in the headings of clauses in part 4, division 3?

Mr P.T. MILES: Yes; exactly. They are included because those people will be influencing board or management committee decisions. Their collective responsibility is still for the club, not themselves.

Ms J.M. FREEMAN: Under the definition of "officer" paragraph (c) states —

> a person who has the capacity to significantly affect the association's financial standing;

Does that include funding bodies and will they have the duty of care and diligence, the need to act in good faith and have proper purpose? Will they be tied into having those duties under the new definition of officer?

Mr P.T. MILES: No.

Ms J.M. FREEMAN: Paragraph (b) under the definition of "officer" reads —

> a person, including an employee of the association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the association;

I gather that "person" could be an executive officer, for example. Will that person—someone who is effectively bankrupt—be covered under clause 39, "Persons who are not to be members of management committee", under part 4 "Management"? Does this mean there cannot be a director, CEO or anyone who falls within clause 39(1) —

> (a) a person who is, according to the *Interpretation Act 1984* section 13D, a bankrupt or person whose affairs are under insolvency laws;

Let us stay with subclause (1)(a) in the first instance. Does that mean that a CEO, a director or someone else who is employed by the association and quite separately from the employment of the association because they had a business or something else, be tied into clause 39 or will they be tied only into division 3, "Duties of officers"? Is the provision for employees, who are persons not to be members of the management committee, particular to paragraph (a) under the definition of "officer"?

Mr P.T. MILES: No, under clause 39 the committee is purely, I guess, a group from the main management committee that might be working on a specific project—that is the committee. That person is not included in that; they are included only in the officer part.

Dr A.D. BUTI: The definition of association is "includes society, club, institution or body". We are dealing with definitions and legality. Is there a legal definition in the Associations Incorporation Bill of a society, a club, institution or body? I cannot find one in the bill, so how can we have clarification of what they mean?

Mr P.T. MILES: We have taken the lead from other jurisdictions. Nobody defines what they are because at the end of the day the Commissioner for Consumer Protection will decide. When people make applications for an incorporated body, as it is stated further in the bill, they have to provide their reasoning for creating an association. They have to make sure they have the associated members and that all the appropriate rules are in place. It would be up to the commissioner to accept what is being set up. If we start trying to define bodies, I think some organisations will not be able to become incorporated associations. My understanding is that we are trying to keep that area fairly broad so that the commissioner can be a bit more flexible when deciding whether a group can be an incorporated association.

Dr A.D. BUTI: I understand what the parliamentary secretary is saying, but that does not answer the question. A definition in the bill states "association includes society, club, institution or body". Yes, of course the commissioner will decide whether an incorporation can take place based on a number of criteria described in the bill before us. The bill describes what an association is by reference to other identities but it does not provide a definition of those identities. It seems to be a strange way of going about legislative drafting.

Mr P.T. MILES: As the member says, the definition describes associations and it includes society, club, institution or body. At the end of the day, it is about an association of people coming together to create a club or some form of entity, for whatever reason. That is why we are not defining in this clause exactly what those bodies are. Further in the bill I think there is a list of things that people can and cannot do. That is why, ultimately, an applicant has to convince the commissioner why an association should be incorporated. I do not understand why the member would want to include more detail there.

Dr A.D. Buti: Maybe it would have been best if they had not been included, if you are not prepared to define it.

Ms J.M. FREEMAN: I refer to the definition of a repealed act —

> ***a repealed Act*** means —
>
> (a) the Associations Incorporation Act 1987 repealed by section 185;
>
> (b) the Associations Incorporation Act 1895 repealed by section 47 of the Act mentioned in paragraph (a);

I think the parliamentary secretary may have clarified this for me in his response to the second reading debate, but I would like it clarified again. Does that mean there will be no grandfathering of any association acting under any of this legislation? In particular, does it apply to an association that is operating under the Associations Incorporation Act 1895, which enables an association to act with less, I suppose, regulation and as separate entities so there can be almost a sort of subsidiary as occurs under the federal act.

I understand the Associations Incorporation Act 1895 was similar to the federal act, which allows the Law Society, for example, to have a separate organisation with one member sitting. I understand the old Associations Incorporation Act 1895 enabled that so that a major organisation with a board of maybe 10 or 12 people and a subsidiary or another association could be attached that has just one member, and the member is the other organisation. Am I making sense? Thankfully, the adviser is nodding and saying they understand what I am talking about because it is an area of law that I am still getting my head around.

