LEGISLATIVE COUNCIL

Tuesday 8 June 1982

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Marine Act, 1936-1976—Regulations—Examination for Certificates of Competency and Safety Manning (Amendment).

Racing Act, 1976-1981—Greyhound Racing Rules—Field Racing.

State Disaster Act, 1980—General Regulations.

By the Minister of Corporate Affairs (Hon. K. T. Griffin)—

Pursuant to Statute—

Companies (Application of Laws) Act, 1982—Regulations—

Foreign Company Registration.

General Regulations—Operation of.

National Companies and Securities Commission (State Provisions) Act, 1981—Regulations—Application of Acts.

Securities Industry (Application of Laws) Act, 1981—Regulations—

Companies Code.

South Australian Code.

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Hartley College of Advanced Education—Report, 1981.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Fees Regulation Act, 1927—Regulations—Hairdressers Fees.

Hairdressers Registration Act, 1939-1981—Regulations—Fees.

Hide, Skin and Wool Dealers Act, 1915-1965—Regulations—Fees.

Industrial and Commercial Training Act, 1981—Regulations—Aircraft Mechanics.

Industrial Safety, Health and Welfare Act, 1972-1981—Regulations—

Industrial Safety—Asbestos.

Construction Safety—Asbestos.

Director of Mental Health Services—Report, 1980-81.

DISTRICT COUNCIL OF VICTOR HARBOR

The Hon. C. M. HILL (Minister of Local Government): In accordance with a request from the Hon. Mr Sumner last week, I lay on the table the following two documents relative to the local government situation at Victor Harbor:

State Planning Authority letter of 16 December 1981.

Ombudsman letter of 19 January 1982.

QUESTIONS

RUSTPROOFING

The Hon. C. J. SUMNER: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question on rustproofing in cars.

Leave granted.

The Hon. C. J. SUMNER: The Department of Public and Consumer Affairs should carry out a thorough inquiry into the effectiveness of methods for rustproofing cars, and in particular those rustproofing systems applied direct by car dealers. There has been an increase in car dealers carrying out their own rustproofing under franchise arrangements, some of which are with overseas companies. The dealer self-application increases dealers' profits on the overall sale. It has been suggested that materials are unsatisfactory and that the treatment is applied by inexperienced operators when the work is done by car dealers themselves.

This situation has already caused problems in the United States. Some years ago, the New York State Attorney-General alleged that 'consumers in New York who purchased dealer-applied rustproofing are defrauded of at least $11 000 000 annually'. This conclusion arose after investigations by the Attorney-General into rustproofing in Buffalo in the State of New York. The Attorney-General's findings were that 83 per cent of the cars inspected failed to meet acceptable standards.

The situation has also arisen in Canada where the Ministry of Consumer and Corporate Affairs recommended in 1978 that 'manufacturers will discourage their dealer networks from doing in-house rustproofing'. The Australian Standards Association has been working on a standard for rustproofing materials and application procedures. A draft standard has been produced. It has been alleged that most applications would not comply with that draft standard.

The Minister should also investigate the guarantees which operate in this industry. One guarantee which has been drawn to my attention provides: '(That the damaged areas will be either repaired free of charge or the total cost of the application will be refunded in full.)' This is no guarantee at all. If the cost of repair exceeds the cost of application, then all the customer receives in return is his money back and the rustwork unrepaired. In another document, the customer is to sign a form entitled 'Waiver of Benefits'. He is encouraged to sign the following:

> I hereby certify that the seller has explained to me the benefits of the system. I further certify that I have voluntarily chosen to decline the aforementioned benefits in connection with the new or used vehicle purchased being considered.

This, of course, is a document of absolutely no legal effect, but gives the customer the impression that, if the particular system of rustproofing is not accepted, some benefits will be lost to the customer. It is questionable whether there were any benefits in the first place. There is absolutely no legal reason for a customer to sign such a document. I will make these documents available to the Minister. Will he investigate, as a matter of urgency, whether dealer-applied rustproofing is satisfactory in South Australia? Will the Minister take action to overcome unsatisfactory practices relating to guarantees and other documentation?

The Hon. J. C. BURDETT: In regard to personal guarantees or warranties, the Leader would be aware that there are certain statutory warranties which would apply in this case and which could not be contracted out of. Regarding the question asked by the Leader, I will consult with officers of my department who would be involved in this area and will then determine what ought to be done in the way of an investigation and will bring back a reply as to what I intend to do.

MEDICAL ETHICS

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Health, a question concerning medical ethics.

Leave granted.

The Hon. J. R. CORNWALL: On 13 April this year I wrote to the Minister of Health, the Hon. Jennifer Adamson, as follows:

Dear Minister,

It has been drawn to my attention that practices may be occurring among full-time and visiting staff at several public hospitals which are not in the best interests of soundly based, rational and ethical medical administration. Full-time and visiting medical staff are 'raising' fees from private practice arising out of casualty duty. For example, surgeons are paid approximately $20 000 for four sessions. This amount is offset against $40 per day medical charge for public hospital patients.

That is the $40 raised by the hospital for public patients. The letter continues:

However, when the surgeons are called to casualty as part of their public duties they convert insured patients to their own private patients. This is surely a blatant form of 'touting'.

In my letter I went on to detail complaints that I had received concerning alleged cartel arrangements operating amongst doctors at the Lyell McEwin Hospital. On 4 May I received a reply from the Hon. E. R. Goldsworthy, the Acting Minister of Health and, amongst other things, he said:

The Lyell McEwin Hospital is different to other Government metropolitan hospitals in that it has four full-time specialists who work principally in the Casualty Department. These specialists have been granted the right of limited private practice under the present private practice arrangements negotiated by the South Australian Health Commission and the South Australian Salaried Medical Officers Association. Patients who are seen in the Casualty Department of the hospital and subsequently require admission are, if seen by one of the casualty specialists, offered the choice of either admission as a 'hospital' patient or as a private patient of that specialist. These options are fully explained to the patient and, if the patient elects to be treated as a private patient, he is required to sign an Inpatient Election Form. The Hospital Board of Management does not consider that there is any blatant form of 'touting', as these options are fully explained to patients. In addition, due to the recent reorganisation of medical staff the hospital now offers a full range of medical services to patients who wish to be treated as 'hospital' patients.

This morning I received a letter from a lady who had attended the hospital with her two-year-old daughter. Referring to the doctor who was attending the child, in part her letter says:

After I explained to him that we were covered for basic hospital insurance and not for private health care, he said that we were not entitled to use public hospital facilities because this was only for pensioners and the unemployed and we should cover ourselves for full medical and hospital care.

When I explained that we could not afford to do that, he began to question me as to what employment my husband had and why we could not afford full cover.

Furthermore, when I received that reply from Mr Goldsworthy (dated 4 May), I forwarded it to a group of doctors who had raised the matter of touting at the Lyell McEwin Hospital with me in the first instance. Part of the reply I received is as follows:

We therefore thank you for your recent letter to the Minister of Health pointing out some anomalies which are occurring in the Elizabeth/Salisbury area at Lyell McEwin and feel that it is only right and proper that we should comment further on the letter received by you on 4 May 1982 and signed by Roger Goldsworthy.

In answer to the first reply, let me point out to you that touting is occurring in the Casualty Department of the Lyell McEwin Hospital and it does involve full-time salaried specialists and visiting specialists who visit from Esmec House. In fact, everyone is aware that there is a constant stream of referrals from Casualty over to Esmec House giving a virtual cartel and monopoly system on private practice arising within the Lyell McEwin Hospital. Our objection to this system is that these patients are not referred to any of these doctors as private patients by their local general practitioner; they are patients who are merely seeking treatment at a public hospital and happen to be privately insured. As a result of this, the treating specialists are converting all these patients to private patients. We have no objection to these specialists treating private patients who are specifically referred by their general practitioner with a referral note.

Of course, they do object to the other practices that I have outlined. The most astonishing part of this letter is as follows:

As far as we are concerned, you can almost guarantee that if you are privately insured and you attend the Casualty Department of the Lyell McEwin Hospital with an abdominal pain, you will be converted to a private patient and have an appendicectomy, irrespective of whether you need it or not. This is obviously for the financial return of carrying out this procedure.

The PRESIDENT: This is a very long explanation.

The Hon. J. R. CORNWALL: It is indeed, but it is very important. Mr President, I thank you for your indulgence. I will be finished very shortly.

The Hon. J. C. Burdett: Are you going to table the letter?

The Hon. J. R. CORNWALL: Certainly. The letter continues:

Furthermore if you are not insured and you happen to attend Casualty at 2 o'clock in the morning with a perforated ulcer, you can almost guarantee that you will be transferred to some other metropolitan hospital because it is not worthwhile for the specialist to come in and treat you. The monopoly on private patients is completely controlled between the full-time specialists and the Esmec House visiting specialists who are the only ones who have access to these patients.

That is the letter; do members opposite request that I table it? Will the Minister act immediately to stop harassment of patients by unscrupulous and unethical doctors in relation to the health insurance status and arrangements of patients? Will she instruct all hospital boards that doctors who harass patients or indulge in touting should lose their clinical privileges and rights to perform surgery at those hospitals? Will she immediately investigate the very serious charges about racketeering at the Lyell McEwin Hospital?

The Hon. J. C. BURDETT: I will refer the honourable member's question to the Minister of Health and bring down a reply.

The Hon. C. M. HILL: I request that the Hon. Dr Cornwall table the particular document.

The PRESIDENT: The Hon. Dr Cornwall will need to seek leave to table the document.

The Hon. J. R. CORNWALL: I seek leave to table the letter but I would like to photocopy it first, because I am sure the press will be interested in it.

The PRESIDENT: I do not mind what the honourable member does first; does he seek leave to table the document?

The Hon. J. R. CORNWALL: Yes. In doing so I make it clear that I have removed the names of the authors to protect them.

Leave granted.

GIRLS IN APPRENTICESHIPS

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Community Welfare, representing the Minister of Industrial Affairs, a question about girls in apprenticeships.

Leave granted.

The Hon. ANNE LEVY: At the weekend just past, I, along with 2 000 other people, attended a conference held at Adelaide University, the third national Women and Labour Conference. In the course of listening to one of the papers there, I heard the information given that in New South Wales there are a number of programmes designed to increase the proportion of women undertaking non-traditional apprenticeships and entering non-traditional areas of work.

One programme in particular is running in the Hunter Valley and in a fairly short time has resulted in a total of 252 women taking apprenticeships in non-traditional areas such as fitting and turning, boilermaking, and so on. On a pro rata population basis, that would be equivalent to about

1 000 such apprenticeships in South Australia. However, the situation in South Australia is very different from that pertaining in the Hunter Valley. If we exclude hairdressing apprenticeships, which are traditionally held by women, the current proportion of female apprenticeships in this State is 0.9 per cent of all apprenticeships, which is hardly a high proportion.

In both New South Wales and Victoria there have been appointed State-wide co-ordinators for girls and apprenticeships and it is through the work of these co-ordinators that programmes like that operating in the Hunter Valley have been operating. Their job is to start correcting the imbalance in the sexes in the trade areas and they work in close consultation with the Technical and Further Education Departments in those States. Does the Minister of Industrial Affairs intend making a similar appointment of a co-ordinator for girls and apprenticeships in South Australia, particularly in view of the fact that our unemployment rate for girls aged 15 to 19 years, along with the rate in Tasmania, is the highest in Australia?

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

QUESTION OF MEMBER

The Hon. R. J. RITSON: In accordance with the provisions of Standing Order 107, I wish to direct a question to the Hon. Dr Cornwall on a matter of which I believe he has special knowledge.

The Hon. C. J. SUMNER: With all due respect, Mr President, on a point of order, he cannot ask a question of a member who is not here.

The Hon. R. J. RITSON: I will withdraw the question for the time being and ask it again when the member is attending the Chamber.

MIGRANTS—POLICE WORKING PARTY

The Hon. M. S. FELEPPA: I seek leave to give a brief explanation before directing a question to the Minister Assisting the Premier in Ethnic Affairs on the subject of the migrants—police working party.

Leave granted.

The Hon. M. S. FELEPPA: In 1978 the then Premier, Mr Dunstan, formed the migrants—police working party to look into relations between the police and migrants. I also know that several meetings of the working party have taken place for the preparation of the recommendations. I would like to know whether the working party is still operating and, if it is, when it is likely to report.

The Hon. C. M. HILL: Soon after coming to Government the Premier and I interviewed the Chairman of the working party and, from memory, one or two of its members. They sought the Government's view on whether the new Government wanted them to continue or not with their work. The clear instruction from the present Government to that working party was that we wanted it to continue with its work and complete its job. What the position is at present I cannot say with certainty, but I will find out.

The Hon. C. J. Sumner: It's taken a hell of a long time!

The Hon. C. M. HILL: It has taken a long time, that is right. At one stage I inquired about the reason for the delay, and the answer was somewhat inconclusive:

The Hon. C. J. Sumner: I thought you were the Government.

The Hon. C. M. HILL: This is the committee. The response that came back from the committee was that some delays were occurring because of difficulties in discussions and negotiations at the level of the Police Department. I know that there were several outstanding matters that were taking time to resolve in regard to the interpreting work and translation work in connection with the Police Department. I will find out at what stage deliberations have reached now and bring down a reply.

PARLIAMENT HOUSE SECURITY

The Hon. G. L. BRUCE: I seek leave to make a brief statement before asking you, Mr President, a question about Parliament House security.

Leave granted.

The Hon. G. L. BRUCE: Last week I was present in the side gallery when one of the messengers challenged a person coming through the Legislative Council door which opens out on to North Terrace. The messenger said, 'Can I help you?'. In reply, he was given an answer that was rather sarcastic and not very pleasant, 'I work here, remember. I have only been here a year. Can't you remember?' That is not good enough. When will a proper look be taken at the security of Parliament House? When will clear guidelines be spelt out about who is responsible for security, because I do not believe that it is the messengers' job? If an inquiry is undertaken, can assurances be given that all political Parties will be involved in such an inquiry?

The PRESIDENT: My only answer is that there is continuing dialogue concerning security and other matters, part of which is incorporated in the instructions to the review committee. Hopefully, some further advance towards security will be made at that time. I have promised to keep the Council informed of any concrete proposals that are put forward. When we have one, I will certainly inform the honourable member and advise the Council.

The Hon. G. L. BRUCE: I desire to ask a supplementary question. Can you tell me, Mr President, whether the messengers are in charge of security on the Legislative Council side?

The PRESIDENT: It all depends what degree of security the honourable member is suggesting. Certainly, the messengers are doing an excellent job of watching who enters the Council. The responsibility for security is a much larger question. It does not lie exactly with the messengers. They do the best they can to look after the affairs of the Council.

