HOUSE OF ASSEMBLY

Tuesday 4 March 1986

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

DAYLIGHT SAVING ACT AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the Bill.

DEATH OF SWEDISH PRIME MINISTER

The Hon. J.C. BANNON (Premier and Treasurer): I move:

That this House expresses its profound regret at the most untimely death of the Prime Minister of Sweden (Mr Olof Palme) and offers its deepest sympathy to the people of Sweden, and that the Speaker convey the message of sympathy to the Speaker of the Riksdag.

Mr Palme was Prime Minister of Sweden from 1969 until 1976 and again from 1982. His Government was re-elected to a further term of office last September. In his many years in public life he was recognised as an international worker for peace and was often called upon to act as a mediator in situations of international conflict. In many ways he personified the international image of his nation—socially progressive and concerned with poverty and the problems of the third world, non-aligned and a champion of peace and justice, humane and decent.

Although a man of action, a practical politician and statesman, he also made a major contribution to the development of democratic socialist ideals and philosophy. With other leaders, such as Willy Brandt and Bruno Kreisky, he took a leading role in revitalising European social democracy.

South Australia has many contacts with Sweden both culturally and commercially in trade and technology and in areas such as the development of employee participation and industrial democracy. The way in which we conduct our democratic processes with rationality and an absence of violence and terrorism has much in common with the Sweden of Olof Palme. It is ironic that such a great advocate and promoter of peace should have been brutally assassinated strolling with his wife as a private citizen unattended by security police in his orderly capital city. The shock of his death will make us all aware not only of the sacrifices of public life, but also of the vulnerability of our democratic institutions and how vital it is to preserve them.

Yesterday I sent the following message to the Acting Prime Minister, Mr Carlsson:

On behalf of the Government and people of South Australia I would like to express my deepest sympathy to you and the Swedish people on the tragic death of your Prime Minister, Mr Olof Palme. He was a man known throughout the whole world for his defence of justice and his relentless struggle for peace. He will indeed by greatly missed.

I commend this motion of regret to the House.

Mr OLSEN (Leader of the Opposition): On behalf of the Opposition I rise to support the motion moved by the Premier expressing condolence to the Swedish people. It is tragically ironic that in the International Year of Peace a man who devoted his whole life to the cause of peace should die in this way, die as a result of the hatred expressed by an individual with bullets that were fired to end this man's life prematurely. In the International Year of Peace, when there seems to be greater sense prevailing throughout the whole world on the need for peace, to have the life of a champion of the cause of peace cut short in this way is something of quite significant regret. Like Sweden, until this incident we in Australia have been, thankfully, relatively free from such violence. Mr Palme's death should cause all Australians to cherish the freedoms we have been able to enjoy and to make sure that they can be preserved for the future. On behalf of the Opposition and the Liberal Party in this State I extend our condolences to Mrs Palme, her family and the people of Sweden for this tragic and needless loss of a man, the champion of peace throughout the world.

Motion carried.

The SPEAKER: I will, with regret, convey the condolences of this House to the Swedish people through the Speaker of the Riksdag.

PETITION: BUS ROUTE 543

A petition signed by 311 residents of Surrey Downs praying that the House urge the State Transport Authority to terminate bus route 543 on Grenfell Road and improve the bus service along Golden Grove Road was presented by Ms Gayler.

Petition received.

PETITIONS: ELECTRONIC GAMING DEVICES

Petitions signed by 100 members and associate members of the Police Club and 791 residents of South Australia praying that the House legislate to permit the use of electronic gaming devices in South Australia were presented by Messrs Duigan, Lewis, and Oswald.

Petitions received.

PETITION: TIPARRA MAINS WATER PIPE

A petition signed by 53 residents of South Australia praying that the House urge the Engineering and Water Supply Department to replace the mains water pipe in the hundred of Tiparra was presented by Mr Meier.

Petition received.

PETITION: OFF-ROAD REST AREAS

A petition signed by 215 residents of South Australia praying that the House urge the Government to provide off-road rest areas on the South-Eastern Freeway between Murray Bridge and Mount Barker was presented by the Hon. D.C. Wotton.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 36, 47, 49, 50, 52 to 55, 57, 58, 94, 98, 102, 110, 116, and 136.

PAPERS TABLED

The following papers were laid on the table:

By the Chief Secretary (Hon. D.J. Hopgood)—

Pursuant to Statute—
Daylight Saving Act, 1971—Regulation—Extension of Daylight Saving.

By the Minister of Transport (Hon. G.F. Keneally)—
Pursuant to Statute—
Controlled Substances Act, 1984—Regulation—Volatile Solvents.
Libraries Act, 1982—Regulation—Removal of Institutes.
Local Government Finance Authority Act, 1983—Regulation—Prescribed Hospitals.
Corporation of Unley—By-law No. 36—Dogs.
District Council of East Torrens—By-Law No. 3—Dogs.

By the Minister of Labour (Hon. Frank Blevins)—
By command—
Workers Rehabilitation and Compensation Bill—Auditor-General's report.

By the Minister of Agriculture (Hon. M.K. Mayes)—
Pursuant to Statute—
Advisory Committee on Soil Conservation—Report, 1984-85.
Metropolitan Milk Supply Act, 1946—Regulation—Milk Prices.

QUESTION TIME

WORKERS COMPENSATION COSTINGS

Mr OLSEN: Will the Premier say whether, in view of the Auditor-General's report, the Government will immediately withdraw and redraft its workers compensation legislation? The report raises serious questions about the costings, provided by both the Government and the employers, on which the Auditor-General was asked to give an opinion. Generally, the Auditor-General has stated that the data base used for both costings was too narrow to permit a confident opinion to be formed. In relation to the Government's costings, the report reveals that the authors have now agreed to reduce their estimate of savings from 33 per cent to 22 per cent, and that the original estimates were based on information from one insurer only.

Cost has been central to this debate. When the Premier, on 18 August last year, first announced the Government's proposals he promised that they would substantially cut the cost of premiums paid by business. After the election and after the Government retreated, on union pressure, the Government continued to promise that its legislation would reduce premiums. In the *Advertiser* on 8 January the Minister of Labour said that the Government's figures had been independently costed and that there were still savings to employers of at least 30 per cent. In the *News* on 3 February the Minister said that he was confident that the Governments costings would be proved correct by the Auditor-General. This has not happened, and the Liberal Party's concerns have been vindicated. In the Government's industrial relations—

The SPEAKER: Order! That last remark was clearly debating. I ask the Leader of the Opposition to adhere to Standing Orders.

Mr OLSEN: The fact is that, in the Government's industrial relations policy released at the election, the Premier said that reform of workers compensation would be one of the most important social reforms of the decade. If he still believes that—and the Liberal Party certainly agrees with the importance of this measure—we must change the sham which sees the Parliament—

The SPEAKER: Order! I call the Leader of the Opposition to order and remind him to adhere to Standing Orders when he is giving an explanation of a question.

Mr OLSEN: The position is that we have a measure before the House that was based on costings which, as the Auditor-General has indicated today, cannot be substantiated. The costings were central to the debate and the purpose of introducing the legislation. This Parliament is sitting for but four weeks in the first seven months of this calendar year and, as a result of that, we are proceeding with a measure when its costings are not accurately supported, as indicated by the Auditor-General's report to the Parliament today. Therefore, will the Premier order a redraft of the Bill and bring it back to the Parliament in April or May, so that the costings—the savings in premiums—originally identified by the Government can at least be brought about by a measure that brings about those savings, unlike the current Bill before the Parliament?

The Hon. J.C. BANNON: The short answer to that question is 'No'. In explanation, I would like to ask the Opposition where it stands on this. It is taking a quite extraordinary attitude to this legislation. On the one hand, we are being harangued by the Leader of the Opposition and his colleagues about the urgency of reform in the workers compensation area—and incidentally, in that harangue we hear nothing about whether the system—

Mr S.J. Baker interjecting:

The Hon. J.C. BANNON: And there interjecting is the person who spent 3½ tedious hours in this Parliament haranguing us—and very little attention, if any, is paid in these harangues to the need to get injured workers properly rehabilitated and back on the job. Having set that aside (because I know that that is something they do not really care about), the chief attack has been on this question of savings to employers in workers compensation premiums. The Opposition says that that is what it wants, but as soon as a vested interest that is making a profit out of this area pops up its head—whether it be insurance companies, whether it be lawyers wanting to fully exploit a common law system, or whatever—it has the greatest allies sitting opposite us in the Opposition. Where does the Opposition stand? Whose side is it on?

Mr Olsen interjecting:

The SPEAKER: Order! I call the Leader of the Opposition to order. If I have to do so again, I shall have to warn him.

The Hon. J.C. BANNON: He is trying to cover his embarrassment and impotence over this matter. He cannot make up his mind whether he is in bed with the insurance companies and their particular vested interests or whether he is interested in looking after the employers of this State and the comparative cost advantages. The Auditor-General's report has just been tabled, but apparently the brilliance of the Leader of the Opposition can subject it to an instant analysis, an instant understanding of what it contains. However, whilst he is able to do this, apparently none of his colleagues can, because he wants further delays.

Having been able to do that, he then wants us to take a particular course of action. It is time that action was taken, and this Government has given Parliament an opportunity to do so. Whatever else the Auditor-General's report will explain, there are cost savings in the proposals that have been put before this Parliament by the Government and, the sooner they are enjoyed by employers in this State, the better for business. It is an absolute sham to hear this rump of members opposite saying that they stand up for business when at the same time they are protecting profit making vested interests exploiting the workers compensation field.

We want them out, and we want them out for two reasons: first, to ensure that there is proper rehabilitation and level of benefit; secondly, to ensure that our costs are comparative. We are told that the lame excuse of the insurance industry is that apparently there is some kind of subsidisation in the premiums that they are offering to employers in South Australia.

There are a couple of good questions which my colleague the Minister of Labour has already asked without getting any definitive statement. One of the questions is: is this subsidisation occurring with interstate systems? Another is this: are the national companies in some way looking after or protecting South Australia? There is no evidence of that; in fact, if one looks at what is happening in the workers compensation systems in those other States, one will see that, unless we take this action, we will be at a major cost disadvantage. This Government does not accept that. The second area of subsidisation may be internal. I would like to see the evidence from an insurance company to say that it is subsidising its workers compensation portfolio and what are the reasons behind it.

Mr Lewis interjecting:

The SPEAKER: Order! Not only are all interjections out of order, but that interjection from the member for Murray Mallee is particularly out of order. I ask him to withdraw the use of that unparliamentary word.

Mr LEWIS: I withdraw that word, Mr Speaker, and substitute in its place—

The SPEAKER: Order! The honourable member will not substitute anything in its place, because the interjection is out of order. The honourable member will withdraw unconditionally.

Mr LEWIS: I withdraw unconditionally.

The SPEAKER: The honourable Premier.

Mr Lewis: Tell the Minister not to tell untruths in the matter.

The SPEAKER: Order! I warn the honourable member for Murray Mallee.

The Hon. J.C. BANNON: It is about time members opposite recall whom they represent. I guess one of the reasons that they are such a rump in this place is that they do not know what constitutes responsible behaviour in this area. There are occasions when it is in all our interests as a community in South Australia not to be stood over by vested interests but to take a stand on behalf of those who are directly involved in the workers compensation system: namely, the employees in the work force, their representatives, and the employers and their representatives.

That is what our Bill is all about. On the question of subsidisation, I would be interested to hear the reaction of the Leader of the Opposition and members opposite in response to those employers who are now coming forward, the insurance companies having sat on their premiums for the past 12 months to try to ensure that there is not too much aggro in this area while we produce our Bill. I would like to see the reaction of members opposite to some of the compensation premium demands that are being made on employers at the moment, and I refer to increases of 40 per cent, 50 per cent and 90 per cent.

The Hon. Frank Blevins: Go and talk to the UTLC.

The Hon. J.C. BANNON: Members opposite should do as the Minister suggests. I suggest that the member for Murray Mallee should take off his ideological blinkers and talk to his constituents who are having these bills put on them; he should start looking at the premium levels that they are being required to pay and then look at the difference that this Bill will make. If we are arguing about whether it is 40 per cent, 30 per cent or 22 per cent, the fact is that it means savings as soon as we can institute the system. For this Parliament after eight years to sit around and continue to defer, make inquiries and consult will be absolutely outrageous. I do not know whether or not the Bill will be successful and go through. It is the Government's aim for that to happen. If it does not happen, the disadvantage to industry in South Australia will mean that we will begin to lose jobs and development. I would like members opposite to think very carefully about that.

SIGMA DATA

Mr De LAINE: Will the Premier tell the House whether he has been able to ascertain whether the Sigma Data Corporation is substantially South African owned, as alleged by the Leader of the Opposition last week? Last Thursday in this House the Leader of the Opposition asked whether the Government was aware that a contract let recently by the Department of Lands worth $1 million (according to the Leader) had breached the South Australian Government's policy on purchasing from South Africa. Can the Premier tell the House the outcome of his investigations on this matter?

The Hon. J.C. BANNON: Yes I can. The Leader of the Opposition, in his question last week, in his new found desire to show that he apparently was opposed to the apartheid regime in South Africa and supported this Government in its attitude thereto, proceeded to ask a question in which he purported to put certain information before the House. I think on about five counts (perhaps that is uncharitable—it was probably only four) it involved information that was completely erroneous. As I think I said in my answer, while I am very pleased that the Leader has discovered this concern in relation to what we need do, I suggest that he begin by trying to get his facts right before he launches in and makes a fool of himself in this area.

First, the Leader suggested that a $1 million contract was let. I understand that he subsequently said that that was an error and that he actually meant $.1 million—like $100 000. In fact, the real value of the contract was just over $33 000. So already there has been a somewhat large change in the amount. Secondly, the Leader said that the Sigma Data Corporation was a South African owned company. We have made inquiries, not only through our supply and tender processes but also directly with the company and the New South Wales Corporate Affairs Commission. The fact is that Sigma Data is predominantly an Australian owned company; it is registered in New South Wales. In fact, 73 per cent is Australian owned and there is a smaller proportion of UK and US ownership. There is no South African shareholding or other financial interest of any sort in the corporation. In relation to its directors, the majority are Australian; in fact, four are Australian citizens, two are US citizens and one is a United Kingdom citizen.

Again, there are no South African shareholders or directors in Sigma Data. It may be that the Leader of the Opposition got very excited about this because somebody in the rumour peddling that was going on suggested to him that the principal of that company had some connection with South Africa. It is true that the chief executive, Mr Michael Faktor, is of South African birth—he was born in Pretoria in 1940. He has been in Australia, and an Australian citizen, for 13 years. I think it is a bit rough to then imply that there is South African ownership and connection, when that is the only tenuous link which can be developed. Indeed, by moving from South Africa to establish his business operations here, perhaps Mr Faktor was saying something about the apartheid system that we all abhor. That was the second major error of fact in the Leader's question.

Thirdly, he suggested that there were other quotes that were very close to the Sigma Data quote. In fact, the board advises me (and one should remember that this was done through the normal processes of calling for tender and analysing those tenders) that the Sigma Data quote was significantly lower than that of any of the other three or four tenderers, none of whom, incidentally, are from South Australian owned companies. Significantly, by that I am suggesting that the figure was in the order of more than a third, and in one case over 80 per cent higher, so that the

third fact was wrong. In fact, the tender was the cheapest tender, and by a very substantial margin.

Fourthly, the implication was that the other tenderers were South Australian companies. Some of them may have South Australian operations. Certainly we aim to encourage them, and we have against States like New South Wales a preference policy to do so. However, they are not South Australian owned, as the question suggested. I guess that the fifth point was the innuendo in the question that we are in some way breaching our policy, condoning such a breach, or favouring some foreign interest against a local industry. I think the facts that I have put before the House in answer to the honourable member's question make quite clear that that is not the case. I therefore suggest that, if the Leader of the Opposition does want to grandstand in his newfound radical postures, he should first check the facts, in a way that simply does not feed on innuendo or rumours, perhaps from disaffected competitors of that company, and that he does not defame a particular organisation which, obviously, is most concerned because the implication for it goes well beyond South Australia and into all its activities and operations here in this country, even though it is an Australian owned and controlled company.

I suggest that an apology is owed to the principals of Sigma Data Corporation for the way in which the Leader of the Opposition misrepresented the case, launched in without a proper check, did not informally seek to see whether the information was right before he raised the matter publicly in Parliament, and, by so doing, not only indicated the shallowness of his own approach but also in the course of it defamed a company with which this Government has relations, and which I hope we could encourage to have a greater involvement in South Australia because it is a reasonably substantial employer interstate.

WORKERS COMPENSATION

The Hon. E.R. GOLDSWORTHY: Would the Premier immediately order a full independent actuarial assessment of the cost of the Government's workers compensation legislation?

Members interjecting:

The Hon. E.R. GOLDSWORTHY: We know it is very embarrassing for the Government to have the Auditor-General's report tabled today—and to be given a bath. The Leader has referred in his question to some of the major concerns raised by the Auditor-General. His report also emphasises that more time needs to be given to an investigation of these costings. I quote from the concluding paragraph of the report:

> It is stressed that the information giving rise to the data base in appendix 2, including the possible underwriting loss of 17 per cent, needs to be verified. That verification could not be completed within the life of the present parliamentary session.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: Yes, the mirth opposite seems to have subsided.

The SPEAKER: Order!

The Hon. E.R. GOLDSWORTHY: The Auditor-General also makes it plain that in his opinion any further investigation of costings should be undertaken independently of his office. I refer to the concluding paragraph of his covering letter to the Minister in which he points out that, because the present legislation provides for the Auditor-General to audit the operations of the proposed single insurer corporation, it may be more appropriate for another person or persons to be involved if further investigation of this matter is required. The report provides compelling reasons why the costings so far put forward relating to this legislation must be further investigated and, in view of the Auditor-General's attitude as to who should conduct that investigation, I ask whether the Premier will order a full independent actuarial assessment.

The Hon. FRANK BLEVINS: I thank the honourable member for his question.

The Hon. E.R. Goldsworthy: Have you been promoted to Premier?

The Hon. FRANK BLEVINS: Whatever you think is fair.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: You are very kind. In responding to the Leader of the Opposition a moment ago, the Premier asked, 'Where does the Opposition stand? What is its motive?' I can tell the House the motive: the motive is that the Opposition is being paid by the insurance companies—extensively—to oppose this legislation.

Members interjecting:

The Hon. FRANK BLEVINS: That is why I was elected to this House—so I could say it here. The insurance companies paid for your mid-term campaign; they paid for your election campaign, and they have wasted their money. The big employers in this State—big business—did not support you, and neither did small business. Indeed, the only people who supported you were the insurance companies and, if I am wrong, I will apologise. All I need is for the Leader of the Opposition to say that the Liberal Party received no money from the Insurance Council of Australia or the insurance companies during the last three years or prior to the last election. If he says that, I will apologise. That is the answer to the Premier's question.

We have just seen an exhibition of selective quoting by the Deputy Leader. The debate on workers compensation has centred on the degree of profitability within the industry. We on our side have taken the commonsense point of view, and we have said that the long-term level of profitability of the insurance industry is in the order of 9 per cent. The Insurance Council of Australia has said something different: it has said that it is losing about 20 per cent in South Australia. What has the Auditor-General said about that? I draw the attention of the House to page 4 of the Auditor-General's conclusions (and every member has been supplied with a copy of his report), where he states:

> Mr Gould's—

we remember that Mr Gould was the actuary who did the work for the Employers Federation, and apparently he has changed his mind—

> most recent view suggests that the overall saving to the employer which might be achieved by the introduction of the proposed scheme could be about 10 per cent, compared with an assumed saving of 22 per cent under the Government study. However, Mr Gould's view is a qualified one . . .

However, with the removal of the statutory levy, we are looking at a saving—compared with the view of Mr Gould, the Employers Federation actuary—of the order of 19 per cent. One can argue whether it is 19 per cent or 25 per cent, but one cannot argue that it is not a substantial saving.

If the Victorian experience is anything to go by, it will be about $1 million a week. I get cross when people suggest (and it is only the insurance companies and the Opposition: they are the same thing) that we should delay the legislation. They fought a rear-guard action against this for eight years and have been successful to date. However, the time of the insurance companies has come, and the $1 million a week that will be saved by the employers will remain in this State and in the employers' hands for the benefit of industry in South Australia and not for the benefit of interstate insurance companies.

At page 5 of his report, the Auditor-General concedes that there may have been some losses in South Australia: he concedes that for the purposes of argument. He states:

> While it is accepted that underwriting losses of some 17 per cent could be incurred and sustained for one premium year (or even two), it is more difficult to accept that they could be consistently incurred and sustained over a long term period as indicated from the information recently provided . . .

The Auditor-General again takes a commonsense view. He continues:

> If the South Australian sector of employer liability insurance is being supported (subsidised) within the overall national sector, or by other classes of insurance, then careful consideration would need to be given to the possible effects that might arise if that support was no longer available. If the underwriting loss of 17 per cent reasonably reflects the position in South Australia over the last five years, then an increase in premiums would seem inevitable.

Over the past two weeks a number of employers and other organisations have contacted me (and I assume that they have contacted the Opposition) and, if that is any indication, already the bite from the insurance companies is on. One large organisation in South Australia has told me (and I am sure that it has told the Opposition) that it has been presented with an increased workers compensation Bill this year of 40 per cent. Another substantial company (again, I am sure that the Opposition knows who it is but, if it does not, I shall be happy to provide the name privately) was given a bill for a 200 per cent increase: from a $250 000 premium last year to over $750 000 this year. Bargaining brought the figure down to just over $500 000, which still represented an increase of 100 per cent. That has happened in the last week. If the other place fails to pass the Bill, the insurance companies are being told that they have a blank cheque to rip off this State forever. That is what the Opposition wants to give them, and the sooner it has paid its debts to the insurance companies the better off the State will be.

SOUTHERN SUBURBS POPULATION

Mr TYLER: Can the Minister for Environment and Planning say whether a study has been undertaken to provide information about the possible physical and social effects of the population growth projected for the southern region? The Department of Environment and Planning has recently released its report on the projection of populations in Adelaide suburbs up to the year 2001. The report predicts that the population of the outer metropolitan areas will reach 626 100—an increase of over 200 000. This increase is to coincide with a substantial decline in the central metropolitan area. The Happy Valley council covers a large portion of my electorate. The population in that area has increased by 43 per cent since 1981 and will increase to 37 968 by the year 2001—an increase of 85.3 per cent.

An article in the *Happy Valley Contact* recently summarised the problem that will affect the Happy Valley area. An article in the February edition titled 'Look at us go' stated:

> There are close to 10 000 children aged 0-14 years in the City of Happy Valley. That is about one-third of our total population! No other South Australian council area is in this position and we may have even set a national record!
>
> What this means is that our kindergartens and primary schools are virtually at overload. Staff and parent groups are devoting enormous amounts of energy on acquiring resources to ensure high standards of education. At the younger levels, playgroups and child-care services have been stretched beyond their ability to cope.

Many of my constituents constantly ask me about the Government's plans to meet current needs and to provide for future needs in the light of these recent population projections. They are particularly concerned about human services and quality of life issues, for example, environmental conservation, transport and accessibility, and, given the projected increases in the proportion of people in the employable age groups, economic and employment prospects. They are also concerned that, given the cost of providing sufficient infrastructure to meet those needs, facilities should be flexible to accommodate changing needs brought about by the changing age profile.

In a recent newspaper article on this subject the Minister pointed out that these population trends have important implications for the communities involved and should be of concern to the State Government and local councils. My constituents have asked me to seek the Minister's assurance that the Government is already taking steps to predict and provide for the area's future needs.

The Hon. D.J. HOPGOOD: The honourable member has raised a matter of the utmost importance. I do not know that any government anywhere has ever quite got right the matters that he raises. His question refers to a division into what might be called physical and social planning. That is a useful distinction to make. The physical planning relates very much to, first, our appreciation of the demographic trends over the next 20 to 25 years. That is something that is not easy to get right, although I think that probably the demographic information available to us is rather better than that available to former governments. In any event the report I released for public discussion a few weeks ago was based on the best possible demographic advice we could get. The policies that will guide that development, of course, are in place and have been for quite some time. They relate to a sequence for the staging of the development of the broad acres on the metropolitan fringe over the next 20 or 25 years. The point of the report which this Government issued, of course, was to look at where we go once those broad acres which have been designated for urban development under that staging sequence are effectively filled up.

The report also canvassed the matter of significantly higher densities both in those new areas and in areas which are already part of Adelaide's urban form but also cautioned us as to the extent to which too much could be achieved in that respect. A good deal of work will continue to be done as to the physical aspects of that, but it relates very much to something we already know, namely, the policies that are in place to guide that development, and to something about which we have a limited appreciation, namely, the actual number of bodies on the ground.

The honourable member then turns to the important matter of social policy, which is something that has perhaps been ignored in the past far more than other aspects. The Government has in place a reasonably sophisticated (and I would hope sensitive) set of arrangements to ensure that in its overall planning policies through its various instrumentalities social planning has a high profile indeed. The Urban Development Coordinating Committee, consisting of departmental heads or their nominees, is charged with this responsibility. In addition, one of the Public Service Commissioners, Mr Ian Cox (well known to honourable members), has a particular responsibility in this field. He and the Director-General of Community Welfare form a team which reports to a special subcommittee of Cabinet comprising the Minister of Health and me.

We have the responsibility of getting these things together. In addition, an appointment was made about 12 months ago to the staff of the South Australian Urban Lands Trust. That officer has worked extremely effectively in both the north-east and south—in Tea Tree Gully/Golden Grove and Morphett Vale East—in trying to ensure that the infrastructure for the delivery of social policies is in place and

shortly, as I understand it, a second such appointment is to be made.

QUESTIONS WITHOUT NOTICE

The SPEAKER: Order! Before calling on the next question, I point out to members that our traditions of dealing with questions that relate to a Bill before Parliament are fairly strict. The question asked by the Leader of the Opposition and a follow-up question asked by the Deputy Leader of the Opposition related to whether a particular procedure might be adopted in the light of a report from the Auditor-General and, because that related directly to procedural aspects of the particular Bill that is before Parliament, it came within the ambit of what is permissible. However, it is not permissible to discuss the content of the particular Bill, and I will order a question to cease if it appears that the questioner is debating the question or debating the content of a particular Bill. This is a very difficult area. The Chair has no wish to impede members. Accordingly, I ask members' cooperation in framing their questions.

Mr LEWIS: I rise on a point of order, Mr Speaker. Given the explanation just provided for the benefit of the House, would you be kind enough to explain whether or not you will require Ministers to restrict themselves in the same ambit as you have directed members must in relation to the matter of workers compensation?

The SPEAKER: Order! The tradition is that Ministers are able to respond to questions in their own manner. The honourable member for Mitcham.

WORKERS COMPENSATION COSTINGS

Mr S.J. BAKER: Since receiving the report of the Auditor-General on the costings of the Government's workers compensation legislation, has the Premier (or has the Minister of Labour) had discussions with the Secretary of the United Trades and Labor Council about the report? If so, what was the outcome of those discussions?

The Hon. J.C. BANNON: I certainly have had no such discussions, nor would I have expected to, because the Minister of Labour has carriage of this matter, and I have full confidence in his handling of it. The honourable member says 'since the receipt of this report'. The report was received only a matter of some hours ago. While I admire the rapid reading and close analysis of some members opposite, I suggest that, if there is to be further consideration of this matter, it will take place over the next few days. Let me repeat again: the matter is not a matter that is with particular organisations; the matter is with the Parliament. It is before the Parliament, and the Parliament must decide. The sooner it passes the legislation the better for everyone concerned.

FLINDERS MEDICAL CENTRE PARKING

Mr ROBERTSON: Will the Minister of Transport, representing the Minister of Health, outline steps presently being undertaken to extend car parking facilities for visitors and outpatients at Flinders Medical Centre? It has been put to me by a number of people that the saga of extending parking at the Flinders Medical Centre makes *Yes, Minister* pale into insignificance. We have a bureaucratic wrangle that involves, as I see it, no fewer than five or six departments: the Highways Department; the Education Department; the administration of the Flinders Medical Centre; the South Australian Health Commission; Flinders University; the South Australian College at Sturt; and possibly the Marion council.

Since this matter involves simply a change of title of the land and does not involve any money changing hands, can the Minister expedite this saga that has been going on for six years? In justification of that, I point out that, under the present conditions, parking is such that at certain times of the day outpatients requiring such things as hip replacements and mothers with sick children or children in push-chairs have to walk up to 500 or 600 metres to seek outpatient service.

Mr S.G. Evans interjecting:

The Hon. G.F. KENEALLY: I thank the member for Davenport for his interjection. Obviously, this has been a matter of concern for a great number of years, as my colleague has pointed out. This is a matter not only for the Minister of Health, to whom I will be very happy to refer the matter, but is also for the Minister of Transport. As the honourable member has pointed out, a number of agencies have concerns about this patch of land. I heard somebody describe it as the Bermuda Triangle.

The problems with the Sturt triangle and the needs of the Highways Department and of the Department of Health, in relation to the Flinders University and the Flinders Hospital, are very well known to us. I hope very shortly to be able to get together the agencies and the Ministers to determine a course of action which will accommodate the special needs that have been mentioned by the honourable member and the other special needs that impact upon any decision that will be made there.

VINEYARD WORKERS

The Hon. P.B. ARNOLD: Did the Minister of Agriculture or the Minister of Health conceive the idea of a Government program to heat test vineyard workers, and was the Department of Agriculture consulted in devising the program? This program has considerably raised the temperature in the Riverland. It requires workers, both male and female, to wear rectal thermometers throughout the day and to strip morning and night for weighing. One of my constituents, in a state of considerable distress, has contacted my office asking whether this extraordinary program could possibly be for real, because she considers it to be degrading and humiliating. She and other workers on the local vineyard have been approached by Dr Gun, a former Labor Party member of the Federal Parliament, acting on behalf of the Health Commission. Subsequent inquiries have revealed that a Riverland vineyard proprietor has also been approached seeking permission to recruit participants. It has also been put to me that Dr Gun is showing barefaced cheek in even asking anyone to become involved in such an invasion of personal privacy.

Another person who was asked to participate suggested that, if Dr Gun and Dr Cornwall are so keen on the project, they should volunteer themselves. In short, the vineyard workers have indicated that they feel that Dr Gun should do with his proposal what he is asking them to do with their thermometers. As the methodology of this program seems to have confused people with animals and also has significant implications for rural workers generally, I ask the Minister whether his department was consulted when the program was devised and, if so, whether he supports the program.

The Hon. M.K. MAYES: I thank the honourable member for his question. Obviously, he is quite serious about it, even if some of his colleagues are not, given the response when he was raising it. However, it is a serious matter and one which I will take up with my colleague in another place.

It is not something which has been brought to my attention, nor have I been consulted over the matter. I will treat it seriously and urgently. Given the honourable member's past performance, I am sure that he would like to see an early resolution of the problem, and I will deal with it quickly.

E&WS LAND

Mr KLUNDER: Can the Minister of Water Resources indicate if a decision has been reached with regard to the E&WS land bounded by Lower North East Road, Awoonga Road, Teal Street, Edmund Road and Elliston Avenue?

The Hon. D.J. HOPGOOD: Yes, this very important piece of land is to be offered to the local government authority as open space, and while I am not certain whether detailed negotiations have been entered into, I would imagine that they would not be protracted because this matter has been before Government on a previous occasion. I know that there have been some discussions with local government. I would like to compliment the honourable member for his advocacy that this area should be made available for the recreation of his constituents, and that is the Government's intention.

BUDGET STRATEGY

The Hon. B.C. EASTICK: Is the Premier asking Treasury to review the Government's budget strategy in view of the Federal Treasurer's call for severe cuts in State funding and the likely impact on State revenue of the drop in oil prices? In reply to a question last Thursday the Premier said that the Federal Government was making no serious suggestion that its funding commitment to the States for the next financial year would not be honoured.

However, the disclosure of a confidential submission being put to the Federal Cabinet today by the Treasurer shows that the Premier was wrong—that in fact Mr Keating is serious about what he terms a severe cut in funding for the States to avoid the economy running into serious problems. If the States do not get their promised 2 per cent real terms increase this financial year, this would cost South Australia at least $24 million. The Opposition also estimates that the drop in the world oil price could cost another $24 million in lower royalty returns from the Cooper Basin and reduced receipts from the business franchise fee on petroleum products.

These shortfalls, combined with a slowdown in some other State revenues, most notably stamp duties from declining real estate activity and other receipts affected by an anticipated downturn in general economic activity, suggest that initial projections of revenues for next financial year may have to be reduced by well over $50 million. With a budget deficit of more than $51 million forecast to be carried forward into next financial year, the Government would have to compensate for such a reduction in revenues by significantly cutting services, imposing another round of tax increases, or perhaps a combination of both if the State's finances are not to go even deeper into the red. While the Government did not put such options before the electorate during the election campaign, reports indicate that now the recent round of State elections is out of the way Labor is attempting to condition the public to a major revision of strategy forced by the failure of its federal economic policies.

The Hon. J.C. BANNON: A lot of comment has been made in that question and explanation which I could argue, but I do not think that now is the occasion in which to set up an extensive debate on that. It is certainly true, as the member suggests, that there are major financial implications for this State in any change to the Commonwealth/State tax sharing formula. Of course, there are changes that we anticipated in the longer term in relation to royalty payments, some of which have been taken into account in our foward planning. However, quite clearly, the latest decisions, such as the import price parity decision, have not. In short terms, the estimate of that Federal Government decision is around $4 million reduction in royalties to the State Government in 1986-87.

Of course, against that one sets off the cost of fuel to the STA and other cost areas to the Government and Government operations which will benefit from cheaper fuel prices. Certainly, we are not looking at any major growth in those revenues from oil in the future in the current situation and, indeed, in the short term considerable reduction. It will not affect this year's budget which, I remind the House, is a balanced budget and is on target. We hope that the end of this financial year, despite some of the changes that have occurred, will still see us come in on target. However, it does pose problems for planning in 1986-87. I mentioned before the election—and it was stated quite clearly—that we could have considerable optimism about the financial future of this State. The restructuring that has taken place and the firmer base from which we were operating, and the creation of authorities such as SAFA have all proved a great financial benefit to the State.

However, if there were a major unexpected change in the Federal-State financial relationship that would pose major problems: that dilemma has been outlined by the honourable member, and I have outlined it to the House on many occasions. Faced with a substantial cut in revenue, one must either make a substantial cut in services or raise further revenue from one's own sources—or decide on a combination of both, that is always a very difficult decision to have to make.

I admit that the increasing speculation and discussion regarding Mr Keating's statements are causing me some concern. If the Federal Government seeks to solve its own budgetary problems by foisting that burden on to the States, then it is solving nothing: it is simply transferring the problem to another sector of the economy—it is simply affecting a different set of services that the Government gives—and in terms of our overall national development and economic position we are very much worse off indeed. I will strongly resist changes of that nature, and I am sure that all other Premiers will join me in so doing.

At this stage the reasons we are not able to take any specific action are, first, that we have not had the Premiers Conference; and, secondly, no propositions have been put to us (there have been rumours and discussions, and the question has been raised, but there has been nothing more substantial than that). If the Commonwealth looks at its outlays and says, 'Here are areas that can be immediately affected'—obviously the item of payments to the States is a very large one in its budget—it would see it as a possibility for reduction. Not only are they transferring the problem but in so doing they are using money which, in effect, they are collecting on behalf of the States and that would be quite immoral.

I have made my position very clear on that. The crunch will obviously come at the forthcoming Premiers Conference, but I can assure the House, particularly in the light of the disadvantage that occurred to South Australia last year by the new Grants Commission report, that I will be fighting very strongly to ensure that our share is maintained and not cut; otherwise we will face very major problems indeed.

O-BAHN

Ms GAYLER: Can the Minister of Transport advise the House of the timetable for construction of stage 2 of the O-Bahn busway from Paradise to Tea Tree Plaza in the north-eastern suburbs, and can he report on the progress being made on stage 2 of the construction work? Last Sunday there was a magnificent turnout for the official opening by the Premier of stage 1: city to Paradise, and 8 000 souvenir tickets were given out for Sunday's free rides. Indeed, the rush for rides meant that many people enjoyed the ride without tickets. The north-east busway team estimates that between 10 000 and 13 000 people rode on the O-Bahn on Sunday.

I am advised that the public's response to Adelaide's new people moving system is that it is terrific. People are looking forward to the start of regular services from Sunday next and to recreational use of the O-Bahn and adjacent linear parklands. As people in my electorate at the very end of the O-Bahn line will benefit most from the system when stage 2 is completed, at which time maximum travel time savings will result, they are keen to hear about progress on stage 2.

The Hon. G.F. KENEALLY: The honourable member's enthusiastic support of this rapid transport system is quite obvious to anybody. I was certainly happy to see her, together with a lot of other members of Parliament and past members, at the opening of the O-Bahn on Sunday. I certainly found it rewarding that so many prospective commuters took the opportunity, on Sunday and prior to Sunday, to try out the O-Bahn. I imagine that there are thousands of devotees in Adelaide now, and so the future of the O-Bahn looks fairly secure.

