LEGISLATIVE COUNCIL

Tuesday 23 October 1984

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

TRANSPLANTATION AND ANATOMY ACT AMENDMENT BILL

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

PETITION: VIDEO TAPES

A petition signed by 169 residents of South Australia praying that the Council will ban the sale or hire of X rated video tapes in South Australia was presented by the Hon. K.T. Griffin.

Petition received.

MOUNT BARKER DISTRICT SOLDIERS MEMORIAL HOSPITAL

The President laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Mount Barker District Soldiers Memorial Hospital (Redevelopment).

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Department of Labour—Report, 1983.

Friendly Societies Act, 1919—General Laws—

Friendly Societies Medical Association Incorporated;

Lifeplan Community Services; The South Australian United Ancient Order of Druids Friendly Society.

Alterations and Amendments to Constitution—The Independent Order of Odd Fellows Grand Lodge of South Australia.

Alterations and Amendments to Constitution—

Jam Factory Workshops Incorporated—Report, 1983-84.

Trustee Act, 1936—Regulations—Authorised Trustees.

Industrial Court and Commission of South Australia—Report of President, 1983-84.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Outback Areas Community Development Trust—Report, 1983-84.

Planning Act, 1982—Crown Development Reports by South Australian Planning Commission on—

Proposed Borrow Pit, Tumby Bay.

Proposed Port Pirie College of Technical and Further Education.

Car Park and Access Road at Blanche Point.

Opening of Proposed Borrow Pit by Highways Department, Hundred Wallaroo.

Proposed additions at Coorara Primary School.

South Australian Housing Trust—Report, 1983-84.

South Australian Urban Land Trust—Report, 1984.

The Parks Community Centre—Report, 1983-84.

By the Minister of Agriculture (Hon. Frank Blevins):

Pursuant to Statute—

Marketing of Eggs by the South Australian Egg Board—Report of the Auditor-General, 1983-84.

South Australian Council on Technological Change—Report, 1983.

Stock Diseases Act, 1934—Proc.: Prohibition of Introduction of Cattle above Dog Fence subject to Conditions.

By the Minister of Fisheries (Hon. Frank Blevins)—

Pursuant to Statute—

Fisheries Act, 1982—Regulations—Southern Zone Abalone.

QUESTIONS

COSTIGAN REPORT

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question on the Costigan Report.

Leave granted.

The Hon. K.T. GRIFFIN: With the prospective proroguing of Federal Parliament, tabling of the final report of the Costigan Royal Commission in that Parliament becomes impossible. The report is due to be presented to the present Federal Government on 26 October. Ordinarily, one would expect it to be tabled and thus available in full to the public shortly thereafter. There are some legal problems caused by the Federal Government's decision to have an election. The report will be able to be published in the Australian Capital Territory in consequence of action taken in that Territory. The report will be able to be published in Victoria if, as I understand it, it is to be tabled there. Because of reciprocal arrangements, that will extend to New South Wales.

So, in the A.C.T., N.S.W. and Victoria the report can be published in the newspapers, on radio and television in full, but not in South Australia. It may be that the Melbourne *Age* or the *Sydney Morning Herald* or some other interstate newspaper carrying detailed reports will escape liability here if sold in South Australia, but the *Advertiser,* the *News,* the *Sunday Mail,* television and radio will not be able to publish in detail, because of difficulties with the defamation law.

In an edited chapter 10 at paragraph 2 of the Fourth Report of the Costigan Commission, referring to the Ship Painters and Dockers Union, the Commissioner says:

> At this stage of the investigation, I am satisfied that the Union, at least in Victoria, Newcastle, Queensland and South Australia, if not Sydney as well, is an organised criminal group following criminal pursuits . . . There is before me evidence of wide-scale racketeering, loan sharking and active participation in organised prostitution. I doubt whether there are any forms of criminal activity in which there is not some active participation.

As members may recall, Costigan did sit in South Australia and that will obviously be a subject of the final report and, apart from matters of general public interest throughout South Australia, those matters will be of specific concern to South Australians.

If the report is tabled in South Australia, qualified privilege under defamation law will apply here and, as a result, the report can be published in full by the media. The South Australian Parliament is scheduled to sit until the Federal election is held. Therefore, will the Government facilitate the tabling of the Costigan Royal Commission Report in the South Australian Parliament as soon as it is publicly available in the A.C.T. and Victoria and, if not, why not?