SOCIAL WORKERS

The Hon. BARBARA WIESE: Has the Minister of Community Welfare a reply to the question I asked about social workers on 18 August 1981?

The Hon. J. C. BURDETT: I apologise to the honourable member and the Council that the answer has taken such an inordinately long time to obtain. That is because the answer was started and was then lost in the system. The Director-General of the Department for Community Welfare has informed me that he had been invited to meet with the inquiry set up by the Minister of Social Security in relation to social workers in the Department of Social Security. No written submission was required and, as no other time was available, the meeting took the form of a meal together at which the members of the committee met with the Director-General. No assurances were asked for or undertaken at this meeting. The general issue discussed related to the way in which the Department for Community Welfare social workers work with the Department of Social Security social workers and the need for social security social workers. The Director-General understood that at the time there were:

28 Department of Social Security social workers:

24 in the regional offices
2 in the central office
2 at the Rehabilitation Centre

The positions of social workers in the Commonwealth department were obviously performing Commonwealth functions and none of these were seen as State responsibilities. The Director-General made it quite clear during the discussions that it was imperative that these social workers continue in the Department of Social Security with social work responsibility and, in particular, in liaison with the Department for Community Welfare. The final issue raised in the question in relation to priority listing of families in need of social work counselling was not raised. At no time did the Director-General suggest that the Department for Community Welfare take on Commonwealth work-load or that it would be appropriate the we should.

BUSH FIRES

The Hon. C. J. SUMNER: Has the Attorney-General a reply to my question of 6 April about legal aid for Ash Wednesday bush fire victims?

The Hon. K. T. GRIFFIN: The honourable member's question regarding applications for legal aid by Ash Wednesday bush fire victims was referred to the Legal Services Commission. The commission has subsequently advised 'that our usual policies on the divulging of such information be followed and therefore the information sought not be made available'.

CASH MANAGEMENT TRUSTS

The Hon. FRANK BLEVINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about cash management trusts.

Leave granted.

The Hon. FRANK BLEVINS: I am sure that all honourable members are aware of the success of the rather new phenomenon known as cash management trusts, which have taken off like wild fire, which offer very high interest rates and which have been effective in taking much capital away from more traditional sources of investment, for example, savings banks.

This has had a desirable effect on investors because interest rates offered by the trusts are so much higher than the rates offered by the more traditional savings institutions, but it has had without a doubt a detrimental effect on the amount of finance available for lending for housing. That is one of the reasons, but not the only one, why finance is not so freely available for housing as it was in the past, and why interest rates in the housing area are now so high. There was a suggestion by the Prime Minister earlier this year at the Premiers Conference that the States consider the question of cash management trusts that were set up in individual States, with perhaps State Governments considering what they could do so that some of the money invested in the trusts could be redirected toward the housing area.

The Hon. D. H. Laidlaw: Have you been reading *Hansard* to see what I said?

The Hon. FRANK BLEVINS: I read a lot. A dispute exists between the Federal Government and the Premier as to how much control States have in this area. The Prime Minister was adamant that the State had control. What is the view of the Government as to the powers it has in this area? If the State Government accepts that it has the power to control cash management trusts, has it considered providing for the trusts to use some of the enormous amounts of investment capital to assist the housing industry and the people in this State who are looking for houses?

The Hon. K. T. GRIFFIN: I will refer that matter to the Premier and bring back a reply. To some extent it depends on what the honourable member means by 'control'. Does he mean control as to representations that are made to the investing public, or is it control over the way in which funds are used? The whole question is very wide and requires further definition. The honourable member may be able to clarify that aspect of it, and it will be easier then to bring back a specific answer for him.

The Hon. FRANK BLEVINS: I ask a supplementary question. What does the Premier think the Prime Minister meant at the Premiers Conference earlier this year when the Prime Minister suggested that the States had a certain amount of control in this area and should exercise that control with a view to releasing more funds for the housing industry? I am not sure what Mr Fraser meant. I assume Mr Fraser knows, and I assume that the Premier, who was there, also knows what the Prime Minister meant.

The Hon. K. T. GRIFFIN: I will refer that question to the Premier, too. I must confess that I doubt that that makes the original question any clearer.

STATE TIES AND BROOCHES

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government, a question on State ties and brooches.

Leave granted.

The Hon. ANNE LEVY: On 6 April this year, I put a question on notice for 1 June and received a reply from the Attorney-General in regard to State ties and brooches. The ties have now been in existence for 18 or 19 months, the brooches for six or seven months. My question at the time was as to the criteria used for presentation of these gifts to South Australians. The reply I received did not address itself to this point; it merely stated that South Australian recipients included members of Parliament, senior public servants and prominent citizens. However, it did not indicate the criteria used for distribution of these tokens.

I have noticed people wearing State ties who are in the category of Ministerial assistant, and others who are certainly not members of Parliament or senior public servants. I doubt whether they would be classified as prominent citizens. Can the Attorney-General say whether each Minister has a certain number of these tokens to distribute as he or she thinks fit, or are guidelines established for South Australians who can be recipients of these gifts, paid for, I may say, from taxpayers' funds? If there are such guidelines, will the Minister make them available to us? If not, what criteria are being used for distribution of these items to South Australians?

The Hon. K. T. GRIFFIN: Quite obviously that is a matter within the province of the Premier. I will refer the matter to him and bring back a reply.

INTERPRETERS

The Hon. M. S. FELEPPA: I seek leave to make a brief explanation before asking the Minister Assisting the Premier in Ethnic Affairs a question about interpreters.

Leave granted.

The Hon. M. S. FELEPPA: I have heard through the Yugoslavian and Vietnamese communities that the number of full-time interpreters is far too low in comparison with the demand, especially in the areas of courts, hospitals and education. Does the Government intend to develop a policy

in order to solve the problem by improving services in this area?

The Hon. C. M. HILL: I can assure the honourable member that the Government certainly has a policy of providing adequate services in accordance with demand in these areas. Some difficulties have been encountered when people from some countries have come to South Australia in recent years, particularly refugees from South-East Asia. However, I have not heard of difficulties in the Yugoslavian area, although problems may well exist. It may be that, given the various republics that make up Yugoslavia, the service in some languages was not adequate. The basic policy of the Government is definitely to provide adequate services to all people requiring such help. That has necessitated, on some occasions, part-time interpreters being retained because there is not enough full-time work for interpreters in some languages, as the number of migrants is relatively low from some countries. Perhaps I could satisfy the honourable member by providing a complete list of the number of interpreters employed, the languages in which each is involved and the period of time for which each is employed or retained, particularly where part-time work is involved. I will also make specific reference to the hospital situation, so that those statistics can be placed before the honourable member and the Council.

HYSTERECTOMIES

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister of Community Welfare, representing the Minister of Health, a question about hysterectomies.

Leave granted.

The Hon. BARBARA WIESE: Members who persevered with their *Advertiser* this morning may have reached the 'Tuesday Woman' page and seen an article written by Alex Kennedy entitled 'Once a last resort operation, has hysterectomy become just hysteria?' She starts her article by posing the question whether hysterectomy has become a fashionable as well as necessary operation in Australia. She goes on to say:

> Figures just released after a three-year study show that about 40 per cent of Australian women will have a hysterectomy before their natural menopause. That's a figure three times higher than in comparable European countries such as Sweden and Britain. The research also discovered that women with private health insurance were four times as likely to have a hysterectomy as those with cover adequate only for public hospital treatment—a figure confirmed by the South Australian Health Commission's Department of Community Medicine.
>
> Last year Australian health funds recorded that hysterectomies created billings of more than $50 000 000 with each operation costing an insured patient about $2 000, and at an estimated cost to each Australian health insurance contributor of $13 . . .
>
> New research, carried out in New South Wales by Professor Louis Opit of Monash University and in Western Australia by the State's Health Statistician, Dr Marlene Lugg, has shown that the majority of hysterectomies, more than 70 per cent, are listed by health funds under 'other disorders of the uterus' and only 10 per cent are performed because of menstruation disorders, and 7 per cent because of cancer. Now a growing number of doctors are beginning to question exactly what 'other disorders of the uterus' means. It is, perhaps, a nice tidy expression to hide a large number of operations which are not in fact essential.

We may be able to live with the situation, although it is very disturbing, first, if all the women involved in having these operations were both fully informed before they undertook the operation and, secondly, were satisfied with the results of the operation. However, the New South Wales study, which involved some 800 women, found something quite different. Alex Kennedy's article continues:

> On post-operative feelings he [Professor Opit] found as many sorry they had asked or been persuaded to have a hysterectomy as he found happy. The research data shows that many women did not fully appreciate what the operation entailed or that it was not a magic wand to cure flagging sex lives or stop the onset of middle age. And most women reported their surgeons did not willingly give reassurance or information about the operation, a situation they felt was in part to blame for the anxieties they felt afterwards.

The situation in South Australia is unknown because, as the article reports, there is no legislation to require private hospitals to report the number of hysterectomies they are performing or the reasons for them. Therefore, we do not know what is happening. Does the Minister agree that the result of the research conducted in Western Australia and New South Wales raises serious questions about the performing of hysterectomy operations? Will the Minister act to ensure that private hospitals provide the Health Commission with figures relating to surgical procedures such as hysterectomies, so that the incidence of such operations may at least be monitored in South Australia? Will the Minister initiate a research project to determine whether the frequency of and reasons for hysterectomies being performed in this State's hospitals are similar to those reported in New South Wales and Western Australia?

The Hon. J. C. BURDETT: I will refer the question to the Minister of Health and bring back a reply.

NEWSPAPER REPORTING

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking a question of you, Mr President, regarding newspaper reporting.

Leave granted.

The Hon. M. B. DAWKINS: Recently I have been reminded very clearly of the objective, relatively detailed and adequate reporting, over an extended period, by leading British newspapers of the proceedings and intended proceedings of the House of Commons and the House of Lords in the United Kingdom. I am not merely referring to headline news. Mr President, will you take up with your colleague in another place, the Speaker, the possibility of your both interviewing the managing editors of local daily newspapers to request more detailed and objective reporting of the daily proceedings of this Parliament. In this instance it would not be difficult for local people to compare what goes on here with what goes on in Britain. In Britain, there is more detailed and objective reporting of the proceedings of Parliament, rather than what may be described as the headline-catching process that seems to obtain at present in this country.

The PRESIDENT: I shall be pleased to discuss this matter with the Speaker, and approach the local papers requesting that they make more space available for reporting the affairs of Parliament. What the result of that approach will be, I cannot say.

PIE CART

The Hon. N. K. FOSTER: I seek leave to make a short statement before asking the Minister of Local Government a question about the pie cart.

Leave granted.

The Hon. N. K. FOSTER: The beaucratic Adelaide City Council seems to have gone to extraordinary lengths to ensure that the pie cart, which for a number of years has been located at the head of the ramp at the Adelaide Railway Station, will be shifted. The council has found a way in which this Parliament can in fact be by-passed by the council's using obscure by-laws instead of regulations.

The treatment accorded by the Adelaide City Council to Mr Oram, who is the proprietor of that pie cart, is nothing less than disgraceful. In coming out on the side of the pie cart, I am concerned about the extraordinary lengths to which the council bureaucracy has gone to ensure that it gives the proprietor the right to trade in a remote and non-trading area of the city. The only venue that the council has not suggested for the proprietor to sell his wares is under the Morphett Street bridge. The council, by way of regulation and all sorts of dirty tricks and too-smart-by-half campaigns, has decided that it will remove the pie cart forever without the evidence of one real complaint that it is a public nuisance, as has been given vent to in the press and some corridors of this House.

Will the Minister call for a report from the Adelaide City Council setting out in detail the way in which it has gone about excluding the pie cart from its traditional area of business at the head of the ramp of the Adelaide Railway Station? Will the Minister question the Adelaide City Council as to where it gets its right to by-pass regulations which may or may not come within the scrutiny of the State Parliament? Will the Minister treat this as a matter of urgency and, in so doing, examine what proceedings took place in court regarding the legal action that the proprietor, Mr Oram, had taken some months ago?

The Hon. C. M. HILL: I am willing to obtain a report about this matter from the Adelaide City Council, and I will bring back that report to the Council. I have some sympathy for the gentleman in question—and the problem with which he is confronted.

The Hon. N. K. Foster: He doesn't want sympathy; he wants action.

The PRESIDENT: Order!

The Hon. C. M. HILL: Let me answer the question. The honourable member will recall that other questions have been asked about this problem of the council's wanting the pie cart shifted from its present site at the Adelaide Railway Station. These questions and answers are contained in last year's *Hansard*. Mr Oram came to see me about this matter, and I explained to him that, whilst I appreciated his difficulties, it was basically a local government matter. I cannot over-emphasise that point. The regulation of amenities such as the pie cart—

The Hon. C. J. Sumner: Doesn't it have tourist potential?

The Hon. C. M. HILL: It does have some tourist potential. However, there is some conflict about that point that I will mention in a moment. I explained to Mr Oram that the responsibility for fixing a site for a facility of this type is certainly not mine, nor is it a State matter. It is a matter for local government decision.

The Hon. J. R. Cornwall: It's a people matter.

The Hon. C. M. HILL: It is a people matter, and local government is closest to the people.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. M. HILL: In relation to tourism, the pie cart is a tourist attraction.

The Hon. N. K. FOSTER: Mr President, I rise on a point of order. I did not raise the matter of tourism; I raised the matter of malpractice, whereby the council has shoved this fellow into a duck pond somewhere.

The PRESIDENT: Order!

The Hon. C. M. HILL: That is a matter of alleged malpractice. The pie cart is a tourist attraction in this State, yet it is ironic that it is the tourists themselves whose sleep is apparently disturbed on the other side of North Terrace, and that is what has caused the whole problem.

The Hon. N. K. Foster: Rubbish!

The Hon. C. M. HILL: It is not rubbish. The city council wants the pie cart shifted from its present position because it claims that the noise from patrons of the pie cart at late hours adversely affects guests and tourists who occupy rooms in hotels on the southern side of North Terrace near the Adelaide Railway Station. In effect, it is the tourists who are causing the problem by complaining to the owners of those establishments, and the problem has been pursued by the council. I only hope that ultimately a solution will be found whereby the proprietor of the pie cart is satisfied that he can gain comparable business at another site and, wherever his pie cart is finally located, it does not upset tourists and others at a late hour. I will obtain a full report for the honourable member.

The Hon. C. J. Sumner: Why don't they put it down the road?

The Hon. C. M. HILL: The last suggestion was that it should be positioned just outside the Hon. Miss Levy's office window on King William Street. I understand that idea was given up, but not because the Hon. Miss Levy objected to the patrons making a noise outside her window at night.