I did hear the interjections about this being a Liberal initiative. I think it can be fairly said that the previous Government's participation in O-Bahn was well and truly acknowledged on Sunday. The Premier acknowledged that the Tonkin Government, with Michael Wilson as the Minister, was a party to that important decision. I have also been told that the Hon. Dean Brown was involved and that the two most enthusiastic supporters of the project were Scott Ashenden and Dr Brian Billard.

I do not know whether the Opposition wants to know what those gentlemen have in common, but David Tonkin, Dean Brown, Michael Wilson, Scott Ashenden and Brian Billard are no longer here—they are no longer members of Parliament. I do not believe that that was a judgment that the electorate of South Australia made in relation to the O-Bahn: it was more a judgment that the people of South Australia made about the Liberal Party, and I just thought it appropriate to put that information in the record for those of my colleagues opposite in the Liberal Party Opposition who want to point to the fact that the O-Bahn was their initiative. It has certainly not done much good for those people who were the major proponents of the scheme.

The second stage of the scheme has been under way for some time. Of course, the priority was to complete the first section to the Paradise station so that we were able to have that section running smoothly and as quickly as possible for the benefit of commuters. We intend to have the second stage completed late in 1988, and I cannot see any reason why that timetable should not be met: it is a timetable that has consistently been given by the Bannon Government over the past 18 months or so. I might say that the fantasy world of completion before 1986 that the Opposition was suggesting as its timetable could not be met. Anyone who looked at the costing figures would understand that.

Members interjecting:

The Hon. G.F. KENEALLY: I am talking about the costing of the honourable member's Party when in government. Such information becomes available to other people who may themselves become Ministers. In December and January three tenders were called for the second stage: one was for the Grand Junction Road bridge at Holden Hill, and this contract has been awarded. Tenders have also been called for the Parsons Road and Lyons Road bridges, although contracts have not yet been awarded. The awarding of a contract is imminent for earthworks for sector B (inner), the section from Darley Road to Grand Junction Road.

As members may recall, a bridge at Reservoir Road has long been constructed, and one wonders what were the political imperatives existing at the time which may explain that. Over the past 18 months or so, significant embankment work has been completed at Lyons Road and Holden Hill, plus Pittwater Drive. Surplus soil from stage I has been usefully employed on formation work. Finally, I should say that advice has been received that the bypass road at Parsons Road is now complete, which is a necessary requirement for a start on the bridgeworks in that locality.

Mr Becker: How much will it cost?

The Hon. G.F. KENEALLY: The whole cost of the O-Bahn is within the budget.

Mr Becker: What about this bit?

The Hon. G.F. KENEALLY: If the honourable member would like me to get detailed costings of these earthworks and bridgeworks, I am sure that they can be obtained for him. However, I think it is sufficient for Parliament and the people of South Australia to know that the total project is being completed within the budget figures, and that is a credit to all the people involved in construction of the project.

POLOCROSSE

Mr D.S. BAKER: Can the Minister of Recreation and Sport say whether the Department of Recreation and Sport consistently led the District Council of Naracoorte to believe that its application for funds for amenities to help stage the Jubilee 150 National Polocrosse championships at Naracoorte was only a formality? Why was the final application on 28 November 1985, which the council was told was only a formality, held over by the department till 9 December, and then not considered? Why have two letters sent by me seeking an urgent deputation to discuss the matter not even been answered by the Minister?

Over three years discussions have been held with the Department of Recreation and Sport about the amenities block to be constructed on the polocrosse grounds, Naracoorte, for the Jubilee 150 National Polocrosse championships. I have in my possession the correspondence that has passed to the former Minister and officers of his department. I also have the copy of the final application for funds, which was posted from the council on 28 November 1985, which is claimed by the Minister's department not to have been received till 9 December. The response was that all the funds had then been allocated.

The Governor-General of Australia is attending this function and will be officially opening the championships on 5 April. Presidents and officials of other polocrosse nations will also attend. The council has not only had to spend considerable sums of ratepayers' money on the facilities: it has also set aside further funds for a civic reception and tour of the district for this most important occasion. The council has been placed in a most embarrassing position by the apparently misleading information from the Minister's department. It is also of considerable frustration that the Minister will not even answer letters from me seeking to arrange a deputation from the Naracoorte District Council

and polocrosse officials to discuss the matter with him. The event is now less than one month away.

The Hon. M.K. MAYES: I cannot say whether or not the department saw the application as a mere formality. Guidelines have been established and procedures are followed by the officers concerned and, during my two months as Minister, several applications have come to me in relation to applications from various organisations for funding. The former Minister followed a certain procedure which has become established and I hope to review that procedure in the long term, but at this stage the procedure follows the previous guidelines. I will investigate the honourable member's comments and criticisms and see whether the department followed this process.

However, regarding the honourable member's letters to me, every sporting body, agricultural, horticultural and viticultural organisation has wanted to meet me over the past six or seven weeks but, with my time demands, it has not been possible, even working seven days a week, to meet those demands. I shall, however, be happy to meet the honourable member. I have seen correspondence about the event to which he has referred and hopefully I will attend it. I shall have this matter investigated and get a report as soon as possible.

BUILDERS LICENSING BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to repeal the Builders Licensing Act 1967 and replace it with a new Act. A similar Bill was introduced in Parliament during 1985 but could not be proceeded with before Parliament was prorogued. Extensive discussions have since been held with interested parties and the Bill incorporates certain amendments as a result of those discussions.

The Builders Licensing Act 1967 was introduced with the principal aims of improving the quality and standards of building work and providing protection to home builders and the building industry from exploitation by unqualified persons. The Department of Public and Consumer Affairs has received numerous submissions from interested persons concerning the effectiveness of the Act. A review of these submissions and a critical assessment of the legislative and administrative effectiveness of the Act have culminated in the development of a new Builders Licensing Act. The Bill seeks to:

- rationalise the licensing administration and procedures;
- ensure that building work is performed by a licensee in a proper and competent manner;
- provide a speedy and effective method of resolution of building work disputes;
- extend the degree and measure of disciplinary control over persons engaged in the building industry;
- protect home buyers and building owners from inequitable and unfair contractual terms of building contracts.

The first major step to achieve these objectives is the restructuring of the licensing and administrative framework. At present the licensing system is administered by two statutory authorities: the Builders Licensing Board and the Builders Appellate and Disciplinary Tribunal. The Builders Licensing Board acts as the licensing authority and has a general supervisory role over the work of licensed builders. It has power to examine whether building work has been carried out in a proper manner and power to make an order against a licensed builder to carry out remedial work. The Builders Appellate and Disciplinary Tribunal, as the name implies, acts as an appellate tribunal for decisions of the Board and, where the Board lays a complaint, conducts inquiries into the conduct of a licensed builder for the purposes of taking disciplinary action.

The present licensing and disciplinary provisions have some significant limitations. For example, although when granting a licence the Board must be satisfied as to the applicant's financial resources, the Tribunal has no power to conduct an enquiry into the adequacy of those resources once the licence has been granted. There is little that the Tribunal can do, therefore, if it suspects that a builder is about to become insolvent unless the builder's work is negligently or incompetently performed.

Furthermore, the Tribunal can conduct an inquiry only on the complaint of the Board. The result is that there must first be a preliminary inquiry by the Board to ascertain whether the facts justify the making of such a complaint and then, if the complaint is made, the Tribunal must conduct a more formal inquiry to consider whether there is proper cause for disciplinary action. The involvement of two separate statutory authorities, both of which are constituted by part-time members, often results in considerable delays between the conduct or event in question and the finalisation of disciplinary proceedings.

The new administrative structure vests the Commissioner for Consumer Affairs with the general administration of the Act (as is the case with the Consumer Credit Act, the Second-hand Motor Vehicles Act and other similar legislation) and he will have responsibility for:

- the investigation of all complaints regarding building work, whether they relate to workmanship, contract, price or a combination of these factors,
- conciliation of disputes between builders and consumers with a view to negotiating a resolution of the dispute in a manner that is fair and equitable to both parties;
- assisting consumers to make application to the Commercial Tribunal and providing reports or evidence to the Tribunal for this purpose; and
- enforcing the provisions of the Act by initiating disciplinary proceedings or prosecutions in appropriate cases.

The Commercial Tribunal, which was created in 1982 to be the main occupational licensing authority in this State, will be responsible for:

- the licensing of builders and classified tradesmen, the determination of all applications for licences, the examination of annual returns on the adoption of the continuous licensing system and referring to the Commissioner any matters arising out of applications and annual returns for investigation and report;
- dealing with applications for resolution of disputes about breaches of statutory warranties and also the resolution of contractual disputes involving questions of whether building work has been performed in accordance with the contract;
- taking disciplinary action (including the suspension or cancellation of licences in appropriate cases) where the Tribunal is satisfied, following consideration of an

application by the Commissioner or any other person, that there is proper cause for taking such action.

It is recognised that the lack of business acumen is a major cause of failure in the building industry. The Bill addresses this by requiring an applicant for a licence to satisfy the Commercial Tribunal that he has sufficient business knowledge and experience, as well as the financial resources to carry on the business authorised by the licence. An applicant must also satisfy the Tribunal that he is over the age of 18 and that he is a fit and proper person to be licensed.

It will now be necessary for a person to obtain a licence if he or she carries on the business of performing building work for others. Those who carry on business as sub-contractors will be required to be licensed. It will also be necessary for a person to obtain a licence if he or she carries on the business of reforming building work with a view to the sale or letting of the land or buildings improved as a result of the building work.

An evidentiary provision has been included which provides that, where it is proved that a person has sold or let two or more buildings, each of which has been built or improved as a result of building work performed during a twelve month period, the person shall be deemed to have been carrying on business as a builder, unless the contrary is proved.

There will be four categories of licence which will cover the whole range of building work. A category 1 licence will enable the holder to carry out building work of any kind; a category 2 licence will authorise the holder to carry out building work subject to conditions attached to the licence by the Tribunal; a category 3 licence will authorise the holder to carry out building work within a classified trade specified in the licence; a category 4 licence will authorise the holder to carry out building work within a classified trade specified in the licence subject to conditions attached to the licence by the Tribunal.

It was considered appropriate to attach conditions, imposed by the Tribunal, to individual licensees, rather than prescribing classes of building work which certain licensees would not be allowed to perform. This will allow conditions to be more precisely tailored to the individual licence.

The Bill also places stronger emphasis on the need to have building work supervised by an appropriately qualified person. This person will be required to be registered as a building work supervisor. There will be four categories of registration which will correspond to the four categories of licences. The skill and educational requirements required by an applicant for registration for each of the categories will be specified in the regulations.

In addition, every licensee will have to have a registered building work supervisor approved by the Tribunal to supervise the work carried out under the licence. In the case of a sole trader, the registered supervisor will usually be the licensee himself. In the case of a company, the registered building work supervisor may be either a director or an employee of the company.

The licensee will not necessarily have to meet any particular education and skill requirements. However, the licensee's registered building work supervisor must have the necessary qualifications to supervise the building work for which the licensee is licensed.

The provisions relating to the licensing of builders have been revised in accordance with recent developments in occupational licensing policy. Licences and registration will be continuous, rather than subject to renewal every three years, but each licensee and registered building work supervisor will have to lodge an annual return and pay an annual fee. Where the return is not lodged or the fee not paid a default fee will be payable and the licence or registration may be suspended and ultimately cancelled if the default is not remedied.

The current licensing framework also distinguishes between an applicant for a licence who is either an individual, partnership or body corporate. Several difficulties have arisen because of this distinction. For example, because a new partnership is created whenever there is a change in the composition of the partnership, a new licence must be obtained by the surviving and/or new partners. The requirement for a separate partnership licence is now deleted.

Considerable concern has been expressed about the apparent ease with which some persons who have previously been bankrupt or who have been associated with insolvent companies have been able to continue to be directly involved in the building industry. Accordingly the Bill provides that such a person will have to establish special reasons why he should be granted a licence. The same requirement will apply when an application for a licence is made by a company which is related to another company that has been placed in liquidation or receivership.

Similarly, the Tribunal will have power to suspend or cancel the licence of a person who is a director of a company that has been placed in liquidation or receivership, or the licence of a related company.

The scope of sanctions which can be imposed on licensees, former licensees or on any person who has carried on or been engaged in the business of a builder is considerably wider under the new Act.

If the Tribunal finds that there are proper grounds for disciplinary action, then it may—

- reprimand the respondent;
- fine the respondent;
- cancel or suspend his licence or registration;
- place conditions on his licence;
- disqualify the respondent from being licensed or registered.

In the last case the disqualified person cannot be employed or otherwise engaged in the business of a licensed builder unless the Tribunal has granted approval.

Unlike the present situation where only the Board can lodge a complaint, any person may lodge a complaint with the Tribunal with a view to disciplinary action being taken against a builder or supervisor.

As far as the arbitration of building disputes is concerned the powers of the Board are currently limited to workmanship and licensing matters.

The Board has no jurisdiction concerning contractual matters and therefore is often not in a position to achieve a complete resolution of a dispute.

While the Board can decide on whether particular work was carried out in a 'proper and workmanlike manner' it cannot decide, for example, the question of whether the consumer is obliged under the building contract to pay for particular work as an 'extra' to the contract. It cannot therefore resolve disputes of a contractual nature, it cannot make orders for the payment of money and it cannot prevent the commencement of parallel proceedings in a court of competent jurisdiction.

With the proposed transfer of jurisdiction to the Commercial Tribunal it is possible to introduce new measures which confer on the Commercial Tribunal civil jurisdiction to deal with building disputes which arise where there is an alleged breach of an implied statutory warranty, or which arise where there is an allegation that the building work has not been performed in accordance with the contract. Certain warranties will be implied in every domestic building work contract, in particular a warranty that building work will be performed in a proper manner and that the Building Act and other legislative requirements will be complied with.

The Commercial Tribunal will be empowered to order rectification work to be carried out by the licensed builder or that some other suitable person be employed to carry out the remedial work. In addition the Tribunal will be empowered to award damages if the licensee defaults in carrying out any remedial work.

In order to avoid the situation under which there may be proceedings before the Tribunal and also proceedings before a court regarding the same dispute, the court will be empowered to transfer its proceedings to the Tribunal so that the whole dispute is dealt with in the same forum.

The Department of Public and Consumer Affairs has consistently received consumer complaints regarding various aspects of building contracts. As a result of the resurgence of the domestic building industry, the number of complaints has increased.

Many building contracts in South Australia use the standard form contract recommended by the Housing Industry Association. The Commissioner for Consumer Affairs has been critical of that form and in his 1983 Annual Report stated that some clauses in the context 'give an unfair advantage to the builder, or have the potential to mislead or put pressure on the consumer'.

During 1985, the Department conducted an investigation into the problems experienced by prospective home owners with building contracts in South Australia. A report entitled 'Proposals Paper for the Reform of Home Building Contracts' was released by this Government to the industry and the public for discussion purposes.

Although the Housing Industry Association has now revised its form of contract to take into account some of the concerns that have been expressed, the Government believes that it is necessary to legislate specifically to impose some controls over domestic building work contracts. This will ensure that all builders, whether they have previously used the Housing Industry Association contract or not, must comply with certain requirements of basic fairness.

Limited protection against unfair contractual practices is offered by the existing Act and the Building Contracts (Deposits) Act 1953. However the provisions contained in these Acts fall well short of the statutory contractual requirements which have been developed for other forms of transactions, in particular consumer credit transactions.

This Bill offers building owners a number of safeguards. A domestic building work contract must now comply with certain formal requirements. The contract must be in writing which is legible; set out in full all the contractual terms; must comply with any requirements as to the content of such a contract which is prescribed by regulation; and must be signed by the builder and building owner.

The Bill also provides that:

- any price in the contract which is an estimate or which is subject to variation must be followed by the words 'estimate only' or 'this price may change,' as the case may be;
- prime cost items must be listed together in the contract;
- an estimate must be 'fair and reasonable';
- progress payments cannot be claimed unless the builder makes a written demand;
- houses built under contract must be of the same standard as exhibition houses built by the same builder.

A cooling-off period will also be applicable to major domestic building work contracts which will give the building owner the right to terminate the contract within a specified time or, if certain prescribed contractual requirements are not complied with, up until the date of completion of the building work.

The building owner will also be given a prescribed information document containing information on the contract he proposes to sign.

The prescribed information document will explain:

- 'rise and fall' provision;
- the difficulties which may be encountered with pre-title sales;
- the cooling-off period; and
- other rights and liabilities of the building owner and the builder.

The explanation of any 'rise and fall' provision will be required to include an estimate of the amount by which the contract price would be varied if the applicable formula were to be applied during the construction period, based on the assumption that variations in cost continued during that period at the same rate as during the preceding 6 months.

Any attempt to exclude, modify, or limit a right, contractual condition or implied warranty will be void.

The Commercial Tribunal will also be empowered to examine a term or condition of a domestic building work contract to determine whether such a term is harsh or unconscionable. The building owner may be granted relief under this provision and the Tribunal may order that a term of the contract be avoided, varied or modified as it thinks fit. It may also order that there be a repayment of any amount paid by to a building owner in pursuance of a term or condition that has been avoided or modified.

The Bill further provides for codes of conduct to be prescribed for licensed builders and for building consultants. The codes will be developed in conjuction with trade and consumer organisations and it will deal with such issues as concellation rights, quotations and estimates and standards to protect consumers from unsound and improper practices engaged in by builders and building consultants.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure and, where necessary, for the suspension of operation of specified provisions of the measure.

Clause 3 provides for the repeal of the Builders Licensing Act 1967, and the Building Contracts (Deposits) Act 1953.

Clause 4 provides definitions of expressions used in the measure. 'Builder' is defined as meaning—

(a) a person who carries on the business of performing building work for others;

or

(b) a person who carries on the business of performing building work with a view to the sale or letting of land or buildings improved as a result of the building work.

'Building consultant' is defined as meaning a person (other than a registered architect) who carries on the business of giving advice or furnishing reports in respect of domestic building work, whether being work already performed, work in progress or work which may be required in the future. 'Building work' is defined as meaning the whole or part of the work of constructing, erecting, underpinning, altering, repairing, improving, adding to or demolishing a building; the whole or part of the work of excavating or filling a building site; or work of a class prescribed by regulation. 'Domestic building work' is defined to mean, in effect, building work in relation to a house or other work of a prescribed class. 'House' is defined as a building intended for occupation as a place of residence but not being—

(a) a building intended for occupation partly as a residence and partly for industrial or commercial purposes;

(b) a building divided into a number of separate places of residence that are intended only for rental;

or

(c) a building of a prescribed class.

'Minor domestic building work' is domestic building work below a value to be fixed by regulation.

Clause 5 empowers the Governor to grant conditional or unconditional exemptions by regulation.

Clause 6 provides that the provisions of the measure are in addition to and do not derogate from the provisions of any other Act and shall not limit or derogate from any civil remedy at law or in equity.

Clause 7 commits the administration of the measure to the Commissioner for Consumer Affairs subject to the control and direction of the Minister.

Part II (comprising clauses 8 to 12) deals with the licensing of builders.

Clause 8 establishes four categories of builders licences. A category 1 licence is to authorise the performance of building work of any kind. A category 2 licence is to authorise the performance of any building work subject to conditions determined by the Commercial Tribunal. A category 3 licence is to authorise the performance of building work within a trade classified by the regulations. A category 4 licence is to authorise the performance of building work within a classified trade subject to conditions determined by the Commercial Tribunal. Under the transitional provisions contained in the schedule, a person holding an unconditional general builder's licence under the present Act will be deemed to have been granted a category 1 licence; a person holding a conditional general builder's licence or a provisional general builder's licence will be deemed to have been granted a category 2 licence; a person holding an unconditional restricted builder's licence within a particular trade will be deemed to have been granted a category 3 licence for that trade; and a person holding a conditional restricted builder's licence within a particular trade will be deemed to have been granted a category 4 licence for that trade. A licence carried over in this way will be subject to the same conditions as apply to it under the present Act. The clause goes on to empower the Tribunal to impose conditions upon granting a licence, being conditions limiting the building work that may be performed in pursuance of the licence. Any such conditions may be varied or revoked by the Tribunal upon application by the licensee.

Clause 9 provides that it is to be an offence for a person to carry on business as a builder or to claim or purport to be entitled to carry on business as a builder unless the person holds a licence; or for a builder to perform, or claim or purport to be entitled to perform, building work of a particular kind unless the person holds a licence authorising the performance of such building work. The clause fixes a maximum penalty of $10 000 for such an offence.

Clause 10 provides for applications for licences. Applications are to be made to the Commercial Tribunal and are to be subject to objection by the Commissioner for Consumer Affairs or any other person. Under the clause, the Tribunal is to grant such a licence in the case of an applicant who is a natural person if the person is over 18 years of age, a fit and proper person to hold the licence, and has sufficient business knowledge and experience and financial resources for the purpose of properly carrying on the business authorised by the licence. In the case of an applicant that is a body corporate, the Tribunal must be satisfied that every director of the body is a fit and proper person, that the directors together have sufficient business knowledge and experience and that the body has sufficient financial resources. Under the clause, the Tribunal is not to grant a licence unless special reasons are established—

(a) where a natural person applying for a licence or a director of a body corporate applying for a licence is or has been within 10 years before the application, insolvent or a director of an insolvent body corporate;

or

(b) where a body corporate applying for a licence is or has been, during the 10 years preceding the date of application, insolvent or a body corporate related (within the meaning of the Companies (South Australia) Code) to an insolvent body corporate.

The clause contains a further provision under which a licence may be granted to a person who does not have sufficient business knowledge and experience and financial resources if the person proposes to carry on business in partnership with a licensee with such qualifications. Any such licence is to be subject to a condition under which the person may only carry on business in partnership with that licensee or some other licensee approved by the tribunal.

Clause 11 provides that a licence is, subject to the measure, to continue in force until the licence is surrendered or the licensee dies or, in the case of a body corporate, is dissolved. A licensee is to pay an annual fee and lodge an annual return with the Registrar of the Commercial Tribunal.

Clause 12 provides that, where a licensee dies, the business of the licensee may be carried on by the personal representative of the deceased, or some other person approved by the Tribunal, for a period of 6 months and thereafter for such period and subject to such conditions as the Tribunal may approve.

Part III (comprising clauses 13 to 18) deals with the supervision of building work.

Clause 13 provides that there are to be four categories of registration as a building work supervisor:

(a) category 1 registration which is to authorise the person so registered to supervise building work of any kind;

(b) category 2 registration which is to authorise the person so registered to supervise any building work subject to conditions determined by the Tribunal;

(c) category 3 registration which is to authorise the person so registered to supervise building work within a particular classified trade;

and

(d) category 4 registration which is to authorise the person so registered to supervise building work within a particular classified trade subject to conditions determined by the Tribunal. Under the transitional provisions contained in the schedule, any natural person holding an unconditional general builder's licence under the present Act will be deemed to have been granted category 1 registration as a building work supervisor; a natural person holding a conditional general builder's licence will be deemed to have been granted category 2 registration as a building work supervisor; a natural person holding an unconditional restricted builder's licence within a particular trade will be deemed to have been granted category 3 registration as a building work supervisor for that trade; and a natural person holding a conditional restricted builder's licence within a particular trade will be deemed to have been granted category 4 registration as a building work supervisor for that trade. Registration of a person will be subject to the same conditions as apply to the person's licence under the present Act. Under the clause, the Tribunal may impose conditions on granting registration, and, upon the application of the registered person, may vary or revoke conditions of the registration.

Clause 14 provides that a licensee must ensure that there is a registered building work supervisor approved by the

Tribunal as a building work supervisor in relation to the licensee's business at all times during the currency of the licence and that all building work performed by the licensee is properly supervised by such a registered building work supervisor whose registration authorises the supervision of building work of that kind. The requirement for supervision is not to apply in relation to building work that is properly supervised by a registered architect. Where a licensee fails to comply with those requirements for a period exceeding 28 days, the licence is suspended until the licensee complies. Under the clause, provision is also made for a licensee to obtain an exemption from the requirements if the Tribunal is satisfied that the work will be supervised by some competent person.

Clause 15 provides for applications for registration as a building work supervisor. Applications are to be made to the Commercial Tribunal and are to be subject to objection by the Commissioner for Consumer Affairs or any other person. Under the clause, the Tribunal is to grant registration to an applicant if satisfied that the applicant is of or above the age of 18 years, is a fit and proper person and has the qualifications and experience required under the regulations in relation to the kind of building work that the applicant would be authorised to supervise if granted the registration or has, subject to the regulations, other qualifications and experience that the tribunal considers appropriate.

Clause 16 provides that for the purposes of Part III a registered architect shall be deemed to hold category 1 registration as a building work supervisor.

Clause 17 provides that registration as a building work supervisor shall, subject to the measure, continue in force until the supervisor dies or the registration is surrendered. A registered person is to pay an annual fee and lodge an annual return with the Registrar of the Commercial Tribunal. As in relation to initial registration, there is to be no fee payable under this clause by a registered supervisor who is also a licensee.

Clause 18 provides that the Tribunal may, on application by a licensee, approve a person as a building work supervisor in relation to the licensee's business. Subclause (2) of the clause ensures that a natural person who is a licensee and a registered building work supervisor is automatically treated as an approved building work supervisor in relation to the person's own business. In other cases, approval is to be given only if the proposed supervisor is a director of a corporate licensee or an employee of the licensee (whether corporate or not). Subclauses (6), (7) and (8) require a licensee to give notice to the Registrar where—

(a) a director who is an approved supervisor for the licensee's business ceases to be a director of the licensee;

(b) the licensee carries on business in partnership but the composition of the partnership changes or the partnership is dissolved;

(c) where a person employed by the licensee to act as a building work supervisor ceases to be so employed.

Under the clause, the Registrar of the Tribunal may cancel someone's approval as a building work supervisor for a licensee's business if the Registrar is satisfied (whether by reason of the receipt of a notice under subclause (6), (7) or (8) or otherwise) that the person is no longer eligible to be so approved.

Part IV (comprising clauses 19, 20 and 21) deals with the disciplining of licensed builders, registered building work supervisors, persons carrying on or engaged in the business of a builder or persons carrying on business as building consultants.

Clause 19 provides that the Commercial Tribunal may hold an inquiry for the purpose of determining whether there is proper cause to discipline a person who is licensed or registered, who has carried on or been engaged in the business of a builder or who has carried on business as a building consultant. An inquiry is only to be held under the clause if it follows upon the lodging of a complaint by the Commissioner for Consumer Affairs or some other person. The Registrar of the Tribunal may where appropriate request the Commissioner to carry out an investigation into matters raised by a complaint. Where the Tribunal is satisfied that proper cause exists to do so, it may reprimand the person the subject of an inquiry; impose a fine not exceeding $5 000; impose conditions upon the person's licence or registration or reduce the person's licence or registration to that of a more limited category; suspend or cancel the person's licence or registration; disqualify the person from obtaining a licence or registration; or, in the case of a building consultant or former building consultant, prohibit the person from carrying on such a business permanently, for a specified period, until the fulfilment of stipulated conditions, except in accordance with stipulated conditions, or until further order. There is to be proper cause for disciplinary action against a person where the person—

(a) has been guilty of conduct constituting an offence against the measure;

(b) has, in the course of carrying on, or being employed in, the business of a builder, committed a breach of any other Act or law or acted negligently, fraudulently or unfairly;

(c) being a licensed person—

(i) has obtained the licence improperly;

(ii) has ceased to be a fit and proper person or, in the case of a corporation, has a director who is not or has ceased to be a fit and proper person to be a director of a corporate licensee;

(iii) is a director of a body corporate that is insolvent or, in the case of a body corporate, is a related corporation of an insolvent body corporate;

(iv) has failed to comply with an order of the Tribunal;

(v) in the case of a body corporate—has directors who together do not have sufficient business knowledge and experience;

(vi) has insufficient financial resources to carry on business in a proper manner;

or

(vii) has failed to ensure that building work is properly supervised;

(d) being a registered building work supervisor—

(i) has obtained the registration improperly;

(ii) has ceased to be a fit and proper person to be so registered;

or

(iii) has failed to exercise proper care in the supervision of building work;

or

(e) has in the course of carrying on business as such been guilty of conduct that constituted a breach of another Act or law or acted negligently, fraudulently or unfairly.

Clause 20 makes it an offence if a person disqualified from being licensed or registered is employed or otherwise engaged in the business of a licensed builder except with the prior approval of the Tribunal. The clause provides for giving of approvals by the Tribunal subject to conditions determined by the Tribunal.

Clause 21 requires the Registrar of the Tribunal to keep a record of disciplinary action and to notify the Commissioner for Consumer Affairs of the name of any person disciplined and the disciplinary action taken against the person.

Part V (comprising clauses 22 to 33) makes various provisions with respect to domestic building work.

Division I of this Part (comprising clauses 22 to 26) provides for certain requirements in relation to domestic building work contracts.

Clause 22 provides that the Division is not to apply in relation to contracts for the performance of minor domestic building work or contracts entered into before the commencement of the clause.

Clause 23 provides that the following requirements shall be complied with in relation to any domestic building work contract:

(a) the contract must be in writing;

(b) the contract must set out in full all the contractual terms;

(c) the contract must set out the name in which the builder carries on business under the builder's licence, the builder's licence number and the names and licence numbers of any other persons with whom the builder carries on business as a builder in partnership;

(d) the contract must comply with any requirements of the regulations as to the contents of domestic building work contracts;

(e) the contract must be signed by the builder and the building owner personally or through an agent authorised to act on behalf of the builder or building owner;

(f) the building owner must be given a copy of the signed contract as soon as reasonably practicable after it has been signed together with a notice in the prescribed form containing the prescribed information; and

(g) the contents of the contract and the notice must (apart from signatures or initials) be readily legible.

Where any of these requirements is not complied with the builder under the contract is to be guilty of an offence and liable to a penalty not exceeding $2 000.

Clause 24 makes certain provision with respect to price in domestic building work contracts. Under the clause, a domestic building work contract must stipulate a specific price for the work, but it can if it specifies the period within which the work must be completed, include a rise-and-fall clause. Where there is a rise-and-fall clause, the clause can only operate after the completion date if the contract provides for an extension of the time for completion, the delay is the fault of the building owner or due to some cause beyond the control of the builder that was not reasonably foreseeable, the builder notifies the owner by writing of the extension and the cause of delay as soon as reasonably practicable after becoming aware that the completion of the work may be delayed and the work is completed as soon as reasonably practicable. In addition, a domestic building work contract may include a provision for the builder to charge cost plus an amount not exceeding 10 per cent or such other percentage as is fixed by regulation for specified materials or work, or to charge other unliquidated amounts of a kind stipulated by the regulations. Subclause (6) provides that where a contract includes such a provision or a rise-and-fall clause and the price specified in the contract for work, labour, or materials is an estimate only or subject to change, the contract must contain the statement 'Estimate Only' or 'This Price May Change' set out immediately alongside or below the price to which it relates. Subclause (7) requires that all prices that are estimates or subject to change must be listed together in the contract. Subclause (8) requires that any estimate in a contract must be a fair and reasonable estimate. Subclause (9) provides that if any of the requirements of the clause is not complied with, the builder is to be guilty of an offence and liable to a penalty not exceeding $2 000.

Clause 25 makes it an offence (with a maximum fine of $2 000) to demand or require from the building owner under a domestic building work contract, or from the person for whom work is to be performed under a preliminary work contract, any payment under that contract unless the payment constitutes a genuine progress payment for work already performed or is authorised under the regulations. 'Preliminary work contract' is defined as any contract that is collateral to or related to an existing or contemplated domestic building work contract and that provides for the performance of work that is preliminary or ancillary to the domestic building work. The clause would not prevent a pre-payment that is merely requested by a builder or volunteered by a building owner. Under subclause (3), a progress payment is not payable unless requested in writing.

Clause 26 provides that where a house constructed by a builder is made available for inspection by the public with a view to inducing persons to enter into contracts for the construction of similar houses, the builder must ensure that copies of the plans and specifications of the house are kept prominently displayed in the house at all times at which it is open for inspection. In addition, any contract entered into with the builder by a person who to the knowledge of the builder has inspected the exhibition house and is seeking the construction of a similar house is, under the clause, to be deemed to include a provision that the house be constructed according to the same plans and specifications and standard of work and quality of materials as those of the exhibition house unless the contract specifically provides otherwise.

Division II (comprising clause 27) provides for certain statutory warranties to be implied in every domestic building work contract (including contracts for minor domestic building work). This clause corresponds to section 19o of the present Act. The clause provides for the following warranties:

(a) a warranty that the building work will be performed in a proper and workmanlike manner and in accordance with the plans and specifications agreed to by the parties;

(b) a warranty that all materials to be supplied by the builder for use in the building work will be good and proper;

(c) a warranty that the building work will be performed in accordance with the Building Act, 1970, and all other statutory requirements;

(d) where the contract does not stipulate a period within which the building work must be completed—a warranty that the work will be performed with reasonable diligence;

(e) where the building work consists of the construction of a house—a warranty that the house will be reasonably fit for human habitation;

and

(f) where the builder owner expressly makes known to the builder, or a servant or agent of the builder, the particular purpose for which the building work is required, or the result that the building owner desires the building work to achieve, so as to show that the building owner relies on the builder's skill and judgment—a warranty that the building work and any materials used in performing the building work will be reasonably fit

for that purpose or of such a nature and quality that they might reasonably be expected to achieve that result.

Under the clause, a person who purchases or otherwise acquires a house is to succeed to the rights of the person's predecessor in title in respect of statutory warranties. Where a person purchases a house from a builder who has performed domestic building work in relation to the house, the purchaser is also to have the benefit of the statutory warranties. Proceedings for breach of a statutory warranty must be commenced within 5 years after completion of the building work and that period is not to be extended. It is to be a defence in proceedings for breach of a statutory warranty if the deficiencies arise from instructions insisted upon by the building owner contrary to the advice in writing of the builder.

Division III (comprising clauses 28, 29 and 30) provides for indemnity insurance to be taken out by builders performing certain domestic building work. These provisions also correspond to provisions in the present Act (sections 19p, 19q and 19r).

Under clause 28, the Division is only to apply to work performed by a builder under a domestic building work contract or on the builder's own behalf. The Division is not to apply to building work for which Building Act approval is not required, to minor domestic building work or to work commenced before the commencement of the clause.

Clause 29 makes it an offence (with a maximum fine of $2 000) if a builder performs such work and the required insurance policy is not in force in relation to the work. The builder must also furnish to the building owner, where the work is to be performed under contract, a certificate evidencing the taking out of the policy.

Clause 30 requires such a policy—

(a) to insure each person entitled to the statutory warranties in respect of the work against the risk of being unable to enforce or recover under the warranties by reason of the insolvency, death or disappearance of the builder;

(b) to insure the building owner against the risk of loss resulting from non-completion of the building work by reason of the insolvency, death or disappearance of the builder;

and

(c) to comply with the regulations.

Division IV (comprising clause 31) authorises a building owner under a domestic building work contract to terminate the contract during a cooling-off period of five clear business days or, where there has been a failure to comply with any of the requirements of Division I or III (contents of contracts and indemnity insurance), to terminate the contract before the completion of the building work. Under subclause (2), where a domestic building work contract is terminated, the Tribunal or a court of competent jurisdiction may, on application by the building owner or builder, order the repayment to the owner of any amount or part of any amount paid to the builder under or in relation to the contract, or order payment to the builder in respect of work done or materials supplied under or in relation to the contract. This right of termination does not apply in relation to contracts for the performance of minor domestic building work or contracts entered into before the commencement of the clause.

Division V (comprising clause 32) sets out the powers of the Commercial Tribunal in relation to domestic building work. The clause applies in relation to any domestic building work contract or sub-contract whether entered into before or after the commencement of the clause and any domestic building work whether commenced before or after that commencement. Under the clause, the Tribunal may, upon the application of a party to domestic building work contract or a person entitled to the benefit of a statutory warranty, determine any dispute arising out of the domestic building work contract or the performance of building work to which the warranty relates. An application may not be made for the determination of a dispute arising out of a domestic building work contract unless the dispute involves some question of whether building work has been performed in accordance with the contract. Where an application has been made to the Tribunal for the determination of such a dispute, application may be made for the determination of a dispute arising out of a sub-contract for the performance of any of the domestic building work, but, again, only if it involves some question of whether building work has been performed in accordance with the sub-contract. If proceedings relating to a sub-contract are joined with proceedings relating to a domestic building work contract, the Tribunal is to ensure that the hearing and determination of any question as to the performance of work under the domestic building work contract is not unduly delayed. Where the Tribunal finds that there has been a breach of, or failure to perform or fulfill, a contract or warranty, the Tribunal may, to the extent to which it is satisfied that the breach or failure may be remedied by the performance of building work, order that remedial work be carried out by the respondent builder or some other builder employed by the respondent or order the payment of any amount due or any amount by way of compensation. If a builder ordered to perform remedial work fails to do so properly or at all, the builder is to be guilty of an offence and the Tribunal may, upon further application, order the builder to pay compensation. The clause provides that proceedings commenced by the builder against the building owner in any court may, if the court thinks fit, be removed to the Tribunal. Under the clause, the Tribunal may not order the payment of any amount that exceeds, or order the performance of remedial work the value of which exceeds, the jurisdictional limit for local courts of full jurisdiction fixed by the Local and District Criminal Courts Act for actions of a kind to which the clause applies.