I understand that under the old Associations Incorporation Act 1895 a northern suburbs community association could have the northern suburbs information association attached to it, and the membership to allow this other association to operate would be the northern suburbs community association, and that is the only membership. Will that be completely repealed, and in repealing the Associations Incorporation Act 1895, will there be no mechanism to allow the capacity to have that sort of subsidiary organisation where the only member to operate it is organisation A, unless it can occur under the federal jurisdiction?

Mr P.T. MILES: I think I will answer the first part of the question, because I think there were a couple. The member is doubling up again.

Ms J.M. Freeman: I keep getting told I am speaking for too long.

Mr P.T. MILES: The member can talk for as long as she likes; just give us the first bit of the question. In answer to the first part, possibly, there is no grandfathering in this legislation. Any new association that comes into play will be subject to this legislation. Once it is done, that is it; there is no grandfathering. However, the transitional three-year period remains in place. Can the member enlighten us on the second part of that question?

Ms J.M. Freeman: Under the federal system, a for-profit association comes under the Corporations Act. Which federal act governs a not-for-profit association? The advisers can tell the parliamentary secretary, and then I can clarify it for him.

Mr P.T. MILES: The member is referring to the not-for-profit act —

Ms J.M. Freeman: The federal act.

Mr P.T. MILES: That is the Australian Charities and Not-For-Profits Commission Act 2012.

Ms J.M. Freeman: Yes. It is all right. I am not making sense.

Mr P.T. MILES: I think the member has —

Ms J.M. FREEMAN: I will try to make sense. I understand that under the Associations Incorporation Act 1895, an organisation—organisation A—effectively becomes the management committee. It is not the members of the board who become the management committee; the organisation becomes the management committee of organisation B. It can operate and it is incorporated but it does not have to have a separate board. It also has a constitution, but its constitution states that the board is organisation A. That is what I understand happens under the 1895 act, and a number of bodies operate under the 1895 act. Will there be the capacity to do that under the proposed act, or will organisations have to set up a completely new board?

Mr P.T. MILES: No. Once this legislation comes into place, all not-for-profit organisations will have to operate under it. They will all have to operate under the new act and they cannot operate under anything else. Once this act comes into place, this is what they will have to operate under, and everything that abides by that. I think the member referred back to 1895. That is why we will repeal that act as well, and they will come under this legislation.

Ms J.M. FREEMAN: Effectively, under the 1895 act, organisations are able to establish an organisation with a management committee, organisation A. That will no longer be able to be done. I need to know whether there

is the capacity to do that under this bill, or will there have to be a board of management comprising six members?

Mr P.T. MILES: As I was saying before, we are repealing the Associations Incorporation Act 1895 so that organisations that were set up 100 years ago will have to abide by this act in WA. This is the new act that we are bringing in and they will have to change their rules and their association to match this act.

Dr A.D. BUTI: I refer to the definition of "property" on page 4 and the whole gamut of property types, including current and even future legal and equitable estates and interests. I assume that native title would come under that definition because it is a property right. My question is: does this legislation have any effect on an association that has property outside Western Australia's jurisdiction in other states of Australia and/or overseas? Is there any difference between the property in the other states of Australia and whether the property is overseas?

Mr P.T. MILES: The asset comes under this bill wherever it may be. Someone may have assets in other states or other parts of the world, but if it is incorporated in the WA act, the owner would have to abide by the WA act.

Dr A.D. BUTI: I understand that that would apply for the WA act, but how is overseas or interstate property that someone has an interest in dealt with under this bill? I know that the association is dealt with under this bill, but what about property that is outside Western Australia's jurisdiction?

Mr P.T. MILES: It is just as I thought. It is still under the care and maintenance and is an asset of the association registered in the state. There might be some issues in other jurisdictions whereby the association must abide by the laws of that jurisdiction, whether it be for taxes or whatever, but the asset remains in the ownership of the incorporation in this state and therefore would have to be dealt with under this legislation.

Dr A.D. BUTI: Well —

Mr P.T. Miles: Are you going to dob someone in?

Dr A.D. BUTI: No. If there are contrary laws between how certain property interests are dealt with in this jurisdiction vis-a-vis other jurisdictions, how will any legal conflicts be resolved that arise from holding property interests in different jurisdictions, whether in other states or overseas?