The Hon. Anne Levy: I didn't object.

The Hon. C. M. HILL: The Hon. Miss Levy made an interjection that could have been construed as an objection. The real reason why that suggestion was not pursued was that there was a problem with buses and public transport along the western side of King William Street adjacent to Parliament House.

The Hon. N. K. Foster: And the pigeons.

The Hon. C. M. HILL: I do not know anything about the pigeons. I understand that the city council fully canvassed the possibility to which I have referred. Mr Oram was not happy about it because he did not think that many of his customers inhabited that part of King William Street. I will investigate this matter.

Members interjecting:

The Hon. C. M. HILL: All suggestions will be fully considered. If honourable members see me later they can all have a say and make suggestions. I will bring down a reply for the Hon. Mr Foster. I hope that the problem can be solved.

JUSTICES ACT AMENDMENT BILL (No. 3)

The Hon. K. T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Justices Act, 1921-1982. Read a first time.

The Hon. K. T. GRIFFIN: I move:

That this Bill be now read a second time.

It has been prepared to provide further procedural changes to improve the administration of courts of summary jurisdiction. A procedure has been created by which a person who applies to have a conviction set aside and who is the subject of a warrant of commitment in that matter may be released from custody whilst that application is proceeding. The decision whether or not to release the applicant pending the hearing of the application is one for the court. It is similar to the case of a person in the same situation who lodges a justices' appeal against conviction or penalty.

A more efficient system of payment of fines and sums adjudged to be paid has been created in this Bill. The present procedure, which is difficult to administer, has caused some problems for clerks of court where the complainant to whom moneys are payable has moneys tendered to him. It is frequently difficult for the justice, who has been asked to issue a warrant, to satisfy himself that payment has been made to the appropriate person. The Bill has been drafted to provide for the payment of a fine or sum of money

adjudged to be paid to the clerk of court in the first instance and then for disbursement to the complainant where appropriate. The Bill provides for receipt of moneys and payment out of them. The clerk will receive all moneys and then be responsible for their disbursement. A warrant for non-payment of a fine or sum adjudged to be paid will be issued upon the production of a certificate of the clerk that the moneys have not been paid to him.

The other amendments contained in this Bill arise out of minor administrative problems which the Courts Department now foresees in the implementation of the Justices Act Amendment Act, 1982. There is an amendment providing for the suspension of the operation of provisions of that Act. The reason for this amendment is that arrangements for implementing particular amendments are likely to take longer than others.

The Courts Department was created in 1981 at which time the Registrar of Courts of Subordinate Jurisdiction under the Local and District Criminal Courts Act, 1926-1981, was made responsible for the administration of courts of summary jurisdiction. Therefore, responsibility for the appointment of a temporary clerk of court is more appropriately that of the Registrar as an administrative function than that of a magistrate as a judicial function.

The procedure which was created for the institution of appeals provided that the notice of appeal should be served upon the Supreme Court. It is more appropriate that it be served at the court of summary jurisdiction by which the conviction, order or adjudication the subject of the appeal was made. Administratively, it is considered that it would be more convenient for the appellant to lodge his notice of appeal with the court of summary jurisdiction from which he is appealing and for that court to transmit the necessary documents to the Registrar of the Supreme Court. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 2 of the Justices Act Amendment Act, 1982, by providing that the operation of any specified provision of that Act may be suspended. Clause 3 provides that this measure is to come into operation immediately after the commencement of the Justices Act Amendment Act, 1982. Clause 4 makes an amendment to section 3 (which sets out the arrangement of the Act) consequential upon amendments provided by clause 10.

Clause 5 inserts into the interpretation section a definition of 'the Registrar', being the person holding or acting in the office of Registrar of Courts of Subordinate Jurisdiction under the Local and District Criminal Courts Act, 1926-1981. This definition is presently contained in section 9a (1) but is now required for the purposes of other provisions of the Act. Clause 6 strikes out subsection (1) of section 9a which contains the definition of 'the Registrar'.

Clause 7 amends section 42 of the principal Act which provides, *inter alia,* for a special magistrate to appoint a temporary clerk of a court of summary jurisdiction. This provision was inserted by the earlier amendment Act of 1982. The clause amends the provision so that such appointments are to be made by the Registrar. Clause 8 makes an amendment to section 76 that is consequential upon amendments proposed by clause 10. Clause 9 inserts a new section 76b providing for the release of a person who is in custody as a result of a conviction or order but is making application under section 76a (which was inserted by an earlier amendment Act of 1982) to set aside the conviction or order. The clause provides for release from custody in these circumstances subject to the person entering into a recognizance to appear at the hearing of the application to set aside.

Clause 10 inserts a new section 79a regulating the payment of fines and sums required to be paid as a result of a conviction or order made by a court of summary jurisdiction. The proposed new section requires any such payment to be made to the clerk of court in the first place in all circumstances and, where the amount is to be paid to the complainant, for the clerk to pay the amount to the complainant. At present, where an amount is ordered to be paid to the complainant, payment is required to be made directly to the complainant leaving the clerk dependent upon advice from the complainant that default has occurred.

Clause 11 amends section 82 of the principal Act which provides for certification that default has been made in payment of a fine or other sum ordered to be paid by a court of summary jurisdiction. The amendment proposed by the clause is consequential upon proposed new section 79a. Under the amendment such certification is to be provided by the clerk in all cases. Clause 12 amends section 171 of the principal Act which provides for the manner in which justices appeals are to be instituted. Under the clause, notice of appeal is to be lodged with the clerk of the court of summary jurisdiction by which the conviction or order subject to appeal was made.

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

FISHERIES BILL

Read a third time and passed.

CHILDRENS PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

In Committee.

(Continued from 1 June. Page 4180.)

Clauses 2 to 6 passed.

Clause 7—'Powers of Court upon remand.'

The Hon. K. T. GRIFFIN: I move:

Page 2, lines 25 to 32—Leave out subsection (5) and insert subsection as follows:

(5) Notwithstanding subsections (1) and (4), a child who has been remanded in custody for trial in a place that is outside the prescribed area may, during the course of the trial and while awaiting sentence be detained—

(a) in a police prison; or

(b) in a police station, watch-house or lock-up approved by the Minister,

if it is not reasonably practicable to detain the child during that period in the manner provided by those subsections.

My amendment arises out of the amendment put on file by the Leader of the Opposition. I suppose that it is just convenient that my amendment is to earlier lines than the amendment proposed by the Leader. In his amendment he would, I expect, highlight concern about young offenders being remanded indefinitely in custody in a police prison outside the prescribed area.

I have given some consideration to his amendment and have consulted with police, court officers and my own officers, as well as with the Chairman of the Childrens Court Advisory Committee, and have concluded that it would be proper to move an amendment that would put some limit on the duration of the detention of a young offender in a police prison outside the prescribed area. I believe it would be impractical, however, to put a fixed time limit of three

days on the period, as the Leader seeks to do in his amendment.

It is intended that the principle of this amendment will apply during a trial. It would be unworkable if, during the course of a trial, a young offender was remanded in custody outside the prescribed area and the time limit was fixed at three days because it may be that the trial would go longer than three days and it would be most inconvenient—in fact, I suggest, quite impractical—to have the young offender remanded in custody in a police prison outside the prescribed area for the first three days of his trial and then for him to have to be remanded for the fourth day to a remand centre, which would mean bringing that young offender to the metropolitan area and transporting him back next day to the court where that young offender was being tried.

My amendment seeks to pick up the principle to which the Leader of the Opposition has drawn attention but to provide that there is no fixed limit, but that the child may be remanded in custody for trial in a place outside the prescribed area during the course of the trial, so that there is a limit on the duration of the detention in a police prison and that is determined by the course of the trial and the period awaiting sentence. I believe that that picks up adequately the principle to which the Leader has drawn attention and also satisfies the practicalities of having a young offender in detention during the course of the trial and whilst awaiting sentence.

The Hon. C. J. SUMNER: My amendment on file was, as the Attorney-General has said, to give effect to what I think is a fairly fundamental principle and one that we argued for when this Act was before Parliament in 1980, namely, that there should be a separation of juvenile and adult offenders. However, I have considered the Attorney-General's amendment and his explanation of it and I think that the amendment to clause 7 that we are now considering, combined with a subsequent new clause 7a, which the Attorney will also insert, overcomes substantially the problems I had with the original Bill.

New clause 7a provides that, where a child is detained in the situation of a police prison, police station, watch-house, or lock-up, the person in charge will take all reasonable steps to ensure that an adult and the juvenile or child are kept separate. I think that there is a need for some practical considerations to be taken into account in this situation, particularly in regard to the remote areas. I understand that the practice in the remote areas is to get children who are committed into custody down to the childrens institutions at the earliest possible opportunity, so what we are providing for in this legislation is the exceptional situation that occurs in the remote areas.

I am satisfied now that at least the principle is being recognised in legislation, and I trust that the administrative procedures that have applied until now will apply in future, namely, that all steps will be taken to ensure that adults and juvenile offenders are not tossed in together and that where they are committed to police prisons, police stations, watch-houses, or lock-ups in remote areas, they will be transferred to proper childrens institutions at the earliest possible opportunity. I understand that that is the policy of the Government.

The Hon. K. T. GRIFFIN: That is the policy of the Government. I appreciate that the Leader of the Opposition is happy to support the amendment as well as new clause 7a to which I will address a few remarks when we consider it.

Certainly, the Government is very sensitive about the retention of young offenders in the appropriate manner in institutions and wants to ensure that, as much as possible, young offenders are not kept in prisons or mixed with adult company in such institutions. The practicalities are such that sometimes the ideal must be compromised in remote areas. I appreciate what the Leader has indicated when responding to my comments on this amendment.

Amendment carried; clause as amended passed.

New clause 7a—'Child detained in police prison, etc., to be segregated from adults.'

The Hon. K. T. GRIFFIN: I move:

Page 2, after line 32—Insert new clause as follows:

7a. The following section is inserted in Division III of Part IV of the principal Act after section 44:

44a. Where a child is being detained in a police prison, police station, watch-house or lock-up pursuant to this Division, the person for the time being in charge of the police prison, police station, watch-house or lock-up shall take such steps as are reasonably practicable to keep the child from coming into contact with any adult person detained in that place.

As both the Leader and I have indicated, this new clause picks up the principle which was expressed in the Leader's amendment on file. Again, one has to attempt to put the ideal into a practical context, and I believe that this new clause expresses the principle which this Government and previous Governments, and I would expect future Governments, would want to adhere to; that is, as far as it is reasonably practicable, where young offenders are detained in a police prison in remote areas, they should be kept apart from adult prisoners. I thank the Leader for his indicated support of the new clause, which picks up the principle to which he drew attention earlier.

New clause inserted.

Remaining clauses (8 to 14) and title passed.

Bill read a third time and passed.

CRIMINAL INJURIES COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 4169.)

The Hon. C. J. SUMNER (Leader of the Opposition): In contrast to the previous Bill, where the Attorney-General's compromise position was quite reasonable and was one that I was able to accept, I am afraid that in relation to this particular legislation I have serious doubts about many of the clauses. This Bill amends the Criminal Injuries Compensation Act. Therefore, we are dealing with the situation involving victims of crime in this State. Whilst I will support the second reading, I will do so only because there are some aspects of the Bill that I can support.

However, the main thrust of the legislation I cannot support. Honourable members should not be under any misapprehension: the Bill constitutes a severe restriction on the rights of victims of crime. I will not embark on a law and order debate generally, because that issue has arisen in this Chamber previously. All I will say is that I found the Liberals' attitude to the law and order issue at the last election, to say the least, unpleasant and, at worst, quite obnoxious.

Since coming into office, the Liberal Party has tried to make much of its so-called law and order policy. In particular, the Attorney-General has spoken about the action which the Government claims to be taking on behalf of victims of crime. Yet, having involved himself in all that rhetoric, we now find him introducing a Bill in this Council to amend the Criminal Injuries Compensation Act. This is a travesty in terms of the rights of victims of violent crime. It constitutes an enormous restriction on the rights of victims to obtain compensation.

The history of this matter is that, when I was Attorney-General, a committee was established to review the services

provided to victims of crime. That committee was not proceeded with by the present Attorney-General and, on 26 March 1980, I asked whether the Attorney intended to proceed with that committee. He advised the Council that he did not intend to proceed with it but was considering the establishment of another committee with some community representation on it. On 5 March 1980 Mr McRae, the Labor member for Playford, moved that a select committee be established to investigate the problems of victims of crime. He moved the following motion:

That in the opinion of the House victims of crime suffering personal injuries should be compensated by a publicly funded insurance scheme similar to the Workers Compensation Act and should be otherwise assisted and rehabilitated if necessary on the basis that public moneys expended be recovered where possible from those at fault and further that a select committee be appointed to report on the most efficient manner of achieving that result and also to examine and report on property loss suffered by victims of crime.

In September 1979 a committee was established by the Labor Government to look at facilities for victims of crime. On 5 March 1980 Mr McRae moved his motion. On 26 March 1980 I asked a question about what the Attorney-General was doing in relation to the previous committee that had been established. It was not until June 1980 that the Attorney announced the establishment of his committee.

In effect, the committee which he established was more or less the same as the one which had been established by me as Attorney-General. The only difference was that his committee included a couple of community representatives. The committee I established had terms of reference to liaise with community organisations. So, in effect, there was not a great deal of difference between the two committees established. In March 1981 a report entitled 'A Report of the Committee of Inquiry on the Victims of Crime' was made public. That committee was chaired by Dr Grabowsky, who was the Director of the Office of Crime Statistics. Indeed, it was proposed, under the Labor Government's committee, that the same gentleman chair it.

That report produced in 1981 contained 67 recommendations. I cannot find anywhere in the second reading explanation which the Attorney-General has given where any one of those recommendations has been implemented. I think that the Bill may implement the one which states that criminal injuries compensation matters should be dealt with by the one court. The Attorney-General has decided on the District Court as being the appropriate court. In terms of any substance, nothing has been done on the 67 recommendations of the report by the Committee of Inquiry on the Victims of Crime.

Furthermore, in regard to Mr McRae's sensible proposition for a select committee, the Government has completely ignored the honourable member. He moved a motion in March 1980. He moved the motion again in September 1980 and yet again in September 1981. On three separate occasions Mr McRae has moved the motion and the Government has not even responded in the House of Assembly to that motion. There has not been one Government speaker to respond to the motion put up as long ago as 5 March 1980. That, quite frankly, is unacceptable. A vote was taken on the motion moved in September 1980. The motion was negatived. There has been no serious Government consideration of the motion, despite its rhetoric in this matter, despite its much vaunted law and order policy and despite its supposed concern for victims of crime. Its record has not been good.