Division VI (comprising clause 33) deals with harsh and unconscionable terms in domestic building work contracts. The provision follows closely section 46 of the Consumer Credit Act which deals with harsh and unconscionable terms in credit contracts. Under the clause, the Commercial Tribunal or any court hearing proceedings in respect of a domestic building work contract may grant relief where a provision of such a contract is harsh or unconsionable or such that a court of equity would give relief. The Tribunal or court may give relief by avoiding *ab initio* any term or condition of the contract, by modifying the terms or conditions of the contract and by ordering repayment to the building owner.

Part VI (comprising clauses 34 to 52) deals with miscellaneous matters.

Clause 34 provides that any purported exclusion, limitation, modification or waiver of a right conferred, or contractual condition or warranty implied, by the measure is to be void.

Clause 35 provides that it shall be an offence if a licensee uses in an advertisement or otherwise as a title or description the expression 'master builder', 'general builder', 'builder' or 'building contractor' (whether alone or in conjunction with the word 'licensed'), or any other expression likely to lead others to believe that the licensee may perform building work of all kinds unless the licensee holds a category 1 or category 2 licence.

Clause 36 provides that a licensee is not to carry on business in pursuance of the licence except in the name appearing in the licence or in a business name registered by

the builder in accordance with the provisions of the Business Names Act, 1963, of which the Registrar has been given prior notice in writing. The clause fixes a maximum penalty of $1 000 for an offence against the provision.

Clause 37 provides that a licensee is not to publish, or cause to be published, any advertisement relating to the business carried on in pursuance of the licence (other than an advertisement offering or seeking application for employment or directed to other builders) unless the advertisement specifies the name of the builder appearing in the licence or a registered business name of the builder of which the Registrar has been given prior notice in writing and the builder's licence number together with the licence number of any partner of the builder. The clause fixes a maximum penalty of $1 000 for an offence against the provision.

Clause 38 requires a licensee to install or erect in a prominent position on the site of any building work performed by the licensee or on the outside of the place where the building work is being performed a sign showing in clearly legible characters the name of the licensee appearing in the licence or a registered business name of the builder of which the Registrar has been given prior notice in writing and the licensee's licence number together with the licence number of any partner of the builder. A maximum penalty of $1 000 is provided by the clause. Under the clause, where a licensee is performing building work on a site on behalf of some other licensee performing work on that site, it is to be sufficient compliance if a sign is erected on the site only by that other licensee.

Clause 39 provides that an unlicensed person who performs building work in circumstances in which a licence is required is not to be entitled to recover any fee or other consideration in respect of the building work unless the court or Tribunal hearing proceedings for recovery of the fee or consideration is satisfied that the person's failure to be licensed resulted from inadvertance.

Clause 40 is an evidentiary provision providing that where it is proved that a person performed building work on behalf of another for fee or reward, the person is to be deemed, unless the contrary is proved, to have been carrying on business as a builder. The clause also provides that if it is proved that a person has, during a period of 12 months, sold or let two or more buildings each of which has been built or improved as a result of building work performed by the person during that period, the person shall, unless the contrary is proved, be deemed to have been carrying on business as a builder.

Clause 41 provides that an act or omission of a person employed by a builder (whether under a contract of service or otherwise) is to be deemed to be an act or omission of the builder unless the builder proves that the person was not acting in the course of the employment.

Clause 42 provides that the Commissioner for Consumer Affairs shall, at the request of the Registrar of the Tribunal, cause officers to investigate and report upon any matter relevant to the determination of—

(a) any application or other matter before the Tribunal; or

(b) any matter that might constitute proper cause for disciplinary action under the measure.

Clause 43 confers appropriate powers of inspection upon an authorised officer under the Prices Act 1948, or any person authorised by the Commissioner by instrument in writing, for the purpose of an investigation requested by the Registrar or for the purpose of determining whether the provisions of the measure are being complied with.

Clause 44 empowers the Tribunal to refer any matter before it to the Commissioner or some other person appointed by the Tribunal in order for an attempt to be made to resolve the matter by conciliation.

Clause 45 provides for the preparation and tabling before Parliament of an annual report on the administration of the measure.

Clause 46 provides for the service of documents.

Clause 47 creates an offence of providing information for the purposes of the measure that includes any statement that is false or misleading in a material particular.

Clause 48 provides for the return of a licence or certificate of registration that is suspended or cancelled or that is to be made subject to any condition.

Clause 49 provides that a director of a body corporate convicted of an offence is also to be guilty of an offence unless it is proved that the director could not by the exercise of reasonable diligence have prevented the commission of the offence.

Clause 50 provides for continuing offences.

Clause 51 provides that proceedings for offences against the measure are to be disposed of summarily and must be commenced within 12 months and only by the Commissioner for Consumer Affairs, an authorised officer under the Prices Act, or a person acting with the consent of the Minister.

Clause 52 provides for the making of regulations.

The schedule contains appropriate transitional provisions.

The Hon. B.C. EASTICK secured the adjournment of the debate.

INDUSTRIAL RELATIONS ADVISORY COUNCIL ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

POTATO MARKETING ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

CATTLE COMPENSATION ACT AMENDMENT BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 1, line 29 (clause 3)—Leave out 'six'and insert '5'.

No. 2. Page 2, line 2 (clause 3)—Leave out 'two shall be persons holding positions' and insert 'one shall be a person holding a position'.

No. 3. Page 2 (clause 3), after line 3—Insert new subsection as follows:

(2a) The Minister may appoint a person holding a position in the Department of Agriculture to be the secretary to the Committee.

Consideration in Committee.

The Hon. M.K. MAYES: I move:

That the Legislative Council's amendments be agreed to.

Mr GUNN: I am pleased that the Government, even at this late stage, has seen the wisdom of the views of the Opposition. When this matter was previously before this place, I moved amendments identical to those that have been inserted by another place. I had discussed this matter with the United Farmers and Stockowners and considerable time could have been saved had my amendments been accepted then. I look forward to the Minister's accepting a considerable number of Opposition amendments in the next couple of years.

Motion carried.

BIOLOGICAL CONTROL BILL

Returned from the Legislative Council without amendment.

ROAD TRAFFIC ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

SUPPLY BILL (No. 1)

Returned from the Legislative Council without amendment.

STATE LOTTERIES ACT AMENDMENT BILL

The Hon. J.C. BANNON (Premier and Treasurer) obtained leave and introduced a Bill for an Act to amend the State Lotteries Act 1966. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Its purpose is to amend the State Lotteries Act 1966, to permit an increase in the number of members of the Lotteries Commission and to make a consequential amendment to the quorum provision. At present the commission must consist of three members of whom two constitute a quorum. Since the commission was originally established in 1966 the complexity of its task has significantly increased. Competition for the gambling dollar is now very much more intense and greater pressure is being placed on the commission to be innovative and to exercise sound commercial judgment.

Apart from these commercial pressures, the commission has been given an important responsibility as holder of the licence for the Adelaide Casino. Although not itself required to operate the casino, the commission is responsible for choosing an operator and for ensuring that he observes the directions of the supervisory bodies. At the same time, the commission must endeavour to ensure that everything is done to make the casino a success.

The commission has performed very well, both with respect to its traditional responsibilities and in its new role as holder of the casino licence. However, in recent times a considerable burden has been thrown on Mr Jack Guscott, the Chairman of the commission, and it is not reasonable that he be expected to carry his present workload. Therefore, it is proposed that the Act be amended to permit the appointment of up to five members. This would give the commission access to a wider range of expertise and permit a better distribution of the workload. A start was made in this direction recently with the appointment of the Deputy Under Treasurer, Mr P.J. Emery, to the commission.

It would not be appropriate for a larger commission to have a quorum of two. Therefore, it is proposed that a quorum be one less than the number of members appointed, except that if there are five members the quorum be three.

Clause 1 is formal.

Clause 2 provides for the Act to come into operation on a day to be proclaimed.

Clause 3 amends section 4 of the State Lotteries Act 1966, to allow the number of members of the Lotteries Commission to be increased to a maximum of five.

Clause 4 amends section 9 of the Act in relation to quorum and is consequential to clause 3.

Mr OLSEN secured the adjournment of the debate.

DOG FENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 325.)

Mr GUNN (Eyre): The Opposition supports the Bill. I understand that I am going to have a second victory this afternoon, in that the amendments that I originally circulated have been discussed by the representatives of the United Farmers & Stockowners and other persons concerned with the proper maintenance and administration of the dog fence, and the board has reached an agreement that I believe will be beneficial to the industry, particularly to those who rely on the dog fence for protection.

The whole of the dog fence in South Australia is situated in the electorate of Eyre. It runs for some 2 200 kilometres, and has kept the dingoes at bay for many years. There have been a number of new initiatives in recent times. Solar panels have been used to generate electricity to prevent wombats knocking holes in the fence in the northern Flinders Ranges. It has been a success. The United Farmers & Stockowners organisation was concerned about having to provide a panel of four members. I am pleased that the Minister has now reduced the number to two. The other amendment is in line with what I proposed, and I hope that the Minister is in a position to give an assurance that, when those dog fence boards currently not incorporated are incorporated, he will bring another Bill to the House so that they too can have a member on the board. This Bill creates a situation where the Director-General of Lands or his nominee will be the Chairman, and that is most appropriate. Other members will include people who obviously have either an interest in the dog fence or live close by or on properties in the vicinity.

From discussions I have had with United Farmers & Stockowners, with the producer members of the board and other interested people, I know that all parties are in agreement with the proposal that the Minister has now put forward. If the sort of consultation that has taken place with this Bill were to take place with other legislation, we would have a lot less controversy, the Parliament would sit more reasonable hours, and commonsense would prevail. That would be in the interests of the people of this State. I thank the Minister for being considerate and keeping me informed, and I hope that the measure has a speedy passage.

Few South Australians would understand the significance of the dog fence, the massive undertaking involved in maintaining it, its value, and the damage that dingoes can do to sheep if unfortunately they get through. The only problem I have is that, unfortunately, the Dog Fence Board for some time, in my judgment, has not had sufficient funds to carry out the duties that it should. That is no reflection on the board, which has done a particularly good job with the limited resources available to it.

One of the problems with the Dog Fence Board is that only those who live in the vicinity of the fence pay rates, while the rest of the State benefits from the keeping of dingoes north of the fence. However, they do not directly contribute towards the upkeep and maintenance of that fence. It is only fair that the people who get the benefit should make some limited contribution. I do not believe it

is correct that the people who live directly alongside the fence should be the only ones to make a contribution. Therefore, the Government must, either from general revenue of the State or by some other arrangement, make funds available so that the Dog Fence Board can raise extra money to enable the fence to be put into top condition.

The board should be commended for initiating the electric fences. Recently whilst I was in Colorado the Secretary of State for Agriculture in that State showed great interest in the work that the Dog Fence Board had done in South Australia, with electrification and in particular with the solar panels it had developed. He was seeking information on its operation, because real problems were being experienced in protecting farmers in Colorado from the native animals. I am pleased to support the measure and wish it a speedy passage.

The Hon. R.K. ABBOTT (Minister of Lands): This is possibly the most important piece of legislation introduced into this Parliament for many years, and I thank the member for Eyre for his remarks and his support of the measure. I am delighted that he is handling the Bill for the Opposition and is the Opposition's spokesman in this area because he, more than any other member in the House, would know the dog fence—its 2 200 kilometres from the New South Wales border to the Great Australian Bight—far better possibly than any other member. I am not sure whether it constitutes the boundary of his electorate, but it certainly goes right through the heart of the electorate of Eyre. He knows the importance to farmers and graziers of the dog fence in the Far North of South Australia. He knows that the Dog Fence Board has embarked on a program to upgrade the whole fence, much of which is old and very costly to maintain. I am pleased to report that the four year project of upgrading the fence is well advanced.

I apologise for the misunderstanding in respect of consultation with the various parties. It is the policy of the Department of Lands to consult at every opportunity when amendments are being made to legislation under the portfolio and it seems, regrettably, that some representatives had not reported to their organisation. The minor amendments standing in my name will not alter the principle of the Bill and are supported by all parties. I am pleased that they will also be supported by the Opposition.

In relation to the assurance for which the honourable member asked, I am aware that it is intended to incorporate a body representing dog fence owners in the area currently covered by local dog fence boards. I give an undertaking that, when an appropriate organisation has been established, I shall be seeking to amend section 6 (1) *(d)* to substitute that organisation for local dog fence boards.

We are unable to do that at this point in time because such an organisation has not yet been incorporated. It is the intention of the UF&S to do that later, which will then necessitate an additional amendment to this legislation. Although we will not have that opportunity this session, I give an assurance that that will be done later in the year. I thank the Opposition for its support and urge the House to adopt the measure.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Members of board.'

The Hon. R.K. ABBOTT: I move:

Page 1—

Lines 23 to 28—Leave out paragraph *(b)* and insert the following paragraph:

(b) two (each of whom is an occupier of ratable land and at least one of whom is an occupier of ratable land adjoining the dog fence) shall be appointed by the Governor on the nomination of the United Farmers and Stockowners of S.A. Inc.;.

Line 29—Leave out 'not being' and insert 'who is an occupier of ratable land but is not'.

Line 35—Leave out 'two persons' and insert 'one person'.

Page 2—

Lines 1 to 6—Leave out subsection (2).

Line 9—Leave out '28' and insert '60'.

It is not necessary to go into lengthy detail in relation to these amendments. As the member for Eyre indicated, we have discussed them and he is agreeable.

Amendments carried; clause as amended passed.

Remaining clauses (4 to 10) and title passed.

Bill read a third time and passed.

POULTRY MEAT HYGIENE BILL

Adjourned debate on second reading.

(Continued from 19 February. Page 329.)

Mr GUNN (Eyre): First, I thank the Government for facilitating the two measures for which I have the responsibility on behalf of the Opposition today, as I have other commitments this evening. This is the second occasion that this measure has come before the Parliament. This Bill has given the Opposition some considerable concern because we vividly remember what took place when the original meat hygiene legislation was introduced into the Parliament and the problems experienced with licensing, reorganising and the setting of standards for abattoirs and slaughterhouses in this State. My colleague, the Deputy Leader of the Opposition, had considerable trouble with slaughterhouses in his electorate when unreasonable inspectors entered the scene.

I am aware of some of the problems in my electorate when constituents of mine had great difficulties—as did the constituents of other members—with the meat hygiene authority and the unreasonable attitudes displayed by inspectors. A situation was created where a butcher at Ceduna—and I am using this as a comparison—was not permitted to buy meat from a local slaughterhouse at Minnipa; rather, meat had to be trucked from Port Lincoln to Ceduna. The cost involved to that little local family butcher was quite considerable, and the situation was quite ludicrous.

Today the Government is asking us to support a Bill that will create an identical situation, where the present meat hygiene authority will change coats and put on another hat, becoming the poultry meat hygiene authority. The Opposition totally supports the belief that there should be high standards of hygiene to protect the public against improper or shoddy practices. As a former member of local government, I remember many years ago the great difficulties that the district council on which I served had with slaughterhouses; I remember what took place there. We agree that acceptable standards should be set so that the public can be confident that the produce it purchases is in a condition that leaves no doubt about the standards of quality. However, over the past few years we have seen a proliferation of boards, committees and inspectors, all costing the taxpayers thousands of dollars and hogtying industry with unnecessary red tape, and the public, in many cases, has not benefited.

In relation to the meat hygiene authority legislation, slaughterhouses were constructed, people believed, in accordance with the criteria laid down by the authority. However, when that work was completed, considerable problems were experienced with inspectors. I said publicly, when I had the pleasure of opening an extra facility at Ceduna, that I hoped that commonsense would apply in

relation to the operation and the day-to-day management of these establishments.

This Bill is an improvement on the Bill that was introduced by the previous Minister of Agriculture (Hon. Frank Blevins) last year. The previous clauses 28 and 29 have been deleted. We are talking about licensing some 39 poultry processing plants in South Australia. It has been suggested to me that this legislation ought to be called the Manos Protection Bill. We all recall the large advertisement that was inserted in the paper during the last election campaign by one Mr Manos in great praise of Premier Bannon and his Government. Out of the blue, one friend Manos—

The Hon. M.K. Mayes: A very sensible man.

Mr GUNN: Well, then, he is getting his reward. I am pleased that the Minister came in. We had the Minister earlier today endeavouring to reflect on the insurance industry. We now have a clear admission that, because Mr Manos came out and openly supported the Government, he will derive great benefits under this legislation. What it will do is knock out of the field a number of his competitors. Like a lot of these people, they will get into bed with the Labor Party if they think there is a short-term quick buck in it. I make no apology for saying that, because it was very interesting to see that full page advertisement. I wonder how much it cost. It will be interesting to see if Mr Manos goes back to the committee and applies for another Government guarantee.

Perhaps I should say no more about Mr Manos, because we are concerned to see put on the statute books a measure which will properly protect the interests of the people of this State, without hogtying them, and which will be acceptable to interstate Governments so that they can, with confidence, allow our produce to be introduced into Victoria, New South Wales and Queensland. I understand that similar legislation has been enacted, but that does not mean that we must follow suit.

We believe that the foreshadowed amendments that I have on file will put into effect the objectives of this Bill. They will meet the aspirations, needs and desires of the people of this State, and will be a simpler and far more efficient method of attaining those ends.

This Bill contains a number of interesting clauses. Clause 14, which relates to the granting of licences, refers to 'the suitability of the applicant to be granted the licence'. Who will determine the suitability? Will there be a grandfather clause? Will all people who currently have a licence be permitted to enter into the arrangement? It states, 'The authority shall, upon payment of the prescribed fee, grant the licence to the applicant.' How will the fee be set? Will it be done on a 3ft basis? Will it be done on the size of the establishment, or will it be an arbitrary figure determined by the Minister? We know the track record of the Bannon Government. It has a record second to none in raising taxes and charges. I suppose we will have to wait with baited breath to see what sort of fee is inflicted on the industry. Clause 16 states:

(1) A licence granted under this Part shall be subject to such conditions as the authority may specify by notice in writing given to the holder of the licence.

(2) Without limiting the matters with respect to which conditions may be imposed, the authority may impose conditions in respect of any licence—

(a) limiting the maximum throughput of the poultry processing works;.

I really hope that the Minister listens, because this is a most significant point. If the authority is to have the opportunity to put restrictions on the number of birds that are processed through an establishment, what is the purpose of having a standard hygiene code? As I understand it, the same code of practice will apply across the whole State. If that code applies, why should there be any restriction as to whether a person is able to process 100, 1 000 or 10 000 birds per day? It appears to me to be a bureaucrat's paradise, where people will go around and say, 'This week you are 50 over.' We have all had examples of how the bureaucracy works.

Thank God we are just getting rid of the Road Traffic Board. We know the sort of pedantic nonsense that it has gone on with. For God's sake, we should not pass any more legislation that includes this sort of clause that gives people who have never before had a chance to start throwing their weight around. It is one of the unfortunate features of society: you give people a little authority and it goes to their head. Parliament ought to be very careful when passing legislation that clauses of this nature are not placed in Bills. Clause 16 (2) *(b)* further states:

. . . requiring the holder of the licence to carry out improvements or do any other thing to bring the works into compliance with the prescribed standard.

The department probably knows, but we do not know, what the prescribed standard is. I have not seen the prescribed standard, although the industry may have done so. However, surely when we are debating a measure as important as this, when there are conflicting views within the community, we should have the right to know what is in the regulations because, once this measure is passed and enshrined into law, we all know that the Government will get its way in relation to the regulations. So let us put them out on the table and see what the Government has in mind, because I am suspicious.

I have been through the exercise of the nonsense that has taken place with the meat hygiene authority, when my poor constituent at Ceduna was told, 'No, naughty: you cannot go to Minnipa and pick up your meat.' The gentleman involved, who had just spent a large amount of money to comply with the Bill, was told, 'You cannot buy local stock. You have to send your truck all the way to Lincoln and drive past Minnipa.' Economics were not involved in the matter.

That is the sort of damned nonsense that was inflicted upon my constituent, and members opposite wonder why I have stood up in the House today and spoken in this manner. I have just selected a number of points at random; I could go on at length on a number of other matters. I do not want to be difficult, but it is my responsibility to clearly explain to the House—

The Hon. M.K. Mayes interjecting:

Mr GUNN: I thought that I was reasonable. I am a man of few words.

Members interjecting:

Mr GUNN: Let me continue. Clause 17 (2) states:

The Minister may, on application made under subsection (1), do one or more of the following:

(a) affirm, vary or quash the decision, or substitute, or make in addition, any decision that the Minister considers should have been made in the first instance;.

I suppose that all wisdom does not flow from the Minister. What is the point of setting up this authority if the Minister is all powerful? Will the Minister vet every decision that comes from the committee? Who will advise the Minister? Will it be Caesar to Caesar? If someone is dissatisfied, that person will appeal to the Minister. Then, the Minister will send it back to the authority, which will say, 'We are having all these problems. We need these extra powers; amend the regulations,' and so it will go on.

Part IV relates to inspections, branding and sale of poultry meat, etc. Clause 26 (1) *(b)* and *(c)* state:

(b) stop and enter into or upon, and inspect, any vehicle that the inspector believes on reasonable grounds is being or has been used for the transport of poultry products;

(c) where necessary for the purposes of paragraph *(a)* or *(b)* break into or open any part of or thing in the place or vehicle;.

That is a draconian measure which should not be included. I ask the Minister where this clause stands in relation to the Bill of Rights, because in that obnoxious document, I understand, so-called rights are established.

Does this legislation conflict with the Bill of Rights? This clause needs to be explained. There are a number of other matters that I could bring to the attention of the House. The Opposition believes that a system of negative licensing is the best way to solve the problems that exist in the community. We are aware that this measure has been about for a considerable time. I have received a copy of a letter addressed to the Minister, the Hon. F.T. Blevins, from the South Australian Chicken Meat Council. Dated 14 May, it states:

I am writing at the request of the members of the Chicken Meat Council in relation to the proposed Poultry Meat Hygiene Bill. The contents of the Bill have been discussed by our industry and the Department of Agriculture on a number of occasions and we were at the stage where Dr Robertson had agreed to give us a draft copy of the Bill to review prior to it going to Parliament. This action appears to have been neglected.

We take particular objection to clause 28, which allows for inspectors to be present in poultry processing plants. On 28 October the Chairman of the Poultry Meat Industry Committee stated in a letter to you (on page 3 paragraph 11):

Clauses 28 and 29 should be withdrawn . . .

In N.S.W., where similar legislation exists, no such provision has been included, and we understand that the same exclusion is proposed in other States. We believe that competition in South Australia is the strongest in the nation, and this in itself ensures that only first grade product is placed on the market. Failure to meet competition sees any product from a substandard processor automatically withdrawn from the shelves and a competitor put in its place.

The cost of such inspection, if applied, would be high and will no doubt need to be borne by the consumer. This will have the effect of forcing retail prices up and, of course, provide a platform for publicity by a Party in Opposition. It will also have the effect, if South Australia is the only State to institute inspectors, of making consumer prices higher than elsewhere. As importantly we have not, despite our questioning, been given satisfactory reasons as to why it is felt necessary to place inspectors in plants . . .

The letter goes on to make a number of other comments. I sincerely hope that before this legislation is enacted the Minister will give proper consideration to the points I have made. I do not wish to delay the legislation. The Opposition recognises that it is desirable to have proper standards, but we believe that my foreshadowed amendments will properly cover our concerns, and I hope that the Minister will support those amendments at the appropriate stage.

Mr GREGORY (Florey): I support the Bill, for a number of very good reasons. From the outset, the proposals put forward by the Opposition amount to a sort of Clayton's approach: it is a licensing system when you do not want one. I think it is very important to observe proper standards in the processing of poultry meat, whether it be chicken we buy in chicken shops or supermarkets or any other avian creature slaughtered and processed for public consumption. Currently, there are 39 chicken processors in South Australia, ranging from very large to very small processors (that is, there are 39 known to officers of the department), and they have all been approached and made aware of the proposal.

It is not as though this measure is something new. In January 1976 a meeting in Perth of the Standing Committee of Ministers of Agriculture supported a four-phase program leading to full-time on-plant inspection, although the Bill does not propose that. Why is this necessary in the industry today? The processing of poultry meat in this country has grown from the stage where it was once done in the backyard on a small scale to the present stage, where it is now very big business worth $50 million a year. According to the newspapers, in March 1984 there was a South Australian poultry disease alert. Chicken producers were alerted following the outbreak of a deadly disease in the United States, and it was thought that the disease could be spread by overseas travellers coming through Adelaide airport.

An honourable member: It was foul play.

Mr GREGORY: Yes, it was just foul play. In the United States 20 000 000 birds were killed and more than half of them were layers. Members may be aware that there is a total prohibition on fowl eggs coming into this country from overseas. However, some unscrupulous people have smuggled eggs into Australia so that they could breed a superior laying fowl. Perhaps they did not realise (or perhaps they did realise and they took a chance) that those eggs could carry a virus that would wipe out fowl flocks, ruining overnight the operations of many people involved in the farming of poultry, whether for eggs or for the meat trade. This is not a problem that can be solved by running around and inoculating fowls. The smuggling of eggs into this country could cause wholesale slaughter and destruction.

A $50 million industry in this State could be placed in jeopardy, affecting exports out of South Australia into the other States or even overseas. I understand that on one occasion a processor in South Australia was approached by principals in Singapore in relation to providing a constant supply of chicken carcases to Singapore. However, he was not interested at that time, because it would have required inspection and bringing his plant up to date. I sometimes wonder about the patriotic attitude of people who will not and do not want to compete on the export market, particularly in relation to agricultural goods. Members opposite tell us that they are the backbone of South Australia's exports, but some people do not want to compete in that area because of the cost of improving their plants so that, in this case, the people of Singapore could receive meat of a certain standard.

We have all witnessed the problems associated with the export of meat into the United States and how our country had to go through an extensive brucellosis, leptospirosis and TB reactor eradication program in the cattle industry. This has meant that, throughout the whole of our State where cattle are grazed, there has been a fencing and eradication program attracting some press publicity. This is also happening in the Northern Territory. There are fears among some members of the grazing community that, without such a program, we could lose our entire meat market to America. One only has to read the press to see the reaction of the grazing community and fears about the meat market disappearing because of the lack of proper slaughtering techniques in Australian slaughterhouses.

This Bill was introduced to provide a standard of meat processing. It is not just a fanciful thing. If a certain standard is good enough for the American people, why is it not good enough for Australians? What makes our health standards so different? It seems that members opposite do not appreciate that the more you move into mass production techniques, the more you move into large scale operations, the greater the chance of processing a package of food that can be dangerous. I draw the attention of the House to a situation that arose in about August 1981, and I refer to the *Advertiser* of 13 August 1981 containing an article headed, 'Food check after boy dies'.

A boy had contracted salmonella poisoning, and at least 20 other guests at a party suffered milder forms of the poisoning. The New South Wales Health Commission was reported as saying Tibaldi brand salami was believed to have been the cause of the outbreak of salmonella poisoning in Victoria at a 21st birthday celebration. On 17 August 1981 a rather informative article appeared in the *Australian* regarding poor regulations which were blamed for salmonella poisoning. The article made the point that Australia did not have regulations for the manufacture and distribu-

tion of this food on a national basis: it was left to the individual States.

If members cast their minds back they will recall that there was considerable concern in the processed meat market at that time. Tibaldi had not been batch marking their food: if it had been doing so, that batch of food found to have caused the poisoning could have been withdrawn from the market. In that case, an advertisement appeared on 18 August in the interests of public health warning that Tibaldi uncooked salami may contain the salmonella virus and could cause injury to health. It warned people not to eat Tibaldi uncooked salami if they had bought it, and went on to recall the product outlining the procedure for return and the compensation that would be payable upon return of the goods by 28 August. The 100 000 sticks of salami suspected at that time were destroyed because the cost of testing them to see if they were affected by the poisoning was too expensive, and it was cheaper to destroy them.

That action cost Tibaldi over $500 000 in lost revenue. It also caused the whole of the processed meat market at that time considerable harm: there was a downturn in sales because of fears held by people that the meat they were buying may have been contaminated. It affected not only Tibaldi in Victoria but also companies in South Australia manufacturing processed meats for sale in this State. That illustrates a point where a company had resisted batch marking and there had been a resistance to proper licensing and control.

We have a situation where the Opposition wants to be negative. I think it is far better that a poultry processor should have to bring his plant up to a certain standard, and my Party and I will not tolerate poultry processors who will not do that. Members of the Opposition are saying, 'Let them continue until such time as we catch them out,' but I think it is far better if a reluctant processor goes out of business than to create a situation where there is a potential risk to peoples' health and we have to wait for somebody to die before something is done.

I think that the processing could be divided into three stages: the process where the animal is slaughtered and defeathered; removal of the contents of the stomach; and the cleaning and freezing. No analogy can be drawn between red meat and poultry processing: mutton and beef processing is a rather slow process compared to poultry, which can be processed at the rate of 4 000 per hour. It is a very quick production line process, in which the first stage involving the slaughter and removal of feathers can create a considerable amount of debris—feathers and blood and guts—lying around in that area at the end of the day. The next part of the process, involving removal of the guts, is a rather messy operation, and there is then the final process of washing, cleaning and cooling and/or freezing.

It is not as though each animal is separate when it is washed, when it is cooled or when it is frozen. Certainly, the speed of the process is such that operators do not have time, from one animal to another, to sterilise their knives and saws as they do in the red meat slaughtering industry. Operators have no time to do that and, consequently, there is a great opportunity for cross infection.

As each animal is brought in for slaughtering there is also a higher possibility of the introduction of diseases. The most dangerous period is when a carcase is washed, because up to 3 000 carcases are in a washing tank at the same time, being pushed through from one end to another. Certainly, one can see how cross infection can occur. It is important that inspectors have the power to restrict the number of birds that are being passed through the process.

The member for Eyre complained about bureaucrats going mad with power. He asked why they should be able to restrict the process, whether it be 100, 1 000 or 10 000 birds a day. It is a reasonable restriction to impose in relation to the capability of the plant to handle it. I have outlined to the House how cross infection can occur, and it is possible and reasonable to expect that a person slaughtering 100 birds a day would have an entirely different capital investment from a person slaughtering 1 000 or 10 000 birds.

On the basis of the capital investment inspectors should have the power and ability to restrict plant throughput to that capability. If a processor wants to increase output, plant should be upgraded to an acceptable standard. There has been much activity within the industry. The previous Minister of Agriculture (Hon. Frank Blevins) introduced this Bill in another place and, as a result, the industry is keen to have a proper licensing system and it has been changing and altering plant to bring it to a set standard.

Processors have been advised that, while the department has been unable to lay down regulations (because there has not been an Act), it has indicated to processors that the regulations as nearly as possible will follow those in New South Wales. The reasons for this are that a major problem confronting South Australian processors is the difficulty in selling their product in New South Wales and Queensland. However, if the South Australian regulations are similar to those in New South Wales the entry of their product to the New South Wales market cannot be restricted. I have been advised by a person working for a processor that in the past six months he has worked considerable overtime in bringing the plant up to a standard acceptable to the New South Wales regulations.

The Hon. E.R. Goldsworthy interjecting:

Mr GREGORY: I thought the honourable member's interest in private enterprise and the poultry industry would see him supporting the Bill, and not the Opposition's amendments. Processors have been doing that already in anticipation of the passage of this Bill. Adventurous processors in this State want the Bill passed so that regulations can be set down. In that way, conscientious producers supplying the South Australian market with a good product will know that their product has passed the required tests. They do not want their industry destroyed by unscrupulous operators who do not take proper care, and they certainly do not want to be in a position where we have a Bill saying that it is all right to keep going as we are going but that, when we run into trouble, we will do something about it.

As I said, it is too late when someone dies from food poisoning—and I refer again to the case of the young boy of seven years who died in New South Wales. The Bill has been discussed fully, the industry is fully aware of its effect. The processor who has the industry at heart and is a good processor will be behind it, while the unscrupulous processors are those who will be complaining about it.

Mr S.G. EVANS (Davenport): I do not support the Bill as it is, and I certainly do not like the words used by the Minister in his second reading explanation being used in Parliament, because we cannot rely on them. This is not a reflection on the Minister but a reflection on what happens in Parliament. In the Minister's second reading explanation he said:

> The committee recommended that the hygiene standards should apply equally to all processing works regardless of size. But the construction standards should be applied flexibly to the smaller works. This will be done.

We can no longer believe what will be done. What is written into legislation will be done, regardless of the view of the Minister of the day. We have learned that with regard to Standing Orders. A view was expressed back in the 1970s about what would happen in a certain area, but that guarantee was not upheld subsequently when the matter was again raised. So, I cannot accept the view that it does not

matter what is in the legislation, that it does not matter what is in the Bill that we are being asked to accept, because it will not be enforced on all operators in the same manner. That to me is unacceptable verbiage because of past practice on many occasions.

We have to read the Act as it is written. There is no doubt that, if this Bill comes into operation as it is now written, the big producers will get bigger in the processing field and the small ones will go. In recent times bigger operators in the industry have been trying to buy out others to try to take control of the market. Once this sort of legislation becomes operative, as it becomes profitable for those who have the money to move into the field and exploit the consumers, one can bet that they will do it.

The member for Florey said that processors or growers, the primary producing people, do not appear to be interested in export. He claimed that American people chased the export market which is there waiting for us. The problem in his mind is with those working in the industry on the farm, in the processing plants. But let me say for the interest of the member for Florey that one of the big problems in Australia with export is that, when producers get their product to the wharf, the waterfront decides the fate of the export market: the waterfront in Australia has put our exports in jeopardy. At times that has been done by waterfront workers going on strike, by going slow and deliberately slowing down the exports, while asking for wages and conditions that make our waterfront the most expensive in the world, to the point where it costs nearly double the cost in the USA to load goods into the hold of the ship once they get to the wharf from the factory or the processor. That is particularly so for agricultural products.

If the member for Florey wants to use that argument in regard to exports, he should admit that the trade union movement in Australia, especially on the waterfront, has destroyed Australia's export market. Certainly, there is no guarantee that a ship will leave an Australian port at the scheduled time, and consequently its arrival at the next port is sometimes weeks later. Although the food product in this case is deep frozen, there is always a quality deterioration to a slight degree because of the period during which it is kept in those conditions.

Most members recognise that, so do not let this place be used to knock one section just because someone will not spend money on a processing plant or producing a different quality of meat or type of bird or meat for export, and say that that is the trouble. That is not the trouble. Give the people with entrepreneurial flair the opportunity to export under the same transport conditions as do the United States of America, Canada, and New Zealand, and then we would see how many primary producers would move into the export sector.

Experiments have been carried out at the Waite Research Institute, within the University of Adelaide, in recent years to breed a special type of duck that can be sold to South-East Asian countries where there is a preference for duck rather than the ordinary hen that we know. If that is achieved and a better bird is thereby produced, instead of producing the bird and exporting it, we will export the technology so that a battery produced duck can be produced in South-East Asia. That will be the next step.

When we talk about upgrading export works in the poultry field, let us remember that the same thing could apply here as in the red meat or lamb field, where we have two standards of killing works: one standard for home consumption and another to meet the higher demands of the export market. I regret that a seven year old boy lost his life because of contamination, but that is just as likely to happen under this legislation when someone takes home a frozen or unfrozen bird and leaves it lying around to be contaminated.

Whether or not we believe that such a thing is more likely to happen in the home, we know that not everyone in the home operates hygienically. Indeed, all members know of complaints received from a constituent about a neighbour. I had a person from Gilles Plains complaining to me that sheep were being killed in the backyard next door and that the offal was being left for dogs, cats and flies. The member for Gilles knows that that is true, because he tried to solve the same problem. When that standard of hygiene is encountered in the middle of the metropolitan area and neither the Housing Trust nor local government does anything about it because the person involved happens to be a certain classification of ethnic that no-one wants to touch because the person is doing what is traditionally done in his original environment, it was allowed to go on for some time.

This sort of legislation goes to extremes on all the processes involved; indeed, it goes too far. If the Government wants to introduce stringent controls over the export market or even over killing for internal consumption, and if competition is the aim, that is fair enough, but this industry has shown a responsible approach to these problems, and the quantity of meat that is being contaminated and the problems that have arisen therefrom have not been of sufficient proportions to warrant the sort of intrusion which this legislation will permit and which will cost the State dearly. Within the State we have other simple legislation that would enable the health authorities or local government, for instance through the county board, to exercise certain powers.

The Hon. M.K. Mayes: Local government does not want it.

Mr S.G. EVANS: It does not want to carry the responsibility. However, at a Constitutional Convention which I attended, local government asked for a greater opportunity to discharge community responsibilities. Indeed, local government argued for the power to do so, and both major political Parties and the National Party promised local government that it could have that power. Indeed, the present Federal Government is offering local government more responsibility in managing community affairs. As local government has asked for these powers, we should give it those powers and it cannot be choosy about the powers that are given to it. The sort of health control needed in this area does not have to go as far as this Bill goes. We do not need that sort of expense.

Today's press reports comments by Mr Spalvins on what he sees as happening in Australia and where this country is going, and I agree with his comments. In the end, we will sell only to our own people, who must eat to live, but the product will be expensive and consequently the standard of living will drop. We cannot protect all members of the community from lack of interest in their own health, and we are more likely to get problems in the area of people getting poisoned through not caring adequately for their food than we are from the practices of business enterprises which, if they make an error, can be sued at common law for an unlimited sum.