The Hon. C.J. SUMNER: Simply because the tabling of the Costigan Report is not a matter for this Government. This Government was not involved in the establishment of the Costigan Royal Commission. That was an inquiry—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The honourable member has asked the question. He knows that Mr Costigan's report was commissioned by the Federal Government in conjunction with, as I understand it, the Victorian and the New South Wales Governments. It is not a report that comes to

this Government in any form at all; it goes to the Federal Government and to the Victorian Government. I understand that it is for that reason that arrangements have been made to table the report in the Victorian Parliament. The Federal Government and the Prime Minister have made clear that the Costigan Report will be tabled when it becomes available to the Federal Government, subject to the possible deletion of some material that may impinge on future investigations.

I understand that advice will be sought from Mr Costigan, the National Crimes Authority and the Federal Attorney-General's Department as to what material may need to be removed from the report before it is tabled, but subject to that the Prime Minister has made clear that the report will be tabled. As the Federal Parliament is not sitting, the arrangements, as I understand it, that have been made are for it to be tabled in the Victorian Parliament.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: The Hon. Mr Griffin can ask a supplementary question.

The Hon. C.J. SUMNER: The honourable member may have done some research for a change and decided that the privilege will not flow into the South Australian Parliament. I am not sure that that is correct. My understanding of the law is that the privilege would apply in South Australia if the report were to be tabled in the Victorian Parliament. The privilege has certainly applied on previous occasions when matters have been raised in State Parliaments and published in other States.

I do not know what alternative arrangements the Commonwealth Government has taken if that is not the case, but certainly it is not a report to this Government. It may be, if the honourable member is getting technical about defamation, that the provision of the report by the Commonwealth Government to the South Australian Government would be publication of the report and that therefore, if what the honourable member says is correct, the transmission of the report to this Government may well be publication and attract the defamation law in any event. Perhaps the honourable member might like to go away and research that as well. The fact is that it is not a report to the South Australian Government; the honourable member knows that as well as I do.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: All that I am saying is that it is a report to the Federal and the Victorian Governments. The Federal Government has given an undertaking for the report to be made public. I believe that that undertaking will be met as soon as possible. I understand that the mechanism that has been adopted to make the report public in the Victorian Parliament and that that should be sufficient to enable publication of the report, using the provisions of qualified privilege with respect to the defamation law. If that is not the case, I am quite happy to refer the honourable member's question to the Federal Attorney-General to enable him, if there are any difficulties, which I do not foresee, to investigate.

The Hon. K.T. GRIFFIN: I wish to ask a supplementary question. If the media advised the Attorney-General of their concerns about the limitation on publication of the report in detail in South Australia, will he revise his view and his decision with a view to tabling the report under the protection of privilege in this Parliament so that none of the information in that report is suppressed by action of the State Government?

The Hon. C.J. SUMNER: The honourable member must have decided today that he received certain advice from the media, and he and—

The Hon. K.T. Griffin: I haven't received any advice from the media.

The Hon. C.J. SUMNER: The Hon. Mr Olsen in another place apparently received the same advice, and he and the Hon. Mr Griffin got together and decided to ask these questions. I have outlined the position.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, I doubt that.

The Hon. K.T. Griffin: The media communicates information to the public.

The Hon. C.J. SUMNER: I am fully aware of that. I have said that the Federal Government has made clear that the Costigan Report will be made public in so far as it can be, taking into account the restrictions that there may have to be on the naming of individuals and on disclosing information that may adversely affect and prejudice future investigations. The Federal Attorney-General, Mr Costigan and the National Crimes Authority will peruse the report with a view to advising the Federal Government about what material can be tabled. I understand that that procedure has been agreed to—that it will be tabled in the Victorian Parliament. My understanding is that, once it is tabled in the Victorian Parliament, privilege will apply.

The honourable member seems to have a different idea. However, what I have said previously is my understanding of the position. It is all very well for the Hon. Mr Griffin to come along and say, 'Well, you table the report in the State Parliament.' It is not a matter for the South Australian Government to table the Costigan Report in this Parliament. If the Federal Government wants us to table the report, if it sends us the report and requests that it be tabled in this Parliament, I do not see any objection to that course of action, but to say that I can somehow or other pick up a copy of the Costigan Report, bring it in here and table it in this Parliament, therefore overcoming what the honourable member alleges are privilege problems, is not something that is within my power or authority. If the Federal Government wishes that—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: It is not. If the Federal Government wants that to happen or if the Victorian Government requests that that should happen in this Parliament, I am sure that the Government would be perfectly happy to take that action. Indeed, if the honourable member wants to get technical, as he apparently does—

The Hon. K.T. Griffin: It is not technical—it is a matter of public interest.