Its record now, with the introduction of this legislation, can only be seen to be without merit at all. This legislation is a retrograde step. It is a denial of victims' rights in a number of areas—quite significant areas. I will deal with the definition of 'victim'. Under the present legislation 'a victim' is 'a person who suffers injury in consequence of the commission of the offence'. Under the Attorney-General's amending Bill 'victim' means 'the person against whom the offence was committed.' That is an enormous restriction on people who can be considered to be victims of a crime.

This definition of 'victim' will preclude the parents or other relatives of a murder victim from obtaining criminal injuries compensation. So, the parents or other people involved in the Truro murder situation would not be entitled to any compensation under this legislation despite the fact that they might have been injured in the generally accepted definition of that word through suffering severe emotional disturbance or nervous shock. I find that attitude astounding on the part of this Government.

Let me put to the Council the situation of a brother or sister of a young person who may have been murdered. If this Bill is passed in its present form, that brother or sister would have no claim under this scheme against the State for criminal injuries compensation. Yet, that person may have had severe emotional and psychological disturbance as a result of his or her brother or sister being murdered.

I find it astounding that that is the Government's intention in this legislation. However, that is what it is designed to do. The present situation is such that for relatives of a murdered victim to obtain compensation under the Act they must establish that they have suffered some injury and that they have suffered some nervous shock or mental disturbance as a result of the criminal act. So, it is not open slather at the present time. It does not mean that every relative of a murdered victim is entitled to compensation at the present time.

However, if a person can establish that he suffered personal injury in the sense of nervous shock or psychological disturbance as a result of a relative being murdered, surely compensation ought to flow to that person. It has even been suggested that the legislation should go further than that. It has been suggested that there should be a system of payment by way of solatium to the relatives of murdered victims. That suggestion was made by Mr Justice Jacobs in a case upon which he adjudicated and on which a report appeared in the *Advertiser* on 5 July 1980. He stated:

The legislation does not authorise a reward in the nature of solatium, as I venture to suggest, it should.

I do not want to express a considered view on the suggestion of Mr Justice Jacobs at this stage. However, I would say that, in addition to there not being any solatium payable under the Act, this Bill takes a further step backwards in limiting the rights of victims of crime. So, the parents or relatives of a murder victim under this legislation would not be considered to be the victims of a crime and would have no rights under the legislation. Secondly, the Bill would exclude bystanders. Thirdly, the Bill would exclude a rescuer who might assist a victim, unless that rescuer was subject himself to an offence. It may be that a bystander is involved in a very traumatic situation as a result of the commission of a crime, even more traumatic than the situation of the person upon whom the offence is committed.

For instance, take the situation of a robbery in a chemist shop, where there may be bystanders. Maybe the proprietor of the chemist shop knows what to do in those circumstances (which is, just to be quiet and hand over) and, therefore, may himself not be particularly shocked by what happens. On the other hand, bystanders in the shop may be upset by what occurs and, as a result of the crime being committed, sustain severe psychological disturbances. The Attorney-General is saying that all those categories of people should be excluded from the Act. I am not saying that there will be many cases of that kind, but there may well be a case of a bystander witnessing a particularly violent crime and, as

a result of the witnessing, sustaining psychological damage, which ought to give such a person the right to compensation.

The existing definition should stand. It is still up to the individual to establish that he suffered injury. To restrict the definition of 'victim' in the way that is proposed by this legislation is utterly unacceptable. I give notice that I will be opposing that particular clause. The second aspect that I am unhappy about is the definition of 'offence'. The present Act provides:

'offence' means any offence, whether indictable or not, committed by one or more persons, and includes conduct on the part of any person:

(a) that would constitute an offence but for his age, or the existence of a defence of:

(i) insanity;
(ii) automatism;
(iii) duress; or
(iv) drunkenness;

or

(b) that would constitute rape, but for lack of *mens rea*:

The Bill restricts that definition of 'offence' quite strikingly. The Bill provides:

'offence' means an offence, whether indictable or not, committed by one or more persons and includes conduct on the part of a person that would constitute an offence if it were not for his age, or the existence of a defence of insanity:;

It provides for a victim to be entitled to compensation following acquittal on defence of insanity only. Under present law, if a person commits a crime but is so drunk as not to be able to form the necessary intention to commit the crime and is therefore acquitted, the victim of that act would be entitled to compensation. Under the Government's Bill, the victim would not be entitled to compensation.

I put to the Chamber this situation. Where a person gets himself so drunk as to be incapable of forming the intention to commit a crime (which is the law whether one agrees with it or not) and commits a violent act against a victim, under the Government's Bill which we are debating today, that victim would not be entitled to compensation. Yet, under the Act as it stands today, and as I hope it will stand, that person would be entitled to compensation.

In the definition of 'offence', the Government is restricting the potential for victims to claim compensation. It is further restricting it in the case of rape. Under the present law a person who commits an act of what would be rape but for the necessary intent against another person, may be acquitted. He may be acquitted solely on the ground that subjectively he thought the woman was consenting to intercourse. On any reasonable view of the facts, that proposition may be untenable, yet because that person believed it himself, he may be acquitted. Under the present Criminal Injuries Compensation Act the victim of that act would be entitled to compensation.

The Hon. K. T. Griffin: That is not so.

The Hon. C. J. SUMNER: Well, it is, because that is what the present section says. The present section provides:

'offence' means ... conduct on the part of any person ... that would constitute rape, but for the lack of *mens rea*.

That is in the present Act.

The Hon. K. T. Griffin: But [illegible] can never establish it; it is a non-event.

The Hon. C. J. SUMNER: It may not be a non-event. It does provide a further opening for the victim of a rape to claim compensation. The Government wants to restrict that right, as it does in relation to situations of automatism or duress. Make no mistake about it: the Bill in the way it redefines an offence restricts the rights of victims quite severely.

The Attorney-General has claimed that this legislation is justified because of abuses which he said had occurred in the system. There is absolutely no evidence in the second reading explanation that any abuses have occurred. If there have been any, the Attorney-General should provide information to the Chamber on what abuses he is relying on for this very severe restriction of victim's rights. There is a need for a comprehensive analysis of this legislation and of the problems of victims of crimes.

For instance, what has the Government done about the proposal in the committee's report for victim impact statements? This issue was raised by me in August 1979 and nothing seems to have been done about it. What has been done, for instance, on recommendation 55, which is that the present limit of $10 000 compensation for the victims should be increased and that a study should be undertaken to determine a fair and equitable limit? What has the Government done about any of the 67 recommendations in this report?

I am not saying that the issue of criminal injuries compensation is easy from the point of view of its financing. Consideration needs to be given to whether some kind of separate fund needs to be established and, if a fund is established, how that fund should be financed. Ideas that come to mind and that have been suggested by the Victims of Crime Service Secretary, Mr Whitrod, are that a certain percentage of fines should go into a fund or that there should be a surcharge on fines. These issues need full and thorough consideration.

Another issue which is of concern is that funeral expenses are not payable under the Act as it stands. I understand that some of the families of the Truro victims had to raise money by loan in order to pay for funeral expenses. That is another area which needs to be looked at. Further, it has been put to me that there is a need for a system of emergency grants, a system similar to that of interim damages, to cover immediate expenses such as funeral expenses and possibly some medical expenses.

I have not canvassed all the possibilities in relation to victims of crime. I do not want to go through the report in detail, although I think that the Attorney-General should give the Chamber some idea of what the Government has done with this report, which it has had now for well over 12 months. There is a need for a comprehensive look at the legislation and at what facilities exist for people who find themselves to be victims of crime.

I am concerned today to ensure that Parliament does not take a big step backwards in this area. The original legislation was introduced by the Hall Government and had a maximum of $1 000. That was increased by the Dunstan Government, first to $2 000 and then to $10 000. This should not be a political issue. The Act has existed with these definitions for about 12 to 14 years. Why is the Attorney-General after all this time putting forward a proposition to restrict the rights of victims?

As I have said, a number of other important issues are involved which should be addressed by Parliament or by the Government at the appropriate time. I oppose any changes in the definition of 'offence' and in the definition of 'victim'. I believe that any change in relation to the onus of proof is also unjustified. The normal civil onus is the balance of probabilities. However, the Attorney-General wants to impose a criminal onus on victims who are seeking compensation by requiring them to establish beyond reasonable doubt that any injury was related to the commission of an offence. I believe that that is a severe restriction on the rights of victims of crime.

I will be opposing the clauses which change and increase the onus on victims of crime from the balance of probabilities to the criminal onus of beyond reasonable doubt. There are some matters in the Bill which I will not oppose, but they are basically mechanical matters. The central part of this Bill is contained in the definition of 'offence', in the definition of 'victim' and in changing the onus that victims must

establish under the Act. I believe that members should vote against those clauses dealing with those three points, because they are a severe restriction on the rights of victims of crime.

I am surprised that the Attorney-General has introduced this Bill in this form. He is putting the budgetary position of the Government ahead of consideration of victims of crime. As I have said, I find that surprising in view of the rhetoric that the Government embarked upon before the last election and since. I urge the Council not to support the clauses that I have mentioned. I will support the second reading, but that does not mean that I agree with the basic principles of the legislation in relation to the definitions of 'offence' and 'victim'. The only things I agree with are some of the mechanical aspects of the Bill. I am firm and I hope all members will be firm in opposing those clauses which deal with the definitions of 'offence' and 'victim' and the onus of proof. If the Council does not delete those clauses from the Bill I will vote against the third reading.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

CLASSIFICATION OF PUBLICATIONS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 1 June. Page 4172.)

The Hon. C. J. SUMNER (Leader of the Opposition): I am pleased that the Liberal Party has finally accepted the basic tenets and procedures that were established by the Labor Government to deal with censorship in this State. It is pleasing that the Government and the Attorney-General have accepted that those procedures are valid. It may be that that has resulted from the fact that the Attorney-General is now the Minister responsible for censorship matters, whereas the shadow Minister was the Hon. Mr Burdett. There can be no doubt that the Government has now accepted the basic proposition put forward by the Labor Party during the last decade.

As shadow Minister responsible for censorship matters, the Hon. Mr Burdett castigated the structure that had been established by the Labor Government. The Hon. Mr Burdett wanted Ministerial control over the board. He wanted to return to the days of Ministerial censorship which existed when Mr Millhouse was Attorney-General. Mr Millhouse put a blue pencil through certain words in the play *The Boys in the Band*. That was one example of Ministerial censorship. The thrust of Labor Government reforms in the 1970s was to get away from one-man censorship control. We have done that. I am pleased to see that this Bill does not return to the notion of one-man Ministerial control of written or spoken material in this State.

Indeed, this Bill does not impose Ministerial control over censorship matters, and that is the view adopted during the 1970s. I am pleased to see that the Government has now accepted that, despite the fact that a different point of view was put forward for many years by the then shadow Minister, the Hon. Mr Burdett. The Liberal Party also advocated the power to ban publications. That proposal has been dropped. The Liberal Government now accepts the basic principles of the Act. We now appear to have arrived at almost a bipartisan approach to censorship matters (at least in terms of the structure of the Act and the methods of control over what people in this community decide to read, view or listen to).

The Labor approach, which has now been accepted by the Liberal Party, was not the approach that was often portrayed by the Hon. Mr Burdett. Indeed, the Labor Party's policy of February 1979 was as follows:

> Censorship laws based upon the following general principles:
> *(a)* Adults should be entitled to read, hear and view what they wish;
> *(b)* Persons (and those in their care) should not be exposed to unsolicited material offensive to them;
> *(c)* Persons under the age of 18 should be protected from exposure to published material or films which are regarded as objectionable or offensive, by current community standards;
> *(d)* It shall be an offence for children to be used in the making, publication or distribution of films, photographs or other material which are indecent or obscene. The distribution of such material shall also be an offence.

Our policy (and I am reading from the policy of 1979) was quite clear, but it was sought to be misrepresented by members opposite from time to time. It was basically that, as far as adults were concerned, a general philosophy of their being entitled to read, hear and view what they liked should apply, that, on the other hand, people should not be exposed to material being thrust upon them and, finally, that there should not be any truck with child pornography, whether in written material or in the form of films. That was the basic policy that the Labor Party acted on during the 1970s, and that policy found its way into the Classification of Publications Act, section 12, of which, in relation to the criteria to be applied by the board, provides:

> (1) In considering questions as to whether a publication is offensive, or suitable or unsuitable for perusal by minors, the Board shall have regard to standards of morality, decency and propriety that are generally accepted by reasonable adult persons.
> (2) In performing its functions under this Act, the Board shall give effect to the principles—
> *(a)* that adult persons are entitled to read and view what they wish;—

which was the Labor policy that I have outlined—

> and
> *(b)* that members of the community are entitled to protection (extending both to themselves and those in their care) from exposure to unsolicited material that they find offensive.

Again, that is another aspect of the policy to which I have just referred. Further, some actions were taken in, I think, 1978 regarding child pornography and also to tighten up some other aspects of the distribution of material that may be sadistic or masochistic, but generally the structure of the legislation in the 1970s through the Classification of Publications Act was in line with Labor Party policy as expounded in the Labor Party platform, and now that basic structure is being accepted by the Liberal Party.

The only disappointment I have is that the Hon. Mr Burdett sought during many years when he was the shadow Minister to change that structure. Apparently the structure of the 1970s is to be used by the rest of Australia as a model and this Bill will produce an Act that is to be a model for Australia. All I can say is that it is a credit to the Labor Party for having established the structure and a credit to the Attorney-General for having accepted that structure, but not a credit to the Liberal Party and the Hon. Mr Burdett, who did their best during the 1970s to try to dismantle that structure.

First, I am pleased that Ministers throughout Australia are getting together on censorship matters because, if uniformity can be achieved, that is desirable. I am also pleased that, as a result of the meeting that the Minister attended on 16 October 1981, this Bill has been introduced and the censorship legislation that arises out of it will provide a model for the rest of Australia. I have one question for the Attorney in relation to that. In his second reading explanation, he did not say that other States had committed themselves to introducing similar legislation but he said

that the amended Act would be a model for the rest of Australia.

I assume that he gathered some understanding at the Ministerial conference that this scheme, which had been introduced in South Australia, would be suitable for other States. I am pleased that it is to be a model, because I believe that basically it was satisfactory legislation. I do not want to embark on a philosophical debate about censorship, except to say that the position of the Labor Party in the 1970s was based on the proposition that adult persons should be free to read, see, and listen to whatever they liked, provided that no harm was done to other people. I think that that is generally a concept to which small 'l' liberals in Australia adhere. It is not a concept that the Hon. Mr Burdett adhered to but it seems to be one that is attractive to the Attorney-General.