We should be conscious that the law already allows for the opportunity to apply penalties in the health field as well as in more tragic areas when things go wrong. There has been one serious case, the consequences of which make me shudder, especially as it concerned a young boy. There have been a few cases in which poisoning has occurred, not because of faulty processing of food but because of its handling in the hotel or the kitchen. For instance, I could cite a major outbreak in this State, but I do not want to mention the name of the hotel. In that case, people engaged in public promotion were the main sufferers, as well as the then Leader of the Opposition and others who had dinner

at that hotel four or five nights after the first outbreak of that major health problem. Clause 38 (2) of the Bill provides, *inter alia:*

(1) Without limiting the generality of subsection (1), those regulations may provide for and prescribe any matter or thing relating to . . .

(g) the quality of water and the supply of water for use in the operation of poultry processing works;

I believe that the water supplied to the Hills area by the Engineering and Water Supply Department would be declared unfit for use in the washing of food for human consumption. If a sample of that water were sent to the inspectorial section of the department without telling the officers whence it came, the inspectors would say that it was unfit to be used to wash poultry for human consumption. Yet, the people in the hills are expected to drink that water and supply their children with it. Indeed, raspberry cordial would not be needed to colour the water, as it already has its own colour.

Clause 38 (2) *(k)* provides that the regulations may provide for and prescribe any matter or thing relating to the keeping of animals at or in the vicinity of poultry processing works. If a processing works is set and the property holder of the adjacent property decides to keep poultry, can an inspector prohibit the keeping of such poultry merely because there are processing works next door? The Bill does not say, and it is up to the inspector and any other regulations that may be made in that regard. So, there may be a processing works and a neighbouring property holder may be told that he cannot keep an animal or bird in close proximity to those works.

Do we close down the processing works until they acquire the neighbouring properties? I make that illustration to show how draconian the legislation can be if it goes through as it now stands. I do not support it and have no real love for it. I do not believe that it will make a major improvement to the standard of meat that is sold, as it is already of a high standard and is in the main a credit to the industry. Small operators will have to get out, and it will not be long before some of the major national or international companies own almost all the operations. If the legislation stays as it is, it can be voted out at the end. I will not support it as it is now presented to us.

The Hon. M.K. MAYES (Minister of Agriculture): As the shadow Minister indicated to the House, the Bill was before us previously. The legislation attempts to bring a major food product within the normal parameters of legislation that exist for other products of this nature, for example, red meat. Of course, it means that the Meat Hygiene Authority will have control of licensing and inspection of these production works. As the shadow Minister and other members would know, and as the member for Florey has indicated, poultry contains more organisms in terms of poisonous products than do other food animal products. If we look at poultry processing compared to red meat processing, one sees that the ability to separate the carcase is much easier with red meat than it is with poultry processing. We have a problem with the impact for the consumer and the quality of the product that comes out of the processing plant. Given the high turnover that can be achieved in many of these poultry processing plants, particularly larger ones in this State, we must deal with this issue and cannot put it aside.

The amendments proposed by the shadow Minister pluck the chook, to pardon such a poor pun. It provides self-regulation or a negative licensing process which, in essence, will not achieve what he and I know needs to be achieved in this industry. If we look at the feedback that we have obtained from the industry, we see that there has been no objection from the people involved to the proposals contained in the Bill. In fact, they have accepted the need for this type of approach, the principle of which differs directly from that contained in the comprehensive amendments that have been placed before the House by the shadow Minister.

The other issue to which I refer is the comparison between the industries and the distinct advantage that the poultry processing industry has over the red meat industry. With abattoirs there is a required mandatory inspection service as against a free *laissez faire* process that operates in the poultry industry at the moment. In terms of the shadow Minister's portfolio and his electorate, he is putting his constituents at a distinct disadvantage in not applying the principles of the Bill, because the requirements for the slaughtering or killing of red meat in an abattoir are stringent and much more regulated than are the poultry provisions.

Having looked at the honourable member's amendments this afternoon, I think that they water down the matter significantly and pluck the chook completely to the point where it will be very difficult to implement any stringent or higher standards in the poultry industry. The shadow Minister referred to the Meat Hygiene Bill and to the provisions within the proposed legislation with regard to inspection facilities. He referred to clause 26 *(b),* which provides:

(b) stop and enter into or upon, and inspect, any vehicle that the Inspector believes on reasonable grounds is being or has been used for the transport of poultry products;

The Meat Hygiene Bill provides for that. Various stock disease powers are provided for inspectors under legislation. As the member for Florey pointed out, we are dealing here with an industry that must maintain a reputation not only in this State but interstate and, if we look at the comparison we are drawing with interstate legislation, we will be faced, if we do not achieve this model legislation in principle, with being the only State in Australia without this type of approach to the poultry industry. We will therefore be out of kilter with other States, particularly Queensland, New South Wales and Victoria, as they are moving in the same direction.

That will perhaps lead to the sort of structured tariff provision that can be applied by various State bodies to avoid constitutional challenge, to prevent our products entering and to give interstate products an advantage over ours in terms of publicity and market structure in terms of access to and from our market. It is essential that we have in this legislation provisions that are sought; otherwise, we will be at a distinct disadvantage to other States. Most experts in the area would conclude along such lines.

The consultative committee is again referred to within the amendments and it becomes the principal body under which determination occurs. On the advice I have received from my advisers, the industry does not want to self-regulate in the sense that it prefers a licensing process to operate, so that standards can be maintained by an independent body with no bickering and cross-accusation that could otherwise occur within the industry.

The consultative committee proposed under the Act is intended to play a part in drafting final regulations to allow the industry to establish the regulations which are intended to maintain a high standard and quality as well as the substantive nature of the quality of kill and slaughter that we want. A comparison is also drawn with meat hygiene.

The Bill encapsulates what we believe is a licensing process as opposed to what the member for Eyre proposes as a self-regulation or negative licensing process. The thrust of our Bill is completely undermined, watered down and plucked by the shadow Minister's proposals and amendments. From discussions that officers of the department

have had on the matter, I believe that the industry would prefer the licensing process.

I have touched on the main issues that were raised. The member for Davenport referred to the cost of inspection. Honourable members who have been in this place longer than I and represent country electorates know of ongoing discussions on the Meat Hygiene Act with regard to slaughterhouses and abattoirs. It is an ongoing problem involving consultations and discussions. The member for Light knows the situation, as we have been through the process recently in regard to one of his more recent constituents following the introduction of the new boundaries. The Meat Hygiene Authority has shown a great deal of compassion in understanding the circumstances of the individual.

If we take the situation applying to licensing, I draw the attention of the member for Davenport to the way in which the Meat Hygiene Authority has operated and the expertise that it has acquired. We estimate that it would probably take one inspector to carry out poultry hygiene inspections. There are 39 existing poultry processing plants, and one inspector could easily visit eight plants per day. So, on that basis we could virtually inspect the whole poultry industry in this State in five days.

So, it is not a massive cost as the member for Davenport would have us believe. I think that he exaggerated when he said that we are creating another massive bureaucracy. It will be an essential facility for the industry. The member for Eyre nicknamed it the Manos Bill. I dispute that. Industry leaders have been consulted on the matter, as I am told by the former Minister. It has previously been brought up before this House. To nickname it the Manos Bill is rather cynical, and I think that the honourable member says it tongue in cheek. The Government, and I believe he, knows that we need this provision in the industry and the State. I indicate that I will oppose the foreshadowed amendments.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

Mr GUNN: I move:

Page 1, lines 26 and 27—Leave out the definition of 'the Authority'.

This amendment and the following consequential amendments allow the setting up of a system of negative licensing or self regulation, that is, no licence being issued and the industry drawing up a code of ethics of conduct, in consultation with the Department of Agriculture. Where appropriate, a trust fund and other mechanisms could be set up, and people who contravened this could be brought before the appropriate authorities, which could hear the evidence and take other courses of action. Negative licensing really means giving teeth to the industry's self regulation, and makes it apply to all members of the relevant organisation.

During my second reading contribution, I detailed at some length the concerns of the Liberal Party for excessive regulation—boards, committees, advisory tribunals, and the rest. I pointed out that we were concerned that another body was to be set up. I once did a count of how many we had in this State, and they are significant. However, I do not wish to delay the House at length because this matter will again be debated in another place, where amendments will be moved.

The Hon. M.K. MAYES: I made my point in reply to the second reading debate. If we do not have lines 26 and 27 in the Bill, we do not have the Government's Bill in the structure and state that we intend. We see it as a licensing authority, not as a negative licensing authority or a self regulatory body, as I have already indicated. I support the existing status of the Bill and oppose the amendment.

The Committee divided on the amendment:

Ayes (16)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, Blacker, Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn (teller), Lewis, Meier, Olsen, Oswald, and Wotton.

Noes (28)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, Crafter, De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally and Klunder, Ms Lenehan, Messrs McRae, Mayes (teller), Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Majority of 12 for the Noes.

Amendment thus negatived.

Mr GUNN: As the remainder of my amendments are consequential, I will not proceed with them.

Clause passed.

Remaining clauses (5 to 38), schedule and title passed.

Bill read a third time and passed.

BUSINESS FRANCHISE (TOBACCO) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 513)

Mr OLSEN (Leader of the Opposition): When speaking on the Government's decision to increase the tax on tobacco products from 12.5 per cent to 25 per cent in October 1983, the Opposition forewarned the House that the measure would lead to the bootlegging of cigarettes from Queensland and the Australian Capital Territory. At the time, a spokesman for the Premier indicated that the Government was considering legislative action to discourage the importation of tax free tobacco products from interstate.

In July 1984, information provided to my office indicated that at least $1 million per annum in State taxation was being avoided through the organised purchase of cigarettes and tobacco products from Queensland and the Australian Capital Territory for sale in South Australia. In most cases, retailers who were purchasing the cigarettes at tax free rates were making massive profits and passing little, if any, of the benefits on to consumers in the form of cut price cigarettes.

In his second reading explanation, the Premier indicated that the State Taxation Office had curtailed these activities. However, as late as last week my office received a call from a well-known northern suburbs retailer advising that he had been approached by a person offering tobacco products at extremely attractive prices. The retailer also reported this latest approach to the State Taxation Office. The Liberal Party has consistently advocated measures to minimise these tax avoidance practices to ensure a fair and equitable spread of taxation across the community. As such, the Opposition supports these long overdue amendments.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Powers of inspectors.'

Mr OLSEN: Will the Minister at the table ascertain from the Treasurer whether any advice has been received in relation to the amount of revenue that has been forgone in a full year as a result of the activities of what one might describe as bootlegging from interstate?

The Hon. M.K. MAYES: I am advised that it is difficult to ascertain the impact of such activity because no-one will come clean on it, but I understand the wholesalers believe that the impact is not as has been publicly stated.

Mr OLSEN: I then ask the Premier to provide the Opposition with a list of those retailers who have been prosecuted by the State Taxation Office for avoidance of business

franchise fees and to include amounts of revenue recovered or penalties levied under the Act.

The Hon. J.C. BANNON: I apologise for my absence a minute ago. I was detained just at the crucial moment, and I thank the Committee for its indulgence. I am advised, first, that no prosecution has been taken in direct terms. There have been a number of claims lodged on people who have been identified or suspected of being in breach. The question of naming individual persons or companies is rather difficult. In some cases, when action is taken or the Commissioner indicates that he is about to take action, the company goes bankrupt, which makes proceedings rather difficult. I am not sure what amount of information we can provide, but I will ask the Commissioner to see if it can be more detailed.

Clause passed.

Remaining clauses (5 to 21) and title passed.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 606.)

Mr OLSEN (Leader of the Opposition): The Opposition supports all proposed amendments contained in this Bill, some of which I am pleased to note were contained in the Liberal Party's taxation and finance policy document at the election. It is pleasing to see the Government pick up some of those good initiatives put forward by the Liberal Party during the course of the last election campaign. Annuities, which are basically a guaranteed income bought through the payment of a lump sum to a life office, have been given a new lease of life following the recent introduction of new taxation arrangements applying to superannuation benefits. Currently in South Australia the rate of duty on annuities is $1.50 for every $100 or fractional part of the purchase price of an annuity.

Self-employed persons have no alternative but to take a lump sum upon retirement. Currently a self-employed person receiving a lump sum of $100 000 and intending to purchase an annuity must pay stamp duty of $1 500. This payment of stamp duty also reduces a person's annuity payment rate because the total amount used to calculate that rate is reduced by the imposition of stamp duty before the purchase of an annuity. Most persons belonging to employer-sponsored funds have access to a regular pension income flow facility. Stamp duty on annuities, which can only be described as double taxation, discriminates against the self-employed and those not able to join employer-sponsored funds. For this reason, the Liberal Party gave a commitment to abolish this revenue raising item prior to the last State election.

The Opposition has a firm commitment to deregulation and, in particular, to simplify all methods of revenue collection, particularly in high volume through-put areas such as the Stamp Duties Office. Introduction of the payment of stamp duty on mortgages by way of return can be expected to generate considerable cost savings in those financial institutions which elect to switch to this revised method of payment, and likewise in the Stamp Duties Office. In addition, the provision to enable impressing of stamp duty payable by cash register imprint will eliminate the need for financial institutions to return to the Stamp Duties Office for collection of documents at a later time where large volumes of documentation are involved. The Opposition supports the remaining amendments, but notes that the Premier has not indicated the net revenue impact on stamp duty collections forgone. This matter will be pursued during the Committee stage of the Bill. The Opposition supports the proposal before the House.

The Hon. J.C. BANNON (Premier and Treasurer): I thank the Opposition for its support of the Bill. Its provisions are commonsense; they will improve and streamline administration and will ensure that there are some benefits that we can either offer or take part in, in particular, access to the Talisman computer system relating to the transfer of marketable securities on the London Stock Exchange. A number of benefits have been outlined. I appreciate the Opposition's support. To the extent that some of these matters were contained in the Oppositions policies, members opposite must have had some commonsense proposals. The Bill had been prepared for presentation last year, but unfortunately time prevented it from being introduced. In fact, the amendments were approved by Cabinet on 21 October but due to the intervening election we did not have a chance to put them before the House earlier. We expect a rapid passage of the Bill, because of the agreement indicated to it.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Payment of duty by return.'

Mr OLSEN: What is involved where substituted mortgage security is taken for an existing advance, that is, where it occurs that the lender, the borrower and the terms of loan remain unchanged and one mortgage is substituted for another? Will the Commissioner of Stamps continue to require both documents to be submitted for assessment, or is it now intended that notification of the substituted security be included in the proposed stamp duty return as a nil amount?

The Hon. J.C. BANNON: The Commissioner advises me that he proposes in the first instance to preserve the existing system so there will be a need to maintain the two documents. However, that will be reviewed, particularly where more difficult transactions are involved. If it can be accomplished in the way the Leader suggests, that system will be introduced, but at this stage the existing system will be maintained.

Clause passed.

Clause 6 passed.

Clause 7—'Amendment of second schedule.'

Mr OLSEN: Can the Premier provide an estimate of revenue forgone through the abolition of stamp duties on annuities?

The Hon. J.C. BANNON: I understand that the practical effect is nil. Presumably, because of the attraction of tax, such transactions have not been carried out in South Australia. This amendment effectively does not see revenue forgone but will now see a return of business or business being transacted in these areas because of the changes made.

Mr OLSEN: What additional revenue is expected from the transfer of Australian marketable securities of companies registered within South Australia, for example, on the London Stock Exchange?

The Hon. J.C. BANNON: It is very hard to estimate, although a number of attempts have been made in this regard. Our initial assessment is that it would be fairly minimal. The Talisman people indicate that it may be larger than we believe. We are only talking about some thousands of dollars; we are not talking about a substantial amount of money. Until it is actually in operation we will not be able to see the benefits. Again, I suggest that probably there will be an increase of transfers by this method, which means that in making predictions one will have to wait until the system is recognised and used in the marketplace.

Clause passed.

Title passed.
Bill read a third time and passed.

PUBLIC WORKS STANDING COMMITTEE ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 February. Page 607.)

Mr BECKER (Hanson): This legislation, among other things, increases from $500 000 to $2 million the declared amount that the Minister may appropriate to any one project without going to the Public Works Standing Committee. That amount may be increased in future by proclamation to cover the amount of inflation. The Bill describes the 'works' as all the cost associated with finishing the project, including, fittings and furnishings. The legislation also inserts new definitions of 'work', 'construction' and 'public works'. It spells out clearly those definitions: 'work' is defined to mean any building or structure or any improvements on any land. It also tidies up the difficulty arising from the Appropriation Bills being passed by this House prior to all proposed projects being examined by the Public Works Standing Committee. Where a statutory authority or organisation obtains funds directly appropriated by the Parliament, the proposed works should be examined by the Public Works Standing Committee, and it allows the committee to review the ongoing recurrent cost of a project, thereby having regard to all associated costs of the proposed expenditure.

The Public Works Standing Committee Act was passed in 1927, and the committee is the oldest joint committee of the Parliament. It has been well served by many members of Parliament over the years, and has had the benefit of very able and competent Chairmen. It is a committee that has gone about its task as a watchdog on the capital works program with the same importance as is attached to any other Parliamentary committee, and realising the importance of its duties it has undertaken with a bipartisan approach the task that has been given to it by the legislation.

On many occasions, the Public Works Standing Committee has reported to the Parliament in its annual report its belief that there should be changes to the legislation. It is interesting to note that, most of the now proposed changes have been incorporated in these reports of the committee in the past three years. The committee also felt very strongly that statutory authorities should be included, but I accept the explanation given by the Minister that the Public Works Standing Committee does not, at this stage, need the authority to examine all statutory authorities.

It would be very difficult in the case of the Electricity Trust to be able to assess the value of any one given project. Today, in answer to a question on notice, I was advised that in 1976 it was estimated that the Northern Power Station would cost some $200 million. Bringing that project forward into today's dollars it was pretty well on course: it finally cost $448 million. Who would be competent to know, in a major project such as that, what the forward estimates would be and whether the generators, the type of structure, and so on, are the correct infrastructure for such a project. I think that, if we are going to give autonomy to a statutory authority, we should let it get on with the job without too much interference from the Parliament. That is not to say that it will be beyond scrutiny by the Parliament, because the Public Accounts Committee can at any time look at statutory authorities, although, as has already been pointed out, if they receive direct funding from the Parliament then the Public Works Standing Committee will be able to oversee those projects.

This Bill is almost a mirror of what was brought before the Parliament in November 1985, when my colleague the then member for Davenport (Hon. Dean Brown) stated:

> The Liberal Party has no argument with the Bill as presented to the House.

I accept those comments to some degree, because Dean Brown had the opportunity of being Minister of Public Works for three years and he also stated in his speech that he was concerned to bring down amendments. They were prepared for submission to Cabinet, but the Tonkin Government ran out of time. The whole proposal has had much scrutiny. Certainly, it was well debated by the then member for Davenport (*Hansard* of 7 November 1985). He said that he had some misgivings about the amount being set by proclamation, but he had no argument with the amount being increased from $500 000 to $2 million, and I am willing to accept that, if we take into account inflation over the past 10 years, it would be reasonable to assume that a project that cost $500 000 then would cost about $2 million today.

Also, we must bear in mind that future projects to be referred to the committee will include fixtures and furnishings. When one examines major projects, especially hospitals, $1 million or $2 million goes nowhere in buying modern technology, let alone when we start getting into the area of computers. Therefore, the $2 million could appear to be realistic. From the previous three annual reports of the Public Work Standing Committee I was interested to note that three years ago the committee handled 20 projects with a total value of $11.7 million, and that 15 of those projects were less than $2 million in value. The fifty-seventh report advised Parliament that the committee reviewed 27 projects with a total value of $92.3 million, and 15 of them were under $2 million. For the last financial year the committee examined 25 projects with a capital value of $93.4 million, and 17 of them were projects under $2 million.

One would say that, by increasing the amount to $2 million before projects are considered by the committee, we are probably halving its work, but that might not necessarily be so if one takes into account the component cost of fixtures and furnishings. The last report also advised the Parliament that $1 200 million was now outstanding on loans by statutory authorities and $150 million had been expended on capital works by statutory authorities in the previous financial year.

While the Public Work Standing Committee may have thought that it should have overseen some of those projects, I still believe that there is the mechanism within the parliamentary structure, that is, through the Public Accounts Committee, to check on any of those projects. Indeed, the only area where I see a hiccup in the Bill relates to setting matters out by proclamation. I feel strongly about that and the Opposition has prepared an amendment to be dealt with in Committee. Without going over all the ground covered by Dean Brown in October 1985 (and he spoke well and competently), the Opposition supports the second reading.

Mr M.J. EVANS (Elizabeth): I support the Bill. It is certainly most important to the Public Works Standing Committee that its terms of legislative reference be upgraded to correspond with the conditions prevailing in the mid 1980s. Of course, we have a substantially greater public works program than pertained in the earlier part of the century when the Act was first constituted. A number of changes have taken place both to the budgetary structure and to the process of government and the accounting regulations of Government.

I congratulate the Minister on getting the Bill before the House. This is the second time a Bill like this has been brought before the Parliament. Many previous Ministers of

both political colours have failed to get the amending legislation before Parliament, and this Bill represents an important breakthrough. I trust that the Bill, perhaps as suitably augmented in a manner I will later suggest, receives a speedy passage.

The Public Works Standing Committee performs an important function on behalf of the people and the Parliament of South Australia. It has a watchdog role in relation to the activities of the Executive and Government of its public works and, although the Government has every right to expect that its public works program will be implemented by the Executive, there is still the remaining function of this Parliament to undertake some degree of scrutiny of that public works function. Just as Parliament has appointed a Public Accounts Committee to investigate the accounts and financial performance of the Government, so Parliament has appointed the Public Works Standing Committee. In my view the role of that committee should relate very much to investigating the public works referred to it and assuring the Parliament that the money is being well spent and in an appropriate manner.

The Act as it is to be amended will assist that process. I believe that the amendment to the baseline figure—increasing it to $2 million—is appropriate, given the inflation that has taken place since the figure was last amended. Certainly, it is inappropriate to bog down the committee in work with smaller scale projects when it should devote more of its time to larger projects, and when inflation has pushed many more buildings within the $500 000 tag.

As the member for Hanson has indicated, now that equipment is to be properly and explicitly included in references to the committee, the earlier figure will grow and the $2 million will include a significant component of equipment, especially in projects including computers, heavy mechanical equipment or hospital projects, where devices such as CAT scanners comprise part of the fixtures and will comprise part of the $2 million. It is important that that amount keeps pace with inflation over time.

I believe that the Public Works Standing Committee should have a broader investigative power. At the moment, unlike the Public Accounts Committee, the Public Works Standing Committee has no investigative role concerning the general public works function of this State. Although it is possible under the legislation as it now stands, it has not been widely used by the committee. At present it has no power in regard to statutory authorities. I accept the Minister's argument about the compulsory referral of projects over $2 million by statutory authorities to the committee, and I agree that at this stage it would be inappropriate—although the committee has sought that in its annual report where, for example, in 1985 it made reference to statutory authorities and guarantees and pointed out to the Parliament in its report that the outstanding liability of statutory bodies on which debt charges were payable to the State then amounted to $1 218 million.

That represented an increase of $150 million over the preceding 12 months, whereas the works subject to the committee's scrutiny totalled only $93 million. Whilst I agree that it would not be appropriate for statutory authorities to be required compulsorily to refer projects, I do not think it would be inappropriate to expand the role of the Public Works Standing Committee so that, at the request of the Government, the House or, as a result of the committee's own initiative, it might have the power to investigate particular statutory authority's works projects where it was considered appropriate.

I believe that that halfway position would give the committee sufficient power to undertake that necessary work on behalf of the Parliament and yet not subject statutory authorities to delaying measures or inconvenience that would interrupt their valuable work for the community. With those qualifications, I support the amendments now before the House and indicate that I will be proposing to add certain other clauses later.

Mr PLUNKETT (Peake): As the incoming Chairman of the Public Works Standing Committee I commend strongly the proposed amendments before the House because, in my opinion, the reforms detailed are long overdue. Everyone who has had dealings with some Government departments is aware of the red tape that frequently frustrates otherwise simple negotiations. Often public servants themselves suffer the same frustrations, as they must also work within the confines of the Act and regulations, and I imagine that they would welcome any progressive changes.

The Government, recognising these shortcomings and the maze of legislation that so often retards progress, is working hard to correct the position. In short, it is an avowed Government policy to reduce the red tape in the system while at the same time maintaining an efficient and effective administration. As it stands, the Public Works Standing Committee Act is outdated and not in keeping with the needs and public demands of today. For example, the declared sum of $500 000 that is currently in force restricts a Minister in the proper administration of his department. One does not have to be an economist to realise that $500 000 is only a drop in the ocean these days and that the sum of $2 million is far more appropriate and realistic in bringing the Act up to date. As inflation continues at unacceptably high levels, present and future Governments should be able, by proclamation, to up the ante.

Another commonsense approach that is long overdue concerns the ability of the committee to examine proposed projects in their entirety. In this age of high technology, it is not uncommon for the value of the contents of a building to exceed the value of that building. I am sure that, with this increased power, the committee will provide a better service and continue to maintain a watchful eye on public spending. Committee members have often noted that the real cost of a project is not in the land and buildings but rather in the furnishings and the high technology components that are housed in those buildings. I am sure that I speak for other members of the committee when I say that this provision is a step in the right direction that should have the support of all members of this House and, hopefully, of members in another place. Indeed, it is commonsense at work.

Likewise, clauses 5 and 6 of the Bill are commonsense provisions that are necessary in the public interest. I see no need for the Public Works Standing Committee to interfere with the work of the Public Accounts Committee, except that, in the unlikely event of some off-beat or unusual expenditure, it should be the duty of the Public Works Standing Committee to bring such a matter to the attention of the proper authority.

Reforms are a necessary part of progress and, in reforming the Public Works Standing Committee Act, the Government is honouring its promise to update and streamline the Public Service for the benefit of the public. The task is not easy and the Government has a hard road to hoe. This legislation must reflect the community interest and maintain a balanced viewpoint in respect of the needs not only of today but also of future generations. For these reasons, I consider that these amendments to the Public Works Standing Committee Act are progressive and represent a major step in the battle against red tape. Therefore, I commend the Bill to members.

The Hon. T.H. HEMMINGS (Minister of Public Works): I thank those members who have spoken for their support

of the Bill. The Government believes that the Public Works Standing Committee Act has long been overdue for revision, and the amending Bill will benefit Parliament and the committee that has the job of implementing the provisions of the Act.

Bill read a second time.

Mr M.J. EVANS (Elizabeth): I move:

That Standing Orders be so far suspended as to enable me to move an instruction without notice forthwith.

The DEPUTY SPEAKER: I have counted the House and, there not being present an absolute majority, I cannot accept the motion.

The Hon. B.C. EASTICK: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The DEPUTY SPEAKER: With the indulgence of the House, and in view of the motion of the member for Elizabeth, I will again count the House. Having counted the House, and there being present an absolute majority, I accept the motion of the member for Elizabeth. Having put the motion and having heard no dissenting voice, and there being present an absolute majority, I declare that the motion is carried.

Motion carried.

Mr M.J. EVANS: I thank the House for its indulgence. I now move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to the constitution of the committee and its investigative powers.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

Mr M.J. EVANS: I move:

Page 1, after line 15—Insert subclause as follows:

(2) Notwithstanding subsection (1), the operation of sections 3a, 3b and 3c is suspended until the commencement of the first session of the next Parliament following the commencement of this Act.

This is in effect a test clause for amendments that I propose to move subsequently to the constitution of the Public Works Standing Committee to provide that the committee is to be elected by the respective Houses of Parliament that the members represent. If the committee is to perform its valuable role on behalf of the people of South Australia, it should do so in the context of being an agent of this Parliament rather than an agent of the Governor. If it is an agent of the Governor, like the Public Accounts Committee, it is in effect reporting to the wrong master. The Ombudsman, the Public Accounts Committee and other officers of this Parliament have a reporting role to the Parliament and are accountable to the Parliament. In that context it is important, for the principle and for the record, that they should be appointed by the Parliament.

We expect the Public Works Standing Committee to investigate and report on public works which consume substantial amounts of taxpayers' funds. It is the historical role of this Parliament, and in particular the House of Assembly, to adjudicate on the appropriate amounts of money that the Government or the Executive should have available to it for expenditure. It is an important principle of parliamentary democracy in my view that it is the House of Assembly—the people's house and the people's Parliament—that should appropriately vote upon the money to be allocated for public works.

If the Parliament appoints a committee to investigate that expenditure, it is only appropriate that that committee should be elected by the Parliament. It would be quite inappropriate, to take the case of the other comparable committee, the Public Accounts Committee, for that committee to be appointed by the Governor, for it is in effect the expenditure undertaken by the Governor and his Ministers that is being examined and reported upon to this Parliament. In this case we could hardly have different rules in relation to the public works program of the Parliament.

The Hon. B.C. Eastick interjecting:

Mr M.J. EVANS: The point raised by the honourable member is relevant and is covered by later amendments that I seek to move in that the new Public Works Standing Committee would be appointed at the commencement of each Parliament. So, on the opening day, when the House normally considers appointments to the Public Accounts Committee, to the Flinders and Adelaide Universities, the Printing Committee, the Library Committee, and the Standing Orders Committee of the Parliament, it would also vote to elect members of the Public Works Standing Committee.

At the moment the Public Works Standing Committee is in isolation to all other committees of this Parliament. It is the only committee in that context of this importance that is in fact appointed by the Governor. All other important committees of the Parliament which investigate the work of the Government, such as the Public Accounts Committee, are elected by the Parliament.

The Hon. B.C. Eastick interjecting:

Mr M.J. EVANS: It is, but I do not believe it performs the same scrutiny function as the Public Accounts Committee performs and as the Public Works Standing Committee should perform. It is far more of an advisory role in the way in which Government guarantees should be granted, and the like. The Public Accounts Committee and Public Works Committee are meant to investigate and report upon the merit and desirability of constructing those public works and expending that public money. Therefore, it is an important principle that they be elected by the Parliament.

I suggest that that should not take place until the next Parliament, some four years away, in order that it can commence very properly with a new Parliament and that the existing committee would continue until then under its present terms of reference. I have provided, if honourable members look ahead, in other amendments that the structure of the committee be retained in its present format of one member of the Government and one member of the Opposition from the Upper House, and three members of the Government and two members of the Opposition from the Lower House. That ratio is enshrined in subsequent amendments, but I will not canvass that now as the Chairman will call me to order. I move my first amendment as a test of the principle that the committee should be appointed by this Parliament rather than by the Governor of the day.

The Hon. E.R. GOLDSWORTHY: These amendments have just bobbed up, and I am grateful that we on this side have had them explained to us. I have never thought of the Public Works Standing Committee as anything other than a creature of the Parliament and, indeed, the Premier and the Leader of the Opposition, and certainly their Parties, decide who will be the personnel on the committee. I agree with the member's sentiments and have always believed that that committee is a creature of the Parliament and answerable to Parliament in terms of the reports it makes to this place from time to time.

I was a little disturbed at one or two of the sentiments expressed some minutes ago by the incoming Chairman of the committee in that it was sought, *via* this Bill, to cut out some of the red tape and the strictures put on the heads of Government departments. I disagree entirely with those sentiments. The whole function of the Public Works Committee is to puts heads of department under scrutiny and to allay some of the public concerns that are certainly abroad that governments have the habit of wasting taxpay-

ers' funds. The whole purpose of the Public Works Standing Committee as a creature of this Parliament (and I am agreeing with what I think the honourable member sees as its role) is to keep heads of department under the hammer. I was a little disturbed at two comments made by the incoming Chairman. That was the first, and the other is that $500 000 in this day and age is 'peanuts'. I cannot agree with that sentiment either: $500 000 is a lot of taxpayers' money. If we look after the small things the large ones tend to look after themselves.

I will recount briefly to the committee an incident when I was a Minister of the Crown. The head of a Government department who was answerable to me as Minister came before the Public Works Committee and was knocked back. He was annoyed (I will not identify him). I said, 'Well, you have not done your homework correctly.' The Public Works Standing Committee, then under the chairmanship of Keith Russack, who is no longer a member in this place, took its job very seriously. One must be in government to know how these committees work, as the Government is calling the tune, spending the money, and we know what is going on. When this head of the Government department came to my office, he did not get any change out of me. I said, 'You go away and do your sums properly and put to the Public Works Committee a better proposal than you have obviously put, because the Public Works Standing Committee is not convinced that this building program is justified.' In my view that is what the committee is all about. He went away, did his sums again, and was able, after taking the Public Works Committee a fair bit more seriously, to get his proposal approved.

Do not let us come into this Chamber (I do not want to preach to the incoming Chairman, but I make the point strongly) and say that we are about cutting out red tape to give heads of department an easier ride in terms of what the committee is all about. If it is to be worth a crumpet, that committee is there to scrutinise closely what heads of department are all about. I well remember another incident, when the Auditor-General commented unfavourably about two bridges built by the Highways Department where the final cost of the bridges was way out of line with what had been put to the Public Works Committee.

The Public Accounts Committee (I think it was) asked the department why the final result was so far removed from what had been submitted to the Public Works Standing Committee. The fact was that the department was not taking that committee seriously (this is going back further than the other incident to which I am referring). When it was all boiled down, the department came up with the figure for the cost for the bridges and thought that it would put it to the Public Works Committee just to sample public opinion in the localities where the bridges were to be built. That is not what the Public Works Committee is all about, and I think the Highways Department learnt a salutary lesson from the costing of the two bridges being pursued vigorously in Parliament.

If the Public Works Committee is to do its job properly—without red tape—it is there to keep the hammer on the heads of departments and other people spending large sums of public funds. I put that on record, because I was a little disturbed at the sentiments of the member for Peake, the incoming Chairman, and I simply repeat the experience that I as a Minister had with the head of a department who I believe was not taking the committee seriously. In my view, he was rightly chastised by the committee, which was seriously trying to do a job to see that public funds were wisely and justifiably spent.

I agree with the basic point made by the member for Elizabeth that the Public Works Committee is certainly a creature of Parliament—I have never thought of it as anything else. After making a snap judgment on the amendment, I do not think it changes things at all in terms of the committee being a creature of the Parliament or in terms of the committee's composition. However, I wanted to put on record what I view as being what the committee's job is all about: it is not just a haven for members of Parliament to serve on; it is there to keep the hammer on the heads of departments who are going to spend large sums of public funds.

The Hon. T.H. HEMMINGS: I do not say that the Deputy Leader of the Opposition deliberately misread what the member for Peake said about cutting out red tape. It was indicated that this Bill attempts to streamline the operation, but in doing so puts into place safeguards along the lines that the Deputy Leader referred to. I do not want to cite the Aquatic Centre situation as the catalyst for this measure: the Government implemented certain other measures to ensure that the committee's operation was more efficient.

I applaud the Deputy Leader's comments about the activities concerning heads of departments. In the past, irrespective of which Government was in office, heads of departments went to the Public Works Committee with a case involving their particular departments and may have tried to (dare I use the word) snow the committee. While it is not provided in this Bill, a well qualified technical officer will now be working full time with the Public Works Committee to give independent advice. That person will be made available from the Department of Housing and Construction. There again is a check and balance on the evidence being presented to the committee so that it has alternative advice. I think that that is what the member for Peake was referring to when he said that we will cut out all this bureaucratic red tape. If the member for Peake had used the words 'bureaucratic red tape', the Deputy Leader may not have taken objection to what the honourable member said.

The restriction on heads of departments is very important. We now have guidelines that have been agreed by the Government and, if it seems from the evidence given to the committee by heads of departments that a cost blowout may occur—and we are all well aware (and the Deputy Leader has been in the Parliament a lot longer than I) that costs tend to blow out because heads of departments decide to change the criteria—the committee will be asked to examine that matter.

If one looks at the speech made by the member for Peake, one will see that we are not just cutting out red tape but are making the Public Works Committee more efficient and aware of this Government's policy of declaring war on waste. I know that those words come easily, but that was the policy of this Government when it went to the election, and we will continue to observe it with this amending Bill.

The Hon. E.R. Goldsworthy interjecting:

The Hon. T.H. HEMMINGS: That is right, it is not peanuts. The Government cannot support this amendment, and I suppose further amendments that the member for Elizabeth intends to move are consequential. I agree with the comments that the member for Hanson and the Deputy Leader made and with the member for Light's interjection. Whether or not this committee is appointed by the Govenor or the Parliament is one and the same. All members know that when the membership of a committee is being considered the Government and the Opposition Parties select their own members. The Govenor appoints the committee because it is so provided in the original Act.

The member for Elizabeth equates the situation with that of the Public Accounts Committee, which is elected by the Parliament. There is no difference whatsoever. It is not worth our dealing with that particular part of the legislation,

because the provision has worked well in the past and will continue to work well in the future. I hope that I am not being too unkind to the member for Elizabeth but it is all very well to talk about the principles of the Parliament and Parliament's right to decide who should or should not be on the committee. As I say, that has never created any problems. However, in a situation of a hung Parliament, as we had in 1985—

The Hon. E.R. Goldsworthy: It should have been a Liberal Parliament.