Mr P.T. MILES: My understanding is that obviously the incorporation in WA would own that asset and that the incorporation would have to abide by the laws of the land where that asset resides. I am not saying that everything comes back here, but the association has to abide by those laws.

Ms J.M. FREEMAN: Clause 3 states —

> ***Corporations Act*** means the Corporations Act 2001 (Commonwealth);

Mr P.T. Miles: Sorry, what was that?

Ms J.M. FREEMAN: I am just leading to my question. I note that the bill has a definition of "Corporations Act". Further down is the definition of liability, which means —

> … any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, and whether owed alone or jointly or jointly and severally with any other person;

I will ask my first question then sit down and let the parliamentary secretary answer my first question before asking my second question. Is this definition also in the Corporations Act?

Mr P.T. MILES: We are saying that this is a liability under this legislation. I need a bit more information from the member to further build the story.

Ms J.M. FREEMAN: The parliamentary secretary told me to stop asking multiple questions! I understand this is a definition in the Corporations Act definition. I have looked at the Corporations Act. Obviously the advisers are not sure whether it is a definition in the Corporations Act. It is a definition in the Corporations Act definition. Given that the parliamentary secretary is using the definition used in the Corporations Act, why does the bill not read "liability, as defined in the Corporations Act", so if that definition of liability is altered in that act, the definition of liability can be amended to be the leading definition of liability in Australia and therefore Western Australia will not lag behind?

Mr P.T. MILES: We are putting that in there only for the purposes of our act. We are not trying to pick up language from other acts—although maybe from Australian Taxation Office liabilities and that type of thing. I am not sure whether that was where the member was going with her question. "Liability" means that certain liabilities would need to be met as part of the association. An association must meet those liabilities in the Associations Incorporation Bill 2014. I think the member is asking whether the liability is from another —

Ms J.M. Freeman: I am asking why it was not put it in as a definition so that there was that flexibility.

Mr P.T. MILES: The government is trying to set up the liability for multiple associations. Can the member ask a bit more?

Ms J.M. FREEMAN: In his second reading speech, the parliamentary secretary said —

> It will also realign Western Australia's incorporated associations legislation with contemporary legislation in other Australian jurisdictions.

"Corporations Act" is defined in the bill's definitions. The definition of "liability" below matches word for word the definition in the Corporations Act. If this legislation is about realigning WA's incorporated associations legislation with contemporary legislation in other Australian jurisdictions, and given it has taken 27 years to get here, what was the decision-making process? Why does it not say, "'Liability' means the definition in the Corporations Act"?

Mr P.T. MILES: Now I understand a bit more. We are not copying the Corporations Act in this bill. I think that is where the member got that information from. We are aligning our legislation and creating a definition that is easy to achieve and sorts out the legislation for our purposes. We do not want to copy the other acts; we want to keep it a fairly standard definition because it has to apply across the board for three tiers of associations, not just one. A lot of clubs will not even necessarily use that part or be required to use it. I think the member is getting mixed up between an incorporated act and an associations act. That is my understanding.

Ms J.M. FREEMAN: I have a separate issue that I want on the record. "Liability" is a new definition under this clause; it was not in the definitions of "Terms used" under the 1987 act. The parliamentary secretary's second reading speech referred to doing something that is across jurisdictions but that does not seem to be the case.

The bill states that —

> ***model rules*** means the model rules prescribed under section 26;

Can the parliamentary secretary please confirm for the purposes of the record that that is the same definition as that in a constitution?

Mr P.T. MILES: Yes, it definitely is for the model rules.

Ms J.M. FREEMAN: I now refer to the definition of "property" and a question that the member for Armadale asked. I probably should have asked the member for Armadale this. The definition includes "a thing in action; and money". Can the parliamentary secretary outline what the term "a thing in action" means and what it entails?

Mr P.T. MILES: As it states, member, it is a thing! I did not think a thing would be part of law but apparently it is. Basically, anything that is part of the association comes under it as property. It is "a thing" in law. I have never seen that before and I too wondered about it. It does not have to be an actual item. A "thing in action", as it states, is anything that the association has a right to or to make a claim to. It could include intellectual property rights. That is why it is "a thing", without defining it.