There is always a doubt as to what is harmful and in the area of censorship and pornography this has been a matter of controversy. The Presidential Commission in the United States found that it was not possible to establish that pornography had harmful effects. The Williams Report in the United Kingdom in 1980 came to the same conclusion. However, that is not a unanimous view and Dr Court, of Flinders University, holds a different view. I think that the structure of this Act, which has been in existence in South Australia, is a reasonable means of ensuring that the various conflicting views in this area are met.

The general principle is that adult persons are entitled to read, see, and listen to what they wish, that other people are entitled to their privacy and should not have offensive material thrust upon them, and that people in a weaker position, particularly children, are entitled to be protected from such material. That is basically the structure of the Act, and I do not believe that this amending Bill does any great violence to that basic structure.

The Hon. K. T. Griffin: It doesn't do any violence.

The Hon. C. J. SUMNER: The Attorney says that it does not do any violence, and that may be true, but I would like to deal with some aspects of the amending Bill in the light of the criteria that I have mentioned. First, the Bill accepts the basic structure. Secondly, it changes a five-tier classification structure to a two-tier classification, and that was agreed on by other Governments in Australia. I certainly will not oppose that change in the structure.

Basically, there will be a first classification where material can be distributed generally in shops throughout the community under certain restrictions. The second category of material will be available only in so-called sex shops or, alternatively, in areas specifically set aside for restricted publications in ordinary bookshops.

The Attorney said in his second reading explanation that there was provision for regulations to govern the sale of second category books from the restricted areas but he stated that there was no intention on the part of the Government to promulgate those regulations at this time. My question in relation to that is: what is the Government's intention? Will an application have to be made by a bookshop for such an area before the Government promulgates any such regulations?

The third thing the Bill does is in clause 4, which amends section 12. In particular, it says that in performing its functions the board shall have due regard to the views of the Minister. At present, section 12 (3) talks about the board's having due regard to the decisions, determinations or directions of authorities of the Commonwealth and of the States of the Commonwealth relevant to the performance of the functions of the board and having due regard to the nature of the publications under consideration, and other relevant factors.

There is already provision for the board to have due regard to certain matters. The Attorney's proposal is to add another category—that the board shall have due regard to the views of the Minister. I do not believe that this amendment is necessary. If there were a need to give statutory approval to the Minister's input to the board, a better formulation would have been that the board shall consider the views of the Minister. That would have given the Minister the statutory right to put his views before the board but would have still left the board with the final decision.

The Hon. K. T. Griffin: It still has it.

The Hon. C. J. SUMNER: The Minister says that the board still has the final decision. That is true. The notion of due regard is perhaps stronger than the notion of just considering the views of the Minister. First, I do not think the amendment is necessary. Secondly, if the Minister believes that he does need some statutory authorisation to put his views before the board, I would prefer a formulation which talked about the board's considering the views of the Minister, or else a formulation which said that the Minister may put his views before the board for consideration. I am not particularly happy about this amendment, primarily because I do not believe it is necessary and, secondly, because it may constitute an interference or the possibility of greater influence than is desirable by the Minister and the Government in the thinking of the board.

The fourth matter I raise is in relation to clause 5. I am not sure what is the intention of clause 5 *(c)*, which amends section 13 (3) as follows:

> (3) The board may refrain from assigning a classification to a publication where the board is satisfied—
>
> *(a)* that to assign a classification to the publication could not give proper effect to the principles that the board is bound to apply; or
>
> *(b)* that the publication would, by reason of the manner in which it describes, depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena, so offend against the standards of morality, decency and propriety generally accepted by reasonable adult persons that it should not be assigned a classification.

In particular, I do not understand why the latter words relating to standards of morality, decency and propriety are needed in that subsection when they occur already in section 12. That aspect of the amendment should be explained by the Attorney.

The other matter that the Bill deals with and with which I agree is that retailers should not be obliged to carry books which they consider to be offensive or which they have some objection to stocking. At present, they can be forced to stock such publications by the nature of some contracts which exist between wholesalers and retailers. I agree with the Bill, which gives the retailer the freedom to choose whether or not he stocks material that has been classified.

I would like some response to those questions from the Attorney. Apart from that, I accept the Bill, which does not alter fundamentally the structure that was established in the 1970s. Therefore, I support the second reading and will consider my position in relation to one or two amendments but, in general, I support the proposition advanced by the Attorney.

The Hon. K. T. GRIFFIN (Attorney-General): I appreciate the support which the Leader has indicated for the Bill. It is unfortunate that he has chosen to make some criticism of the Hon. John Burdett who some years ago, amongst other things, presented a private member's Bill on the prohibition of child pornography and, as a result of the introduction of that Bill, the then Premier was moved to introduce a Government Bill to deal with the very matter that the Hon. Mr Burdett's private member's Bill dealt with. Although that then became a Government matter, it was largely as a

result of the initiative of the Hon. John Burdett that we have on our Statute Books a comprehensive provision which deals with the prohibition of child pornography and the use of children in that context.

The consistent theme of the Hon. John Burdett's statements as a private member has been on some aspect of public accountability by elected representatives. Whilst that is not taken up in the form of Ministerial control in the Classification of Publications Act, I believe that the reference to the board having to have due regard to the views of the Minister does allow for a view to be presented by an accountable elected person, namely, the Minister, to be presented to the board and for the board to have due regard to it in the context of section 12 of the Act.

I disagree with the Leader when he says that the Minister's views having to be considered by the board is not as strong as the board having to have due regard to the Minister. I think that they are much on the same level and, if one looks at the context in which the new subsection is to appear, one sees that they are all factors to which the board is to give due regard. It is really a matter for the board to reach its own conclusion as to what is the proper balance between the decisions and determinations of the Commonwealth and the States, and the views of the Minister.

It is a matter of balance between public protection and private morality. To have due regard to the views of the Minister puts it into a context in which the board is required at least to consider the views of the Minister who is publicly accountable for the operation of the Act, without being bound to follow the views of the Minister. I think that that is as far as one can expect the board to go in the context of this legislation in regard to taking into account the views of the Minister responsible for the administration of the legislation.

The Leader of the Opposition raised the question whether other States had committed themselves to uniform legislation. From the last meeting of Ministers in October last year it was obvious that there was a commitment in principle to uniform legislation. However, there was some uncertainty as to what the final form of that uniform legislation would be. It was generally accepted that the two-category system was desirable and that, within any uniform legislation, options ought to be available for participating States to either take up the whole uniform classification system or part of it. From the meeting I attended I believe there is acceptance in principle of uniform legislation and of the two-category system. Another meeting of Ministers responsible for censorship will be held in a month or two at which I hope we will be able to take further the movement towards uniformity.

The Hon. C. J. Sumner: You may not be going to that one.

The Hon. K. T. GRIFFIN: We will wait and see. I believe it is important to gain uniformity in this area of the law and, once this legislation is passed, a model will be available for consideration by Ministers at the next censorship Ministers meeting. In the intervening period, officers have been working on various matters that were raised at that Ministers' meeting in October last year, which was in fact the first to have been held for three or four years. The meeting was long overdue.

The Leader of the Opposition has asked what the Government's intention is in regard to regulations. I indicated in the second reading speech that it was certainly not the intention of the Government to enact any regulations at present. The regulation-making power is there for the occasion when Ministers may determine that there needs to be some uniformity in practice, and it is there because it may be needed in the move towards uniformity. It is much easier to put it in now than to come back again in a few months or next year with a proposal to make that relatively minor amendment.

The Leader of the Opposition has also referred to clause 5 of the Bill. He drew attention to the fact that he believes there is some repetition in what is being said in section 12 of the principal Act. I am afraid that I cannot see any indication in clause 5 to what is referred to in section 12. Perhaps in the Committee stage he could clarify the matter. I am pleased to see that the Opposition has indicated support for this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Criteria to be applied by the Board.'

The Hon. C. J. SUMNER: This clause deals with the board having due regard to the views of the Minister. I cannot see that that is necessary. The intention of the Act was to try to remove censorship from one-man Ministerial control.

The Hon. J. C. Burdett interjecting:

The Hon. C. J. SUMNER: I wish the Minister would stop muttering if he is not prepared to back it up.

The ACTING CHAIRMAN (Hon. M. B. Dawkins): Order! The Hon. Mr Sumner should ignore interruptions.

The Hon. C. J. SUMNER: This provision detracts from the proposition under which the board was established. We should not go back to the situation we had in this State and country for many years where one Minister in Victoria used his 15-year-old daughter as the standard for the rest of Australia, or to the situation in which Mr Millhouse was sitting in judgment of a play that was to be brought on in Adelaide. The notion of the Classification of Publications Board was to get away from one-man Ministerial control and to have a situation that would allow community input into censorship matters and also keep certain criteria in relation to censorship that would operate independently of the Government.

This amendment goes back on that proposition, and states that the board must have due regard to the views of the Minister. I believe that, under the existing legislation, the Minister can put forward his views just as anyone else can put forward views to the board. That ought to be enough. The Minister, by being able to do that as he now can, is sufficiently represented. The Attorney-General's proposition goes further, and I do not believe he is justified. It really does not do anything about Ministerial control of the board, the matter that the Hon. Mr Burdett is always on about. He wanted to take us back to the 1960s. If this Bill did that, I would be most strongly opposed to it. Even in its present form, I do not see that this amendment should be supported. If the Minister wants to put his views to the board he can do that now and the board can consider them if it so wishes. I am sure that any reasonable board would consider the views of the Minister. The formulation to have regard to the views of the Minister seems to me to take the matter further than necessary. Accordingly, I am not happy with it.

The Hon. K. T. GRIFFIN: The Leader of the Opposition says, on the one hand, that it does not seem to do very much for the Minister to put his point of view and, on the other hand, that he does not agree with it being expressed in this way. I detected inconsistencies in what he was saying about this clause. The Government was anxious to demonstrate specifically that the board should have due regard to the views of the Minister, as one of the number of matters which it should have due regard to in assigning a classification on the basis that the Minister responsible for the administration of the Act is also accountable to the public.

If one is to suggest that there should be, by acceptance of the principal Act, a requirement to give a greater opportunity

for the community to have input, one expression of community input is undoubtedly the elected Government of the day. I see it as an important concept. It certainly does not give the Minister a power of veto. The Government has not wanted to move to that point, but it does ensure that expressly the board shall have due regard to the views of the Minister.

As I said in reply at the second reading stage, the board has the responsibility to balance all of the matters which it must take into account under section 12 of the principal Act and this amending clause. It is ultimately the responsibility of the board. At least there should be an express provision that the views of the elected Minister responsible for the operation of the Act ought to be taken into consideration, but not with the power of veto.

Clause passed.

Remaining clauses (5 to 12) and title passed.

Bill read a third time and passed.

FILM CLASSIFICATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 4170.)

The Hon. C. J. SUMNER (Leader of the Opposition): The Opposition is prepared to support the second reading of this Bill. One of the things it does is to prevent the showing of non-classified films in motel rooms. The proposition that is put by the Attorney-General is that presently the practice of showing unclassified video tapes on televisions in motels constitutes a problem, particularly in relation to children who may unwittingly or, indeed, without the knowledge of their parents, view a film which has not been classified.

I suppose that the argument against that is that parents ought to be able to look after their children in this sort of situation. I do not think that really is a satisfactory answer, because the children may not be with their parents; they may be in a motel room on their own and may unwittingly or, indeed, wittingly, turn on a channel which is showing movies which are unclassified.

On that basis, I would support the proposition that such films should not be shown generally in motels. However, the Bill, as the Minister says, does not interfere with the showing of unclassified video tapes at home and, to some extent, a motel room is an extention of a person's home while he is away. It would seem to me that there ought not to be any restriction on a person's wanting to show an unclassified film in a motel room, provided that he has requested that unclassified film. The Attorney-General says that that provision will prevent unclassified films from being made available in coin-in-slot machines or, indeed, in any other way, presumably, in motels. Yet, I would have thought that the general principle, which is that an unclassified film may be shown by a person in the privacy of his home, could also apply in relation to the privacy of a person's motel room. It seems to me that the Bill goes somewhat too far and that a proposition ought to be considered whereby, if a patron of the motel requests a film for showing, it ought to be possible for that request to be granted. I would like to hear what the Attorney-General has to say about that argument and may consider my attitude to that clause in the light of his reply.

I have no objection to the rest of the Bill, except to raise a query in relation to clause 12, which deals with what the Attorney-General described as eliminating certain difficulties which have been experienced in prosecutions for breaches of the Act. We here get into the problem of on whom the onus rests in criminal charges. Section 13 of the present Act provides:

> Where a body corporate is guilty of an offence under this Act every member of the governing body of the body corporate, or person in the employment, or acting in the affairs, of the body corporate, who knowingly authorises or permits the commission of the offence shall also be guilty of an offence and liable to any penalty prescribed for the principal offence.

Therefore, to be convicted a person involved in a corporation must have knowingly authorised or permitted the commission of an offence. The Bill alters that provision quite significantly by providing that where a body corporate is guilty of an offence every member of the governing body of the body corporate is also guilty unless he proves that he exercised all reasonable diligence to prevent the commission of the offence.

Under the present Act it is up to the prosecution to prove that a member of a body corporate or someone employed in a body corporate knowingly authorised or permitted the commission of an offence. That is consistent with the general criminal law onus, namely, that it is up to the prosecution to prove that a person knew that an offence was being committed. The Attorney-General said that to overcome certain prosecution difficulties, which we have not been told about, the Bill will place an onus on employees of a corporation to prove to the court that they took all reasonable diligence to prevent the commission of an offence. The Council should be careful about provisions which reverse the onus of proof, as this clause does.

I would like the Attorney-General to give some attention to this alteration in the law and, in particular, the difficulties that he says have occurred as a result of the present legislation. In relation to the meeting of Ministers of 16 October 1981, which I referred to during the previous debate, the Commonwealth Attorney-General released a statement referring to problems relating to the sale of video cassettes in Australia and stating that officials had been asked to prepare proposals for the next meeting of Ministers. Does the Attorney-General believe that it is within the relevance of this legislation for him to detail those problems? What proposals have been prepared?

The Hon. K. T. GRIFFIN (Attorney-General): Clause 12 places a limit of two years within which proceedings may be commenced and, more importantly, it relates to an offence where a person is employed by a body corporate. The present section provides for every member of the governing body of a body corporate who knowingly authorises or permits the commission of an offence to be also guilty of an offence. That is almost impossible to prove when an employee of a body corporate is involved. The police prosecutor finds it impossible to present sufficient, if any, evidence of intent.