The Hon. T.H. HEMMINGS: The Deputy Leader said that it should have been a Liberal Parliament—but pigs might fly. The fact is that in 1985 we had a hung Parliament—a minority Government. Whilst the amendments to be considered coincide theoretically with the legislation of the Public Accounts Committee, we could have a situation where overt pressure might be put on the Government of the day to ensure that certain nominations coming from the Government's side and the Opposition's side were not made. I am not saying that that is the reason behind the member for Elizabeth's amendment, but we feel that over all the years the Public Works Standing Committee Act has been in operation the method of selecting nominees from the major Parties has worked very well indeed.

One can agree with what the member for Hanson said, that it has been a very good committee, a bipartisan committee, and I do not think that members of this Parliament would want to see that change. We had a Public Accounts Committee that ceased to be a bipartisan committee when it was used by the media to put pressure on the Government of the day in what was called the 'sausagegate' inquiry. I do not think that anyone here would like to see that situation arise with the Public Works Committee. For those reasons, and because the committee has served its purpose so well, the Government cannot support the amendment.

Mr M.J. EVANS: Since this is the test amendment, and I will not be seeking to speak on subsequent amendments if this one should be defeated, then this is perhaps the appropriate time to raise certain points with the Minister. It seems to me that what the Minister said is a little difficult to follow, because the amendments that I am suggesting provide that the committee shall consist of three members of the group led by the Premier from the House of Assembly and two from the group led by the Leader of the Opposition. That would guarantee that no matter what the state of the Parties was—including the Independents and the National Party—the Government would have that representation.

In fact, clause 5 (1) to (6) guarantees that the Government, notwithstanding the actual numbers in this place, will still have its representation of three members to two, so the Minister's reference to the possibility of a hung Parliament has in fact been taken into account in the proposed amendments. Under no circumstances, therefore, could the Government be deprived, cheated or in any way not given its due say in the membership of that committee, because the subsequent amendments guarantee that the group led by the Premier in the House of Assembly and that led by the Leader of the Government in the Upper House will provide three members to the committee from the House of Assembly and one each from the Upper House. So, that absolutely ensures that position.

That is in contrast to the Public Accounts Committee Act and many of the other committees appointed by the Parliament, in which the only guarantee, in the case of the Public Accounts Committee, is that two members shall be from the Opposition. There is no guarantee about the membership of the Government in that Act. Only the Opposition's rights are protected under the Public Accounts Committee Act. The Minister's scenario is quite feasible in respect of the Public Accounts Committee, but not under my proposed amendments to the Public Works Standing Committee.

The Minister did not seem to have any objection in principle to it being appointed by the Parliament. In fact, he indicated that he could see no difference between appointment by the Governor and appointment by Parliament, which would seem to be a reasonable argument for bringing the Public Works Committee into line in that respect. As the Deputy Leader of the Opposition has said, the Public Works Committee is expected to perform a substantial scrutiny role on behalf of the Parliament. If it is therefore appointed by the Governor, I see that as constituting a degree of conflict of interests. After all, a lawyer would never allow himself to be paid by one party to a case and defend another—that is a central feature of our system of adversarial justice. It is certainly a central feature of the parliamentary democracy under which we work that committees should be appointed by the Parliament.

While I agree that certainly in this context it is not a major matter that needs to be debated at great length—and members will be pleased to know that I do not propose to—it seems quite inappropriate to have the work of the Executive audited, if you like, by a person who is accountable to that Executive and not to this Parliament. In fact, the whole tenor of the Public Works Standing Committee Act is that that committee is accountable to the Governor and not to the Parliament. The committee, for example, reports to the Governor and not to the Parliament. Copies of the committee's reports are laid on the table of the House but they are presented to the Governor, and that is a clear indication of the line of thinking here. So, I suggest to the Minister that his concerns have been amply met by the proposed amendments and that the principle is one which should be supported in any strong parliamentary democracy.

Mr S.G. EVANS: I support the amendment, and I am amazed that the Government does not support it. I notice that in 1927 when the committee was first formed there was some debate as to whether the Parliament should appoint the committee, as occurred with the Railways Standing Committee at that time, or whether we could try the system that we have had. I am sorry that they did not accept at the time the system of Parliament making the appointments so that people are elected to the committee, which reports back to Parliament, with Parliament being boss. I am amazed that people belonging to the ALP, who talk about democracy at times and say that Parliament is responsible to the people and is the body that we should be responsible to, refuse to accept such a proposition. I believe that the member for Elizabeth's amendment covers the only objection that the Minister had, involving the possibility of the numbers in the House being such that some minority groups may, with the major Opposition Party, be able to outvote the Government for its nominees. I think that is highly unlikely, even if the member for Elizabeth's amendments did not cover it, but they do cover it.

To highlight an objection that I feel very strongly about, I will move an amendment later, although I do not believe that it will be accepted, because the Government will use its numbers and make sure that the first part of the member for Elizabeth's proposition is thrown out. I would hope that in principle nobody in this Parliament believes that a committee that is supposed to report to Parliament should not be appointed by Parliament. I cannot understand an objection to that philosophy. I know that traditionally Governments say, 'Don't give the minorities any ground at all; don't recognise them. Push them down. Later on we can introduce an amendment in a rewrite of the Act, or something like that, and get the credit for it.' In the 18 years that I have been in Parliament, I have seen that happen many

times. I believe that here is yet another example of that, where somebody who is in the minority, an Independent with a philosophy the same as or very similar to that of the ALP, is being told, 'We can't pick a lot of faults with it, but we don't think it's worth accepting, because you put it up.'

I believe it is good that in a Parliament some people can sit back and work separately from the mainstream of Opposition and Government, looking at things like this and reminding us of our responsibilities. I ask the Minister to think about this matter seriously. If he cannot accept it now and say that a principle is involved that needs supporting, by the time it gets to another place he may have given deeper consideration to the principle involved and indicate at that point that they will pick it up, although the member for Elizabeth will not get the credit for moving the amendment in that place. I believe that it should be supported, and I support it strongly.

[*Sitting suspended from 6 to 7.30 p.m.*]

Mr BLACKER: I rise to support the amendment moved by the member for Elizabeth. After listening to the debate, I think that I understand why the Government is so reluctant to accept the amendment: that is, because it may lose the power to appoint the Chairman. I cite an example that occurred to me back in 1979. I was initially to be nominated to a position on the Public Accounts Committee, but there was a fear that, if the Opposition had nominated me as Chairman and I had been game enough to accept, I may have defeated the member for Hanson for that position, although I was prepared to put in writing that I would nominate the member for Hanson.

Be that as it may, it exposed to me the reason why the Government could lose control of the Chairman under such circumstances. I wonder whether, if the member for Elizabeth would consider a further amendment—to set down how the Chairman could be appointed—it might alleviate the fears that the Government has on this proposal. It is right and proper that this Parliament should appoint the committee. Although in practice it happens that way, it would be better in the eyes of the public that it be seen to be done by Parliament on the floor of the Chamber. To that end, the amendment is worthy of support.

The Hon. T.H. HEMMINGS: I must confess that those people in this Chamber who stood up in support of the amendment are what one would call Independents, with all due respect to the member for Flinders, who represents the National Party but is its sole member. I would never call the member for Flinders cynical, but it strikes me that the member for Davenport, who has been an Independent Liberal member only since the election in December of last year, is suddenly saying, for instance, that the Independents are coming up with bright ideas and being stifled by the Government of the day because it does not want to give credit to them.

Judging by the comments made so far from both sides, it is not just the Government that is opposing this amendment. I have the support not only of the shadow spokesman for the Liberal Party but also of its senior members. I would not go so far as to say that the member for Davenport is correct in saying that it is a good amendment, but that we do not want to accept it because it is a good idea.

I have made it perfectly clear that, on paper, members of this committee are elected from the floor of the Parliament, whether they are appointed by the Governor or the Parliament. The amendment provides that, of the members appointed by the House of Assembly, two shall be appointed from a group led by the Leader of the Opposition in that House and three from a group led by the Premier. That is a very vague definition, indeed. It is my duty, as Minister in charge of the carriage of this Bill, to draw attention to the fact that we could have a situation, unlike that we have now, where there is a clearly defined number from each side of the House, but where the majority Party on the Opposition side appoints two members and the majority on this side of the House appoints three members.

The definition in this amendment is very vague. We could well have a situation of a hung Parliament—a minority Government— where pressures could be exerted by Independents—Independent Liberal, Independent Labor, National Party (with all due respect, as it has only one member)—on either the Government or the Opposition that those people should have a right to sit.

I have no argument with the way in which members of committees are appointed in this House. For example, if a select committee is appointed by this House, the member for Flinders, who has been here for many years longer than I have been, would be appointed because he has certain expertise, but in the appointment of the Public Works Standing Committee the Opposition appoints two members and the Government appoints three. There is nothing wrong with the original Bill: for that reason I reject the amendment.

Mr S.G. EVANS: I must respond to the Minister's reference to some cynical comment that he thought that I had made. I was elected as an Independent, as he said, but I belong to an organisation. If he looks back through *Hansard* he will find that I have always supported the concept that minorities should be represented and given the opportunity to participate in everything that goes on in Parliament as much as is possible through its procedures. The Minister does not show much grace in making that sort of comment.

I initiated the move to get this House to agree to the establishment of the office of Ombudsman, against the wishes of my own Party and of the ALP on the first occasion when I raised the matter. Later, they changed their mind. I ask that on this occasion they do the same thing. On all other issues where there has been opportunity to debate whether or not the Parliament should make a decision on who is elected to committees, I have supported the idea that the Parliament is the body responsible to the people, and that this is the ultimate place where those responsibilities should lie.

The member for Elizabeth was keen enough to move the amendment at this stage. I support it, because I believe in it. If I had thought of it myself I would have moved it. I give him the credit for attempting first to have it done. I also draw the Minister's attention to what happened in 1970 and 1974, particularly in 1970, when I went against my Party's desire in expressing a view about changing this Act. I have shown that streak that, if I have an independent point of view to put, I will put it. I support the amendment strongly.

Mr M.J. EVANS: The Minister again raises the spectre of the Public Works Standing Committee being taken over by the Independents. I want to put that to rest once and for all. I disavow any intention whatsoever of participating in any move to take over the Public Works Standing Committee. My amendment seeks clearly to enshrine in the legislation the absolute right of the Government of the day to have a majority on that committee and of the Opposition to be represented in due proportion.

If the Minister considers these words to be extraordinarily vague, as he has indicated to the Committee, he should think back to the Parliament (Joint Services) Bill, which we passed last year and which includes almost those very words in defining how the membership of the administrative committee—the replacement of the Joint House Committee—is to be made up. That provides for the selection of repre-

sentatives from 'that group' led by the Leader of the Opposition and from 'that group' led by the Premier. Those words are used in the Government's own Act. If they are unnecessarily vague or unreasonable I am sorry, but I got them from a good source: the Government's own legislation. I believe, as I did last year, that those words adequately express what we all know to be the case: that the group led by the Premier is the group that forms the Government. That is quite clear.

The group led by the Leader of the Opposition is just that—the group led by the Leader of the Opposition. There is no way that those words can be vague in a parliamentary context. We know what they mean, and they are enshrined in the Government's own legislation. I seek to use them because they form a very good phrase to describe what is clearly the case. There is no intention whatsoever of having the Public Works Standing Committee not reflect the absolute right of the government of the day to control that committee. That is why the amendment is so carefully expressed, to limit the membership to the group led by the Premier and the group led by the Leader of the Opposition in the ratio three to two in this House and one to one in the other place. That is also contained in legislation other than this. If the wording is vague, it should have been opposed in the Government's Bill last year.

Amendment negatived; clause passed.

Clause 3 passed.

Clause 4—'Functions of committee.'

Mr BECKER: I refer to the review of projects. Will the Minister further clarify whether the clause gives the committee power to consider recurrent cost, and so on associated with the construction of the work and its proposed use and the estimated net effect on Consolidated Account of the construction of the work and its proposed use? Does the clause give some power of review to constantly monitor a project?

The Hon. T.H. HEMMINGS: That is partly correct. One of this Government's or any government's problems with the Public Works Standing Committee is that when the committee actually looks at a project the recurrent costs associated with it, loan moneys and the repayment of loans were never considered. This clause ensures that the committee will take all those factors into consideration when it reports back to the Government.

Clause passed.

Clause 5—'Duty to submit proposals for new public works to committee.'

Mr BECKER: I move:

Page 2, line 24—Leave out 'the declared amount' and insert '$2 000 000'.

While I accept the Government's intention to change the declared amount from $500 000 to $2 million and from then on to amend the amount by proclamation in line with indexation, during the second reading debate on similar legislation last year the former member for Davenport (Hon. Dean Brown) said:

I believe that such a proclamation should ensure that any increase in the declared amount is in line with inflation, otherwise the Minister could have the declared amount increased to $50 million without coming to Parliament for approval.

Prior to that Dean Brown had also said:

. . . a statement contained in the Minister's second reading explanation. The Bill contains no such protection. That is most unfortunate because I believe that, as the Bill stands now, a future Government could increase the declared amount by a figure greater than that which was in line with inflation. As I have not had time to draft an amendment to give effect to my desires in this respect I will have drafted an amendment that can be moved in the Upper House to correct the position. I thought amendments were to be moved today but apparently they are not yet to be moved.

I personally believe that, while this amount has not been altered for some 10 years, the $2 million can be justified if we look at it from an inflationary point of view. In his second reading explanation the Minister said:

The power to increase the declared amount is limited so that any increases reflect changes in an appropriate price index.

Looking at the cost of construction in the past three years I understand that in 1983-84 construction costs increased by 4.9 per cent, in 1984-85 it was 5.8 per cent, and in 1985-86 the estimate is about 8 per cent. That is some 18.7 per cent in three years (or a round figure of 20 per cent). On $500 000 that is $100 000, making $600 000.

What concerns me is that every year, if it so desired, the Government could amend that amount by proclamation in line with inflation. If we look at the $2 million and work from 8 per cent it becomes $160 000 and it gets a little messy. It becomes $2 160 000 next year and the year after it might be $2 340 000. Rightly or wrongly (and my colleagues support me), I believe that in the life of a government that government can, if it so desires, bring in separate legislation to amend that figure. However, I see no reason why we should index it. A sum of $2 million is a sizeable amount and, for simplicity, I believe we should leave it at that.

I do not know how the Government proposes to do this. It may do it only once every four years, or it may decide to do it annually. Of course, there may be occasions when there is a very small movement in inflation. I think those days will eventually return—it may be some time off, but it could well happen. If we get back to 2 or 3 per cent, it is a figure hardly worth messing around with, because it means only $50 000 or $60 000. I believe it is not necessary to go to great lengths, as is the case with this legislation. For that reason I urge the Committee to oppose the clause as drafted and support the amendment.

Mr S.G. EVANS: On my reading of the Bill (and I hope the Minister will correct me if I am wrong), and on my interpretation of it, I will have to oppose the member for Hanson's amendment. On my interpretation and from things that I have been told (and I do not mean that I am accurate) I believe that the price index as defined in the Bill applies only to building materials; it does not apply to labour on a project. If it happens to be a road that is being constructed, I take it that it will not apply to materials or labour used on the road. The Bill talks about material used in building. It does not apply, for example, to equipment in the building. The second reading explanation indicates that the clause expands the Act so that computers in a computer centre become part of a project. If the price of computers rose by 100 per cent and took the price of the project way over $2 million, a Government would not be able to increase the sum by proclamation, so that the project would be taken out of the hands of the Public Works Standing Committee, because it does not include equipment in buildings going up in price. If my interpretation is correct, I am willing to take a punt on building materials being the only matter assessed for increase, because that is a reasonable proposition. If that is what the amendment intends to achieve, I will have to oppose it.

The Hon. T.H. HEMMINGS: The member for Davenport is absolutely correct: that is what the amendment does. The member for Hanson quoted what Dean Brown said, but I refer to what he also said on that same day, as follows:

I would like to express one concern in relation to this Bill. I said that we support it, but my concern is that we are giving the power to Government by way of proclamation to lift the $2 million limit without necessarily taking into account inflation in referring the matter to Parliament.

We picked it up and, if members recall and read *Hansard* for that day, they will see that I said we would consider

that and possibly put an amendment in another place. We have considered it, but we believe that, if we are dealing with any increase on the $2 million, the only index we can use is that which is used throughout the industry, that is, the price index of materials used in building other than house building in all groups for Adelaide. We cover ourselves because, if a group ceases to use that index, it is covered under new subsection 10 *(b)*, as follows:

If some other price index is prescribed—that price index.

We are covering ourselves there and saying that any increased cost of building materials will be a criterion for any increase in the limit. I assure members that the Government will not willy-nilly increase the $2 million limit until it is necessary to do so. Referring to the comments of the member for Peake, if we are to make full use of the PWSC as an effective committee to investigate on behalf of the Parliament projects that are being considered by the Government (and earlier I said that we would provide technical officers and other back-up facilities), we will not willy-nilly make changes by proclamation.

Changes will occur only when there is a real need to increase the limit in order to make better use of the committee. The member for Davenport is correct. We are not using inflation as a base. For example, if the cost of computers increase by 150 per cent and if that increases the cost of a school, that would not be enough reason for the Government to proclaim an increase. We will still use the index that is published by ABS.

Mr S.G. EVANS: I would like to ensure that I am correct. The Minister used the word 'criterion' and referred to the increase in the cost of building materials. Will the Government consider only the increase in the cost of building materials or will other percentage increases in respect of labour, furnishings, equipment, and so on also be considered? If building material costs increase by 10 per cent, computer costs increase by 50 per cent and labour costs increase by 60 per cent, will the Government proclaim an increase of 10 per cent because that is the amount by which building materials increased? If that is so, I am concerned about what the Minister is trying to achieve.

The Hon. T.H. HEMMINGS: I do not know whether I will satisfy the member for Davenport. I refer to the indices which are to be used. The CPI is a simplistic method. I do not wish to sound facetious, but if the price of eggs increases, that is included in the CPI. We are using a fairly complex index which is taken into account by the ABS to give a guide to the building industry in regard to increases in building prices. So, we are using the commodities that the committee needs to look at, that is, the cost of bricks, timber, second fixing, and so on. That complex index is put out by ABS but, in the context of allowing for increases in regard to this Bill, it is the most simple one to use.

If one used the CPI and if inflation increased at 3 per cent over four years, we could issue a proclamation increasing the amount by 12 per cent. However, that includes all other areas, many of which are not relevant to the cost of public projects that the committee will examine.

Mr S.G. EVANS: If the cost of building materials increases by 10 per cent, is the Government able to proclaim an increase of 10 per cent overall—not just on the materials?

The Hon. T.H. HEMMINGS: The honourable member is asking whether, if building materials increase by 10 per cent and if that is the figure that is put out by ABS, the Government could increase the amount by that sum. First, we are certainly not trying to take the matter out of the hands of Parliament, but we have had a situation where, for about 10 years, we have had the sum fixed at $500 000 and no-one has looked at it. We are trying to make the whole operation more efficient and streamlined.

We will use the indices that are put out for the building industry not just in Adelaide but throughout Australia (the ABS uses a Sydney base in Sydney and a Melbourne base in Melbourne). This will enable a realistic increase in the limit in line with the the factors that have contributed to increased prices, namely, the building materials.

Mr BLACKER: Under the existing Act $500 000 is the benchmark and there is power for the Minister to refer projects of a lesser amount to the committee for consideration. Does that power still exist under the Bill? It would be wise for the Government to have that power, even if only one project a year or one project every three years of a lesser amount was referred to the committee? This would ensure that people who were doing costings on smaller projects would be aware that they could be brought under the same umbrella.

The Hon. T.H. HEMMINGS: Section 26 of the original Act provides:

Any question relating to any project whether a public work within the meaning of this Act or not, and irrespective of the estimated cost thereof, which, if carried out, will require the expenditure of moneys voted, or to be voted, by Parliament, may be referred to the committee by the Governor, or upon motion made in the usual manner by any Minister or any other member of either House of Parliament, for inquiry and report, and the committee shall inquire into and report upon such question in the same manner as a public work under section 25 of this Act.

Therefore, the Act provides for power to refer to the committee specific projects that are estimated to cost less than $2 million.

Mr BLACKER: Then, may I respectfully suggest that, at least once or twice a year, the Minister exercise that power and thus keep everyone on his toes.

The Hon. B.C. EASTICK: Following an invitation by the relevant school council and staff to the Public Works Standing Committee at the time of the hearing on the project, at which time some major concerns of the community were voiced (although the end result was satisfactory to all parties), the committee is to visit Gawler this Thursday to inspect a primary school that has just been completed and occupied. This method of approach by the committee has been directed to the attention of Parliament in the past, but it is rare indeed for committee members to see the finished product.

When the member for Chaffey and I were members of the committee between 1977 and 1979, the committee inspected certain educational facilities in the metropolitan area, at such places as West Lakes, Norwood and Marryatville, so that committee members might have an overview of the work being done on school building at that time. Then, later, when departmental officers made submissions concerning other schools, they could say that a project was similar to a school that the committee had inspected when completed.

I trust that the committee will take the opportunity to give new members of the committee an overview of the project scheme. In this respect, I refer to a recently completed project rather than one that has been commissioned for months or even years. I believe that a visit such as that to be made by the committee on Thursday would be of benefit to committee members as they could then relate to a finished project and thus have a better view of a similar project that might come before them. Does the Minister foresee this as a distinct pattern to be discussed with the Chairman and other members of the committee?

The Hon. T.H. HEMMINGS: As Minister, I would actively encourage the committee to inspect completed projects, and I am pleased to see that it is to visit the honourable member's district. When he spoke, it crossed my mind that the committee might be looking at the honourable member's electorate office, as much pressure seems to be

put on me in relation to members' electorate offices. It crossed my mind that I might even refer all requests in relation to new electorate offices to the committee for inspection so as to take much weight off my shoulders. I send to the committee the biannual reports of the Department of Housing and Construction seeking suggestions from the Chairman and other members of the committee concerning completed projects. I have in mind especially the successful exercise which was started by the member for Mt Gambier and which was picked up by this Government, whereby both private and public sectors were used in respect of the Happy Valley school complex.

In that case, it was projected that, when the number of children attending school dropped off, part of the school would be used for aged accommodation. This proved to be a great plus for South Australia, and it is a pity that the project did not get more credit than it did. In cases such as those that have been referred to by the member for Light, the committee has returned to inspect rather than to investigate a project: to see how it was being used by the community. I am sure that the incoming Chairman of the committee will continue that idea and that, when it is moving around the State, the committee will inspect completed projects that it has previously recommended for approval by Parliament.

Mr BECKER: Concerning my amendment, I reject the reasons that have been given by the Minister and the member for Davenport for opposing it. The provision in the Bill is a clumsy way of handling the situation because, as proclamations do not come before Parliament, members do not, as a Parliament, get the chance to review them. If the Government of the day wishes to increase the declared sum, it should introduce legislation to that effect and amend the Act. That is the ultimate in accountability, and the Government could then justify the increase to Parliament. New subsection (10) provides:

In subsection (9)—
'price index' applying at a date means—
(a) the Price Index of materials Used in Building Other than House Building—All Groups for Adelaide last published before that date by the Australian Bureau of Statistics under the *Australian Bureau of Statistics Act* 1975 of the Commonwealth;
or
(b) if some other price index is prescribed—that price index.

Therefore, only a small sum may be involved. Indeed, on $2 million, 2 per cent or 3 per cent would mean only $40 000 or $60 000, and that seems hardly worth worrying about. However, perhaps once during the life of a four-year Parliament the amount might need to be amended. Alternatively, it might be best to leave it alone and the Government might not touch it. If members have any fears in this regard, the best way to tackle the problem is by amending the Bill.

The Hon. T.H. HEMMINGS: I am perhaps old fashioned, but I should have thought that, even though Governments change, no Government would use willy-nilly a proclamation to increase the declared amount. The legislation says that the Governor 'may'. If the member for Hanson was Minister of Public Works, he would not proclaim an increase unless it was really necessary, and neither shall I.

The Committee divided on the amendment:

Ayes (13)—Messrs P.B. Arnold, D.S. Baker, S.J. Baker, Becker (teller), Blacker, Eastick, Goldworthy, Ingerson, Lewis, Meier, Olsen, Oswald, and Wotton.

Noes (24)—Mr Abbott, Mrs Appleby, Messrs. L.M.F. Arnold, Bannon, Crafter, De Laine, Duigan, M.J. Evans, and S.G. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings (teller), Hopgood, and Keneally, Ms Lenehan, Messrs McRae, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Mrs Adamson and Mr Chapman. Noes—Messrs Blevins and Peterson.

Majority of 11 for the Noes.

Amendment thus negatived.

Mr M.J. EVANS: I move:

Page 2, line 27—After 'into' insert 'and reported upon'.

I take this action for one very important reason. The Act as it now stands prohibits the introduction in the Parliament of a Bill appropriating funds for a public work over the value of $500 000 unless it has been reported upon and inquired into by the Public Works Committee. Governments of both political colours have found that procedure quite unacceptable in the modern accounting context and have had to circumvent it every year for the Appropriation Bill by occassionally burying amounts of money in lines for preliminary design and the like, which came to light strongly last year. The practice, which unfortunately has been adopted over many years, has been made necessary because of the cumbersome Public Works Committee Act as it now stands, and I support the Minister's initiative in trying to change it and introduce a more manageable system in the 1986 context. No Government could live with the present arrangement for much longer.

Unfortunately, what the Minister is proposing, in my view, goes a little too far, because the Minister only requires that before money can be spent on construction the project has been inquired into by the Public Works Committee. That completely removes the very substantial teeth which the committee had until now. Until now there was legally at least, if not practically, a prohibition on introducing the Appropriation Bill if it contained projects not reported on by the Public Works Committee. That is now completely removed, and it only requires that the committee shall have inquired into a project.

If that takes place while Parliament is not sitting, the project and tenders can be fully let, work can be commenced prior to the next sitting of Parliament and this House could have no opportunity to ask the committee to review its decision under the present Act or under that regime proposed by the Minister, nor to carry any resolution or ask questions in relation to that report. I propose that before funds may be spent on the construction of a work that the report shall have at least been presented to the House. That is a very important safeguard to ensure that Parliament retains an adequate right to question the Government of the day and ask the committee to reconsider its report, should that be deemed necessary.

I doubt that any public work of any significance greater than $2 million could be contemplated and put into execution in a time scale that would not permit the Parliament to receive the report of the Public Works Committee before funds were spent on construction. It is a useful amendment that the Minister has, in that he is now proposing that the limit be on construction. I fully agree with that. It is proper to spend money on preliminary design, and the like, before one presents the report to the Parliament, or even before one goes to the Public Works Committee. I have no objection to that. The previous arrangement was quite unsatisfactory and the Minister is right in proposing the change. We should go further in safeguarding the rights of the Parliament, because without it the committee will have the right to inquire but the Parliament will have no real safeguard that the Government will not have acted on the report before the Parliament meets. The committee only has to inquire into the report and does not have to do anything on the report.

My amendment proposes that before funds are spent on construction, and bearing in mind that a great deal of work is to be undertaken before that point, the report should also have to be presented. That is a relevant safeguard for the Parliament and the people in ensuring that the Government does not proceed too quickly with the report and a project which may have been negatived. It is quite feasable for the Government to have proceeded with a project which the committee opposed before the Parliament has an opportunity to comment on it. I commend the amendment to the Minister and to the Committee.

The Hon. T.H. HEMMINGS: The Government cannot accept the amendment, although I follow some of the arguments put by the member for Elizabeth. The honourable member insists on inserting 'and reported upon' after 'inquired into', but that is splitting hairs. A project of vital importance to the State—not just to the Government—could be delayed until the Speaker tabled the report and the Minister moved that it be printed. It has always been the case that, whenever the Public Works Committee comes up with a recommendation that has the approval of the Government and funds are available, the report is acted upon.

I cannot think of one case where the Public Works Committee has made a recommendation that work should not proceed and the Government has then gone ahead and proceeded with it, although we have had situations where the committee has recommended that work proceed but, because of tight fiscal policies, it has not proceeded until a later date.

I think that the member for Elizabeth is worrying himself too much. The safeguards already exist, and that is shown by what has been said in the Chamber tonight; that it is a bipartisan committee looking at projects beneficial to the State and at necessary appropriation of Government moneys. I am perfectly happy with that situation, as I am sure are most members.

Mr S.G. EVANS: Does the Minister agree that it would be grossly improper for a Government to go ahead with a project if the committee had reported that it should not proceed, whether temporarily or in the long term (it may require more information, for instance)?

The Hon. T.H. HEMMINGS: I thought that I had made that perfectly clear: any Government, if it received an interim report on a project and the committee said it felt that the project had some merit but that additional information should be sought, would accede to that request.

Mr S.G. Evans: And it would be grossly improper for it to go on?

The Hon. T.H. HEMMINGS: We will be touching on this point in the next amendment that the member for Elizabeth has on file—the role of the committee. It can be argued that one must never take away from the Executive the power to do certain things.

If a report of the Public Works Committee expressed concern about a certain situation, I as Minister would use all the facilities and expertise available to the Government to answer that point. For the member for Davenport to say that the Executive should be overridden by a committee—whether the Public Works Committee or a Public Accounts Committee—I think is wrong, as the power of the Executive should be supreme, and I am sure that the member for Davenport would agree.

Mr M.J. EVANS: I think that the Minister is a little short of the mark in one respect. I agree with him that the rights of the Executive are quite strong and important in our system of government, but the rights of Parliament are also relevant here. What is being proposed in my amendment, regardless of what the member for Davenport said—it is the amendment before the committee that is relevant here—is not that the committee, but that the Parliament, should have the right to block the Executive. If we are discussing the rights of various groups in the Westminster system, the fact is that it is the ancient right of the Parliament to control the flow of money to the Executive.

In fact, that is the principal duty of the Parliament in respect of protecting the public interest in the Westminster system. It is the right of the Executive to spend that money as allocated by Parliament, and the reason for the annual sittings of Parliament is to ensure that the Government is given its allocation of money on an annual basis, and it then proceeds to spend that money in accordance with the approvals and allocations given by the Parliament.

My amendment does not seek to empower the committee to block the Executive, but seeks to defer the implementation of the Executive's decision until such time as Parliament has the opportunity to exercise its undoubted ancient right and privilege to block the spending of the Executive. That is a critical point. Therefore, no power is being given to the committee here as the Minister would have us believe. Rather, the opportunity is being given to the Parliament to exercise that power. Certainly, that is a power that the Parliament must and should have, but if the Executive has already completed a building or has let the tenders, then the Parliament has lost that right.

Under the Act as it now stands, the Executive has no right to proceed to introduce a Bill in this place to allocate money without first receiving the report of the Public Works Committee. Therefore, at the moment we have a very strong position. The Public Works Committee inquiry is required first before a Bill can even be introduced in this place to spend money, and that is an incredibly strong safeguard. Now we have the provision, under this amendment, where all that is required is that the committee has first inquired into the reference. No opportunity is given to the Parliament for scrutiny of that decision, and that is what concerns me. Therefore, no power is being given to the committee here; rather, it is being reserved for those who should best exercise it, that is, the Parliament of South Australia.

It would be improper for the Minister to proceed with a project if the committee recommended in a final report negatively about that project, because that would certainly be to deny the Parliament's role in this exercise. Although I agree with the Minister I cannot recall an event where the committee has refused to approve a project, that certainly is a potential, and we will have to see if that occurs in the future. If it did, under the Minister's amendment, the Parliament would have no opportunity to reconsider that decision or vote on it, and that is an entirely unacceptable provision to me, because it removes any scope that the Public Works Committee had of ensuring that its advice was at least heeded by the Government of the day. I think that that is an important safeguard which has been removed by the Minister from the system that we presently enjoy in this State.

We will have a situation where money is in fact appropriated and the project undertaken before Parliament even has the report of the committee in hand. At the moment we are required to have the committee's report before we vote on the appropriation. Under the system proposed by the Minister, that need not take place. The project has been considered and approved by the Government, appropriations recommended to the Parliament, forced through the Parliament by the Government's majority, and the committee subsequently reports on the project.

So, the Parliament will be voting on the appropriation without the benefit of the advice of the committee, and that is a most unfortunate position. If one reads the *Hansard* of 1927, when the original Bill was introduced, it was made quite clear by the Treasurer of the day—I do not know

which Party he belonged to—that Parliament would never again be put in the invidious position of having to vote on the appropriation of substantial funds without the benefit of the advice of the Public Works Standing Committee. As I read the position here, that can happen quite freely because the Government can recommend that appropriation to Parliament in the form of the Appropriation Bill, because the prohibition on that has been removed, and the committee in fact could have the work referred to it after the Parliament has been required to approve the appropriation. I think that the Minister should take those points into consideration when deciding whether or not to support the amendment.

The Hon. B.C. EASTICK: The Minister asked whether, to any member's knowledge, any action had been taken against the decision of the Public Works Standing Committee. The only incident that I can recall was an action taken by the Government before the Public Works Standing Committee had undertaken its investigations relating to a high school in the Upper South-East. When the members of the Public Works Standing Committee went to have a look, the school was almost at the completed stage and fair in the middle of a watercourse. It was rather late, after the committee drew to the attention of the Government that it was in a watercourse and that it created some trouble.

My reference for that comment comes from one William Field Nankivell, who, members will recall, was the member for Mallee for a number of years and was a member of the Public Works Standing Committee for a period of time. I can recall him standing in this House quoting this incident as a case where any Government that failed to take its Public Works Standing Committee recommendation seriously, or more particularly in the argument that he was putting forward, assumed that it would find no fault, was leading itself into a very difficult circumstance. That example, which the record will show took place probably some 15 to 18 years ago, is a salutary experience which is still recognised, at least by the Secretary of the Public Works Standing Committee, who gives good guidance to the members of the committee.

Mr S.G. EVANS: I support the amendment. For the Minister to suggest that the question that I posed (whether the Minister would accept that it would be grossly improper for a Government to go ahead if the Public Works Standing Committee suggested that a project should not go ahead) means that the Executive is overridden by the committee is not accurate. It was just a straight question of whether the Government would be acting properly if it did that. The member for Elizabeth has explained it quite well. It is the Government's decision to go ahead. The committee is not saying to the Government that it can never go ahead. It is just saying that its report finds the project unsatisfactory; there may be some faults with it, and it should not go ahead. That committee is responsible to the Parliament. It is not reporting to the Government. The Government may get details of what is in the report, but the report really comes before Parliament.

Mr M.J. Evans interjecting:

Mr S.G. EVANS: Yes, that is right. The Government gets hold of the report and it is tabled in this Parliament, and that is where it should finally be settled, if anyone wants to take it up and debate it. The Minister recommends that it be printed. The Government knows what is in it, but the Opposition does not unless its members report back. If one happens not to be in the Opposition Party or the Government Party, that member would not see it or have any knowledge of it because he would not have a representative on the committee. So, some members of Parliament would not have the opportunity to find out what was in the report. If there is an urgent project which must go ahead and the committee reports: 'No, there are some problems with it', the Government has an opportunity, and I believe a responsibility, to bring the Parliament together if needs be and say to the Parliament, 'We cannot afford to wait for the committee to resolve these matters. As the Executive in control of the State funds, we want to go ahead,' and give the reasons to Parliament why it wanted to go ahead. A Government on most occasions has the numbers to go ahead but the Parliament should not be denied that opportunity—it does not matter if it only happens once.

I believe that the amendment is quite satisfactory. It really maintains the *status quo.* It is not the fault of this Parliament that Parliament does not meet more regularly than it does. That is the decision of the Government of the day. The only reason that reports are not tabled before Parliament more frequently or when they are readily available is that Parliament does not sit. There is no opportunity for a Government to present reports to Parliament because Parliament does not operate. That is not the fault of the Public Works Standing Committee or of the Parliament—that is the responsibility of the Government of the day. I support the amendment because I believe that it is bringing it back to the ultimate place of responsibility, and that is the Parliament.

Amendment negatived; clause passed.

New clause 6a—'Power of committee to inquire into other works.'

For example, statutory authorities have an outstanding liability on debt charges payable by the State, amounting to $1 218 000, whereas in the last financial year, although statutory authorities added $150 million to the State Loan Account, the ordinary work of the committee involved only $93 million. Clearly, statutory authorities play a very substantial part in the public works regime of this State although I agree that it should not be mandatory for them to bring projects over $2 million before the committee, clearly there would be a considerable advantage in the committee, either on its own initiative or at the request of the House or the Government, being able to investigate any project that is a source of concern.

I also draw attention to the fact that this amendment also empowers the committee to investigate any ordinary public work of a value of less than $2 million, which is in effect a continuation of the present provision of section 26. That is deficient in that it does not permit the committee to investigate a matter of its own motion. The Public Accounts Committee is empowered to investigate any issue relating to public accounts of its own motion or at the request of the House or the Government, whereas the Public Works Standing Committee is permitted to investigate matters only at the request of the House or of the Government; it does not have its own power to initiate an investigation. That is a very serious deficiency compared with the Public Accounts Committee.

This amendment to clause 26 seeks to correct not only that but also the question of statutory authorities. It covers a number of points, many of which have been addressed in the annual reports of the committee, perhaps not to the extent that the committee would have wished, but in a way that would be practical and efficacous, given the ever-expanding area of public works undertaken by statutory authorities in this State.

Mr M.J. EVANS: I move:

Page 3, after line 26—Insert new clause as follows:

6a. Section 26 of the principal Act is repealed and the following section is substituted:

26. (1) This section applies to any work whether proposed to be constructed or in the course of construction where the whole or any part of the cost of construction is to be met out of moneys provided or to be provided by Parliament or by a public authority.