The Hon. C.J. SUMNER: Of course it is. The honourable member seems to have forgotten, unless he is being unduly dense about it today, that the Prime Minister has indicated that the report will be made public. Does he want me to repeat that again? Does he read the papers, or take any notice of what is said in the Federal Parliament? That commitment has been given. It is not a commitment that I have been able to give, but that is my understanding of what the Prime Minister and the Federal Government have said about the Costigan Report. It is not a matter for the State Parliament: it is not a report to the State Government. If the Commonwealth Government or the Victorian Government want us to table the report here, I am sure that we would be quite happy to do so. If the honourable member wants to get technical, I point out that it is quite possible that the transmission of the report from the Federal Government to the State Government is also a publication that could attract—

The Hon. K.T. Griffin: You have a look at defamation. That is not the point. You are just trying to get yourself off the hook.

The Hon. C.J. SUMNER: No, I am not. There has been no suggestion that the Costigan Report would be tabled in the South Australian Parliament. It was not commissioned by the South Australian Government. If the honourable

member wants to get technical, I point out that it may be that the transmission of the report to the South Australian Government itself is publication.

It may be that there are some defences available in that respect, but surely it is a matter for the Federal Government and the Victorian Government to determine how to handle a report commissioned by those Governments and received by them. I repeat: I do not believe that there is any problem here. However, I have said that I am quite happy to refer the matter to the Commonwealth Attorney-General. Furthermore, I am sure that the Government would have no objection to tabling the report in the South Australian Parliament if that were requested by the Commonwealth Government or the Victorian Government—the Governments responsible for commissioning and receiving the report.

WASTE MANAGEMENT

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, a question about waste disposal.

Leave granted.

The Hon. M.B. CAMERON: Honourable members may recall that I have raised in this place previously the question of waste disposal in the Waterloo Corner region. Last Friday it was reported on an Adelaide radio station that a toxic waste dump about which I have previously expressed concern had in fact never been licensed until last month. The item alleged that a toxic waste dump had been operating in the Waterloo Corner area and that the Waste Management Commission had previously indicated that the dump was licensed when in fact no licence had ever been issued for the operation of that toxic waste dump since the inception of the Waste Management Commission.

The extraordinary thing about this is that the Waste Management Commission has, in response to constant inquiries from the media and local residents, always indicated that the dump was licensed. I understand now that the dump is licensed. The Waste Management Commission has said to the operators that they must improve the management and operations of the dump, that they are unsatisfactory and must be brought into line with the newly issued licence.

This is extraordinary! We have had a situation where a toxic waste dump has been operating without a licence outside conditions that would have applied if a licence had been granted. The Waste Management Commission has taken no action against the dump operators and, in fact, has been levying fees on its operation since the dump commenced—fees on an operation that was unlicensed! Only now, after the licence has been granted, is the company, Bosisto Ltd, being told to smarten up its act, and only now is it being required to have a management plan prepared to ensure that toxic wastes disposed of at the dump are disposed of safely. I ask the Minister the following questions:

1. Is it true that the Waste Management Commission has allowed an unlicensed toxic waste dump to operate?

2. Is it true that this operation has, in a number of instances, always been outside the licensed conditions?

3. Has the Waste Management Commission now directed the operators of the toxic waste dump to produce a management plan and to meet the requirements of the licence?

4. Has the Waste Management Commission been receiving levies from the operators of the toxic waste dump even though the dump was not licensed?

The Hon. J.R. CORNWALL: The Waste Management Commission is the responsibility of the Minister of Local Government and not the Minister for Environment and Planning. I will be pleased to refer those questions to my colleague and will bring back a reply expeditiously.

HEALTH PAPERS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about local boards of health.

Leave granted.

The Hon. J.C. BURDETT: I understand that local boards of health and their advisory bodies have received two discussion papers from the Policy and Projects Division of the South Australian Health Commission—one a discussion paper on the scope of community health services policy issues and future directions and the other a discussion paper on the BED Bureau. I am advised that these papers are extensive and elaborate. Obviously, the research involved in preparing them would have involved the expenditure of a great deal of money. However, I want to make it quite clear that I do not criticise that expenditure.