Over the last few years legislation similar to new clause 13a has been adopted, because it places the onus back on members of the governing body of a body corporate, rather than placing the onus on the Crown to prove something which very largely proves to be impossible to prove. The amendment is consistent with the drafting of similar clauses in other legislation that has come before Parliament over the last few years. It seems to place the onus back on the members of the governing body of a body corporate whose employees commit an offence. I think that is quite reasonable. In many instances we should be concerned about reversing the onus, but I believe this is a case where it is not inappropriate to reverse that onus. As I have said, it is consistent with the drafting of other pieces of legislation that have come before Parliament during the present Government's term of office and during the terms of other Governments.

In relation to video cassettes, officers are doing more work in relation to the whole area of classification of video

cassettes. Under South Australian law video cassettes are classified for exhibition under the Film Classification Act and are classified for sale under the Classification of Publications Act. There is some classification at Commonwealth level in relation to video cassettes which are imported into Australia. However, the ease with which they can be smuggled into Australia and the ease with which they can be copied presents a real dilemma for Governments wishing to exercise responsibility for the classification of material available in Australia.

One of the real concerns with video cassettes is the extent to which material portraying extreme violence and pornography is being featured. Whilst one recognises that the general concept of, say, the Classification of Publications Act is that adults ought to have access to whatever material they like, nevertheless there is an acceptance by all Governments of all political persuasions that there is a line beyond which some material is just so objectionable that it ought not to be available even for adult persons. The availability of material through smuggling and by other illegal means was a matter of concern to the Ministers who met at the Ministers conference in October last year. Hopefully some progress will have been made, in considering whether or not it is something which the Governments of Australia can come to grips with, before the next Ministers conference.

The only other area referred to by the Leader was the question of the availability of unclassified material in motels. It is correct to say that this problem was principally drawn to the Government's attention in relation to the access by unattended children in a motel room to a pornographic movie on a television channel.

A number of options have been considered for controlling access to that material but no satisfactory alternative was perceived to be possible other than the one in the Bill. That raises other questions about whether a motel room is an extension of the home or a theatre in miniature. One question is whether unclassified material ought to be available in a motel room in what is, in essence, a commercial transaction. In the home there is no suggestion that that is a commercial transaction other than the acquisition of that material but in a motel context there is an acquisition of the right to occupy the room for a consideration and there is very much a commercial aspect to that occupancy. The occupancy is available to any person who seeks to acquire the right to occupy the motel room.

I recognise some of the sensitivity in the Bill but the Government and I take the view that we see no alternative but to provide for the prohibition of unclassified material as incorporated in the Bill. There is no restriction on the showing of classified material, provided notice has been given to the incoming occupant of the motel room that classified material is available on television channels, and that appears to be a reasonable provision that ensures that the occupant who does not want to be confronted with that material has reasonable notice of it and has the opportunity to protect his or her children from viewing that material if that is the wish of the parent or guardian. I thank the Leader for his indication of general support of the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

DRIED FRUITS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 June. Page 4279.)

The Hon. B. A. CHATTERTON: This short Bill has been introduced to enable the Commonwealth Government to increase the amount of fees it can recoup from export inspection. In the past, it has recouped 50 per cent of the cost and, following a razor gang report into Government services, the Commonwealth has decided to recoup the full cost of export inspection services. I thought this matter was fairly routine until I saw a report in the *National Times* last week, in the issue dated 30 May to 5 June. I wish to quote from that report. While it relates to inspection fees in the honey industry, I think it is relevant to the Bill before us.

I certainly found the report very disturbing and for that reason I will be asking a number of questions about the export inspection service and the functions of the Dried Fruits Board. I hope that the Minister will be able to answer them if not at the second reading stage then at least in Committee, because it is an opportunity for the Government to review this statutory authority and an opportunity to see whether we are doing the right thing in regard to reorganising fees or whether we should reorganise the whole board. The report in the *National Times* states:

> In the Senate on Thursday, Chaney made a brief and apparently insignificant announcement: the Government had decided not to proceed at this stage with two Bills, the Honey (Export Inspection Charge) Bill 1982 and the Honey (Export Inspection Charge) Collection Bill 1982.
>
> The Bills were the result of a decision by the razor gang, in April last year, to introduce fees to recover from honey exporters half of the cost of inspecting their honey by officers from the Department of Primary Industry.
>
> The proposed fees were intended to raise about $50 000 for the Government.
>
> But behind Chaney's brief announcement about a relatively unimportant Government decision is a sorry story of bureaucratic madness and failure of Cabinet decision-making processes.
>
> The story is documented in the unreported findings of an inquiry by the Senate Standing Committee on Finance and Government Operations, chaired by Senator Peter Rae.
>
> The Rae Committee carried out a detailed investigation of the honey Bills and their origins after the Senate on March 25 refused to pass them and referred them to the committee.
>
> In its evidence to the committee, the Department of Primary Industry said that export inspection of honey was essential to ensure the continued acceptability of Australian products on international markets.
>
> But as part of its review of Commonwealth functions, the Cabinet had decided that exporters should bear part of the cost of inspections.
>
> Honey inspections were estimated to cost $100 000 and to achieve the Cabinet's objective of recovering half this amount from exporters it imposed a fee of $6.75 per tonne.
>
> The honey industry reacted angrily to the proposed export charge, pointing out that the charge for butter was only $2.50 a tonne, and margarine only $1 a tonne, and that the new fee was a threat to the viability of the industry.
>
> But the department said the Government's decision would stand because export inspections were required by importing countries.
>
> The Rae Committee put this assertion to the test and asked the department to indicate which countries required inspection certificates.
>
> After double-checking, it turned out that none of the importing countries required the certificates.
>
> Further inquiries by the Rae Committee established other extraordinary facts.
>
> It became clear that the expected level of exports had been under-estimated and that the Government fee would in fact raise much more than half the cost of inspection.
>
> It found that, in the vast majority of cases, the results of export inspections were not known until after the honey had been exported. It found that the Department of Primary Industry had uncovered only two cases of adulteration in 12 years of inspections.
>
> It found that the Australian Honey Board, which controlled the honey industry, was not consulted before the Government took the export charge decision.
>
> It found that, although the honey industry is one of the smallest primary industries, it has one of the largest statutory marketing boards—10 members—and the cost of their holding three meetings in 1980-81 was nearly $37 000, not far short of the amount proposed to be raised by the export charge.

I think that report on the honey industry and export charges indicates the low level of investigation and review carried out by the Commonwealth Government in seeking reimbursement of fees in respect of inspection costs. For that reason I would like the Minister to have a close look at this legislation to see whether many of those criticisms also apply with equal force to the dried fruit industry, where we have many similarities. I will now direct the following questions to the Minister. What inspections and what certificates of inspection are the responsibility of the Department of Primary Industry? Which countries demand that such certificates accompany exports? Has there been any review of the methods of inspection carried out by the Department of Primary Industry? If so, what has been the result of the reviews of the inspection services?

Has a cheaper system of random inspection of exports been considered? What is the expected revenue to be raised by the increase in the levy on dried fruits? Why is the Commonwealth Government seeking full reimbursement of its inspection costs when only half the cost of export inspection is being reimbursed in many other primary industries? Also, what is the cost of operating the Dried Fruits Board? What are the functions of the board? What is its size? Has the cost of the board been reviewed? If it has been reviewed, when was it last reviewed, and by whom? Finally, do members of the board travel overseas? If so, how often, to which countries and for what purposes? At this stage I support the Bill but, unless there are some satisfactory answers to the questions that I raised, I will oppose it at a later stage.

The Hon. J. C. BURDETT (Minister of Community Welfare): I thank the honourable member for his contribution. The questions that he has raised will be most appropriately answered in Committee, and that is what I propose to do.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

PASTORAL ACT AMENDMENT BILL

Adjorned debate on second reading.

(Continued from 1 June. Page 4178.)

The Hon. K. L. MILNE: In the past few weeks the question of the amendments to the Pastoral Act have become a major issue throughout the entire State and interstate as well. Evidently, it appeared to be a simple matter and both the United Farmers and Stockowners and the South Australian Government continue to treat it as such in spite of all the outward and visible signs of increasing opposition.

For my part, I have had interviews with pastoralists, public servants, the Chairman of the Pastoral Board, Aborigines, Professor Kelly of the Law Department, Adelaide University, the Conservation Council, and numerous others. I have received over 60 letters and telegrams and dozens of telephone calls, together with six lengthy submissions. Further, I was invited to meet a group of pastoralists at Mannahill, and I had a most interesting meeting with about 40 of them, including two from New South Wales. My wife and I were treated with the most utmost courtesy both at Yunta, where we attended the gymkhana and stayed with Mr and Mrs Garnham Skipper at Manunda Station, and at Olary, where we stayed with Mr and Mrs Keith Treloar at Weiwera Station.

The only set back at Yunta was when I was invited to give away the prizes and was introduced as Mr Robin Millhouse. These things are sent to try us. I offered to do two laps of the racecourse with my clothes off, but my offer was rejected. I heard the criticism of the Hon. Mr Chatterton concerning Weiwera Station, and I have seen photographs taken recently on the property. One has to remember that the property was very run down when the present lessee took it over, and he has had about seven years drought. The problem is still there, but it is no good saying that he is not to blame: the decision probably rested with the Pastoral Board in the first place.

The nearby Strathearn property has also been under fire. Again, this property is apparently in bad condition; the present lessee, whose husband died shortly after taking over the property, has made concerted efforts to remedy the situation, having spent about $30 000 in the past 12 months on dams, piping, troughs and other improvements. It is pathetic in a way, because she obviously loves the property and hopes to preserve it for the family. It might be too much for her.

There are many such stories in the outback and this love and loyalty to the land is something bred into these people, many of whom have been there for generations through thick and thin, Some are rich and efficient, and some are not. Some difficult decisions will need to be made if these families are to be treated according to the rules on better land. The feeling of these people for this arid country which they love must be remembered by all of us who live in comparative comfort down south.

I was invited to address a meeting of the North-West pastoralists at Port Augusta after the Mannahill trip, but I had to excuse myself because it was physically impossible to get there in time. Later I found out during a subsequent Parliament House meeting with six members of the North-West group (Division 15 of the United Farmers and Stockowners) that the notices had gone out about the meeting and it could not be cancelled. I offered my sincere apologies, which were accepted, and I am most grateful about that. Perhaps at some time in the near future I can again go north to meet these people, perhaps when the dust has settled.

Over a period we as Australian Democrats have been approached by numerous organisations which are in favour of the Bill. They include the Minister and his advisers, the Pastoral Board (I think), and the United Farmers and Stockowners of South Australia. The last-named organisation's declared policy is eventual freehold. However, not all of them are in favour. I have heard from over 100 pastoralists.

Against the Bill are the Law Department of the University of Adelaide, community development workmen of Oodnadatta, the Toyota Landcruiser Club, Recreational Vehicles Co-ordinating Council, Adelaide Bushwalkers Inc., scientists, experts in arid land use, individual pastoralists, four Aboriginal groups (the Pitjantjatjara Land Council, the Southern Land Council, the Community Development Board of Port Augusta and Quorn, the Aboriginal College representatives), the Conservation Council of South Australia, the Oodnadatta Aboriginal Housing Society, the Nature Conservation Society of South Australia, the Field Naturalists Society of South Australia, conservationists, environmentalists, and a number of academics. We can see that the whole matter is considered to be of great importance by a wide range of people.

The Bill went wrong from the time it was introduced in the House of Assembly, partly because the Government foolishly appeared to want to get it through with as little public debate as possible and without creating a fuss and partly because it was reported in the *Stock Journal* on 22 January 1981 (the stockowner's paper) under the heading 'Freeholding of pastoral land is the aim of United Farmers and Stockowners'. Once the public began to realise the significance of the Bill, it became very suspicious and very vocal and almost opposed to it in principle. One of the reasons was that nobody explained properly what the Gov-

ernment had in mind. The term 'perpetual lease' upset nearly everybody interested in this vast tract of land occupied by some 280 pastoralists and their families.

In fairness, let me say that I do not believe that the Government ever intended this move to perpetual leases to be the first step to freeholding property; nor were the new leases to be 'perpetual' in the sense of 'forever', because they were to be subject to covenants just the same as the present 42-year terminal leases. I believe that the confusion arose because of the definition of 'perpetual leases' under the Crown Lands Act. What the Government intended by perpetual leases under the Pastoral Act was that they could be convenanted just the same as the terminal leases. In the article of January 1981 the United Farmers and Stockowners made some good suggestions, many of which have become more urgent over the past 10 years or so. The article is headed 'Freeholding of pastoral lands is aim of U.F. and S.' by Bob Dams. It states:

The United Farmers and Stockowners will not back down on any of its 12 recommendations to the State Government on proposed changes to pastoral land administration.

'Our submission contains some pretty sensible things and if they kick any out we will be back in their fighting,' Mr K. Sawers, a U.F. and S. Vice-President, said yesterday.

Mr Sawers headed the U.F. and S. delegation which put the recommendations to an interdepartmental committee reviewing pastoral and dog fence Acts.

Top of the list in its submission, released to the *Stock Journal* this week, is that all pastoral land should ultimately be freehold.

But as a first step toward this aim, all existing pastoral leases should be converted to perpetual leashold, with rentals fixed in perpetuity at present levels.

That was inclined to upset everybody interested in pastoral land—everybody including, I believe, the Government. It further states:

Another recommendation is that the Pastoral Board should include one or more nominees from a panel of names submitted by the U.F. and S., and that there should be a consultative committee of up to 10 members, including two nominated by the U.F. and S. in addition to the Chairman.

That is what the Government eventually did. It appointed the ridiculous Outback Management Advisory Committee. I seek leave to table the article in *Hansard* without my reading it in full as it is one of the key points in the whole discussion.

The PRESIDENT: Is the matter statistical?

The Hon. K. L. MILNE: No.

The PRESIDENT: We have a ruling against that.

The Hon. K. L. MILNE: The article further states:

The Government committee last week finished receiving submissions from interested parties, and its recommendations will pave the way for fresh pastoral legislation this year.

It did, and it did not, as we know. The article further states:

One of the major issues of pastoral land administration which worries the U.F. and S. is the transfer of outback land to Aborigines under freehold title.

The Pitjantjatjara tribe application for ownership of 101 900 sq. km in the north-west of South Australia is a prime example.

Aborigines already run Mimili (formerly Everard Park), Indulkana, Kenmore Park and Ernabella stations in the north-west region and after the turn of the century will take over the 2 500 sq. km Granite Downs Station.

However, much of the area the Pitjantjatjara want is old reserve land and a lot of it is considered unfit for grazing.

The U.F. and S. is upset that the interdepartmental enquiry ever came about.