(2) Any question relating to a work to which this section applies shall—

(a) if the committee on its own initiative so determines;

or

(b) if the matter is referred to the committee—

(i) by a resolution of either House;

or

(ii) by the Governor or any Minister of the Crown,

be inquired into and reported upon in the same manner as if it were a public work referred to the committee under section 25.

(3) In this section—

(a) "public authority" means an agency or instrumentality of the Crown and includes any body whether corporate or unincorporate that—

(i) is established by or under an Act;

and

(ii) is—

(A) comprised of persons, or has a governing body comprised of persons, a majority of whom are appointed by the Governor, a Minister of the Crown or an agency or instrumentality of the Crown;

or

(B) is subject to control or direction by a Minister of the Crown;

and

(b) a reference to moneys provided or to be provided by a public authority is a reference to moneys provided or to be provided by the authority out of its own funds or out of a fund managed or invested by the authority.

This new clause will have the effect of giving the committee a significantly new power of investigation, one which is presently enjoyed by a Public Accounts Committee in respect of the breadth of Government operations which it may inquire into but which is severely lacking in the area of the Public Works Standing Committee. It also meets the request over many, many years of the Public Works Standing Committee for its ambit to be extended in the area of statutory authorities and guarantees.

I have not gone as far as the committee has requested in its many annual reports, including last year's annual report, but I believe that I have gone far enough in view of the arguments that the Minister has previously put before the Committee. The section simply seeks to allow the committee, of its own initiative or at the request of the resolution of either House of Parliament or at the request of the Governor or any Minister of the Crown, to inquire into and report on any proposed public work or any work under the course of construction, but not for work that is not completed, because that more properly, I believe, would fall to the Public Accounts Committee either by a Government authority or by a statutory authority. Of course, the statutory authorities will not be required under the terms of the Act to come before the committee for all their projects over $2 million.

It will simply be an investigative facility which the committee, the Government or this House may use to inquire in to and report upon not only Government projects of any value, but also public authority projects of any value. If we read the terms of the annual report of the committee for last year, the fifty-eighth general report, I draw members' attention to the heading on page 10, 'Statutory Authorities and Guarantees,' where the committee makes a very persuasive case for statutory authorities to be brought under its ambit. I agree with the Minister that we should not actually require that as a mandated procedure, but I do believe that it is important that, given that statutory authorities contribute a far greater proportion of our public works expenditure than do direct Government authorities, the committee should at least have the power of investigation in those areas, and I draw attention to the figures quoted in the committee's report for last year.

Clause 6 passed.

The Hon. T.H. HEMMINGS: The Government rejects the amendment. It was made perfectly clear in my second reading explanation that this Government has decided—and I point out that the previous Government also looked at it in this way, which was one of the reasons why it was never introduced in the term of the previous Parliament—that in no way would the powers of the Public Accounts Committee be duplicated by those of the Public Works Standing Committee. One of the strengths of the Public Accounts Committee is that it can review operations of Government departments or instrumentalities. It has a strong independence. In no way am I trying to pat the back of my shadow opponent over there, but I am sure that when he was Chairman of the Public Accounts Committee —

The Hon. G.F. Keneally: He was a tyrant.

The Hon. T.H. HEMMINGS: He was a tyrant; my colleague says that he was a real tyrant. He must have given the Hon. David Tonkin quite a few grey hairs. The same applies to the member for Todd, on this side, who will instigate investigations into Government departments and instrumentalities. That is the committee's role and is the whole reason why the Public Accounts Committee was set up.

The view of the Government is that there are two distinct differences between the roles of the Public Works Standing Committee and of the Public Accounts Committee. One looks at the appropriation of public moneys to be spent on particular projects, and the Public Accounts Committee looks at individual Government departments and instrumentalities. They have a role to play in the Parliament, and they play it well. In no way will this Government support any form of duplication.

As far as the statutory authorities are concerned, again I make it perfectly clear that we on this side of the House support free market initiatives by statutory authorities such as the State Government Insurance Commission. We support them in the role that they play in the marketplace. We would see the practice of the Public Works Standing Committee's having some say in its role as stifling the function that it is set up to play in this State. We reject the amendment.

Mr M.J. EVANS: I find the support for the role of the Public Accounts Committee interesting, but not particularly pertinent to my amendment, which relates exclusively to any work, whether proposed to be constructed or in the course of construction. In other words, it relates directly and only to works proposed to be constructed and in the course of construction. It does not relate to the public accounts of this State or interfere in the role of the Public Accounts Committee. It relates exclusively to public works that are about to be or are in the course of construction. All the rest of the Act relates to public works in the course of construction or proposed to be constructed. It does not relate to public accounts at all.

My amendment is directed at the same things to which the other parts of the Act are directed: public works proposed to be constructed or in the course of construction. It has nothing to do with the public accounts of the State. Once the building is constructed, if one wishes to argue about tender prices or management of funds and so on that all falls quite properly, as the Minister says, in the role of the Public Accounts Committee, and I have no objection to that and no argument with that line of thinking.

My amendment is directed exclusively to public works proposed or in the course of construction. That is the normal ambit of the Public Works Standing Committee. If these things are not in its ambit I really do not know what

we have one for: that is all it could possibly deal with. The Minister is reading more into my amendment than in reality exists.

Whilst he says that he supports the statutory authorities in their work and initiatives—and I agree with that: statutory authorities have a role to play, and we all wish them to be successful in that role—the amendment does not in any way stifle their progess, procedures or development. All that it does is to empower the committee to look at what they are doing with the hundreds of millions of dollars of public funds they are spending. It does not empower the committee in any way to block, slow or fight off a statutory authority that proposes to proceed with the construction. It merely allows the committee to look at the project and to report to Parliament on the way in which those statutory authorities are spending hundreds of millions of dollars of taxpayers' money.

Why should a public work that is built by the Minister in his capacity as Minister of Public Works be subject to full scrutiny, whereas a work that is proposed under the Minister's aegis (for example, under the Housing Trust), which is a major office tower or construction or something identical to that which the department may construct, is subject to no scrutiny except that of the Auditor-General and the Public Accounts Committee, because the Public Accounts Committee is not subject to any of those restrictions? It has the right to inquire into any project reported on by the Auditor-General. If that is obstructive and negative, so be it. It is a healthy exercise of parliamentary democracy.

I commend to the Minister the report of his own committee. The Public Works Standing Committee in the last Parliament had on it a majority of Government members, who strongly reported in favour of extending the requirement to statutory authorities in a much stronger way than my amendment seeks to do. My amendment seeks to do nothing that would block or stifle a statutory authority in the way that the Minister has indicated. Rather, it simply allows the Government watchdog on public works to look at what they are doing with hundreds of millions of dollars of taxpayers' money.

New clause negatived.

Clause 7 passed.

New clause 8—'Periodical report.'

Mr M.J. EVANS: I move:

Page 3, after line 35—Insert new clause as follows:

(a) by striking out from subsection (1) the passage 'on or before the thirty-first day of August in each year, make a general report to the Governor' and substituting the passage 'as soon as reasonably practicable after the first day of July in each year, make a general report to the Governor and both Houses of Parliament';

and

(b) by striking out subsection (2).

In some respects this amendment is complementary to previous amendments that I have moved. However, it still stands on its own and makes an important point; that is, that the committee is, as both the Minister and the Opposition have indicated, accountable to Parliament. The present procedure is not quite as the member for Davenport previously outlined, that is, that the committee reports to this House; in fact, it reports to the Governor, who then allows his Minister to table in this House a copy of the report within an appropriate time frame.

My amendment proposes that the committee in its general report should report to both the Governor and to both Houses of Parliament jointly. I believe that that will more properly reflect the role of the committee as outlined by the Minister and the Opposition spokesman but not as is contained in the Act. I commend the amendment to the Minister because it incorporates in the legislation in relation to the general report a requirement that the committee is accountable to the Governor and to both Houses of Parliament rather than simply to the Governor alone.

The Hon. T.H. HEMMINGS: I do not like to be seen as an unbending Minister, but the Government sees no value in this amendment. It seems that the member for Elizabeth sees something (I will not say sinister) in the word 'Governor', but he thinks that if the committee reports to the Governor it in some way takes out of the hands of Parliament its rightful role. I am probably taking a risk of the member for Light getting to his feet and providing an example (as he did with the case of a school that was built in the middle of a watercourse in the South-East) of a committee report going to the Governor and being ultimately present to Parliament and where something dastardly or devious had taken place. If he knows of such an example, I would like him to tell me. I am sure that even he cannot go back and remember a case such as that. There is nothing wrong with this legislation always relating back to the Governor, that is, in relation to the appointment of members, reports, and so on. There is nothing wrong with that. For that reason and for consistency, I reject the amendment.

New clause negatived.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No.2)

Adjourned debate on second reading.

(Continued from 12 February. Page 85).

Mr INGERSON (Bragg): This Bill has been introduced by the Government to correct an anomaly that was created in 1938 when it was agreed to and set down fairly clearly by this Parliament. An interpretation of this clause in the High Court in a recent case *Gordon and Gotch v K & S Lake City Freighters Pty Ltd* has caused some difficulties for the industry, and the Government is rightly correcting that situation. During discussions with the industry on this Bill I spoke with the South Australian Road Transport Association, which sent me a letter that clearly identifies the reason for this Bill, as follows:

The High Court decision in *Gordon and Gotch v K & S Lake City Freighters Pty Ltd* has demonstrated that section 133 of the Motor Vehicles Act, in its existing form, has stripped from the transport industry and owner drivers generally the protection which was previously enjoyed through the operation of the normal terms and conditions upon which goods were consigned. All parties concerned—

and a large number of parties is concerned, including the transport union, the South Australian Road Transport Association, the National Freight Forwarders Association, and the insurance industry through its representatives on the ICA—

agree that the interpretation given to the section by the High Court is contrary to that which was intended by the legislature at the time the section was enacted.

In the interests of its members the association has urged upon the Government that the situation brought about by the High Court decision must be remedied to the extent that section 133 be amended to apply only with respect to claims for bodily injury.

It is interesting that a Mr Christian, the then member for Burnside, was the member who moved this clause back in 1938 and that as the member for Bragg I am speaking to this same clause in 1986. It is interesting and very clear that it was intended that this clause apply to third party bodily insurance while the High Court's decision has extended it to include third party property.

As an Opposition we note and support this change through this Bill. Our only concern and comment is that in bringing

forward the Bill there has been comment about retrospective operation. We note that the Government in its wisdom has now brought in an amendment to further clarify the situation. Today I had the opportunity to talk with a representative of the Insurance Council of Australia, which clearly supports this amendment. The council has the same concerns as has the Road Transport Association in this State. I support the Bill.

Mr BLACKER (Flinders): I rise to add my support for the Bill. The member for Bragg has adequately covered what I wish to say. I think that in relation to people in country areas one has only to see the documentation at the bottom of some of the statements that have been put out disclaiming any liability on loads. The High Court challenge has validated that, and I think this rectifies the situation. There was confusion in the area and we are pleased that it has been corrected. It has been recognised and I hope that no-one else has been hurt in the intervening period.

The Hon. G.F. KENEALLY (Minister of Transport): I thank the Opposition for its support for this measure. It is imperative that we process this legislation as quickly as possible both here and in another place to ensure that the intention of the 1938 legislation is clearly stated in law in South Australia and Australia for the benefit of all those who have been or could be affected by the High Court decision, without in any way reflecting on that decision.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Contracting out of liability for negligence.'

The Hon. G.F. KENEALLY: I move:

Page 1, lines 26 and 27—Leave out subsection (3) and insert new subsection as follows:

(3) Nothing in subsection (2) affects the rights of the parties in Supreme Court Action No. 1239 of 1982, which action may be determined in all respects as if the Motor Vehicles Act Amendment Act (No. 2) 1986, had not been enacted.

This amendment relates to comments that I made in the second reading explanation. I indicate that this was not an easy decision. The processes have been long and fairly tortuous because retrospectivity is not a way to go for Parliaments either here or anywhere else in the world. Retrospectivity takes away rights that have already been adjudged to be fair and proper.

The Government has decided on this occasion that full retrospectivity is justified. In 1938, when this legislation came before Parliament, it was clear, if one was to read the second reading speeches, what its intention was. However, the recent decision of the High Court which determined to rely exclusively on the wording of the Act and not to take into account at all the second reading speeches of the day, concluded that the Act actually meant something other than what was the original intention.

We now have before Parliament the Acts Interpretation Act which will allow the courts in future to take account of the second reading speeches in determining the intention of the Parliament. That, if for no other reason, requires me to explain fully why I am moving the amendment.

It is important that all actions, other than that which was decided by the High Court, that is, *Gordon and Gotch v K and S Lake City Freighters Pty Ltd,* either proposed or in place, should be caught by this amendment. So, the retrospectivity will cover all potential actions and all actions in place.

That was the undertaking that I gave to the industry and union spokespeople when they came to see me. I took advice, which suggested that it was an unusual course to take and that it might be setting a precedent. That accounts for the second reading speech. I subsequently had further discussions and I have taken further advice. I am aware that there is precedent for the course of action that we are taking, and I am able to bring this amendment to the Committee in good faith. I do so with the support of the advice that is appropriate for a Government to seek and take, and with the support of most of the people who may have cause to be included in any litigation that may arise if the High Court's decision is to be allowed to become the standard for other actions.

As I said earlier, the High Court's decision was an appropriate one having regard to the legislation. It is Parliament's responsibility to clarify in 1986 what it intended to do in 1938 and, for that reason, I recommend the amendment to the Committee with, I suppose, its draconian intent. It will ensure that no action other than that to which I have already referred in this debate can be taken. So, all those people acting in good faith over some years—acting in accordance with the South Australian legislation as they understood it—have the protection of this Parliament that was initially given to them.

Mr INGERSON: I support the Minister's comments and indicate our position. Like the Government's decision, our decision in regard to retrospectivity was not an easy one, either. For the same reasons as the Minister, we believe that people who work within the law of the day ought to continue within it and that we should not take back the position and bring in new facts after people have been dealing with a particular case.

In common with the Minister, we recognise clearly the intention of the Act in 1938 and the position put down in the second reading speeches and in the discussion of the clauses. This situation highlights the concern and the problem in respect of the insurance of goods. Obviously, this is not the place to take up this matter, but I would like to comment on it to the Minister because it is an area of concern about which something ought to be done soon.

Mr BLACKER: In regard to the retrospectivity, has the Minister or the Government any knowledge of any other party who may be affected by this provision?

The Hon. G.F. KENEALLY: I am not absolutely certain, but it is possible that there is on file a case in which writs have been issued and which could be caught up by this legislation. As I understand it (I am not certain), that action has ceased, waiting on the decision of Parliament. Other than that, I am not aware of any other action that is proceeding, although I am fairly certain that there are many eager people out there waiting to see what the South Australian Parliament does about this legislation so that they might determine what courses of action are available to them.

We intend to ensure that there are no courses of action available to them, and we intend to ensure that action for loss or damage to property is not a part of this legislation and that it refers strictly to third party bodily injury, as was initially intended.

I understand that one action could be involved. However, it is very difficult, without going back through all the court files, to track them all down. Even if there are other actions, it is the intention of this legislation to pick them up and render them ineffectual so that there is only one action—(the one to which I have already referred, namely, *Gordon and Gotch v. K. and S. Lake City Freighters Pty Ltd)*—that will not be affected by the retrospectivity provision.

I want to make it as clear as I can so that, when anyone is reading these debates to determine the intention of the South Australian Parliament, they will see that the intention is to pick up all other possible actions, whether proposed or proceeding, so that there remains only the one action

that we cannot touch, that is, the decision that the High Court has already made.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 February. Page 84.)

Mr INGERSON (Bragg): On behalf of the Opposition, I support the Bill. It contains five parts, which we support strongly. The first concerns the removal of the limitation of 14 days that is currently placed on a permit by police to owners who have paid the required registration fees and compulsory third party premiums for the vehicles but who, because they live in remote areas, cannot be issued immediately with registration labels and plates. The Opposition supports this provision because it is a logical administrative exercise.

The second area covered by the Bill concerns the reduction of the period for the completion of the transfer of registration of vehicles from one owner to another from 14 days to seven days. Considerable difficulty has been experienced in this area and, as again this is an administrative matter, the Opposition supports the provision. The third area concerns trader plates and, as this provision purely and simply brings the registration period into line with the calendar year and as this concerns an administrative function, the Opposition does not object to the amendment.

The fourth area covered by the Bill concerns the provision of a five year period of operation for drivers licences instead of the three year period. The Opposition questions the purpose of this provision, although it obviously makes it easier for the Motor Registration Division to carry out its licensing functions with the present volume of licences. In Committee, therefore, the Opposition will question the Minister on this matter. The fifth area is purely and simply noting on the driver's licence the fact that an individual might have an instructor's licence. This provision is of obvious advantage to the community at large: it makes it easier in issuing licences because in such circumstances only one licence needs to be issued. I support the Bill.

Mr S.G. EVANS (Davenport): I, too, support the Bill. As the House is discussing the registration of motor vehicles, I take this opportunity to raise a matter which, being of some concern, the Minister might consider. It relates to the registration of motor vehicles and the issuing of certificates of registration. I believe that the police recently called on an individual at his home, arrested him, and took him to gaol because he had not paid parking fines in relation to a vehicle that had been registered in his name. This person, I understand, did not buy the motor vehicle: someone else bought it and registered it in his name. This resulted in an irresponsible person parking it anywhere in Adelaide with the parking tickets being sent to the registered owner, who also got the notices and the summons to appear in court.

I believe that this case resulted in the Registrar's endorsing the registration papers for that vehicle with the statement that it was not to be registered again in that person's name. In view of these circumstances, will the Minister consider making it more difficult to register vehicles in other persons' names? In other words, could some form of identification be required? At present I can register a cheap vehicle in the Premier's name, give it to an irresponsible person who might park all over Adelaide, and the Premier would not know about it until he received parking tickets. The Minister may know something of this case. I do not want to go through the whole saga of events, because I have not permission to use the individual's name in Parliament: I only know what happened to him. What does the Minister intend to do about this problem?

The Hon. G.F. KENEALLY (Minister of Transport): I thank the Opposition for supporting what is largely an administrative Bill. I acknowledge that questions will be asked in Committee. In reply to the member for Davenport, I am not aware of the incident to which he has referred, but I acknowledge that the potential is there for that type of incident to occur. I accept the validity of what the honourable member has said. Certainly, identification is at present required for corporate registration but not for private registration, so there is a chance of an irresponsible person, as the honourable member described him, registering a vehicle in someone else's name.

I appreciate the honourable member's efforts in recent times to have a clearer indication of identity and I imagine that to some degree that has motivated his remarks on this occasion. Nevertheless, we will consider the circumstances that allow such a purchase to occur and see what can be done about them. I will consider this matter with a view to bringing down legislation later.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Permits to drive pending registration.'

Mr INGERSON: Regarding 'the prescribed period', the second reading explanation refers to the removal of the limitation of 14 days. As each situation is different, will the Minister say how this provision is to be handled?

The Hon. G.F. KENEALLY: The Registrar intends to consult with the police, but it is expected that six weeks would be the maximum and that should cover all contingencies.

Mr BLACKER: I note from the Minister's reply that it is basically designed to cover people in more remote areas who do not have direct access to a regional office. However, six weeks in towns close to a regional office would seem excessive. Is the Government happy with the six week blanket provision applying not only in areas where there is not a regional office but also in the Adelaide metropolitan area?

The Hon. G.F. KENEALLY: The terms will expire immediately the Registrar receives their registration and the plates. There is no problem. Flexibility is still built into what the Registrar and police are able to determine. I take the honourable member's point that in some instances six weeks would be much too long, but that could be taken account of by the Registrar. In other examples, six weeks might be the appropriate length of time.

Clause passed.

Clauses 3 and 4 passed.

Clause 5—'Duration.'

Mr INGERSON: During the second reading explanation the Minister commented that there would be use of self-destructive labels on these plates. Could he explain how such plates will work?

The Hon. G.F. KENEALLY: If the honourable member is patient I will relate word for word the advice I have received. A plate with a slot is issued and into the small slot a label is placed with '1986' written on it. If one tries to remove the plate it will destroy itself.

Mr INGERSON: I do not understand the Minister's reply.

The Hon. G.F. KENEALLY: If the honourable member were to consider what I have said and take the opportunity to speak to the Registrar, he would understand the reply.

Mr INGERSON: Whilst that might seem to be acceptable in a jovial sense it is really unacceptable, because we ought to have a suitable explanation in *Hansard*. The statement made by the Minister in his second reading explanation was that the label is self-destructive, and the implication is that that could occur at any time. When does it self-destruct? Obviously it is at the appropriate time, but does it begin doing so halfway through the registration period, right on the date or when?

The Hon. G.F. KENEALLY: On a normal traders plate at the top will be a small indentation into which one will put a label every year—in this case, 1986. At the end of the year one will clean it off with a screwdriver and apply a new label with '1987' on it. To destroy it one has to remove the old label. It is so obvious I find it difficult to understand why the honourable member is having trouble.

Mr BECKER: How does the label self-destruct?

The Hon. G.F. KENEALLY: Once the label is on the traders plate, it cannot be transferred to another plate, otherwise it will be destroyed in the process. It is stuck on to the traders plate in a small indentation at the top. At the end of the year, one registers for the next year. The word 'self-destruct' is misleading: it is in the process of changing the label that one destroys it.

Clause passed.

Clause 6—'Examination of applicant for driver's licence or learner's permit.'

Mr INGERSON: By increasing the term of the driver's licence from three to five years, what effect will that have on the cash flow or what effect is it likely to have in terms of workload for the department?

The Hon. G.F. KENEALLY: In the first three years there will be an increase in the cash flow, as the honourable member would appreciate, of about 120 000 transactions at $20. All told, without doing my sums, that will mean $2.4 million.

Mr INGERSON: How does this extension of five years affect elderly people once they get over 70 years of age?

The Hon. G.F. KENEALLY: There is always the ability for a person who so wishes to take out a 12 month licence, but this provision will enable them to take it over a period of five years. It is not mandatory and anyone who for one of a number of good reasons wants to take out a licence for 12 months only will be able to do so.

Mr LEWIS: If I understood the Minister correctly, he said that there would be an increase in revenue of $2.4 million in the first three years. How many people in South Australia have drivers licences and what does each drivers licence cost on a per annum basis? On my reckoning it is a bit more than $2.4 million.

The Hon. G.F. KENEALLY: What I advised the Committee was that there would be an increase in the first three years of about 120 000 transactions, with a $2.4 million increase a year. I think that we are presently taking about $10 million a year now, and that will go up to about $12.4 million. There are somewhere over 800 000 licences currently existing in South Australia. This provision brings forward in the first three years an average increase of 120 000 transactions a year, that is if everyone renews for five years. We have taken into account the possibility that for special circumstances a number of people will not or cannot do that.

Mr BLACKER: Following the question asked by the member for Bragg, in the event of an elderly person having a licence and then for physical or handicapped reasons having to give that up, would the surplus of the licence be refundable?

The Hon. G.F. KENEALLY: I thank the member for Flinders for bringing that to the attention of the Committee. The answer is 'Yes'.

Mr S.G. EVANS: What will be the savings to the department in terms of numbers of people or man-hours?

The Hon. G.F. KENEALLY: The reason for bringing this legislation before the House was not only one of income to the Government but also one of convenience and to contain the resources that we need to use in the department. We expect a saving of about $500 000 a year.

Mr S.G. EVANS: I am concerned about the 800 000-odd licences, and the talk of a 120 000 increase in transactions per year over a three year period. That does not add up. I assume that it will take about six or seven years to complete the transfer to five year licences. Some might argue it should only take three years. I cannot work out how, when we have 800 000 licences and we will get them all into a five year slot—there are three year licences now—we will have 120 000 extra transactions a year over a three year period.

The Hon. G.F. KENEALLY: The honourable member is right. It is at the end of the cycle that the savings start to come on stream. That is the point that the honourable member was making. I may have advised the Committee that the savings would start initially, and I think that generated the query. The savings start after the existing three year period for licences.

Mr S.G. EVANS: I assume that each year for the first three years the same people will be applying for a five year licence as they were for a three year licence. Therefore, there is no saving in manpower in the first three years, but there will be some extra revenue with no more transactions. Seeing that there will be a saving in going to five year licences, why did we not do as was done in other places, such as Queensland, and go to 10 year or 15 year licences and save a lot more?

The Hon. G.F. KENEALLY: One wonders why, in Queensland, if that is the case, it did not go to a 30 or 40 year licence. One has to decide on a period of time. The Government has decided on five years.

Mr S.G. Evans: You get a lot more money.

The Hon. G.F. KENEALLY: Initially. If I wanted all the money now to help fund Highways activities in 1986, 1987 and 1988, and deprive the Government for years after that, I could do so. I think five years is an appropriate length of time. Governments in future years may decide to extend it, as the member for Davenport has suggested. However, that is the decision of the Government and I think it is a fair and reasonable one.

Mr LEWIS: In the past, and until recent times, we have had an annual renewal and funds obtained from the fees paid by members of the public have been applied for the purposes for which they were intended on an annual basis. We then went to triennial licences, and there was not much of a change in that respect although there was a little bit of a hiccup in the revenue system. Now that we are going to a five year licence, are the Minister and Government intending to put the funds obtained, given that it is to be extended over a longer period, into a sinking fund and use only one-fifth (20 per cent) of the money so generated in each year? I acknowledge that, while the funds are in a sinking fund, they are attracting interest and presumably the Government could lend the money to the Electricity Trust for 20 per cent, or whatever it regards as the going rate for loans to the Electricity Trust. By that means it would even out the cash flow and there would not be any deceitfulness. When we come to government in four years time we will not find the coffers bare, with no-one buying licences except those who become old enough to apply for one.

I worry that we might find the funds obtained in this way squandered in the year in which they were obtained, with nothing left to meet the cost of even running the division of the department that is responsible for that area. Can the Minister tell us how the funds will be disposed?

Are they to be spent in the year of collection, or will they be put into a sinking fund as any sensible business operator would do?

The Hon. G.F. KENEALLY: The legislation requires the proceeds that are hypothecated against the Highways Fund to go into the Highways Fund to build roads in South Australia, including the honourable member's electorate, so I would hardly suggest that that can be—

An honourable member interjecting:

The Hon. G.F. KENEALLY: Yes, true enough, but that could hardly be described as being squandered. It is true that the funds that are available to the Highways Department are fairly meagre compared to the very large task that the department has in building and maintaining the road system in South Australia. That is where it will go. The Treasurer might be interested to look at the suggestion made by the honourable member, but I rather feel that we will be constrained by the Act, as we ought to be, and the funds will go into the Highways Fund.

Mr INGERSON: I question the mathematics of the increase, because it seems to us that, in the first three years, there would be something like an extra $4 million or more coming in per year. Quickly doing our mathematics, it seems a fairly significant tax raiser in those three years. After that is quite a significant drop-off. In the last two years of that five-year cycle, there is virtually no extra money coming in. Further, is it the intention of the Government to leave the charge per year as it exists or does it intend by regulation or some other means to increase this figure when it is put to five years?

The Hon. G.F. KENEALLY: No, the Government does not intend to increase the figure automatically when it goes to five years, but I cannot bind what future governments—either this Government or any other Government— will do in terms of the fee structure for licences, and the honourable member would understand that. If we have a difference of opinion about the mathematics, that can be resolved outside the Committee. That does not affect the basic principle of what we are trying to do.

Mr Ingerson: It is a significant amount, though.

The Hon. G.F. KENEALLY: I have already advised the Committee that we expect to get a minimum of about $2.4 million a year in the first three years. The honourable member suggests that we will get more. His mathematics might be right and mine might be wrong, but that does not affect the basic principle of the clause. In terms of whether we intend to use the five year licence period to automatically increase the yearly charge, the answer is 'No'. However, I do not want anyone to believe that during the five year period there will be no increases in the yearly rate. Anyone who gets in first and pays for the five years, is in, and any increase in the yearly rate will only be picked up by those people who have yet to renew.

Mr S.J. BAKER: Does the Minister have any information from within the Motor Registration Division that tells the divsion how many people have failed to renew their licences at the prescribed time, setting aside those who would normally fall off the end through death or old age or whatever?

The Hon. G.F. KENEALLY: The information can be obtained by the Registrar. I do not have it available to me. If the honourable member would like, I can get a considered reply for him, but that information would be available to the Registrar if the Registrar had need to ascertain the numbers of people who had not renewed or who might, as the honourable member points out, have gone over the 70 year age limit.

Mr S.J. BAKER: I asked the question because I have had two cases in the past 12 months of people failing to renew their licences. One was a person who had been overseas and when he returned home, the renewal notice had long gone in the rubbish bin. That person faced the prospect of having to go through the learner/provisional aspect. The other was a person who had left an address and did not look at his three-year licence to check the renewal date. Time wandered by and he did not realise that his licence had expired. The person who took over the flat from him said, 'I don't know where he has gone', and that was the end of it.

They were two instances, and I am sure that there are probably many more examples of exactly the same thing. When we had a yearly licence, it was fairly simple—you knew that you had to renew every April or May, or whatever. With three years it gets harder, and with five years, it becomes quite impossible for transient people. It seems that the service to the public in this regard is actually decreasing.

The Hon. G.F. KENEALLY: The Registrar has a discretion and can accommodate many instances similar to those the honourable member describes to the Committee. He cannot exempt from the theory people who have not had the licence renewed for three years. The law requires the Registrar to require the applicant or the previous licence holder to do the theory. The Registrar can use his discretion in relation to the practical test, and he has told me that, under clause 6, that three-year period will be extended to five years. So, if this legislation becomes law, after five years he must require the person once again to do the theory. However, the Registrar has a discretion in relation to the practical test.

Mr D.S. BAKER: Has the Minister an estimate of the number of new licences issued each year?

The Hon. G.F. KENEALLY: I am advised that it is about 40 000 to 50 000. I would be disappointed if this Committee becomes an argument for statistics about whether it is 2.4 or 3.6. I point out to the Committee once again that it is a basic principle that is embodied in the amendment, and, if there are differences of opinion about funds generated, we can have those discussions at some other time. It ought not to bog down the Committee, particularly when we are so close to 10 o'clock.

Clause passed.

Remaining clauses (7 to 10) and title passed.

Bill read a third time and passed.

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

PAY-ROLL TAX ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

STATUTE LAW REVISION BILL

Received from the Legislative Council and read a first time.

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

It seeks to make sundry minor amendments to the Adoption of Children Act, the Building Act, the Children's Pro-

tection and Young Offenders Act, the Community Welfare Act, the Mining Act and the Parliamentary Superannuation Act, preparatory to the publication of those 6 Acts by the Commissioner of Statute Revision in consolidated pamphlet form.

All the proposed amendments stem from the Commissioner's objective of producing Acts that are generally more readable, grammatical and modern in expression. All obsolete and exhausted material is deleted, antiquated terminology is changed to conform to today's standards, and out-of-date references are corrected. None of the amendments purports to alter the substantive law. I believe that the individual changes are self-explanatory and, for this reason, I do not propose to explain them in detail. The Commissioner of Statute Revision (the Parliamentary Counsel) or any of his officers will of course be available to give a detailed explanation of any particular amendment.

Mr S.J. BAKER secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.F. KENEALLY (Minister of Transport): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Local Government Act Amendment Bill makes a number of amendments to the Local Government Act designed to provide greater flexibility for councils to promote schemes for the benefit of the community, improve the administration of the Act and repeal obsolete and archaic provisions.

For some time there has been concern in local government that the existing provisions are not sufficiently flexible to enable councils to implement a wide range of schemes to provide services or facilities which, although not seen as traditional local government functions, will improve the quality of life for the community, and/or promote economic development. Proposals coming within this class include the provision of remote area television receivers and cable networks in country areas, and schemes developed by traders to levy separate rates to be applied to promoting the area or portion of an area, similar to the rate levied on Rundle Mall traders to promote the Mall. The Bill provides for a council after consultation with its electors to be able to submit for the approval of the Minister a scheme for the carrying out of any undertaking for the benefit of the area, and empowers the council to give effect to the scheme if authorised by the Minister.

The Bill contains a provision extending the maximum term of lease of the Adelaide Oval from 25 to 50 years. The extension of the term of lease will enable the Adelaide City Council to extend the S.A. Cricket Association lease of the Oval providing the additional security of tenure needed by the Association to finance the much needed upgrading of oval facilities.

The Bill contains a number of provisions designed to improve the administration of the Act, for example by providing that councils may by resolution temporarily suspend the passage of traffic in streets for special community events such as carnivals, Jubilee 150 and in 1988 Bi-centennial events.

As part of the rewriting of the Local Government Act the opportunity is being taken to repeal a large number of archaic or obsolete provisions relating to such activities as ferries, now the responsibility of the Minister of Transport, and hide and skin markets, together with provisions inserted in the Act with expiry dates now passed or for special purposes which are no longer required.

Clauses 1 and 2 are formal.

Clause 3 inserts a new section 34a in the Act to provide that the Association may carry on the business of providing workers compensation insurance to councils and any other prescribed body.

Clause 4 amends section 47 to enable the Governor to provide, in a proclamation made under Division VI of Part II, for the adjustment of the term of office of a member of a council.

Clause 5 amends section 48 by providing that when the office of a member of a council becomes vacant the chief executive officer is to notify other members of the council and the Minister.

Clause 6 amends section 49 of the Act to provide that an annual allowance payable to a mayor or chairman may be paid in monthly instalments.

Clause 7 amends section 54 so that a member cannot be precluded from voting on a matter affecting a non-profit organisation in which the member or a person closely associated with the member is a director or member.

Clause 8 amends section 63 of the Act to provide that each elector present at a meeting of electors is entitled to vote in the elector's own capacity and where the elector is a nominated agent in the elector's capacity as nominated agent.

Clause 9 amends section 66 of the Act to provide that a person appointed to act in the office of chief executive officer for more than 3 months must hold a certificate of registration issued by the Local Government Qualifications Committee or have the appointment approved by the Minister.

Clause 10 amends the Act by inserting a new section 68a which provides for the delegation by the Local Government Qualifications Committee of any of its powers or functions to any member of the Committee or any advisory committee or a member of an advisory committee.

Clause 11 amends section 92 of the Act by providing that the address of the residence of a person entitled to be enrolled to vote or the address of the place of residence or ratable property (as the case may be) that entitles the person to be enrolled to vote may be suppressed by the Chief Executive Officer from inclusion on the voters roll where the Chief Executive Officer is satisfied that such inclusion would place at risk the personal safety of the person, members of the person's family or any other person.

Clause 12 amends section 101 of the Act to provide that a candidate in an election is not eligible for appointment as a scrutineer in the election.

Clause 13 amends section 150 by removing the requirement that the council and the Minister be notified of a member's failure to submit a return.

Clause 14 repeals section 286 of the Act. This section deals with the payment of council moneys.

Clause 15 amends section 292 by removing the entitlement of an elector to inspect accounts. This is now provided for in section 64 of the Act.

Clause 16 amends section 293 by removing the reference to 'the Auditor-General' as the Auditor-General no longer has the power to inspect a council's accounts unless appointed by the council.

Clause 17 amends section 305 to provide that on the vesting in the council of any street, road or land to be

declared a public street, road or land all private rights shall be discharged.

Clause 18 repeals Division XIII of Part XVII dealing with the right to use streets, footways, etc., formed and drained etc. at the expense of the landowners.

Clause 19 amends section 358 of the Act by providing that the erection of safety islands etc. by a council is subject to the provisions of this Act or any other Act.

Clause 20 inserts a new section 359 in the Act providing that a council may by resolution exclude vehicles generally or vehicles of a particular class from a particular street, road or public place. Such resolution is not to take effect until it is published in the *Gazette* or a newspaper circulating in the area.

Clause 21 repeals section 365b and substitutes a new section enabling a council to authorise the erecting or placing of a stand or shelter for milk containers, a stand platform or ramp for loading or unloading goods or animals, a rubbish container or a letter box on a public street or road within the council area.

The section also provides that the council may revoke an authority given and cause the structure to be removed.

A penalty of $1 000 applies to a breach of the section.

Clause 22 amends section 377 of the principal Act to enable a council to enter into a contract with a local government body established under the law of another State or a Territory of the Commonwealth.

Clause 23 inserts a new Part XVIIIA in the Act which provides that a council may propose a scheme to carry out any activity (not otherwise authorised by the Act) for the benefit of the council area. The proposal setting out certain information is, prior to submission to the Minister, publicised to enable any interested member of the public to make submissions. One month after the date of publication the council shall hold a meeting to hear any submissions and to resolve whether to carry the scheme into effect or not.

If the council decides to adopt an alternative scheme the council shall cause a fresh public notice to be given and hold a further meeting unless the council is satisfied that those affected by the alternative scheme have had an opportunity to consider it and make any submissions or that the alternative scheme differs from the original in minor respects only. Upon the completion of the hearing at the council meeting a copy of the submissions, proposal and councils resolution shall be forwarded to the Minister who has the opportunity to require additional information or make any amendments considered necessary. If the Minister consents to the scheme a copy shall be published in the *Gazette* and the council may give effect to the scheme from the date it is so published.

Clause 24 repeals sections 444, 445, 446, 447 and 449b of the Act which protected the rights of debenture holders under Acts that are now repealed.