Dr A.D. Buti: Does it include legal action and liability?

Mr P.T. MILES: Yes, because it is a thing!

Ms J.M. FREEMAN: I will move on from "the thing"! My final question has two parts. Further on in the bill there is a reference to "pecuniary profit". The clause states —

> An association secures pecuniary profit for its members if —

Mr P.T. Miles: Where is the member referring to?

Ms J.M. FREEMAN: It is in clause 5.

Dr A.D. Buti: We are still on clause 3.

Ms J.M. FREEMAN: We are on clause 3, but in clause 5 there is reference to "pecuniary profit". I want to know why there is no definition of "pecuniary profit" in the "Terms used" given that it is a legal term. My other question relates to references to "revenue" in the bill. If my recollection is right, other state acts have a definition of "revenue". I think the Victorian act has a definition of "revenue", for example. Why does the Western Australian legislation not have definitions of "pecuniary profit" and "revenue"?

Mr P.T. MILES: We will obviously need to go into that when we come to that clause. It is more appropriate to discuss it then.

Ms J.M. Freeman: Are you putting in a new definition?

Mr P.T. MILES: It is not in the definitions. The advice is that it is a drafting convention that it does not go in because it is very broad.

Ms J.M. Freeman: Broader than "a thing"!

Mr P.T. MILES: We can have a thing of profit!

Mr C.J. TALLENTIRE: I refer to the definition of "full voting rights" under "Terms used", which states —

> ***full voting rights***, in relation to an association, means the right to vote at its general meetings either in person or by proxy or postal vote;

Why is Western Australia not considering electronic voting given the time that it takes organisations to do mail-outs? I know that consideration is being given to allow electronic voting at state and territory elections in some instances. Surely we could be allowing community organisations to use some form of electronic voting system.

Mr P.T. MILES: Yes. It will be up to the association whether it wants to allow electronic voting or any other method of voting. The member is right; in this day and age it is easier for some people to vote electronically rather than postal voting or even putting a ballot in a box. There will be a time line. The votes can be cast as long as a voter has done it before the cut-off time. Again, this legislation is modernising the act to enable it be used a lot more freely.

Mr C.J. TALLENTIRE: Thank you for that response, but why does the bill not explicitly state that? Many associations will read this definition and believe that because electronic voting is not mentioned, it is not permitted.

Mr P.T. MILES: Just like any other club, the government will no longer tell organisations how voting must be run, whichever system of voting is used. Organisations do not have to accept the rules that we will set as a standard. We are trying to tell organisations that their rules can decide whether voting will be done via email or some other form such as a website or a docket that is posted in the mail. As long as it is in an organisation's constitution or rules, as they will be called, the organisation can set whichever form of voting the club or association wishes to choose.

Mr C.J. TALLENTIRE: I think anyone reading this legislation will feel constrained by the definition of full voting rights, which states —

> … means the right to vote at its general meetings either in person or by proxy or postal vote;

That definition does not leave open any other form of voting.

Mr P.T. MILES: I understand what the member is saying about the definition, but, again, each organisation has to go by its rules and an association's rules have to be approved by the commissioner. If a group has laid out in its rules that it wishes to run its club with an electronic voting system, those rules would be lodged with the commissioner and it will be up to commissioner of the day to sanction and authorise those rules as valid for the organisation's club members. Under this legislation, a club will have to provide a copy of its rules or its constitution to every member. Clubs can no longer say, "Yes, there is a book over there on the shelf"; they have to provide a copy of those rules or a website link or something such as that. We are making it very clear that club members are entitled to know the rules of their organisation.

Dr A.D. BUTI: Following the member for Gosnells' excellent contribution, I do not think the parliamentary secretary is right. Normal statutory interpretation states that that definition of a full voting right is what it states. The parliamentary secretary said that the definition could be in the rules or that the commissioner could decide them. The commissioner cannot act contrary to the act and the rules cannot be contrary to the act. The act categorically states what a full voting right is. As the member for Gosnells said, it is either in person, by proxy or postal vote. The rules cannot contravene the definition under the bill before us and the commissioner cannot act contrary to the definition before us.

Mr P.T. MILES: The way I set out the answer to member for Gosnells' question is how we want it to be enacted, but the printed words on the page may not necessarily be correct. Could we take that question on notice, because the advisers are not able to find the particular reason that is there? I think that it is there. Look, we all read this stuff. We will take that particular question on notice and come back with some detail either at the table or offline.