Really they are not playing their cards very well. I do not know whether they have changed now. The only fault I found with the interdepartmental committee is that it was a group of junior public servants telling the rest of the State what to do. It should have been a proper inquiry and it would have had more impact.

The Hon. B. A. Chatterton: And should have been given proper time.

The Hon. K. L. MILNE: Yes, and proper access to anybody who wanted to appear before it. The article further states:

It was originally led to believe that its submission, made before 22 October last year, would be circulated to interested parties, then the Government would proceed on that basis.

Its recommendations are submitted at a time when the issue was 'hush-hush.' according to Mr Sawers.

But then the Minister of Lands, Mr Arnold, 'decided he wanted to get a broader base to it and made it into an interdepartmental inquiry, taking submissions from many other organisations,' Mr Sawers said yesterday. Mr Sawers said the pastoral areas of South Australia reared 16 per cent of the State's sheep and 6 per cent of its cattle—a substantial contribution which involved the livelihood of many pastoralists. Their livelihood was being threatened—

I do not know why—

and if they could own their land freehold it would give them an efficient and secure tenure which would repay investment by ensuring that investment was properly preserved.

He pointed to the situation north of the border, where 42 per cent of the outback had been given over to Aborigines. Other recommendations in the U.F. and S. submission are:

> Pastoral inspectors should have the sole power to authorise the destruction of vermin on pastoral properties and where necessary, a reduction in wildlife species such as kangaroos, emus and wombats. This is necessary because the Pastoral Board is charged with the responsibility of administering pastoral lands and this cannot be effectively achieved unless it has powers to control total animal populations.

That is absolutely right. I will come to that in a moment because what was done, not by this Government, but by the previous Government, is quite different. The article continues:

> Pastoralists should have the right to invoke trespass laws within 1 km of a homestead, dwelling or any other improvement and there should be control and regulation of public use of roads, paths and ways by—
>
> *(a)* Adopting the Highways Department road maintenance network as public roads and providing that all other roads be private roads;
>
> *(b)* Providing for exemption or variation to the schedule of public roads on application of a landholder and recommendation of the Pastoral Board;
>
> *(c)* Providing that users of the public road network may not depart from such roads further than 250 m for camping and other purposes;
>
> *(d)* Providing that the public may not camp or loiter within 1 km of a homestead, water point or other improvement; and
>
> *(e)* Providing permission in writing for a person to traverse their leases or otherwise depart from public roads. Such permission to be specific otherwise valid for six months.

The article then gives a number of other quite reasonable and sensible suggestions, some of which are incorporated in the Bill. It is obvious that, with the improvement in roads and motor vehicles, the outback is not as far out back as it used to be, and obviously some discipline and an education programme are necessary for visitors to these Crown lands.

I have said enough to illustrate those two important points: first, that the pastoralists on these arid Crown lands really believe that they have a special right to them (and I can sympathise with that attitude up to a point, even though that attitude is wrong); and, secondly, that the pastoralists did not allow for the fact that few city folk really cared about these lands until they were apparently under threat of being lost to the State. The reaction, of course, was predictable. From the beginning there were conflicting opinions about perpetual leases, many arrived at out of fear, ignorance or prejudice, largely because the whole matter was not thoroughly aired, discussed and defined.

As an illustration, I will quote two interstate opinions appearing in the press. The first is a letter which appeared in the *Stock Journal* of 1 April 1982 from Mr R. W. Condon of the Western Lands Commission of New South Wales

and which is headed 'No risk to land in perpetual leases'. Amongst other things, he said:

> Perpetual lease means security of tenure for the lessee but can still be conditioned with covenants to safeguard the environment, and other matters which the Government may feel responsible for. It is well known that the lack of security of tenure and the consequent inability to borrow finance for the development of water points and fencing was a contributing factor to the devastation which occurred in western New South Wales in the 1890s.

That is what he said. I do not believe that to be entirely true by any means, because there was devastation in South Australia in the 1890s for totally different reasons.

Another article which appeared in the *Advertiser* quoted a wellknown retired pastoralist, Dewar Goode, who was in Adelaide on his way to the conference on arid land at Broken Hill. Amongst other things, he said:

> The proposed plan for perpetual leases in South Australia is bloody dreadful—a disgrace. Already too many pastoralists exploit their land, which leads to a diminishing asset. Perpetual leases would only encourage this practice when there is no prospect of reviewing leases at regular intervals.

We must again distinguish here between the granting of perpetual leases in the local government and higher rainfall areas and any such intention in the pastoral lands or low rainfall areas. The conflict appears in many of the letters from pastoralists themselves.

Incidentally, the majority of pastoralists at the Mannahill meeting made crystal clear that they did not want freehold title, as it would be too expensive and most of them would not have the capital to take it up. That question is not really of great importance. Those pastoralists also made equally clear that they did not want local government in the area, and they cited the disastrous experiment in Western Australia.

Interest in the outback is surprisingly widespread. An article by David English, from Adelaide, appeared in *The Age,* Melbourne. Headed 'The shifting sands of South Australia', it discusses rather critically the Bill and the situation in this State. There can be no question at all that the review of the whole matter of pastoral lands in South Australia's far north is urgent. It has been urgent since the 1890s, when a great deal of land was 'eaten out' by overstocking by some of the most revered names in Adelaide. The explanation is that they did not know what they were doing and tried to make amends when they did find out. The stark fact is that much of our northern low rainfall land has never fully recovered. No concerted, thorough, genuine effort has been made since those early days to really control and improve those lands. For many years we did not know how to do it, but we do know now and there is no excuse for not doing it.

Over the years since the first Waste Lands Act in 1846, and the first Pastoral Board in 1893, there have been some 28 amending Acts and two royal commissions concerning these lands. Many of the things the early legislators did then were remarkably wise and astute, but somehow the main points have been missed and the problem remains after nearly 100 years of band-aid-type attention. I believe that this Bill is a half-hearted and inadequate attempt at reform. It is incomplete, one-sided and unworthy of this Government. This Bill will not solve the problem.

First, I will discuss the question of perpetual leases as opposed to flexible term leases, which is a term that I have invented. In future I would like to see flexible, terminal, renewable covenanted, 50-year leases. By 'flexible' I mean leases that can be renewed at any time with the approval of the pastoral authority. The idea that leases should be renewed only at certain times is nineteenth century nonsense and does not solve today's problems. It is absolutely irrelevant to provide for the renewal of a lease within the twenty-fifth and thirty-third years. Pastoralists have said that they find it very hard to borrow from banks. I believe that that is largely true, particularly for small landholders. If and when a lessee had to spend a large sum of money on improvements he or she should be able to go to a bank with the approval of the pastoral authority and the knowledge that a lease would be extended for the balance of the lease, plus enough time to bring the total back to 50 years. It would be a strange bank that would not lend in those circumstances.

The cost of improvements for properties has increased over the years while, by and large, income has fluctuated as it always does. The markets have fluctuated as they always do, so that the banks want more time to lend if the leases are not perpetual or freehold. I believe that 50 years would be acceptable to those people who are frightened of perpetual leases and that it would also be acceptable to banks. Whenever the time came, be it in the tenth year or the fortieth year of a 50-year lease, it could be extended with the authority of the Pastoral Board for the balance of the lease, plus enough years to bring it back to 50 years again. A bank could then say, 'You are a good manager and you have a certain income from your property. It will take 30 years to pay off $30 000. If you obtain a 50-year lease you can have the money.' As a chartered accountant, I cannot see why that will not work. The Hon. Mr Cameron introduced me to a banker who said that it will not work in its present form.

The Hon. C. M. Hill: With due respect, your proposition has a serious weakness, because every lessee would extend every year for 50 years.

The Hon. K. L. MILNE: That does not matter.

The Hon. C. M. Hill: Doesn't that get back to perpetual leases?

The Hon. K. L. MILNE: No, because they would have to have a reason that was approved by the Pastoral Board.

The Hon. M. B. Cameron: It wouldn't be hard to find a reason.

The Hon. K. L. MILNE: It would not be different from what happens now. No-one has ever been put off a lease. I believe that the old 42-year lease should be abolished. However, regular reviews as suggested in the Bill should remain, if not at 14 years then at perhaps 12½ years or something similar. My scheme will avoid the controversy whether a lease is perpetual, on-going or whatever.

Clause 3 is a step forward, and no-one disagrees with it. However, I disagree with the United Farmers and Stockowners and the Government in that the clauses of this Bill do not do what the long title suggests or what the Government desires. Clause 8 *(c)* is good. All those matters listed as increased powers of the board are positive and helpful. However, I doubt whether the board as constituted can administer those powers in the future any more than it has in the past. In any case, they are more like guidelines than powers.

In nearly all my discussions, whether with pastoralists or with others, I have heard criticism of the Pastoral Board. This may be fair or unfair, but it does exist. The Bill does not touch the Pastoral Board, but creates the Outback Management Advisory Committee to advise and have direct access to the Minister. The United Farmers and Stockowners wanted that in 1981 and the Government has fallen for it. I believe this will weaken the Pastoral Board still further and will cause ill feeling in the Department of Lands.

The Hon. M. B. Cameron: How will it weaken it?

The Hon. K. L. MILNE: It will be directly advising the Minister. There is nothing to say that it will have to inform the Pastoral Board about what it is doing.

The Hon. M. B. Cameron: The Pastoral Board has always given advice.

The Hon. K. L. MILNE: I am saying that the committee of management could go direct to the Minister. We must recognise that the members of the Pastoral Board are public servants and not very senior at that. They are under the control of the Director-General of the department and under the thumb of the Minister. In the circumstances, with constant Ministerial interference, they have done surprisingly well. We believe that the organisation controlling these northern pastoral lands, which comprise about two-thirds of the State, should be increased in stature in line with the increase in importance of the problem.

I have been told that this Bill is like sending a man on a boy's errand. I believe that is where a mistake has been made in the assessment of the importance of this Bill; we have always been sending a boy on a man's errand. The Government should create a statutory authority or something similar with greatly increased powers and duties, with someone like Mr Jim Vickery as general manager and other members of the present Pastoral Board as senior executives. In other words, I would take the Pastoral Board out of the Department of Lands altogether. I also believe that the present Director-General should be a member of the authority.

Some of the people suggested for the Outback Management Advisory Committee might also be appropriate, provided that the pastoralists themselves are fully represented. People seem to be frightened to have pastoralists represented on a committee, a board or an authority. After all, the most interested parties will be the successful lessees who have managed their land properly. They will want to see the system work. A suggested name could be the South Australian Northern Pastoral Lands Authority.

I detest the words 'arid' or 'outback'. They have a supercilious ring about them. 'Arid' means desert and 'outback' is misleading today, because really it is just next door. From my short visit to the north-eastern area, it is obvious to me that there is constant conflict between the Pastoral Board, which is trying to look after the pastoralists and their land, and the National Parks and Wildlife Service people, who are trying to look after the kangaroos, emus, foxes, dingoes, goats, birds of prey, and all those things. To have these folk in two different departments seems to me to be madness. It would seem to have been done by someone who does not understand the problem properly.

I stayed on a property that was permitted to run 8 000 sheep. They had their 8 000 sheep, plus 5 000 kangaroos, 2 000 emus, 2 000 goats, and the odd fox, rabbit, hawk, eagle, cat, and so on. After a lot of trouble they got permission to harvest, as they termed it, 500 kangaroos. The kangaroos were breeding more quickly than that, and I do not think the wildlife people understand that the kangaroo will never be shot out because kangaroos have to be in plague proportions before anyone will shoot them at all. Pastoralists can shoot a few, but, as soon as the kangaroos or emus are not in plague proportions, the shooters go away. They cannot make a living. There is a lot of getting together to be done between people who are trying to preserve the land, like conservationists, people who are preserving wildlife and animals, the Pastoral Board, and people who are trying to produce.

The Hon. Frank Blevins: And produce well.

The Hon. K. L. MILNE: Yes. It seems to me that we will never get the land to recover if, as soon as pastoralists get their six inches of rain, the place is flooded with kangaroos. The land will never improve to the point that you and I want. How can the land ever recover like that? Incidentally, that property had been well managed and had improved a great deal, but it was up-hill work in the circumstances that I have described.

The Bill deals with the question of access by the public reasonably well but I believe that it needs to be more thought out. For one thing, I feel that the penalty for breaking the rules, which is $1 000, is far too high. The United Farmers and Stockowners now admits that and would say the amount should be $500 but that is probably too rigid. Perhaps for leaving gates open, or shooting holes in windmills if the people cannot find kangaroos, there could be a schedule of penalties such as that for motor vehicle offences. There should be heavy penalties for doing stupid things.

The Hon. M. B. Cameron: It's hard to draw up a list. That's a maximum penalty.

The Hon. K. L. MILNE: Yes, I think it may be difficult, but let us try. I think there ought to be a book that these people should have when they are getting permits so that they can read it and understand about not leaving gates open, not knocking down fences, why one does not go into a certain place, and why one does not camp beside a waterhole and frighten stock so badly that they do not get a drink for two or three days. We have the problem in Australia more than in almost any other country of the difference between people in the city and those in country areas. They do not understand each other, and we must overcome this problem to some extent in regard to these pastoral leases. The Toyota Landcruiser Club of Australia (S.A.) Inc. has made some very good suggestions that the Government would do well to consider. The basis is there, and a review should not take very long.

Tourism naturally has to be considered, and an expert in that field should certainly be consulted.

Then there is the question of the rights of the Aboriginal people to be considered. They maintain that they were not consulted, and naturally they are worried. I understand that they want two things: first, that the Bill will not interfere with their rights that already exist, and secondly, that those rights or understandings be written into the Bill rather than just being a clause in the leases. At the moment, the leases contain a clause protecting the Aborigines and their way of life, but they are asking that that be included somehow in the Bill, and I do not think that such a request would be too difficult to meet.

The Government made a sort of gesture by commissioning what it called an interdepartmental working group to report on the situation. This group comprised public servants as follows: two from the Department of Lands, one from the Department of Agriculture, one from the Department of the Environment and Planning, one from the Department of Urban and Regional Affairs, and one consultant and Executive Assistant from the C.S.I.R.O. Division of Land Resource Management.

The report, now known as the Vickery Report (Mr F. J. Vickery was Chairman), was implemented only in part, and there is much more in it which could have—and many believe should have—been included in the Bill. The group complained in its report that it was 'Limited to consulting relevant authorities and industry and community groups and was not permitted to advertise its terms of reference.' If they had been people other than public servants, they could not have done that. I think it was unfair to ask those gentlemen, who are experts in their field but have not necessarily run properties, gone through drought, paid wages, and kept alive the hard way, to solve this problem, when there is another expert group, the pastoralists themselves, that should have been working with them.