Clause 25 amends section 475a of the Act by striking out an outdated reference to the Road Traffic Board of South Australia.

Clause 26 amends section 475i of the Act to include bailee in the definition of owner.

Clause 27 repeals section 481 of the Act which empowered the City of Glenelg to lease certain parts of the foreshore for 50 years from 6 December 1923.

Clause 28 repeals sections 521 to 527 (inclusive) of the Act which provide for the installation of sewerage mains which are now dealt with under the Sewerage Act, 1929.

Clause 29 repeals Part XXIX of the Act which provided for the operation of ferry services which are now provided for by the Highways Department.

Clause 30 amends section 628 of the Act by striking out the outdated reference to the word 'surveyor' and substituting the word 'council'.

Clause 31 amends section 667 of the Act by striking out by-law making powers with respect to the following:

sewerage and drainage

regulating, controlling or prohibiting the passing along streets, roads and public places of vehicles and ferries.

Clause 32 amends section 668 by removing the requirements for the making of a by-law under that head of power. This amendment is consequential upon the amendment to section 667 (1) III.

Clause 33 amends section 679 by striking out the subsection dealing with a resolution relating to the temporary suspension or prohibition of traffic or closure of streets or roads which is now provided for by the amendment proposed in clause 19.

Subsection 3 of section 679 is amended to provide that a resolution shall not take effect before it has been published in the *Gazette*.

Clause 34 amends section 682 by providing that a resolution disallowing a model by-law shall be published in the *Gazette*.

Clause 35 amends section 691 by providing the Governor with power to make regulations prescribing the manner in which money received by councils shall be dealt with and the manner in which payments by councils are to be made.

Clause 36 amends section 748d of the Act by providing that the amount of an expiation fee is to be prescribed and that an authorised person is a person appointed under Division VI of Part VI of the Act.

Clause 37 repeals section 752 which provides that a council member absent from more than 3 consecutive meetings without cause, shall be fined $200. This situation is now covered by section 48 (1) *(e)* of the Act.

Clause 38 amends section 794a to provide that an authorised person who believes on reasonable grounds that an offence against this Act or a prescribed Act has been committed may give that person a notice permitting the offence to be expiated by payment of a fee within 21 days from the date of receipt of the notice.

Clause 39 amends section 855 to extend the form for which the Adelaide Oval may be leased from 25 years to 50 years.

Clause 40 repeals sections 877 and 883 of the Act which are now obsolete.

Clause 41 repeals sections 886a and 886b of the Act which are now obsolete.

Clause 42 repeals Part XLVII of the Act which is now obsolete.

Clause 43 repeals Part XLVIII of the Act which is now obsolete.

Clause 44 repeals the seventeenth schedule to the Act which is now obsolete.

The Hon. B.C. EASTICK secured the adjournment of the debate.

STATE GOVERNMENT INSURANCE COMMISSION ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 February. Page 608.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill, which canvasses two subjects. The first is the problem that occurs when a dealer passes away and there is no provision for the handling of the estate, and the second is the situation that has arisen with motor vehicle dealers who have yet to be licensed. As I understand it, the 1983 Bill was proclaimed late last year, and a number of second-hand motor vehicle dealers have yet to receive their licences. I understand they have been held over. The Bill allows for that situation to be addressed and for the Motor Vehicles Department to relicense them within a period of six months from the end of last year. The Opposition supports the Bill.

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

TRAVEL AGENTS BILL

Adjourned debate on second reading.
(Continued from 19 February. Page 410.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill. I think that many people across South Australia are pleased that some action is now being taken to address a problem that has existed in the community for many years in respect of defaulting travel agents. Many of the issues associated with travel agents have been canvassed very thoroughly in another place. I must pay tribute to my colleagues there, namely, the Hon. Trevor Griffin (who moved a number of very important amendments), the Hon. Murray Hill and the Hon. John Burdett, who also made contributions to the debate. For those people who are not aware of the history of this matter, it is worth repeating that a number of schemes and ideas have been put up for scrutiny over the years.

The difficulties faced by tourists—whether they be at home and suddenly find that a travel agent has defaulted and there is no possible means by which they can travel overseas or, an even worse situation, where a travel agent defaults when someone is actually overseas—have caused considerable concern. Members may well remember that during the life of the last Liberal Government and beyond that we were looking into and proposing a scheme that dealt with a code of conduct, in other words, negative licensing for the industry. We believed that this was the most profitable course to pursue.

That scheme retained the integrity of the industry without overburdening it with regulations. It provided sufficient safeguards in the system to ensure that, if travel agents did not do the right thing, they would be subject to the full recourse of the law. That course was not followed. It should also be remembered that about two or three years ago the Australian Government intended to implement a nation-wide scheme. This was applauded by Governments of all persuasions across Australia, because it meant that we had a national blanket. We did not have the problems of national carriers crossing State boundaries being covered by different jurisdictions.

Under this proposition the four Labor Governments have banded together and will form a common scheme. However, it is interesting to note that the legislation in each of those States is not identical, and this may cause some difficulty when it comes to the crossing of State borders. Time will tell and the legislation has to be put to the test.

Australians have waited too long for protection from those people in the travel agency business who have failed to live up to their obligations. I understand that a recent case in New South Wales involved a defaulter who had outstanding debts totalling $1 million. The Opposition has some reservations about the regulatory nature of the Bill and about the approach adopted by the Government. However, we congratulate the Government for introducing this long awaited measure.

I do not wish to speak for long on the Bill because most of the comments that will be made about specifics will be covered in Committee. Some items are still left unanswered, and perhaps the Minister may be able to give us an update on some of the concerns that were raised in another place, for example, the situation in regard to national carriers such as TAA, Qantas and the bus lines. Those matters will be canvassed in Committee.

As I said, the Opposition supports the Bill because we have believed for a long time that some mechanism should exist to help people who have saved up, sometimes all their lives, in order to take the overseas trip of their dreams and who suddenly find that their trip cannot be made or that they are stranded in London or Singapore without a means of returning home. Inevitably someone comes to the rescue in such circumstances, as has happened in the past. However, often a large financial burden is imposed as a result, and this has ruined the long awaited holiday. The Opposition supports the Bill.

Mr BECKER (Hanson): Ever since I have been in this Parliament I have sought some type of legislative control over travel agents. During that period I have been given a whole list of reasons why that action could not be taken. The buck was passed from the State Government to the Commonwealth Government and the Commonwealth Government passed it back to the States. It went backwards and forwards like a tennis match, but at long last someone has done something about it.

I hope that this Bill will be the start of getting rid of the con men in the travel industry. For too long too many people have lost hundreds and thousands, if not millions, of dollars collectively throughout Australia because of the practices of some smart commission agents. That is the only way in which they can be described, because they do not represent the travel or tourist industry. The practices of smart operators have reflected on the excellent operators in the industry.

Unfortunately, every so often a travel agency is established that does nothing except operate incompetently and ultimately loses thousands of dollars of clients' money. This was shot home to me recently when one of my constituents wrote to me to confirm the problems that he and his wife had experienced in bringing his brother-in-law and his family to Australia. I want to read that letter and have it in *Hansard* as a typical case of incompetency by a well-known Adelaide travel agency. If it ever does this again, I hope that it can be convicted under this legislation.

However, as I have quickly read through the legislation, I am not sure whether we are merely setting up a licensing mechanism and providing very few powers. As I say, I want this letter to illustrate a classic case. The letter is dated 3 February 1986 and states:

Dear Heini,

In reference to our telephone conversation today concerning my brother-in-law and his family, I thought it would be a good idea to put down on paper all I can remember of the incidents leading to the travel agents fiasco whilst the facts are still fresh in my mind. The facts are as follows:

1. On Saturday 18 January 1986 my wife and I received a telephone call from her brother in Yugoslavia that he had received visas for himself and his family to travel

to Australia. Passports were also in order and he asked us to complete travel arrangements as soon as possible.

Prior to this I had been assisting this constituent to bring out his brother-in-law and his family as migrants to Australia. That extended over a period of time. The letter continues:

2. On Monday 20 January 1986 I spoke to Mr . . . a travel agent in Leigh Street, Adelaide (who is the unofficial JAT representative) and ascertained from him that it would be difficult to get seats on JAT from Belgrade to Adelaide (Melbourne) in view of extremely heavy bookings until March 1986. He confirmed this the next day, Tuesday—and gave a confirmed date, 9 March. When I asked him to try Qantas he said he did not deal with Qantas but I could go to another agent. Meanwhile, he quoted me the JAT fare Belgrade/Adelaide as $880 per ticket.
3. The same day, Tuesday, I went to . . . travel agency, Gouger Street, Adelaide, where I spoke to . . . about bringing my relatives from Belgrade to Adelaide. She said that she could bring them out on JAT on Friday the 31st. When I queried this in view of what I had been told by Mr . . . she indicated that this would be no problem because they were a bigger travel agency and as such had more contacts and were allotted more tickets. She said that the cost would be $1 020 per ticket but I told her to go ahead and make the booking. She said that she would get in touch with me as soon as the booking was confirmed so that I could come in and make payment. I agreed to this.

So, here we have another travel agency quoting an airfare of $140 difference and claiming that, because it was a bigger travel agency, it could get an immediate booking on the Yugoslavia airline. The letter continues:

4. On Wednesday Mrs . . . phoned me to say that unfortunately she could not get seats on JAT but if I wished she would try Qantas. She mentioned a figure of $1 120 per ticket but added that she could probably do better. I told her to go ahead.
5. On Thursday 23 January, Mrs . . . phoned me at home and told me that she had four seats for me on Qantas leaving Belgrade on 30 January (Thursday); I asked, 'Is this confirmed?' She replied, 'Yes, it is.' I said, 'Good—I'll take it.' I went into the city, saw Mrs . . . and paid her the money—a total of $3 300, and she gave me a receipt. I told her that we were keeping our relatives informed per telephone and that they would want to know when to pick up their tickets. She replied that a telex would be sent and that the tickets would be ready to be picked up in Belgrade the next day. This information was later phoned through to our relatives who, in turn, made a fruitless 160 kilometre each way bus trip to Belgrade to pick up the non-existent tickets.
6. The saga continues.... On Saturday 25 January Mrs T phoned me to say: 'Sorry, Qantas have made a mess of things; due to overbooking the tickets are not available. However, all is not lost, I have contacted Peter Mead, who is second in charge at Qantas, and he will use his influence on 'compassionate grounds' to get a place on JAT on Friday.' Of course, I was shocked—my relatives had travelled to Belgrade to pick up the tickets. She said not to worry, that everything would be O.K., that everything possible would be done—it was on top priority with Qantas and JAT. I said I wasn't happy but asked her to keep me informed because I had to let my relatives know in plenty of time.
7. As late as 1532 hours on Wednesday, I received a telephone message from Mrs T which read: 'Danny—Mary from travel office rang. Everything with family O.K. They are arriving this weekend.' Of course, our relatives were again telephoned to tell them the good news; however, they later contacted us again to advise 'still no tickets'.

Every time my constituent telephoned his relatives in Yugoslavia, they had to make a 320 km round trip to Belgrade to pick up the tickets from the travel agent, but every time they made the trip the tickets were not there. The letter continues:

8. Numerous phone calls to Mrs T on Thursday failed to resolve the issue until the afternoon when she advised (or admitted) that she couldn't get tickets on either JAT or Qantas, but that she had arranged something else and advised me to take it as both JAT and Qantas were heavily booked. She said that she had booked four seats on JAT to Rome on Monday, 3 February 1986. There would be a short stopover in Rome but my relatives would be met by a Thai International employee and taken to a hotel overnight; then next day they would fly Thai to Bangkok then on to Melbourne, then TAA to Adelaide. I would have to pay for accommodation in Rome but the accommodation and breakfast in Melbourne (Travelodge) would be at airline expense. The fare, although a few dollars dearer, would be kept the same, the agency would absorb the extra cost to compensate me for the way I had been messed around. I said: 'Thank you, I will take it, if you can promise me that the seats are available, have been booked and confirmed, and that there will be no mistake this time.' She said: 'There's no mistake, I have the seats booked and paid, and the telex will be sent off this afternoon. It probably won't get there until tomorrow, so perhaps you can tell your relatives to pick up the tickets from JAT tomorrow afternoon or Saturday morning just to be on the safe side.'
9. Another phone call to my relatives on Saturday morning (Friday evening Yugoslav time) revealed that they had made numerous telephone calls to the JAT agency concerned in Belgrade without success. They were told: 'No money—no tickets. Mary from Australia hasn't sent any money so we can't issue any tickets,' etc.
10. On the basis of what Mrs T had told me, I instructed my relatives to go to Belgrade again and wait at the travel agency until the tickets had been issued, because the payment had been made this end. To get to Belgrade, my relatives then boarded a bus at 1 a.m. Saturday (in the middle of winter) and travelled to Belgrade, arriving at 4 a.m. They waited for the agency to open and spent the rest of the day there just waiting and checking. They phoned us every two hours to say that there were still no tickets. Later the same day, they were able to ascertain from the agency that they did in fact have a telex from Thai International, Adelaide, but they couldn't issue the tickets because the amount paid was insufficient.

I phoned Mrs T (after hours) who in turn contacted Thai International, and as the result a staff member went into the office to find a telex from JAT. I was told that the telex did not state how much extra money needed to be paid, only that the amount previously telexed wasn't sufficient. My wife then phoned the JAT travel agency in Belgrade direct and explained the situation and asked them would they please tell us how much money needed to be paid for the tickets to be issued. They refused to tell her, saying that it was a matter between them and Thai, and that it was not our concern. We again had a lengthy conversation with our relatives and asked them to try and find out discreetly how much money was short. They did so. They were told: 'Give us 1 300 Australian dollars and you can travel.' (Of course, my relatives do not have that sort of money.) I conveyed this information to Mrs T and asked Mrs L (manager of Thai) could she please send another telex to JAT to ask them exactly how much extra they wanted and why, as both Mrs T and Mrs L agreed that the correct amount of money had been telexed. Back came the reply from the JAT agency: $2 108 per ticket (full economy fare); total $6 324 for the three tickets, as against the $3 300 I had already paid for the one-way fare.

Of course, this was unacceptable; I could not afford to pay the difference, nor did I expect Thai or the Adelaide travel agency to do so. My relatives went back home by bus, arriving at 4 a.m. Sunday, still not knowing whether or not they were going to travel, and we were unable to contact them, as the phone contact we had (through a neighbour of another relative) was no longer available, and the post office was closed.

11. When all this was going on we had no sleep for two days and two nights, my wife developed a nervous problem and had to see a doctor, and I shudder to think what the telephone bill will be, but I estimate that it is over $1 000, and all for nothing. There was nothing else I could do here on Sunday, but on Monday I contacted several people including a director of JAT in Melbourne—a Mr C, who was sympathetic and did his best to unravel the mystery. He suggested that perhaps the 'excessive amount' was charged because there were three carriers involved, coupled with the stopover in Rome. He said that he would try to do something to get the amount reduced to a more acceptable figure, but I told him that my relatives had departed in disgust and that I had no way of contacting them again in time.
12. As you know, I sought your help, and I thank you very much for what you did for us at such short notice. The total air cost of the travel as arranged is now $4 250 with

Lufthansa and Qantas (still a lot better than $6 324 the JAT agency wanted).

When my constituent advised me of what happened I contacted Qantas to see why they had overbooked or mucked up the booking. Qantas checked the travel agency and found that my constituent's relatives were put on a waiting list. Never at any stage had Qantas ever issued a ticket for them or booked them on the plane. The travel agent had told untruths to my constituent saying that Qantas had ruined the whole thing.

My constituent's brother-in-law and his family (two adults and two very young children) could no longer stay in the little village in which they were living. They had sold their furniture and had been packed ready to migrate to Australia. My constituent sent money to Belgrade so that they could travel by bus to Frankfurt in West Germany in the worst snowstorm that Europe has seen. People were dying, and there were accidents galore along the way. My constituent's relatives had to go through this for another 24 hours to get to Frankfurt so that they had some way of getting to Australia. It transpired that they went from Frankfurt to Stuttgart, and Lufthansa took them from Stuttgart to London, where they boarded a Qantas jet and they are now happily settled in Australia. My constituent, who is a senior and respected Government employee, is absolutely livid. He concluded:

It is what I would call a 'rip-off'. Both Mrs T and Mrs L, are still adamant that the correct fare (as advertised) was forwarded ($1 236 per ticket) and that Rome was an 'enforced' stopover and should have not made any difference. In truth, I cannot blame these two ladies for what the JAT agents did to us in Belgrade. However, I believe that Mrs T was less than honest in her dealings with me, in reference to the 'bookings' initially with JAT and Qantas, and I wonder if I do have a case for compensation for all the trauma and the extra expense involved (approximately $2 000). I am fairly certain that, if I had gone direct to Qantas in the first instance, none of this terrible fiasco would have occurred.

That is a classic example of how people can establish a travel agency and build up what is known in their own community as a reasonable reputation. Everybody would be amazed if they knew the identity of this travel agency in Adelaide—it is well known and respected. However, I would not recommend that anybody go there. If these people get a licence, I would like to know how, as they are plainly incompetent. It is a disgraceful situation.

Members interjecting:

Mr BECKER: I will not name them under parliamentary privilege. It is a classic example of the way in which people are messed around. They get so frustrated that they take whatever they can get. No wonder people lose money and are conned into cheap fares by smart talking travel agents, who are no different from used car salesmen or any other type of commissioned officer. There is good and bad in every field. For some unknown reason the travel agents, or the tourist area, seems to attract the worst of this type. I only hope that the matter is resolved, not only because of the experience that my constituent had to go through but for all the hundreds of people who have lost thousands of dollars, their luggage, their life savings or the opportunity of a lifetime to travel overseas, for those who got part way and found that their accommodation had not been paid for and for those who found that the travel agent doing their bookings had gone into receivership at the beginning of their holidays.

It is a terrible crime, one of the worst types of fraud that I know—taking the life savings from people, building up their hopes and expectations that they are going on the trip of a lifetime for which they have worked hard and prepared, only to be let down at the last minute. The penalties in the legislation are not severe enough. To take away their licence or the opportunity to trade does not stop these people from going somewhere else and starting some other business. This type of fraud should carry a severe gaol penalty in perhaps a Malaysian or Singapore gaol.

The Hon. G.J. CRAFTER (Minister of Education): I thank members who have contributed to the debate for their support of this measure. This matter was thoroughly debated, as the member for Mitcham said, in another place by the responsible Minister and shadow Minister who were able to amend the legislation. In the meantime, the Government has had further discussions and negotiations with the travel industry and, indeed, with counterparts in the administrations in other States and, as a result, a further series of amendments have been put on file by me to bring about further improvements to this legislation. As similar legislation has been enacted in other States, particularly in New South Wales and Western Australia, it has been seen as desirable that we achieve uniformity wherever possible, as the industry is supportive of these measures and as the major advantage to consumers will be the establishment of a compensation fund. The insurers, in conjunction with the interested State Governments and the travel industry, have tried to achieve this degree of uniformity which accounts for some of the amendments before us tonight.

The Bill forms part of a co-operative effort by the States in developing a uniform scheme for the regulation of travel agents and the compensation of persons who suffer loss in their dealings with travel agents. It is hoped that it will minimise (I suppose it will never eliminate) the sorts of tragedies that have been brought to the attention of the House by the member for Hanson. Indeed, I am sure that all members know of instances of people who have been defrauded by travel agents misappropriation of funds placed in their care by their clients.

A vital ingredient of the scheme is a national compensation fund to be administered jointly by governments and the travel industry. The participation of the industry in this scheme depends entirely on their licensing legislation being substantially uniform, and on the legislation including provisions that will complement and not derogate from the trust deed that will form the basis of the compensation scheme.

I point out to members that, if there is some fear that this legislation does not go far enough in relation to the provisions regarding the maintenance of trust accounts, which it is proposed to amend, this has come about after discussions with industry, the insurers and other State Governments so that we can arrive at a package that will achieve the compensation fund. I am sure all members will see that as the most important element of this legislation.

The law can provide all sorts of rights and bring down harsh penalties on those who err in these matters, but unless it can provide some compensation for those who have been defrauded then I think there will be bitter disappointment in the community. As the honourable member for Hanson has relayed, often it is those who can least afford to lose money who in fact lose their hard earned savings; those who have to find the very cheapest fares, often with emotional family circumstances in their need to travel, are the ones who fall prey to those who offer lower fares. The New South Wales Government, on behalf of the States, has been conducting most of the negotiations with the travel industry to ensure that these objectives are met. The drafting of legislation in New South Wales and South Australia has been proceeding at the same time, and this has created some logistical difficulties in ensuring uniformity.

In order to ensure the passage of the South Australian Bill during this parliamentary session it was necessary to introduce the Bill based on the agreement reached at that time and based on what was then the latest draft of the

New South Wales Bill. Since the passage of this Bill in the Legislative Council, a copy of the final Bill to be introduced in New South Wales has been received, and this Bill contains some significant variations to the previous draft as was negotiated between the industry, the insurers and that State. There have been some extensive telephone conferences between officers in New South Wales, Western Australia and South Australia about these provisions that need to be made substantially uniform. The proposed amendments reflect the result of those discussions and are necessary to ensure uniformity and consistency.

I need not tell members that as this legislation is new, and it does have this degree of uniformity amongst at least three States and the cooperation of the travel industry, I think it will necessarily be kept under close scrutiny. It is for that reason that I foreshadow the amendments that have been filed. There are a number of them, but they are developed for the reasons I have explained to the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. G.J. CRAFTER: I move:

Page 2, after line 5—Insert new definition as follows:
'office', of a licensed travel agent, means a place from which the licensee carries on business:

This amendment is consequential on the proposed amendment to clause 13, which I will explain to the Committee now so that it is put in its proper context. This amendment will require all persons who manage the day-to-day business of a travel agency to hold the prescribed qualifications. It will make the Bill uniform with the legislation of the other participating States. Licensees will not necessarily have to hold the prescribed qualifications, so the requirement is not being made part of the licensing criteria. The prescribed qualifications have yet to be determined, but it is anticipated that the criteria could be met by either educational qualifications or relevant experience in the industry. The code of practice for travel agents prescribed under the Act will include some guidelines as to what amounts to proper supervision for the purposes of this clause.

Amendment carried; clause as amended passed.

Clause 4—'Business of travel agent.'

Mr S.J. BAKER: A question was raised in the Upper House, and I do not think it was satisfactorily resolved, about the position of the national carriers. As we are aware, the national carriers have agencies and offices in this State: some of those national carriers are Commonwealth statutory authorities. The difficulty is that we cannot bind the Crown under State legislation. Has the Minister been able to ascertain whether it will be possible to license those carriers with agency and office business here, and also extract the relevant licence fee and contribution to the compensation fund?

The Hon. G.J. CRAFTER: I hope that I can clarify this matter to the extent that it is possible. If a Commonwealth instrumentality is conducting business as a travel agent it would not be possible to regulate its activity under this Bill unless it agreed to conform with the provisions of the Bill. The Crown in right of the State of South Australia cannot bind the Commonwealth Crown. However, representations are being made to the Commonwealth to seek an agreement whereby instrumentalities in that position would be bound by the Acts of the participating States and as a consequence, would make payments to the compensation scheme.

Clause passed.

Clause 5—'Act to bind Crown.'

The Hon. G.J. CRAFTER: I move:

Page 2, line 33—After 'offence' insert 'or obliges the Crown in right of South Australia to hold a licence.'

It is suggested that there is nothing to be gained, in effect, by requiring the Crown to be licensed. The Crown should not be required to apply for a licence and satisfy the sufficient financial criteria applied by the Commercial Tribunal. However, it is proposed (and I presume that this is the concern that was expressed in another place) that the Crown should have to contribute to the compensation fund in the same manner as other licensees, and that is foreshadowed in a further amendment to clause 24.

Mr S.J. BAKER: I am not aware of the full ramifications of the lack of obligation to hold a licence by the Crown. I do note that, under a later clause in the Bill, there is a situation where the Crown will actually pay a licence fee. There is the question of whether it should also contribute to the compensation fund and whether it should be, if it is carrying on travel agency business as an active participant, contributing to that fund. I say that because in South Australia we have some travel agencies which have stood the test of time. They are unlikely to default, they carry on a very reputable business and they are being asked to contribute to the compensation fund. They are not the businesses that we wish to see hurt in any way, but they are the ones that will have to bear the brunt should there be a large crash in this State.

If we are talking about industry integrity, then we should have the situation where the Crown is in the same situation, if it carries on a travel business, as the rest of the industry. It should be remembered that we are trying to take account of those excessive elements in the industry, and that 80 per cent or 90 per cent of the industry is beyond fault in the same way as the Crown is beyond fault in this regard, because it will always have financial resources available to it should there be some claim made on the State because of some misadventure in the Government Tourist Office, or whatever. It is the principle. I cannot comment whether indeed it is appropriate that this should happen. On the basis of the details available, unless the Minister has further information, the Opposition will reject the amendment.

The Hon. G.J. CRAFTER: I reiterate that it is proposed that the Crown would contribute to the compensation fund.

Amendment carried; clause as amended passed.

Clause 6 passed.

Clause 7—'Travel agent to be licensed.'

Mr OSWALD: This clause provides that an unlicensed person shall not carry on business as a travel agent or shall not hold himself or herself out as a travel agent. I understand that within the industry there are people who work on the basis of spotting fees: they will go out and introduce a client to a travel agent, and that travel agent then carries on and makes the bookings. Does this clause mean that if an individual acts to introduce a client to a travel agent, that person will now be liable to this $50 000 penalty?

The Hon. G.J. CRAFTER: Yes. I think in the definitions clause there is an explanation of the business of a travel agent. Clause 4 (1) provides:

Subject to this section, a person carries on business as a travel agent if that person in the course of a business sells, or arranges for the sale, of—

(a) rights to travel;

or

(b) rights to travel and accommodation.

So, I think it is a matter of interpretation of 'arranges for the sale' that the honourable member was asking the question about. A person who 'spots' would need to take advice on the extent to which that person participates in the arrangement of the sale or whether he is just referring a person to a particular agent to then arrange for the sale. I think that would obviously need to be clarified in practice by the respective agents so that it is very clear that a spotter is not in fact a person who arranges for a sale.

Mr Oswald interjecting:

The Hon. G.J. CRAFTER: It does not revolve around the payment of commission but around the actual commission of those acts that bring about that situation.

Clause passed.

Clause 8—'Application for a licence.'

The Hon. G.J. CRAFTER: I move:

Page 4, lines 28 and 29—Leave out Paragraph *(c)* and substitute the following paragraph:

(c) that the trustees under the trust deed have certified—

(i) that the applicant is eligible for membership of the compensation scheme established by the trust deed;
and

(ii) that the applicant will be admitted as a member of the compensation scheme on being licenced;.

These amendments are of an administrative nature which, it is expected, will assist in the administration of this legislation. The trustees created under the trust deed may want to know that an applicant is licensed before granting membership to the compensation scheme. This amendment will allow the trustees to indicate to the Commercial Tribunal that, if the applicant is a suitable person to be licensed, he or she has sufficient financial resources to be a member of the fund and will be admitted membership once the Commercial Tribunal has granted the licence.

The trustees would be able to issue a notice or certificate to an applicant which the applicant could present then to the Commercial Tribunal indicating that, upon becoming licensed by the Commercial Tribunal, he or she will become a member of the compensation scheme.

Mr S.J. BAKER: I am not sure whether we are talking about the horse or the cart in this situation. It was really a point of clarification. I would have thought that they both had to be instantaneous and that, whether they qualified to be licensed, they must also comply with the compensation funding arrangements prescribed in the Bill. As the Minister has described it, they get licensed first and then go along to see if they can comply with the trust deed. I would have thought that they were concurrent acts and that one was dependent on the other, rather than the sequence of events that the Minister has outlined.

The Hon. G.J. CRAFTER: Once the licence has been granted, that person can then carry on the business of an agent. This is a procedure whereby certain inquiries and investigations can be made prior to that time so that there can be the instantaneous granting of a licence, and that person can then carry on, rather than there be inquiries subsequent to a hearing before the tribunal. It is purely an administrative procedure that is hoped will make the granting of those licences easier, not to obtain, but in administrative terms. Once the tribunal has made that decision, that person can then in fact carry on business straightaway.

Amendment carried; clause as amended passed.

Clause 9—'Duration of licences.'

Mr S.J. BAKER: Some questions were raised in the Upper House concerning the magnitude of the licence fee and indeed the compensation charge that would be put on each agency. As I understand it, it was clarified that it would be a flat fee for the licence. As far as the compensation was concerned, that was less clear. Can the Minister please inform us, from his discussions with people interstate, what we are talking about in order of magnitude? Are we talking about a flat fee for licences, a flat fee for compensation, a fee on turnover for the compensation fund, or what is intended here? Obviously, the Government does not intend to load some of the smaller people in the market with excessive licence fees.

Otherwise, we will set up an oligopoly in the market which is to be avoided. I am reminded that the Federal Government wished to put a 17.5 per cent loading service fee on people such as bootmakers and travel agents, which would have effectively made sure that nobody carried on a travel agency business in the whole of Australia. For that reason and for a number of other reasons, that idea, which was brought on by the Canberra bureaucrats, never saw the light of day. In the same way, we believe that the Government has now had sufficient time to clarify the questions which were asked in the Upper House, but for which there were few answers at the time that the Bill was introduced.

The Hon. G.J. CRAFTER: First, licence fees will be caclulated on the basis of the ability to recoup the administrative costs of the scheme. It has been suggested that they could be around the $90 mark, which presumably would be a flat fee, but it has not yet been finally decided.

The matter of the compensation fund is a little more complicated: it is a decision not of the Government but of the trustees. It is suggested that, as perhaps with other professional groups, that would be more likely to be based in some way on a percentage of turnover or on the size of risk involved in the business. That is more likely to be based on other than a flat fee. Actuarial and other advice would be taken in determining that.

The travel industry has been involved in the discussions, particularly on this aspect of the legislation. The legislation has been framed in such a way as to minimise the financial impact on the industry. It is realised that this industry operates on slim margins indeed and that it is very competitive. So, this matter will be dealt with with a great deal of care and in conjunction with the industry itself. It is not anticipated that the compensation fund payments would be excessive.

Mr S.J. BAKER: The Hon. Trevor Griffin, in another place, raised the case of a travel agency in Canada that forfeited some $8 million. There is a concern that, if we are to have a scheme that involves four States, we have some commonality. I would have thought that if the Attorney did not know the answer originally he would by now have made some inquiries.

As I understand it, the other States are a bit further down the track on this matter and we would be looking at a similar arrangement to theirs. If we overload our people, given that we will form a conglomerate pool, obviously our agents will be paying more than their just dues into the system. If we underload the system, it will be to the benefit of South Australia, but we can be assured that the eastern States and Western Australia will catch up with us very quickly, particularly if one of our large ones defaults in the process.

My major question is: in broad terms, what are we attempting to raise from the South Australian travel agents industry in regard to the compensation fund? These things must have been discussed between the four States. I should have thought that there would be a much clearer indication than we have today.

The Hon. G.J. CRAFTER: It is not possible to give precise figures on anticipated defaults in this State, but, as I understand it, within the States that are participating in this compensation scheme we are looking at a capacity of between $1 million and $2 million to be provided for within the scheme. Obviously, this can be aggregated over a period of years.

That is the basis of the actuarial work that is currently being undertaken. Honourable members can see that we are not dealing with a huge compensation fund—certainly nothing as great as would apply, for example, to solicitors and the legal profession generally. So, it is in that context a small fund and a manageable one for the average travel agent.

Clause passed.

Clause 10—'Conditions of licences.'

The Hon. G.J. CRAFTER: I move:

Page 5—

Line 26—Leave out 'vary or'.

Line 27—After 'or' insert ', on the application of the Commissioner, vary such a condition or'.

The purpose of these two amendments is to make it clear that the Commissioner for Consumer Affairs may apply to the Commercial Tribunal for a variation of the conditions of the licence or for a further condition or conditions to be imposed. The licensee himself or herself could apply at any time for a condition to be revoked or varied, but some statutory provision is necessary to enable the Commissioner to take action of this kind. Where such an application is made by the Commissioner, section 14 of the Commercial Tribunal Act will require the tribunal to give the licensee reasonable notice of the hearing and a reasonable opportunity to call evidence, examine witnesses and make submissions.

Amendments carried; clause as amended passed.

Clause 11.

Mr M.J. EVANS: Concerning the legal effect of clause 11, I fully support the principle that a person who is unlicensed should not be able to subsequently extract a commission in relation to that transaction. I want to make sure that we are not in any way impinging on the rights of the traveller or of the airlines in relation to any legal action against that person. By removing the element of consideration, are we affecting in any way the legal right of a traveller to sue an unlicensed travel agent who may have entered into an agreement with him to provide certain services or travel and to enforce that agreement against the unlicensed agent?

It seems to be perfectly resonable that if an unlicensed person provides services he should be subject to the penalties for being unlicensed and should not be able to recover any fees or commissions, but the agreement should still be enforceable against him as against the traveller or the airline because those people have entered into a contract and should be able to enforce their agreement. By removing the element of consideration and the like from the deal, are we removing the contractual basis on which the arrangement is entered into?

The Hon. G.J. CRAFTER: This clause strengthens the position of the consumer in these circumstances. Obviously, the common law or law with respect to contracts applies in these situations: there would be an illegal contract and certain remedies would flow from that. Also, there would presumably be a remedy of specific performance as well, and that would then be carried through. I presume that, as long as the carrier or other person providing services receives payment, they would then provide the service for which they received the payment. Failing that transaction being honoured, because of the illegal nature of the contract, the normal common law remedies would apply to the consumer in those circumstances.

Mr M.J. EVANS: So the consumer retains full rights, despite the fact that we have removed the provisions in relation to the consideration? I want the Minister to give me a full assurance of that. I understood that an essential element of the law of contract was consideration. We are removing any legal right of consideration. I want to be absolutely sure that the consumer retains the full right to enforce that contract even though no element of consideration is involved.

The Hon. G.J. CRAFTER: My on-the-spot interpretation is that there is an illegal contract, and certain remedies flow from that regardless of the matter of consideration. That was the point that I was trying to make.

Clause passed.

Clause 12 passed.

Clause 13—'Tribunal may exercise disciplinary powers.'

The Hon. G.J. CRAFTER: I move:

Page 7—

After line 15, insert new subparagraph as follows:

(iiia) has failed to ensure that the business conducted from each office of the licensee is properly supervised by a person with prescribed qualifications;

After line 20—Insert new subclause as follows:

(9) For the purposes of this section, in determining whether the business of a licensed travel agent has been properly supervised or whether any person has acted unfairly in the course of carrying on business as a travel agent, regard shall be had to the provisions of any code of practice prescribed by regulation under this Act.

The thrust of this amendment is to require all persons who manage the day-to-day business of a travel agency to hold prescribed qualifications. It will make the Bill uniform with the legislation of the other participating States. Licensees will not necessarily have to hold the prescribed qualifications, so that the requirement has not been made part of the licensing criteria. The prescribed qualifications are yet to be determined but it is anticipated that the criteria could be met by either educational qualifications or relative experience in the industry. The code of practice for travel agents prescribed under the Act will include some guidelines as to what amounts to proper supervision for the purpose of this clause.

Mr S.J. BAKER: As to prescribed qualifications, the Minister mentioned earlier that the Government had not really determined a position on qualifications. However, he mentioned that there would possibly be some educational criteria and some relevant experience, possibly, being the operative element of any prescribed qualifications. My knowledge of the industry is reasonably slim, but I understand that there are few educational qualifications in the travel agency business as such, although more courses are being run by institutions.

One question that arises is that, once qualifications are left to the Government to prescribe by regulation, and the Minister of the day has the right to determine them, while they do come before Parliament there is less scrutiny than if they are set out in the Bill. I am seeking something a little more positive from the Minister than we have had to date. I assume that this matter would have been discussed with the Minister's interstate colleagues and that some idea of the qualifications that the Government was looking for would have come from those discussions.

There is a danger in this situation that we could overprescribe and that people who are operating successfully today on the basis of their knowledge and understanding may be cut out of the system because, when the Government puts these requirements into regulation, they might not fit well with industry circumstances. Can the Minister provide any further light on that subject, because it must be of concern to people who are operating in the industry today? It is important that we have some indication. Not only a travel agency but every office thereof has to be run well. In some cases we are talking about shop front activities that are associated with other businesses, which means that orders are just sent down the line. In other cases we may have an office of two or three people. An organisation like Jetset might have a staff of 30 people (I do not know what its staff complement is, but it is large compared to some of the small agencies that I have come across in my travels). I am looking for some indication from the Government about what it intends in this area.

The Hon. G.J. CRAFTER: First, there will be parliamentary scrutiny of these prescribed qualifications because they will be in the form of regulations. Honourable members will therefore be able to play an active part in that aspect of the subordinate legislation. It is not possible in legislation

of this type to place criteria specifically in the legislation. There is a vast difference in the courses that are conducted within the industry or, for example, in TAFE colleges around Australia and, as I have said a number of times, this is a matter of careful negotiation between the States and the travel industry. Once again, the industry will need to be involved in the establishment of these criteria.