Ms J.M. FREEMAN: Can I get clarification and confirmation that the definition of surplus property in relation to an incorporated association means property remaining after the satisfaction of the debts and liabilities of the association? Can the parliamentary secretary confirm that debts and liabilities include wages of the employees of the association?

Mr P.T. MILES: The member is right, that is all part of the costs. Only last year I helped an association wind up. It had liabilities and there was a small asset that the association agreed to send off to another association as the current act and this legislation state can be done. Yes; all liabilities—wages, payroll, superannuation, taxation—must be met and paid for before the distribution of any further assets.

Clause put and passed.

Clause 4: Associations eligible for incorporation —

Ms J.M. FREEMAN: I note that this clause does not limit proposed section 11(1), which is the commissioner's capacity to refuse incorporations. In effect, although this clause may show that an organisation is eligible for incorporation, the commissioner may still decline an application for incorporation. I have two questions about subparagraph (x), which refers to "any purpose approved by the Commissioner". Firstly, is there any capacity to appeal a decision on subparagraph (x) "any purpose approved by the Commissioner" to the State Administrative Tribunal? I am happy to ask my second question. Secondly, in South Australia, the section of the act equivalent to clause 4(a)(x) is "any purpose approved by the Minister". Given that the parliamentary secretary said in the second reading speech that this legislation was trying to create harmony with other states, why was it determined that subparagraph (x) should be "any purpose approved by the Commissioner" and not "any purpose approved by the Minister"? Is subparagraph (x) appealable and why is it for the approval of the commissioner and not the minister?

Mr P.T. MILES: They can go to SAT for a refusal, because the refusal triggers the ability for the proposed organisation to appeal the reasons they were not approved to SAT. The reason for the commissioner and not a minister having final approval of an association is because it is better bedded in to the Commissioner for Consumer Protection, who has a greater ability to approve or not approve—as we have seen—and she is charged with that duty. I would also say that we have proved just recently that the commissioner's agency can diligently undertake these duties without fear or favour. I think it is better if it is handled by the agency at that level.

Dr A.D. BUTI: Clause 4(a)(i) states —

> a religious, educational, charitable or benevolent purpose;

They are basically the four arms of a charitable trust. Does that refer to the common law? Does it refer to charitable trusts legislation or income tax assessment legislation? What guideline are we to use to determine whether something is a religious, educational, charitable or benevolent association?

Mr P.T. MILES: We have taken the common law definition for those particular groups. As the member said, they are probably the four pillars of most of those larger organisations, so the common law definition is what we have chosen.

Dr A.D. BUTI: Okay, so they have taken those four pillars of what is a charitable trust, which, of course, includes religious, educational, charitable or benevolent. But if it is a charitable trust why is "charitable" in the legislation? Under the common law, a charitable trust includes education, religion, alleviation of poverty or for another public purpose. They are all charitable. The parliamentary secretary is saying that it is a common law charity, but "charitable" is included in that definition. It does not seem to make sense. If it is for a charitable purpose, under common law it is for educational or religious purposes, for the alleviation of poverty or other public purpose. They are all charitable. Therefore, why does that definition include the word "charitable"? Those others must have a different meaning.

Mr P.T. MILES: There are a couple of things there. First of all, that is just a carryover from the existing act, because everybody understands religious, educational, charitable or benevolent purposes. I know it is a bit like using the same language twice, but it is what people are used to, and when they come to form an association they can see quite easily which section they fall into. It has been working very well since 1987, so we decided to keep it.

Dr A.D. BUTI: The parliamentary secretary's initial answer to my question was that he was following the common law, but his answer just then tells me that he is not following the common law; he is following a carryover from a piece of legislation. It is not the common law that is being followed now, but historic legislation. If an organisation is, as the parliamentary secretary says, formed for a religious, educational or benevolent purpose, does it have to promote a benefit to a certain section of the population? Is there a quantum of the population? If only one person is being assisted, would that be sufficient?

Mr P.T. MILES: An easy answer is that organisations do not have to have a benefit to a particular community group. We come back to the fact that whether an association of people wants to do good for people, that is up to the members. They may well start up a gun club or something like that. The organisation does not necessarily have to be of benefit to other organisations.