I certainly do not disagree with promoting discussion on these subjects; that is excellent. My question is not as to the need or otherwise to promote these two discussion papers: my inquiry is simply a question of the source of funding as a matter of information. Where did the funding come from for the preparation of these two papers?

The Hon. J.R. CORNWALL: From the budget of the Policy and Projects Division of the South Australian Health Commission.

HOSPITAL BEDS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about public hospital beds.

Leave granted.

The Hon. L.H. DAVIS: The Minister claimed in late September that there has been a 1 per cent to 2 per cent increase in overall activity at Adelaide public hospitals since the introduction of Medicare, apart from the significant shift away from private patients to public patients who, of course, are being admitted under the umbrella of Medicare. Despite the fact that Medicare was introduced on 1 February 1984, there will be some time lag before the real impact is known. Some people would argue that this increased pressure will in turn place strains on hospital budgets. My questions are:

1. Will the Minister advise the Council of the percentage increase in occupied bed days at Adelaide public hospitals in the three months to 30 September 1984?

2. Does the Minister believe that part or all of any such increase is due to the introduction of Medicare?

3. Have any metropolitan public hospitals or other hospitals had a higher than expected increase in occupied bed days in the first quarter of 1984-85?

The Hon. J.R. Cornwall: In public hospitals?

The Hon. L.H. DAVIS: Yes, in public hospitals. My last question is:

4. Are there any metropolitan public hospitals where the actual expenditure figure for the first three months is ahead of budget as a result of the increase in activity levels?

The Hon. J.R. CORNWALL: I am not sure that I can remember all those questions precisely. The first question related to the percentage increase.

The Hon. L.H. Davis: The percentage increase in occupied bed days in the first three months of 1984-85?

The Hon. J.R. CORNWALL: The average increase was 1 per cent to 2 per cent. Concerning the second question whether all or part was due to Medicare, the answer would clearly be 'Yes'. Regarding the question whether any metropolitan public hospital had a higher than expected increase in occupied bed days, the answer is 'No'. Indeed, the figures that I gave consistently to the Hon. Dr Ritson prior to the introduciton of Medicare were 3 per cent to 4 per cent. So, that was what I expected. In fact, the average was 1 per cent to 2 per cent, ranging from nothing to 4 per cent. Clearly, the answer to that question is 'No'. The answer to the fourth question is 'Yes'.

TAFE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister o Agriculture, representing the Minister of Education, a question concerning priorities in TAFE colleges.

Leave granted.

The Hon. ANNE LEVY: I have had shown to me a copy of a letter that has been sent to all Principals of TAFE colleges concerning priorities in TAFE courses which should be considered in any adjustments required by colleges due to the Budget allocations. The order of priorities set out are: top priority, courses for apprentices; second priority, the continuation of courses for students who are already enrolled in a course leading to a formal award; third priority, courses in fields where there is a legislative requirement for a qualification as a prerequisite for employment; fourth priority, prevocational courses; fifth priority, other vocational courses; sixth priority, access courses; and seventh priority, other courses.

If one looks at this set of priorities one can get the impression that they do seem somewhat determined by the position of certain staff members in TAFE who have tenure rather than any necessary consideration of desirable social priorities. To illustrate this I mention that access courses, which are given sixth priority, include courses like adult literacy and the NOW courses, where already 83 per cent of applicants are being turned away, and various other courses come under the heading of 'access' which I would regard as being of very high social priority, if not of a vocational nature. Can the Minister please comment on this priority listing and how TAFE is to allocate any cuts that may be necessary in courses to be provided next year? Does this priority listing mean that all access courses are to be chopped before there are any funding cuts applied to other categories higher on the priority list, or can any cuts that may be required be spread more evenly across all the categories of courses offered by TAFE?

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

ADULT LITERACY

The Hon. I. GILFILLAN: Has the Minister of Agriculture, representing the Minister of Education, a reply to my question of 13 September about adult literacy?

The Hon. FRANK BLEVINS: The Adult Literacy Programme provided by the Department of Technical and Further Education is regarded very highly by the Government. Indeed, my colleague the Minister of Education believes that this is a priority area and has advised the Department of Technical and Further Education that the allocation of resources should reflect this. However, the Adult Literacy Programme is dependent on the services of volunteers and part-time instructors.