Already there is some internal establishment of criteria. The IATA qualification is one of those. So, some criteria have been established and accepted in the industry and become known by the community. This will need to be further elaborated before the regulations are brought down.

I will now comment further on the second part of the amendment dealing with subclause (9), which is based on a similar provision in the Builders Licensing Bill. An amendment on file requires: that the business of a licensed travel agent be properly supervised by a person with prescribed qualifications. So, this clause provides that a person may be disciplined by the tribunal if he acts unfairly in the course of carrying on business as a travel agent. It is in this context that these criteria are very important.

Mr OSWALD: I refer to subparagraph (iiia). Can the Minister give some commitment about the prescribed qualification? I know of several travel agents who have gone into the business in recent years (perhaps in the last two to five years) and who have built up much knowledge within the industry. They are running successful businesses. While I basically support the amendment, can the Minister give a commitment to those people that they will be licensed automatically because of their existing experience in the industry, rather than continuing to have them asking whether they will get a licence, having been in the business for, say, only three years?

The Hon. G.J. CRAFTER: The situation that would apply is the same as that which applied when land agents, land brokers and other professional groups were first licensed. Unless strong evidence to the contrary is brought before the Commercial Tribunal, it is anticipated that those people currently practising in businesses of a type covered by this legislation will continue to provide that service. It would be a very severe step to disfranchise a person from the conduct of a business. As I said, very powerful evidence would have to be brought before the tribunal to cause that.

Mr S.J. BAKER: Travel agencies, like all other businesses, have a reasonably high turnover of staff, as the Minister would appreciate, as occurs with small businesses. If we do not get the legislation right we could have a grave shortage of suitably qualified people to supervise offices and agencies. Therefore, before bringing in the regulations, will the Minister ensure that participants in the industry are well aware of the regulations so that, if there are any difficulties, people will have an opportunity to respond before the regulations are brought down?

The Hon. G.J. CRAFTER: Undoubtedly there will be a great deal of discussion within the industry and industry-wide seminars and training programs will acquaint all members of the industry, whether being in a position of principal or in another capacity in the industry, with the provisions and requirements of the Act. That is something in which that the Department of Consumer Affairs will be actively involved. Indeed, that is the purpose of legislation of this type—not to act after the event but to establish codes of practice and standards in the industry that will minimise the problems that brought about the need for the legislation. One of the key elements is adequate and proper supervision of staff in agencies. That is why this provision is very important. Obviously, the responsibility of principals to supervise their staff adequately and indeed to carry out their employment practices to the extent that they can minimise the employment of persons who are unsuitable for this type of work, particularly the management of substantial sums of money.

Mr S.J. BAKER: I move to amend the Minister's amendment, as follows:

In new subclause (9) after 'travel agent' second occurring to strike out 'regard shall be had' and insert 'the matter shall be determined by reference'.

My amendment to the Minister's amendment changes its impact. In the Upper House this matter was debated because, as the Bill stood originally, it referred to unfair practice. The Government has gone farther down the track and determined that there should be a code of conduct from which unfair practice can be determined. The Minister's amendment states 'regard shall be had'. The Opposition's amendment inserts in lieu thereof 'the matter shall be determined by reference'.

We do not wish to preclude the tribunal from considering all matters relevant, but in this very subjective area of being unfair, it would be quite unfair of the tribunal to go outside the guidelines of the code of practice. If we believe that the code of practice is sufficiently embracing to provide guidelines to the industry and someone acts outside them, a clear case exists. However, if someone is operating within the code of practice lawfully, under the Minister's amendment it is still possible for that person to be subject to the processes of law. It is a fine point, but we believe that our amendment addresses the matter more particularly than does the Minister's amendment.

The Hon. G.J. CRAFTER: The Government cannot accept the amendment. I am not sure how much thought the honourable member has put into it, but it would clearly fetter the discretion of the tribunal to fully consider a matter before it under this provision. Other relevant considerations may well need to be taken into account by the tribunal in bringing about a determination, and no fetter of this type should be placed on the tribunal. It would be a tragedy if no remedy was provided for an aggrieved party where an agent was able to conduct business within the code of practice and yet still managed to engage in some illegal or other activity which brought about the harm that this legislation seeks to redress. It is a limiting approach to this matter, and I urge the Committee to accept my amendment as moved which allows for a much broader interpretation to be given by the tribunal in considering these matters.

Mr S.J. Baker's amendment negatived; the Hon. G.J. Crafter's amendment carried.

Mr BECKER: I return to the letter I read earlier. My constituent saw airfares for his brother-in-law and family go from $2 640 one day to $3 060 the next, on the third day (Wednesday) to $3 360, on the fourth day (Thursday) back to $3 300, and on the Saturday to $6 324; and it was not until the following Monday when negotiating with Qantas and Lufthansa that the airfares came back to $4 250. My constituent claims that he is out of pocket some $2 000 by the incompetence of the travel agent and by promises made to him that were not substantiated and have been proved, in some cases, to be false. What opportunity would a person in this case have of obtaining compensation? I suppose that they could lodge a complaint with the tribunal against the travel agent, but what opportunity would these people have for reimbursement of out-of-pocket expenses caused by the unfair and misleading treatment they received?

The Hon. G.J. CRAFTER: The passage of this legislation would give a range of remedies to persons in the position of the honourable member's constituent. First, I refer the honourable member to the clause relating to the exercise of the disciplinary powers of the tribunal. Where an agent has, in the course of carrying on business as a travel agent, been found to have acted negligently, fraudulently or unfairly, depending on the facts, a person may choose under which

of those headings he would pursue a remedy. Then a series of things happens with such agents, whether they lose their licence or have penalties imposed against them.

With respect to individual's rights, there may well be a claim for compensation under the compensation scheme, which is outlined in clause 21. Not only would the industry be either rid of that person or rid of the practice, but if that practice was determined to fall into those categories then certainly there would be a penalty against the agent of an appropriate nature and following that a remedy to claim compensation for the loss incurred.

Clause as amended passed.

Clauses 14 to 16 passed.

Clause 17—'Travel agent to use authorised name.'

The Hon. G.J. CRAFTER: I move:

Page 8—
Line 3—Leave out 'person' and insert 'licensed travel agent'.
Line 6—After 'A' insert 'licensed'.

These are simply drafting amendments that have been considered necessary to ensure that the clause is consistent with the definition of 'authorised name' that I referred to earlier.

Amendments carried; clause as amended passed.

Clause 18—'Supervision of conduct of business.'

The Hon. G.J. CRAFTER: This clause is opposed because of subsequent amendments in the legislation that render it redundant.

Clause negatived.

Clause 19—'Accounts to be kept.'

The Hon. G.J. CRAFTER: I move:

Page 8, line 30 to 32—Leave out subclause (3).

This clause requires a travel agent to keep proper accounting records, to record and explain the financial transactions and financial position of the business. Subclause (3) presently provides that these records may be kept as part of or in conjunction with the records of any other business carried on by the person. The New South Wales Bill, on which the South Australian Bill is now closely modelled, does not have a provision equivalent to clause 19 (3).

After further discussions with the New South Wales administration, it is considered undesirable to permit composite accounts to be kept where a business carries on business as a travel agent as part of a much larger business. It is necessary for the proper administration of the Act that the financial position of the travel agency portion of the business be able to be properly ascertained from an examination of the relevant accounting records. This applies with even greater force to the compensation scheme because the trustees would find it extremely difficult to monitor the financial position of the travel agency business if the accounting records were combined with, for example, those of a large retail store.

Mr M.J. EVANS: I agree with the spirit of the Minister's amendment, but it seems to me that if one deletes subclause (3) one simply removes the permissive part of it and one is not serving a prohibition. The rest of the clause does not seem to prohibit the amalgamation of the accounts. I fail to see why it would not be lawful to amalgamate them with those of another business. How will clause 19 now force the keeping of separate accounts, with which I fully agree?

The Hon. G.J. CRAFTER: It is in a form that would imply—and it is in conformity with other legislation—that the records must be of the nature I have described. They must be easily identifiable and of a separate nature and have those other qualities about them. It is not necessary to put that in the legislation precisely in those words.

Mr M.J. EVANS: By simply inserting the word 'not' after 'may' in clause 3 it reads 'records may not be kept in part of or in conjunction with', and that seems to be a much more effective amendment.

Amendment carried; clause as amended passed.

Clause 20—'Trust account to be kept.'

Mr M.J. EVANS: I understand that the Minister intends opposing this clause and I do not wish to proceed with my amendment if that is the ultimate intention. It concerns me greatly that it is proposed to leave out this clause because I know that we are participating in a national scheme and we must achieve uniformity. However, one of the principal objectives that I see out of this scheme of legislation is to provide that, where a client pays money to a travel agent for the purposes of obtaining an airfare or like travel authorisation, it is only reasonable that that money be treated separately than the ordinary operating revenue of the travel agent, and that it should be set aside in a trust fund as is the case with solicitors, land agents and the like, who deal in a similar capacity, and is used only for payments to airlines and other travel providers.

In that case, if that scheme was adhered to properly, there would be very little opportunity for large scale defalcation on the part of travel agents, and there would be little opportunity for gross inconvenience to the public, because the main problems arise when travel agents use the funds of the travelling public to maintain their businesses and do not in fact pay those moneys to airlines. They use them as part of their cash flow and ultimately, when the bubble bursts and they go into liquidation or whatever, the money used from clients to simply maintain their cash flow and not paid to the airlines results in those respective travellers being left without fully funded tickets. Accordingly, we have those circumstances where people are stranded overseas and their holidays cancelled. By removing the trust account provisions, the travel agents will simply be able to pay the whole of their income, both commissions and ticket fares, into their consolidated revenue accounts, and they can use that money for any purpose.

I consider that unless the Minister provides a significant alternative to the trust account system—and I cannot see one which would maintain the same degree of security for the travelling public—we will very much need the compensation fund which we will set up later because that will have to meet those payments for tickets and everything else, whereas, if we have the trust fund and that is properly administered by travel agents, as my amendment to penalties would require, then the opportunity for large scale default and payments from the compensation fund will be greatly reduced. I would appreciate it if the Minister would explain his intentions in removing the trust account provisions, so that I can better appreciate the need to press or not to press my amendment.

The Hon. G.J. CRAFTER: I am touched by the honourable member's belief that trust accounts will overcome the problems experienced in the industry.

An honourable member interjecting:

The Hon. G.J. CRAFTER: We certainly do, and in the profession of landbroking even in this State, there is massive defaulting in trust account funds. In the legal profession, where there are incredibly strict provisions and devastating sanctions associated with defaulting of trust account moneys by legal practitioners, this unfortunately still occurs. Whilst undoubtedly it would enhance the legislation and would have some deterrent value to provide most stringent trust account and accounting provisions in the legislation, the Government, in conjunction with the industry, particularly in this instance, and the other States, has tried to achieve some balance in the legislation and the provisions of it, particularly in respect of the cost of the legislation, so that we can establish the compensation fund.

It is for that reason that the legislation is in the form that we now intend it to be in this House. None of the other participating States will have a trust accounting requirement. The Western Australian Act has already been passed

without a trust accounting provision, and the latest draft of the New South Wales Bill, which will be introduced in the near future, does not include a trust account provision. The Victorian Bill has not been received, but it is anticipated from the discussions that we have had with that State to be very similar to the New South Wales draft. Discussions with officers of the New South Wales and Western Australian Consumer Affairs Departments have indicated a strenuous opposition to the inclusion of trust accounting provisions in the South Australian legislation.

If trust accounts were effective, the compensation scheme would not be needed, and I think that I have explained the faults in that in our own experience in South Australia and other places. However, the experience in New South Wales has shown that trust accounts can be abused and may require costly Government administration. The Bill not only incorporates a compensation scheme, but it gives power to the tribunal to investigate a travel agent where there is a danger that the business will fail. If the circumstances warrant, the Commercial Tribunal can impose suitable conditions on the operation of the business to prevent loss to consumers.

In a submission to the then Federal Minister for Sport, Leisure and Tourism, Jetset Tours Pty Ltd and 10 other parties (including the ANZ Banking Group, National Australia Bank, Travel Strength, Westpac Travel and Elders IXL Ltd) indicated that it might cost about $3 000 per annum to operate a trust account. This additional burden on travel agents who would already be required to pay licensing fees and payments into the compensation fund is considered onerous. Travel agents work on an extremely small profit margin and, if the proposed cost per annum of operating a trust account is correct, this would substantially reduce the profitability of many small travel agencies.

Mr S.J. BAKER: As the Minister is well aware, this was an amendment moved by the Hon. Trevor Griffin in another place. We felt it provided a further safeguard in the industry. We understand the difficulties that can occur with day-to-day administration costs. We understand also the imposition of fees on trust accounts. We oppose the deletion of this clause. We do so from a position that we feel that it would provide an additional safety valve in the system. If we could have an undertaking from the Minister that that situation will be reviewed after the Act has been in operation for 12 months, I think that that would cover the matter that we have put forward in the Upper House.

The Hon. G.J. CRAFTER: I will try to obtain some further information so that perhaps that undertaking or a comment on it can be obtained when this matter is debated in another place.

Clause negatived.

Clause 21 passed.

Clause 22—'Obligation of licensed agent to be a member of the compensation scheme.'

The Hon. G.J. CRAFTER: I move:

Page 9—
Line 10—Leave out paragraph *(a)*.
Line 12—Leave out 'and'.

These are simply amendments consequential upon the amendment accepted by the Committee to clause 8.

Amendments carried; clause as amended passed.

Clause 23—'Compensation fund.'

The Hon. G.J. CRAFTER: I move:

Page 10, after line 3—Insert clause 23.

The clause appears in the Bill in erased type.

Mr S.J. BAKER: As a matter of clarification, when the matter was in the Upper House there was no determination on the style and content of the trust deed. Have we got any further along the track in that regard? Have the States agreed on a uniform trust deed at this stage, as I assume they would have, or is that still to come?

The Hon. G.J. CRAFTER: I can only recommend to the honourable member that he suggest that his colleague in another place raise it again. We might have some more information by then.

Clause inserted.

Clause 23a—'Trustee subrogated to rights of claimant.'

The Hon. G.J. CRAFTER: I do not wish to proceed with that amendment.

Clause 24—'Licences required to pay contributions.'

The Hon. G.J. CRAFTER: I move:

Page 10—
After line 16—Insert clause 24.
After line 22—Insert new subclause as follows:
(3) For the purposes of subsection (1), the Crown in right of South Australia shall be deemed to be a licensee.

This is a further clause in erased type. The purpose of the further amendment is to ensure that agencies and instrumentalities of the Crown in South Australia are obliged to contribute to the compensation fund, notwithstanding the fact that they are not required to hold a licence under this legislation.

Amendment carried; clause as amended inserted.

Clauses 25 and 26 passed.

New clauses 26a and 26b.

The Hon. G.J. CRAFTER: I move:

After clause 26—Insert new clauses as follows:

26a. (1) On payment to a claimant out of the compensation fund, the trustees are, to the extent of the payment, subrogated to the rights of the claimant arising from the circumstances to which the claim relates.

(2) Where rights to which the trustees are subrogated under subsection (1) lie against a licensee or former licensee that is a body corporate, those rights may be enforced, if the trustees so determine, against the members or any one or more of the members of the governing body of the body corporate.

(3) In any proceedings for the enforcement of a right against a member of the governing body of a body corporate under subsection (2) it is a defence to prove that the member could not, by the exercise of reasonable diligence, have prevented the occurrence of the circumstances out of which the claim arose.

26b. (1) The trustees may sue and be sued under the name 'The Travel Compensation Fund'.

(2) In proceedings brought by the trustees it shall be presumed, in the absence of proof to the contrary, that any provisions of the trust deed in relation to the bringing of proceedings have been satisfied.

It is necessary that the trustees under the compensation scheme have rights of subrogation to enable them to recover against a licensee or former licensee amounts paid out of the compensation fund in respect of the activities of that person. As the trustees have no separate corporate existence, it is also necessary that they be enabled to sue under the name 'The Travel Compensation Fund'. These rights may be conferred only by Statute and cannot be conferred on the trustees by the trust deed itself. Accordingly, the amendment inserts two new clauses for this purpose.

Following discussions with other participating States, it has been agreed that the legislation should provide for a 'lifting of the corporate veil' in appropriate cases. The right of subrogation against a body corporate will not be of any value if that body corporate is in liquidation or insolvent. Accordingly, clause 26a (2) provides that the rights of subrogation may be exercised by the trustees against the members of the governing body of a body corporate. However, if such a member establishes that he could not, by the exercise of reasonable diligence, have prevented the occurrence of the circumstances which led to the making of the claim, then that member would not be liable under this provision. These two new clauses are considered to be an integral part of the uniform scheme.

Mr M.J. EVANS: The Minister has raised an interesting point in relation to lifting the corporate veil. It occurs to me that people of substance behind a travel agency may be the shareholders of the body corporate and not members of the governing body. Has any consideration been given to in effect taking that action against also the substantial shareholders of that business, who may be the people with the substance of the funding behind that, as distinct from members of the governing body, who may not have the same substance as the shareholders? In many circumstances that I can envisage—

Mr S.J. Baker interjecting:

Mr M.J. EVANS: That is certainly true, but that has been done by the clause as it stands: to lift the corporate veil and go after the directors of the private company. If we are taking that step, and it is certainly a very substantial one, what is the position of the shareholders *vis-a-vis* the directors?

The Hon. G.J. CRAFTER: I suppose the question is whether the veil can be lifted to the point of indecency. How far does the honourable member want to go in his pursuit of this matter? The provision before us is considered proper and reasonable in the circumstances. To take an investigation to the extent of shareholder involvement is probably a fruitless exercise. The position here is the most responsible one.

Mr S.J. BAKER: As to new clause 26b, as I have only recently read the new clause, it seems to be written in legalese with which I have much difficulty. The provision, from my reading of it, says that if the trustees take any action the case is proved. There seems to be a reversal of proof situation compared to with the normal course of the law. Can the Minister explain briefly why that provision is inserted in that form?

The Hon. G.J. CRAFTER: I cannot give a definitive answer to the honourable member. The honourable member is asking a drafting question, and I suggest that we seek advice as to the way in which the clause is drafted. If the matter still concerns the honourable member, perhaps he can suggest that further questions be asked in another place.

The Hon. E.R. Goldsworthy: It seems to involve an armchair ride in the bringing of an action.

The Hon. G.J. CRAFTER: They have to be protected in some way. The question asked is different from that: it is about the drafting of the clause. He could seek advice from the Parliamentary Counsel.

New clauses inserted.

Clause 27—'Powers of authorised officer.'

Mr OSWALD: The Minister 'being a lawyer' can perhaps explain my question dealing with legalese. This clause provides:

(1) An authorised officer may, at any reasonable time . . . require a person resasonably suspected of having knowledge concerning any breach of, or failure to comply with, this Act to answer questions in relation to those matters.

It then continues:

(2) A person who, without reasonable excuse—
(a) hinders an authorised officer in the exercise of powers conferred by this section;
(b) fails to comply with a requirement of an authorised officer under this section;
or
(c) fails to answer a question put by an authorised officer under this section to the best of the knowledge, information and belief of that person,
is guilty of an offence.
Penalty: $1 000.

(3) A person is not required to answer a question or to produce records if the answer to the question or the production of the records would result in or tend towards self-incrimination.

One provision seems to negate the other. In one case an officer can compel a licensee to answer questions under the fear of a $1 000 penalty, but then under subclauses (2) and (3) a person is not required to answer questions if he thinks he will be in trouble.

The Hon. G.J. CRAFTER: As I understand the drafting of this provision the original condition is that a person must show that there is reasonable excuse. The purport of subclause (3) then adds to that requirement. That is a reasonably common way in which legislation of this kind is drafted. It is the follow-on from the initial procedures of the Act and embodies that fundamental right. There is the 'without reasonable excuse' clause and that complements it in that way. There is nothing exceptional about that.

Mr OSWALD: One does not have to answer the question put by the authorised officer, despite the $1 000 penalty? It is probably logical to a legal mind, but it is not logical to me.

The Hon. G.J. CRAFTER: One must look at the circumstances of the situation before answering the question. I point out that subclause (2) refers to 'a person who, without reasonable excuse—' and then deals with paragraphs *(a), (b)* and *(c)*. Then, if that person, without reasonable excuse does those things, he is guilty of an offence. However, a person is not required to answer a question or produce records if the answer to the question or the production of the records results in or tends towards self-incrimination. Those provisions must be read together and put in that context in a sequence of events that occurs in a normal investigation conducted by authorised officers and the police.

Clause passed.

Clause 28—'Secrecy.'

The Hon. G.J. CRAFTER: I move:

Page 12, after line 1—Insert new paragraph as follows:
(ba) to the Commissioner of Police;.

Clearly any person involved in the administration of this Act should be able to report to the police any evidence of fraud or other conduct which would be more properly investigated and dealt with by the police. This clause as presently drafted would prohibit this. The amendment specifically recognises that information may be communicated to the Commissioner of Police.

Amendment carried; clause as amended passed.

Clauses 29 to 34 passed.

Clause 35—'Offences by bodies corporate.'

The Hon. G.J. CRAFTER: I move:

Page 13, line 8—Leave out 'he proves that he' and insert 'it is proved that the member'.

This is simply another drafting amendment. It provides that the Bill is consistent with the Government's policy of non-sexist drafting.

Mr S.J. BAKER: As we are referring to 'each member' the plural form should appear later in the clause. It is a matter of English grammar.

The Hon. G.J. CRAFTER: My knowledge of English grammar does not allow me to make a definitive statement. I will take some advice and, if there is any difficulty, it can be attended to in another place.

Amendment carried; clause as amended passed.

Clauses 36 and 37 passed.

Clause 38—'Regulations.'

The Hon. G.J. CRAFTER: I move:

Page 13—
Line 26—Leave out 'persons of a particular class' and insert 'specified persons or persons of a specified class'.
Line 27—Leave out 'transactions of a particular class' and insert 'specified transactions or transactions of a specified class'.
Line 28—After 'Act' insert 'or a specified provision of this Act'.
After line 28—Insert new paragraph as follows:
(ab) prescribe a code of practice to be observed by persons who carry on business as travel agents;.
Page 14, line 4—Leave out 'this Act' and insert 'subsection (2) *(ab)*'.

The first three amendments to this clause are designed to provide greater flexibility in the power to grant exemptions, which are presently restricted to classes of person and classes of transaction and may be granted only in respect of the whole Act. The amendments will allow, for example, a single individual to be exempted from the operation of all or part of the Act. For example, a small country travel agent could be exempted from certain provisions of the Act which could be met easily by travel agents in the city but which would be most difficult to comply with in the country.

The fourth amendment is designed to flesh out the reference to a code of conduct in clause 38 (4). The subclause deals with the question of how a code of practice may be prescribed, but the clause as presently drafted does not specifically confer a regulation making power to prescribe a code of practice.

Amendments carried.

Mr OSWALD: Would the Minister enlarge on subclause (2) *(f)* and tell the House exactly what he has in mind in relation to those restrictions.

The Hon. G.J. CRAFTER: If the honourable member has concerns about excesses in this area or about onus provisions, they will be subject to subordinate legislation provisions through the House. Obviously, it would be necessary for travel agents to indicate that they were licensed travel agents. There may be other requirements from time to time with respect to fair advertising provisions and the like, but I do not have any specific examples. However, if the honourable member would like me to obtain some information I would be pleased to do so.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 11.55 p.m. the House adjourned until Wednesday 5 March at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 4 March 1986

QUESTIONS ON NOTICE

COSTIGAN REPORT

36. **Mr BECKER** (on notice) asked the Premier: What action does the Government now propose to take against the Painters and Dockers Union following allegations and evidence published in the Costigan Report and if none, why not?

The Hon. J.C. BANNON: The Costigan Royal Commission Report has been examined for assessment as to whether further investigation needs to be carried out in South Australia and whether any charges should be laid in this State. In addition, the question of deregistration of the Federated Ship Painters and Dockers Union has been considered.

As to the latter, this union is a federally registered union which is not registered in South Australia and therefore there is nothing the State Government can do in this State with respect to deregistration. In addition, and more importantly, Commissioner Costigan in his report recommended against deregistration of the union, favouring instead the enforcement of criminal law.

In this regard the report of Commissioner Costigan has been fully examined by the Crown Prosecutor, in conjunction with the Commissioner of Police. My advice is that although *prima facie* offences under section 160 of the Criminal Law Consolidation Act are disclosed in some of the instances cited in the Costigan Royal Commission Report, most of the examples cited are now some four to five years old. As such, the Crown Prosecutor is of the view that documentary evidence is likely to have been destroyed and witnesses' memories would undoubtedly be impaired. The passing of time may also mean that witnesses are unable to identify the person who actually made the demands. Furthermore, I am advised that proof of the charges may necessitate calling overseas witnesses who, because of their involvement in the shipping industry, may well be unavailable.

The South Australian branch of the Federated Ship Painters and Dockers Union does not appear to have any corporate personality. It is not registered under the Industrial Conciliation and Arbitration Act 1972-1975, so does not gain corporate personality by virtue of section 189 of that Act. The South Australian branch could therefore not be prosecuted as a separate legal entity.

While the Federated Ship Painters and Dockers Union itself is likely to be registered under the Commonwealth Act, there would no doubt be difficulties attributing the actions of individuals to the union itself. Rather than prosecute the union, individuals who made individual demands would therefore have to be prosecuted.

In the light of the opinion of the former Crown Prosecutor, Mr B.R. Martin, Q.C., that 'the Crown would fail to establish a *prima facie* case that an intent to steal existed' and the opinion of the Commissioner of Police, Mr Hunt, that 'with respect to the laying of charges in the State, there is no evidence available to support such an action', I am of the view that no further action can be taken.

However, the Commissioner of Police has advised me that the activities of those persons and organisations nominated by Commissioner Costigan will be monitored for their association and/or the conducting of criminal activities in South Australia, and further action will be taken should the need be identified.

MINISTER'S REPLY

47. **Mr BECKER** (on notice) asked the Minister of Education: When will the Minister reply to correspondence from the member for Hanson of 26 June and what is the reason for the delay?

The Hon. G.J. CRAFTER: The former Minister of Education replied to the member for Hanson's correspondence on 5 December 1985.

ETSA VEHICLES

49. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: Do all ETSA vehicles bear Government registration discs and plates and, if not, which vehicles do not and why?

The Hon. R.G. PAYNE: Since 1 April 1980 all trust vehicles have borne 'Government' registration discs. However, Government registration plates are fitted to vehicles only as they are acquired. There are 1 264 vehicles and 98 trailers with Government registration plates and 341 vehicles and 527 trailers with standard plates.

ETSA TRAVEL

50. **Mr BECKER** (on notice) asked the Minister of Mines and Energy:

1. Does ETSA pay for executives' wives travel overseas and, if so, why and has such a decision been approved by the ETSA board and, if so, when?

2. What qualifications has the board or management made concerning single status of executive employees regarding overseas travel?

3. What class of ETSA employees are required to travel overseas?

4. How many executives and their wives travelled overseas in each of the past three financial years and what was the total cost of travel and expenses in each year?

5. Have any members of the board travelled overseas on behalf of ETSA during the past three years and, if so, who, why and at what cost?

The Hon. R.G. PAYNE: The replies are as follows:

1. The trust does not pay for employees' wives to travel overseas (or within the country) except that in both 1984 and 1985 a junior executive was placed with an overseas organisation for a full year to gain management experience and the trust met the costs involved.

2. The trust's board policy states:

Trust officers approved to travel overseas on business be permitted to have their spouses accompany them provided that:

(a) this is at no cost to the trust; and

(b) tickets and accommodation supplied by the trust will not be traded for alternative cheaper travel or accommodation.

3. Trust engineers are sent overseas from time to time to pursue particular matters, such as the testing of plant purchased by the trust, or to investigate other authorities' methods and procedures in relation to a trust problem. All such overseas trips require board approval and the officers concerned are required to report to the board on their return.

4. See 1. above.

5. No.

ETSA

52. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: Is ETSA an SA Great organisation and, if so, why and at what cost per annum?

The Hon. R.G. PAYNE: The Electricity Trust is a supporter of SA Great and is listed as such in SA Great publications. Membership demonstrates the trust's support for the State and was sought as part of the campaign to improve the trust's public image. Use of the SA Great logo is made in some trust publications and at major functions. Subscription is $1 000 per annum.

CSR/ETSA JOINT VENTURE

53. **Mr BECKER** (on notice) asked the Minister of Mines and Energy:

1. What Government directives including the joint ventures between CSR and ETSA have involved legal representation and, if any, with which firm of solicitors and at what annual cost over the past three financial years?

2. What is the estimated financial loss anticipated on the CSR/ETSA joint venture and what is the reason for such loss?

The Hon. R.G. PAYNE: The replies are as follow:

1. The only such directive is the CSR/ETSA joint venture. Legal charges to date in relation to the joint venture proposal are about $17 000. The legal firms involved are Mouldens and Freehill Hollingworth and Page.

2. Factors which could affect the cost of producing coal would include:

- the partner's commercial rate of return requirement
- the partner's liability for income tax
- financing costs
- the level of expertise of the partner.

However, the exact terms of the joint venture have not been finalised and, accordingly, no firm answer can be given at this time concerning any likely loss or gain.

OVERBURDEN SHOVEL

54. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: What was the cost of the new 33 cubic metre overburden shovel for the Leigh Creek coalfield, how was it financed, when was it purchased, and what machine did it replace?

The Hon. R.G. PAYNE: The purchase price was approximately $6 million which included more than $500 000 worth of spares. No specific loan revenue is attributable to this item, which was financed partly from internal funds and partly from new loan borrowings. The new shovel was not purchased as a replacement, but as an essential part of the long-term mine plan to supply coal to the Northern and Playford Power Stations at Port Augusta.

NORTHERN POWER STATION

55. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: What now is the estimated cost of construction and commissioning of the Northern Power Station and what is the reason for the increase, if any, over the original estimate of approximately $260 million?

The Hon. R.G. PAYNE: $448.5 million. The initial estimate of the capital cost of the Northern Power Station given in the E.I.S. was $200 million (in 1976 dollars) for a two-unit installation. The actual cost of the work envisaged in the E.I.S. (in 1976 dollars) was $201.5 million. However, the following items have to be added to cover additional work carried out and to bring the cost to 1985 dollars:

	$m
E.I.S. estimate	200.0
Variations to estimate	1.5
Increased scope of work	25.5
Escalation since 1976	204.5
Exchange variation	16.0
Contingency allowances	1.0
	448.5

TRANSMISSION LINE COST

57. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: What was the original estimate of construction of a new 275 000 volt transmission line between Davenport at Port Augusta and Cherry Gardens, what is the current estimate and what is the reason for any increase?

The Hon. R.G. PAYNE: The environmental impact statement for stage 1 of the line (Davenport-Tungkillo-Para), issued on 1 June 1981, included estimates of $37 million for stage 1 and $4.7 million for stage 2 (Tungkillo-Cherry Gardens) in 1983 dollar values. Stage 1 has now been completed and the actual cost spread over the period from 1981 to 1985 was $31.9 million.

Stage 2, the subject of a current environmental impact study, is now expected to cost about $11.5 million in 1985 terms. The increase in the estimated cost of stage 2 is attributed to:

(a) inflation of costs between 1983 and 1985;

(b) an increase in the assumed length of the line—originally assumed as 45 km, now taken as a minimum of 48 km;

(c) an increase in capacity of the line. The original estimate allowed for a double circuit single conductor line. It is now proposed to construct a double circuit twin conductor line. Apart from the cost of the extra conductor, the towers required are much heavier and more expensive;

(d) with the increase in capacity it was considered necessary to adopt a 'high security' design which further increases the weight of the towers and the cost.

LOCHIEL COAL

58. **Mr BECKER** (on notice) asked the Minister of Mines and Energy: How much has now been spent by ETSA on exploration and evaluation of the Lochiel coal deposit and what is the estimated amount expected to be expended?

The Hon. R.G. PAYNE: Expenditure to date, $5.510 million; anticipated total expenditure, $15.5 million.

LEGAL AID

94. **Mr M.J. EVANS** (on notice) asked the Minister of Education representing the Attorney-General: Is it the policy of the Legal Services Commission to grant legal aid to persons seeking to appeal against an extradition order requiring them to appear before another Australian jurisdiction and, if so, what was the total value of the funding allocated in the past and current financial years, respectively?

The Hon. G.J. CRAFTER: The Legal Services Commission has no specific policy with respect to granting legal aid to persons seeking to appeal against an extradition order requiring them to appear before another Australian jurisdiction. In all cases, not excluded by our guidelines (as to which see page 15 of our Sixth Annual Repo), provided the case is sufficiently meritorious, and provided the applicant cannot afford to pay in full for legal assistance, then a grant of legal assistance will be made. The commission is not an instrumentality of the Crown and is independent of the Government. No separate allocation of funds is made for extradition cases.

SCHOOL ENROLMENTS

98. **Mr M.J. EVANS** (on notice) asked the Minister of Education: In each of the years 1985 and 1986, what was the initial first year enrolment for each secondary school in the electorates of Elizabeth and Napier?

The Hon. G.J. CRAFTER: The year 8 first day enrolments in the electorates of Elizabeth and Napier in each of the years 1985 and 1986 were as follows:

	1985	1986
Electorate of Elizabeth		
Elizabeth High	131	91
Playford High	129	142
Electorate of Napier		
Craigmore High	218	187
Elizabeth West High	105	62
Fremont High	218	168
Smithfield Plains High	144	92

Note: Special students not included.

PUBLIC RISK INSURANCE

102. **Mr BECKER** (on notice) asked the Premier:

1. What was the insurance premium paid on the public risk insurance policy for the Mitsubishi Australian Formula One Grand Prix?

2. What was the insurance premium paid for public risk for the Jubilee 150 New Year's Eve concert?

The Hon. J. C. BANNON: The replies are as follows:

1. An insurance premium of $375 555 covered all events at and associated with the Grand Prix.

2. The Jubilee 150 Board's insurance broker has developed a public liability cover with an upper limit of $50 million for any one event. The broker has negotiated one insurance premium, which will cost $139 766, to cover major Jubilee 150 events during 1986.

DRUGS IN PRISONS

110. **Mr BECKER** (on notice) asked the Minister of Correctional Services:

1. Have any illegal drugs been located in State prisons during the past three years and, if so, which prisons, what kind of drugs and to what extent in weight and value?

2. Have any persons been apprehended distributing illegal drugs in prisons and, if so, how many in each of the past three years?

3. What action is taken to prevent illegal drugs in prisons?

The Hon. FRANK BLEVINS: The replies are as follows:

1. The number of incidents involving the location of illegal drugs in prisons is given in Table 1. The statistics are for the past three financial years, 30 June 1982 to 30 June 1985, and the incidents include alcohol as well as other drugs.

Table 1

Institution	Number of Incidents
Yatala Labour Prison	47
Adelaide Gaol	39
Cadell Training Centre	48
Port Augusta Gaol	9
Port Lincoln Prison	2
Mount Gambier Gaol	8
Northfield Prison Complex	7
Total	160

No breakdown is available on the kinds of drugs detected in the first two of these years, but in 1984-85 the distribution was:

	%
Marijuana	73
Heroin	4
Alcohol	8
Other	15

The weight and value of detected drugs is not available in detail. All drugs detected in prison have been small quantities for personal use.

2. No persons living or working in prisons have been apprehended for drug distribution. Small quantities of drugs have been found in the possession of prisoners after visits. In such cases action is taken against the prisoner. If there is direct evidence against a visitor, action is taken. In 1984-85 one visitor was charged by police and convicted of possession of marijuana. No details are available for the two previous financial years.

3. Every possible step is taken to closely supervise prisoners by means of staff supervision and through the introduction of video camera surveillance in appropriate locations in the larger institutions. Strict procedures exist to supervise the entry of persons as visitors to prisons and to ensure that prisoners are properly searched after contact visits. In some instances this involves the requirement that prisoners remove their clothing. The department has developed a specialised unit of correctional officers who search institutions on a regular basis, utilising dogs who are trained in the detection of drugs. Close liaison exists between staff in prisons and the police to ensure that appropriate steps are taken by the police in regard to any visitors who are suspected of endeavouring to introduce drugs or other contraband into prisons.

'ROY AMER' DUMP

116. **Mr BECKER** (on notice) asked the Minister of Transport representing the Minister of Local Government: Was the 'Roy Amer' dump owned by the Department of Lands and, if so, for what period and what was the annual rental?

The Hon. R.K. ABBOTT: The land in question, part sections 209 and 210, hundred of Port Adelaide, owned by the Department of Lands, was rented to Mr Roy Amer from 1 October 1977 to 12 May 1982 as an annual licence at an annual fee of $1 000.

PINE LOGS

136. **Mr BECKER** (on notice) asked the Minister of Forests: When will all pine logs be removed from the Glenelg North Sewage Treatment Works?

The Hon. R.K. ABBOTT: The log storage under refined water sprinkler systems was established at Glenelg treatment works in 1983 following plantation losses due to the severe fires on Ash Wednesday 1983. Log has since been recovered from this storage for supply to wood processing plants in Adelaide, Kuitpo and Williamstown on a regular basis. The Woods and Forests Department has accelerated the removal of these stored pine logs from Glenelg North treatment works to the maximum rate which can be handled by industry. Current storage level is standing at 10 000 cubic metres and it is planned that all logs will be removed by December 1986.