Dr A.D. BUTI: Let us just wipe away the parliamentary secretary's initial answer that the legislation is following the common law.

Mr P.T. Miles: No, that is not the case.

Dr A.D. BUTI: The answers that the parliamentary secretary has given me after that first answer are completely contrary to the common law of charitable trusts and charitable purposes. Anyway, let us move on.

Education is included in clause 4(a)(i), and then subparagraph (vii) reads —

the purpose of promoting the interests of students or staff of an educational institution;

Why has the government seen fit to specify that part of education? There is a general education purpose and then a specific reference to a subsection of education.

Mr P.T. MILES: Subparagraph (vii) refers to organisations like P&C associations and student unions. It is for the purposes of promoting an interest, as is the case with unions, and some environmental groups that might wish to organise themselves to get some protection in law. Therefore, they would set up an association to allow them to go forth and master their turn.

Dr A.D. BUTI: That is fair enough.

With reference to a political purpose, does the commissioner have the right to refuse to accept an application if the political purpose is deemed to be contrary to the public good—for example, if it was an association promoting views that we find abhorrent? I am sure everyone here would find abhorrent the views that were supported by the Nazi party in Germany. Would the commissioner be able to refuse incorporation under this legislation?

Mr P.T. MILES: Yes, she can. Again, as I said to the member for Mirrabooka, it could be appealed to the State Administration Tribunal if necessary, but it is possible under clause 11, which is further into the bill. The member can ask further questions about that when we reach that clause.

Ms J.M. FREEMAN: I note that amongst the categories of organisations eligible for incorporation the South Australian legislation has a clause referring to retirement and superannuation associations. I am wondering why the commissioner and the government did not consider including retirement and superannuation associations in those eligible for incorporation, or whether that comes under a different clause dealing with not-for-profit retirement or superannuation associations.

Mr P.T. MILES: Can the member elaborate a bit more? What does she mean by the South Australian government?

Ms J.M. Freeman: The South Australian legislation for associations incorporation includes retirement and superannuation associations amongst those eligible for incorporation. My question is: why not; and, if not, is there somewhere else that such organisations fit into this legislation?

Mr P.T. MILES: If someone wanted to do that, they would apply to the commissioner, and it would be up to the commissioner. It would be under the charitable or benevolent purpose.

Ms J.M. Freeman: A super fund or a retirement fund is not charitable, so I can only gather that it would be benevolent. Is that what we are saying?

Mr P.T. MILES: From my point of view, I would not have thought that a super fund could come under the definition of an association anyway.

Ms J.M. Freeman: Not-for-profit super organisations are around. There are a number of not-for-profits; that is what the industry funds are. They are not for profit. Industry funds are not-for-profit associations.

Mr P.T. MILES: They are not associations.

Ms J.M. FREEMAN: There are a number of state funds, such as those for municipal workers. Retirement and superannuation associations are included in the South Australian act, so there is clearly a capacity for that. Industry funds are all not-for-profit funds. They are federal funds, so they come under federal jurisdiction, but there can be state funds for small organisations.

Mr P.T. MILES: From the advice I have received, and what I thought, I would wonder why anyone would want to do that, because an incorporated association cannot distribute funds to its members; that is the idea of an association. It is not about members profiting from an association. That is what the member is saying. If it is a super fund or a pension fund, and if that is what the member is referring to, I do not understand how it could be incorporated under this legislation and still allow members to benefit. It does not make sense.

Ms J.M. FREEMAN: Under that definition, it could be argued that a ratepayers' association is purely for the benefit of the ratepayers, and therefore cannot come under the Associations Incorporation Bill. In any event, they can clearly come under this legislation, because the South Australian Associations Incorporation Act includes retirement and superannuation associations amongst organisations eligible for incorporation. The parliamentary secretary has said that this is about harmonising laws across the states, and the South Australian legislation can do that.

A benevolent purpose may be for the retirement —

Mr P.T. Miles: But the members still cannot benefit from that. The members cannot benefit from an association; they just cannot.

Ms J.M. FREEMAN: Then the parliamentary secretary is effectively saying that a ratepayers' association cannot be incorporated under this bill.

Mr P.T. Miles: Yes, it can.

Ms J.M. FREEMAN: No, because the members of the ratepayers' association will be benefiting.