I do not criticise the report: it was a good one considering the circumstances, and I congratulate the members of the committee, but it was not likely to solve the problem. The Government must have felt that, because it has not adopted all the recommendations. To restrict them, I think, was a

little unwise. That has proved to be so. The committee did hear 10 individuals, two of them from the Kidman 'stable'.

For all these and other reasons, I feel that a select committee of the Legislative Council may be helpful. At this stage, I do not propose to move for it but I will take the liberty of explaining why I think it will be helpful. I believe that the main job has already been done and that the task is not as difficult as it looks. I have said before, in the press and elsewhere, that I believe that a concensus could be arrived at without undue difficulty.

With the World Rangelands Congress, which will be discussing arid zone land problems, due to take place in Adelaide in May 1984, it would be a good idea if we were to try to come to a consensus.

The sort of things that we ought to be discussing, examining and reporting on are as follows:

The most desirable forms of landholding in arid and semi-arid regions of South Australia in the light of present-day scientific and legal knowledge; what changes, if any, may be necessary to existing laws to protect the rights of pastoralists without undue interference to access to pastoral lands by Aborigines and others in areas not subject to normal forms of local government and policing; and what amendments, if any, might be required to existing law to provide adequate forms of credit for those involved in pastoral activities in arid and semi-arid regions of South Australia.

The terms of reference should be sufficiently broad to enable the committee to look into the overall wellbeing of the arid lands, the interests of the various user groups and the appropriate scientific and administrative procedures needed to achieve desirable management objectives. The committee should inquire into and report on the state of the arid lands and their resources, appropriate management objectives and the appropriate means to pursue those objectives.

Incidentally, the Vickery Committee suggested a five-year plan, and I know what it meant. That was to get a five-year cycle so that the information would be relatively accurate, because no one year is the same as another in such lands. The matter should be sorted out well before that, but an inquiry and the collection of statistics for five or seven years should be continued.

In particular, perhaps the committee should look into the status of the arid zone pastoral industry, its short and long term economic base and the condition and trends of its soil, water and plant resources; the status of wild life, feral animals and the habitat of the area; the conditions and aspirations of the Aboriginal people of the area; the tourist and recreational resources and potentials; and mining activities and potentials.

The committee should look into the relationships between the various user groups and resources of the area with a view to advising on overall management objectives and ways for achieving those objectives. Towards this end the committee should examine the report of the Government's interdepartmental working group and the various commentaries on that report. It could examine the pastoral lands of the State to determine, after having regard to the need to maintain a balance between the economic stability of the pastoral industry and relevant matters of contemporary public interest, which lands should be maintained for pastoral use and which should be committed to other purposes.

The pastoralists themselves realise that some of these lands should be reserved permanently for tourism. The exciting part of such areas is usually not useful for pastoralists. I do not believe there is any conflict there. Further, we should examine the legislative and administrative arrangements for the management of pastoral lands in South Australia, in order to recommend on the following matters. In regard to tenure, the recommendations could be on the most suitable forms of land tenure for pastoral lands; the covenants which should be imposed under any tenure system with respect to land-use purposes, improvements, conservation, Aborigines and access; the provisions necessary to ensure effective supervision of transactions with respect to lands under pastoral tenure (including subdivision, subletting, mortgaging and the addition of further lands to existing holdings); and the provisions for review of covenants and revaluation of rental. Members will recall that the United Farmers and Stockowners suggested fixed rental for all time.

The Hon. Anne Levy: I wonder why!

The Hon. K. L. MILNE: It is not so funny, because we have many perpetual leases of about $84 a year or the like. Other recommendations required include the most appropriate system for the recognition of rights of public access. These suggestions obviously come from different people, but I am illustrating that they are all thinking along much the same lines. It will not be too difficult to get people to come together. Recommendations are also required on the nature, composition and functions of the administering authority and any consultative or other bodies which may be considered desirable to secure the effective management of pastoral lands; and the requisite administrative resources and arrangements (including the co-ordination of existing resources within separate departments) to secure the effective management of pastoral lands.

Several departments are involved in this area, and a number of Acts impinge on the matter. Surely they should be co-ordinated so that everyone knows what they do. Another recommendation is required in relation to the integration of the recommended legislative and administrative arrangements with those pertaining under related legislation. Including the Soil Conservation Act, the Mining Act, the National Parks and Wildlife Conservation Act, the Aboriginal Heritage Act, and the Planning Act.

In regard to management, recommendations are needed in respect of the desirable arrangements for the surveillance and monitoring of the condition of pastoral lands; the most appropriate scheme for the control of feral animals and wildlife species; and the effectiveness of resumption as a technique for acquiring pastoral lands in the future for public uses.

There, I rest my case. The Australian Democrats have been accused by Mr Grant Andrews, General Secretary of the U.F. and S., of holding the farmers to ransom. He cited the Democrat senators regarding the superphosphate bounty, Roxby Downs and this Bill. If he had done his homework, he would have found that the reason why our senators objected to the extension of the superphosphate bounty was that they had been asked to do so by the farmers, because of the wording of the Bill. We have never been against the superphosphate subsidy.

Mr Andrews must know—and if he does not know, he should learn—that mining booms do not help the man on the land. In fact, they make it more difficult to export primary products owing to changes in the exchange rate. He went on to say (so the paper said) that I had cancelled a meeting convened by the Minister, the Hon. Mr Peter Arnold. I did no such thing. Mr Andrews arranged the meeting, and at a time that I could not possibly attend. I apologise to the Minister if he feels that I was discourteous. I particularly liked Mr Andrews's bit about the U.F. and S. being non-Party political. I have put that in my book of specially valuable sayings.

Please realise, Mr President, that I had already made the position clear to the Director-General of Lands and his deputy and Mr Vickery, all of whom kindly came to see me on Tuesday 1 June, at the Minister's suggestion (and I am glad he did make that suggestion) that the Bill was

beyond the stage of amendment, but I was willing to try. Also, it was only just before then that the U.F. and S. changed its mind and wrote to me on 24 May asking me to assist with two very minor amendments. Neither of which had been talked over properly. Until then it had been adamant.

So, it is all very sad, or so it seems, because I now understand that the U.F. and S. would prefer to lose the Bill—or rather it is now persuading the Liberal Government to lose the Bill. I really do not think that is either clever or fair. The Government will look foolish, because people will say that there was something underhand about it—that it was not prepared to bring it all out into the open.

That is not governing South Australia in the best interests of the State. It is the result of giving way to a pressure group, which is .1 per cent of the population, leasing about 60 per cent of the State's area, producing a surprisingly large and valuable, but relatively small, proportion of the State's sheep and cattle. However, the whole matter needs attention—and will receive attention, believe me. It is a pity that the Government, which has started the job, is not prepared and determined to finish it. It would be a plus for the Government if it did.

The job should be done by those who really understand the problems of handling our northern lands. It needs people who know what it is like to have seven consecutive years of drought; for the womenfolk to plant a garden three times in a generation, only to see it die each time; to feel the loneliness, the isolation, the frustration, the disappointments of weather, markets, governments, friends, failures. I think I do to some extent. Let us get together and find the best answer.

The Hon. ANNE LEVY: I oppose the Bill before us. Like the Hon. Mr Milne I have received many representations on this matter from a large number of people. I also had the pleasant experience of attending the arid lands conference held recently in Broken Hill and organised by the Australian Conservation Foundation. The conference discussed this legislation in great detail and the many viewpoints relating to it were put. First, what are we talking about in this legislation? The arid lands of South Australia comprise 836 000 square kilometres, which is 84 per cent of the land area of South Australia. Of this land, 50 per cent is leased, 25 per cent makes up unoccupied Crown lands, 9 per cent makes up Aboriginal home lands, 4 per cent makes up national parks and another 4 per cent has been alientated for Commonwealth defence and other such purposes. That means that the leased areas we are referring to come under the Pastoral Act and comprise half of South Australia.

There are 377 pastoral leases covering this half of South Australia which are in 241 runs or properties. I understand that 71 are held by individuals, 63 are held in partnerships, 81 are held by family companies and 26 are held by pastoral companies with shareholders. I am afraid that I do not have information on the relative sizes of these leases. I am told that, although the pastoral company holdings are 11 per cent of the total number of leases, they hold far more than 11 per cent of the area about which we are talking. They have big leases, and individuals and partnerships have small leases. We also know that these pastoral properties provide about 10 per cent only of the cattle in South Australia and 15 per cent of the sheep in South Australia. These are not negligible proportions but neither are they really major sources of either sheep or cattle in the South Australian economy, so we should not get carried away by any claims that changes in the pastoral lease system will affect our entire sheep and cattle industry. I would like to give a small quote from the Vickery Report which has been referred to by other speakers. It states:

> Land is a fundamental resource of national importance and land users should be required to conserve it in the public interest.

The lessees of this land have rights to the forage on it and the surface water resource of the land. They do not have other rights, either of ownership or to use the land for any use other than pastoral activity. They have no rights over mining, over underground water or over native fauna. One might well ask how the land has fared in the last 120 years that it has been occupied by white pastoralists. I will quote from the publication headed, 'The arid land resources of South Australia—a brief summary' which was done for the Division of Land Resource Management in the C.S.I.R.O. by Graetz and Foran in 1979. It states:

> Since the occupation of the arid lands by pastoral man these lands have been considerably degraded through overuse. Eroded and eroding landscapes can be found everywhere as a result of poor management. This soil erosion, although sometimes locally apparent on a significant scale is in our opinion not as critical as that which is a feature of the marginal cultivated lands. There are three main reasons for this degradation (see Graetz, 1976) and all three reflect on the inadequacies of the individual manager, of Government regulation and of management. There are no Statewide objective assessments of the extent and degree of land degradation available to us. However, within our limited experience, the sheep areas of the north-east of the State and the far west seem to be the most degraded.
>
> It has often been stated that most of the degradation took place at the turn of the century and that since then pastoral land management has been wiser and sounder. It is unlikely that all degradation has stopped. With each (synchronous) period of drought and low market prices for wool and/or beef, parts of the industry fail to reduce the stock numbers in sympathy with the reduced capacity of the land to support them. In this 'crucible of the drought' the land is degraded a notch, almost in ratchet fashion, and when drought conditions lift it does not recover to predrought conditions and for all future time has a lower or more variable capacity to produce forage.
>
> That degradation is still continuing is a contentious issue and there has been until now, a shortage of objective measurement. There are cost effective ways to measure environmental change. Some of these can be done by ground survey at an intensity appropriate to the huge land areas involved while other methods use remote sensing technology. Without the launching of the earth resource satellites (LANDSAT Series 1-3) there exists objective records of the condition of the arid land dating from July 1972. The application and use of this new technology should aid the management of the vast areas of the rangelands.

Elsewhere the authors also say that they wish to emphasise that it is possible to use the range lands and not degrade them and that that degradation is as a result of bad management.

Quite clearly, degradation has occurred and is still occurring. It is evident from LANDSAT photographs at the conference in Broken Hill, taken of areas around Broken Hill, that the boundary between South Australia and New South Wales was as plain as if it had been drawn with a straight line. I had always thought that State boundaries were merely lines on a map, but as viewed from the satellite they are clearly lines on the ground, resulting from different conditions of land management either side of the boundary. It is interesting that close to Broken Hill, where these photographs were taken, the land on the New South Wales side is in far worse condition than that on the South Australian side. On the New South Wales side they have perpetual leases and on the South Australian side they do not.

The difference was clearly observable even to an untrained eye such as mine. One might ask, 'What is the state of the arid lands at present?' I have a table taken from 'A Basis for Soil Conservation Policy in Australia', which is a Commonwealth and State Government Collaborative Soil Conservation Study, 1975-77. The table comes from an addendum to the report and clearly shows that the estimate made in Australia at the moment of pastoral areas which do not require treatment due to degradation is 18 per cent of the total. In other words, 82 per cent of our arid land

requires treatment to repair damage from overstocking, degradation and erosion.

Not all of this 82 per cent is in urgent need of treatment and some will require only minor treatment. Nevertheless, we have 82 per cent of our land requiring treatment to recover from the results of the bad management it has experienced. The table shows that 20 per cent is badly eroded, 33 per cent has some erosion and about 50 per cent has only a little erosion, but also vegetation degradation.

The cost to repair this damage was estimated, in 1977, at being $18 000 000, of which $8 800 000 was for badly eroded areas, $4 900 000 was for other eroded areas and $4 800 000 was for areas with little erosion and vegetative degradation. These costs are not current and would be vastly increased if inflation was allowed for. None of this money has been spent since this report was published five years ago.

The effect of erosion is very damaging from a conservation point of view. The top 10 centimetres of soil, which is blown or washed away when erosion occurs, contains 40 per cent of all the nitrogen and phosphate nutrients in the soil. Even if vegetation can be re-established after erosion, the potential for vegetation will be very much reduced as 40 per cent of the nutrients have been lost with the dormant seeds which were in the top layer of soil. Once gone, it can never be replaced and the fertility of the land will be permanently reduced as a result of this erosion.

Because erosion is a very slow process, we often do not complain about its occurrence. One can compare this with the generalised concern expressed over the environmental effects of mining, which is a very rapid procedure and very noticeable, although only in a very small area. In connection with erosion, we are talking about the area of our country. However, erosion occurs slowly but over such vast areas, yet little concern is expressed about it. A paper called 'The Technological Uses of the Australian Arid Zone', published by Graetz and Tongway of the Division of Land Resources Management of C.S.I.R.O., 1980, states:

> As we react with more force to a ghastly wound than to a lingering illness, so we tolerate the erosion brought about by farming. Although the end result may be disastrous, the process is slow and gradual. With mining, huge machines open the earth and rearrange the landscape in days or weeks. The trauma of seeing the land change before our very eyes pricks the conscience and sets in motion reactions that slower and often more damaging activities fail to activate.
>
> Such a reaction is a wholly human one and the scars and photographs of huge open cut mines stay uppermost in one's mind. Fortunately an excellent counterbalance to this human failing lies in LANDSAT imagery where the view from 900 km out in space leaves no doubt about the state of the land.... Dumping or contamination at Maralinga has used a minute amount of otherwise unoccupied arid land. Obviously it is not the scale that matters rather that once the landscape has been contaminated this precludes any other use for decades if not forever. Therefore our present actions place the onus of custody and management of these polluted lands on future generations. This long term influence is not qualitatively different from society's and government's apparent inability to stop individual degrading far greater areas of valuable, high-productivity agricultural or pastoral land. Land degradation through soil erosion, as well as reducing the potential of the present use, also precludes most other forms of land use. Indeed it has often been said that much of Australia's land development has been at the expense of our children's well-being.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 6.30 p.m. the Council adjourned until Wednesday 9 June at 2.15 p.m.