Early in the Budget considerations, it was apparent that the Department of Technical and Further Education might be required to reduce its expenditure on part-time instructors and as a consequence the Adult Literacy Programme might have been one of the areas affected by such a reduction. It was this situation which resulted in the letter from the Director-General of TAFE to the Friends of Adult Literacy. Subsequently, the Department of TAFE has reassessed the situation and I am pleased to be able to inform the honourable member that the level of the Adult Literacy Programme will be maintained.

MEDICAL BOARD

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Health a question about the Medical Board of South Australia.

Leave granted.

The Hon. R.J. RITSON: Some time ago in this Council the Hon. Anne Levy drew attention to a matter that indicated that at times the Medical Board may take a rather pedantic approach to lesser issues. The Hon. Anne Levy described the concern with which the Medical Board viewed Dr Porter, the head of the Family Planning organisation, and actually accused him of holding out to be a medical practitioner by allowing himself the courtesy of being called 'Doctor'. It was pointed out that he is a real doctor—

The Hon. J.R. Cornwall: He is a Ph.D.

The Hon. R.J. RITSON: I refer to the courtesy of giving him his real title. Since then there have been signs that the Board is frantically concerned with doctor to doctor business relationships that have little to do with patient care. It has put out a good deal of literature about the evils of allowing one's name to be used in the social pages of the newspapers, and some medically qualified senior and respected medical constituents of mine who have nothing to fear from the operations of this very good Act of Parliament under which the Board operates have expressed curiosity as to the effectiveness and general thrust and cost of the Board's operations. Because a report is pending, I do not wish to examine those matters further, although I may do that, if the report does not cast much light on the questions that have been put to me. However, observing that section 22 of the Medical Practitioners Act requires that the Board shall on or before 30 September in each year deliver to the Minister a report on the administration of the Act and, secondly, stipulates that the report must be tabled within three sitting days of receipt by the Minister, and given that examination of the index of papers tabled does not reveal that that report has been tabled, will the Minister say whether the Board is in breach of its statutory duty by not giving him the report in time, or has he received the report by 30 September and breached his own statutory duty by failing to table it in this Council?

The Hon. J.R. CORNWALL: It is perfectly true that sometimes I worry a little that members of the South Australian Medical Board are a trifle antediluvian. I am a trifle concerned also that they have not yet quite caught up with the full spirit and intent of the new legislation. Of course, that Act was prepared substantially during the period of the Tonkin Government and refined somewhat and introduced by me as Minister of Health.

The Hon. R.J. Ritson: There was a bipartisan approach.

The Hon. J.R. CORNWALL: There was a true bipartisan approach. By and large it is an excellent piece of legislation that may later need a little fine tuning. However, I fear that some members of the Board still have more regard to the

General Medical Council *circa* 1850 in the United Kingdom than they do to the South Australian Medical Practitioners Act *circa* 1984. Notwithstanding that, I am also aware of the requirement for the Board to present an annual report and of the statutory obligation for it to be tabled in Parliament. I must say that it has not been drawn to my attention since 30 September. Certainly, I have not had a report on my desk, although I cannot say that it has not been presented somewhere at 52 Pirie Street. As it is indeed 23 days past time, I will certainly make some inquiries, both of my own office and then directly of the Registrar of the Medical Board, and ascertain precisely where that report is and make sure that it is tabled in this Parliament in the near future.

STATUTES

The Hon. B.A. CHATTERTON: Has the Attorney-General a reply to my question of 19 September about the availability of the Companies Code in respect of Corporate Affairs officers?

The Hon. C.J. SUMNER: It has always been the practice of the Corporate Affairs Commission's staff to provide to members of the public for perusal copies of any Statutes that are administered by the Department. I have been informed that these requests are made infrequently and that the request made by the honourable member's constituent may have been interpreted by the Commission's staff as a request to purchase a Code. I should also point out that copies of the Companies Code can be purchased from the State Information Centre at 25 Grenfell Street, Adelaide and the Commonwealth Government Book Shop at 12 Pirie Street, Adelaide. The Commission assures the honourable member that it will continue to make available copies of all of its legislation for perusal by customers.

UNION AMALGAMATIONS

The Hon. PETER DUNN: Has the Attorney-General, representing the Minister of Labour, a reply to the question I asked on 21 August about union amalgamations?