Mr P.T. MILES: No, no, no. The member is going from one extreme to the other. A ratepayers' association is quite clear. It is an association of more than likely, at best, 10 to 12 people who are looking after a certain area, a suburb or two suburbs, that may have 6 000 or 8 000 people. They will not get any benefit personally from a decision that they make. They are financial members, yes, but they will not get any financial benefit from that. The members of an association cannot receive a financial benefit under the current act, and nor can they under this new act. I do not know what they are doing in South Australia. It is an old act over there, by the way.

Ms J.M. Freeman: No; it is a new act.

Mr P.T. MILES: It is a 1985 act. That is not very new. I am quite confident that the members of an association cannot get a financial gain out of that association.

Dr A.D. Buti: They can, if you go to clause 5.

The DEPUTY SPEAKER: Member for Armadale, do you have a question on clause 4? If not, the question is that clause 4 do stand as printed.

Ms J.M. FREEMAN: Subclause (b) provides that an association is eligible to be incorporated if —

> it has at least 6 members who under its rules have full voting rights …

Under the current act, an association is eligible to be incorporated if it has at least five members who have full voting rights. What substantial difference will one additional member make to whether an association can be incorporated? Why has the number been increased from five to six? What possible benefit will there be from having one additional member? We have already established that there will be no grandfathering for any organisation and everyone will be required to adopt the model rules. There might be any number of associations that were incorporated under the current act and that have only five members who have full voting rights. What was the reason for increasing the number of members from five to six—other than to make everyone's life difficult?

Mr P.T. MILES: No, no, no.

Ms J.M. Freeman: One member!

Mr P.T. MILES: Yes. I get it. The green bill actually had the number six. There is no reason why. Maybe it just looked nicer on the page. I do not know. But six members to start as a minimum was put out there in the consultation period. Nobody that we are aware of has actually said it is outrageous that we have gone from five to six, or anything like that. There is no real reason why. It was put out there in the consultation and it has stayed.

Ms L.L. BAKER: My colleague the member for Mirrabooka has been talking about the need for an association to have at least six members who under its rules have full voting rights. I ask the parliamentary secretary to please redirect me if I am off point on this one, but what other conditions will an organisation need to meet in order to remain an incorporated association? Will it need to hold an annual general meeting? Clause 17 on page 14, which we have not come to yet, provides that the requirements of section 4 continue after an association has been incorporated. Can the parliamentary secretary walk me through what those other requirements are? I ask this question because we all know that there are many incorporated associations that bubble up and get a huge amount of support from the public on maybe a single issue, but they then die down over time. At what point will an association no longer be eligible to remain incorporated?

Mr P.T. MILES: It must maintain six members; it must hold an annual general meeting; it cannot change its purposes; and it needs to maintain its bank accounts and remain financial. It also cannot distribute its profits to members; I think we have already dealt with that one. As we have seen, no matter whether it is a parents and citizens association or a ratepayer group, it is sometimes very difficult to keep a club going. We are trying to minimise what a small club with six or seven members will be required to do to maintain that club. It is very important that we keep the fundamentals in place—they must have sound bookkeeping; they must maintain their bank accounts and remain financial; and they must maintain their annual general meeting, which is obviously advertised to its members and the wider community. That is pretty much it, member for Maylands.

Clause put and passed.

Clause 5: Associations not eligible for incorporation —

Ms J.M. FREEMAN: Subclause (1) provides that an association is not eligible to be incorporated if it is formed or carried on for the purpose of securing pecuniary profit for its members from its transactions. Can the parliamentary secretary please give me the definition of "pecuniary profit"? This is different from section 4(4) in the current act because it takes out the exclusion for the purpose of trading.

Mr P.T. MILES: The term "pecuniary" means "financial profit". It does not mean a profit in kind. It needs to be a monetary-value profit from the sale of an item or something like that. So long as it has a monetary value—a dollar figure, large or small—it is classified as pecuniary.

Ms J.M. FREEMAN: Subclause (2)(b) provides that an association secures pecuniary profit for its members if it has capital that is divided into shares or stock held by its members. That is not necessarily a dollar figure. That is shares or stocks. Is the parliamentary secretary saying that is still considered in that whole idea of a dollar aspect of pecuniary profit, because it goes into that area?

Debate interrupted, pursuant to standing orders.

[Continued on page 688.]