The Hon. C.J. SUMNER: The Government supports a reduction in the number of unions in South Australia through the amalgamation process. A reduction in the number of unions would, amongst other things, reduce the potential for demarcation disputes and is accordingly in the public interest. It should be stressed that it is up to the individual unions and their members to decide on amalgamations. The Government does not believe that it should seek to impose amalgamations on unions whether on an industry basis or along any other particular lines.

UNION BULLYING

The Hon. L.H. DAVIS: Has the Attorney-General a reply to the question I asked on 21 August about union bullying?

The Hon. C.J. SUMNER: My colleague the Deputy Premier and Minister of Labour has advised me that no complaints have been made by builders to the Department of Labour concerning industrial relations problems in the building industry. While the Government is willing to investigate any complaints made by builders, the Government's ability to assist has been severely hampered as a result of the rejection by the Opposition Parties in the Legislative Council of amendments to the Industrial Conciliation and Arbitration Act intended to give the Industrial Commission coverage over subcontractors. It is clear from the Deputy Premier's second reading speech introducing the amendment Bill that the amendments, if passed, would not have ended subcontracting in the building industry; the amendments would have enabled the regulation of industrial relations in that industry.

STAMP DUTY

The Hon. L.H. DAVIS: Has the Attorney-General, representing the Treasurer, a reply to the question I asked on 13 September about stamp duty?

The Hon. C.J. SUMNER: The removal of stamp duty on the transfer of private sector fixed interest securities is one of a number of amendments to the Stamp Duties Act at present under consideration.

GRAND PRIX

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about the Grand Prix.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday, at very short notice, the Premier flew to London with the publicly expressed purpose of tying up negotiations for the Grand Prix in South Australia towards the end of 1985. From reports that have appeared in the media I understand that this matter was discussed by Cabinet yesterday, so I expect that the Attorney will have some answers to my questions, because I presume that the basis for the Premier's sudden departure was discussed by Cabinet. First, what matters are outstanding and still to be negotiated which require the Premier's presence in London? Secondly, what funds is the South Australian Government looking to put into the Grand Prix? Thirdly, what does that amount of Government funding comprise?

The Hon. C.J. SUMNER: The Premier has travelled to London to take part in detailed negotiations with the Formula One Constructors' Association on the contract relating to the Grand Prix to be held in Adelaide. The race has been allocated to Adelaide by the governing body of the sport, FISA (*Federation Internationale du Sport Automobile*), against competition from Sandown Park, in Victoria, and Surfers Paradise, in Queensland. However, the detailed financial arrangements for staging each event are handled by the Formula One Constructors' Association and negotiations must be concluded with that body prior to Adelaide being able to conduct the Grand Prix.

The outstanding matters concern the Formula One Constructors' Association. There will be some direct Government contribution to staging the Grand Prix, but I cannot indicate the extent of that funding as it is tied up in the negotiations, the aim of which is to ensure that the up-front costs to the Government are minimised and the opportunities to share in the direct financial returns from the race are maximised. That is the objective of the Premier's negotiations in London. There are many indirect benefits to South Australia if it is possible to stage the Grand Prix in Adelaide. There are significant benefits in terms of direct tourism expenditure, work generated by construction of the project and what is required for that, and promotional advantages to the State in being given international recognition and being the subject of international television coverage. I would have expected the honourable member to have supported those aims.

The Hon. K.T. Griffin: I am not being critical.

The Hon. C.J. SUMNER: I am pleased that the honourable member has interjected and said that he is not being critical. I think I have answered the honourable member's question. The outstanding matter concerns negotiations with the Formula One Constructors' Association. I am not in a

position to indicate what direct up-front moneys will be required of the South Australian Government. The extent of that funding will depend on the negotiations and minimising the up-front costs and maximising the financial returns to the Government, where that is possible. Further information about the project will be made available when the Premier returns.

RUST PROOFING

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about rust proofing.

Leave granted.

The Hon. R.I. LUCAS: The October issue of *Choice* magazine again tackles the Attorney's favourite question of rust proofing. As it did in September 1983, *Choice* came to certain conclusions under the heading 'Rust proofing—a waste of money'. In May this year, during the Supply debate in this Chamber, I indicated that *Choice* had been most irresponsible in its use of survey results concerning rust proofing. On that occasion I referred to results from a reputable market research company—the Morgan Research Company—which indicated that the case had not been proved by *Choice* magazine and that there were significant deficiencies in the survey techniques used by *Choice*. The latest *Choice* magazine survey in October has exactly the same weaknesses.

The Hon. Diana Laidlaw: They haven't listened to you.

The Hon. R.I. LUCAS: No. Again, I believe that *Choice* has been most irresponsible in its use of survey techniques.

The Hon. C.J. Sumner: Who's been in touch with you?

The Hon. R.I. LUCAS: No, he has not spoken to me yet. In a recent radio interview a *Choice* representative repeated and expanded the criticisms made in the October issue. Basically, the representative said that it did not matter whether the rust proofing was performed by a reputable rust proofing specialist or by a car dealer who offered rust proofing as an additional service. He went on to allege that this view was shared by the South Australian Department of Public and Consumer Affairs and a department from another State.

The Hon. M.B. Cameron: Who said that?

The Hon. R.I. LUCAS: This was a representative from *Choice* magazine. This was in conflict with a statement which was made by the Attorney-General in this Chamber on 20 October last year on behalf of the South Australian Department of Public and Consumer Affairs and which stated:

> However, it is important to draw a distinction between rust proofing by recognised specialists in the field, and rust proofing by car dealers. The investigations carried out by the Department of Public and Consumer Affairs suggest that rust proofing specialists are far more competent than car dealers and are more likely to provide a satisfactory service.

My questions are:

1. Was the representative from *Choice* correct in alleging that the Department of Public and Consumer Affairs' view has changed since the view given by the Attorney-General on 20 October last year?

2. If incorrect, will the Attorney-General ensure that the Department of Public and Consumer Affairs advises *Choice* magazine of the official view of the Department and ask *Choice* magazine to stop misrepresenting the view of the South Australian Department of Public and Consumer Affairs?

The Hon. C.J. SUMNER: This topic has a long history in this Parliament. I recall, indeed, that when I was in Opposition I raised the question of rust proofing long before the Hon. Mr Lucas's enthusiasm for the subject developed. As a result of those probing questions that I asked during my period in Opposition, the then Minister of Consumer Affairs (the Hon. Mr Burdett), with more than his usual alacrity, returned to his Department and ordered that a report be done into rust proofing in South Australia.

That report was quite damning overall of the rust proofing procedures that are applied. It is true that the report that the Hon. Mr Burdett commissioned from the Department distinguished between rust proofing carried out by dealers as a result of relationships with certain rust proofing companies and rust proofing applied particularly by a specialist in the rust proofing area. Although I understand that the report said that there were potential defects with both forms of rust proofing, nevertheless it drew that distinction, which is the distinction that the honourable member has drawn and which I reiterated in a statement that I made to Parliament following questions raised about an earlier *Choice* article.

As far as I am aware, the views of the Department have not changed from the original report which was done for the Hon. Mr Burdett and which, in effect, I reiterated when I made my statement last year. I have not received any information from the Department that indicates that its view has changed, but the Department in that report was quite critical of certain rust proofing techniques. In that sense, it is true to say that the Department would support the *Choice* view, but when it examined the *Choice* article last year it again repeated the distinction between dealer-applied rust proofing methods and rust proofing applied by specialist firms. I will discuss the matter again with the Director-General of the Department of Public and Consumer Affairs to see whether his view has changed. I will peruse the *Choice* article to which the honourable member has referred to see whether or not the views of the Department have been misrepresented.

The Hon. R.I. Lucas: It was a radio interview on Cordeaux afterwards where they expanded it and spread the allegation further.

The Hon. C.J. SUMNER: I will take into account not only the *Choice* article but the reported radio interview that the honourable member has outlined to the Council to see whether or not the views of the Department of Public and Consumer Affairs have been misrepresented in this regard, and I will bring back a reply for the honourable member.

ETHNIC AFFAIRS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Ethnic Affairs a question about appointments to the Ethnic Affairs Commission.

Leave granted.

The Hon. DIANA LAIDLAW: I have received a copy of a letter that was forwarded to the Minister by the Migrant Women's Lobby Group following an emergency meeting on 26 September to discuss the recent appointment to a position of Senior Education Officer in the Ethnic Affairs Commission. The letter states:

> At a recent meeting of the Migrant Women's Lobby Group, the position of Senior Education Officer, Ethnic Affairs Commission, was discussed. We are concerned that a person of migrant background was not appointed to the position, especially in view of the report of the task force to investigate multiculturalism and education. The report, endorsed by the Government, stressed the need for the appointment of bilingual/bicultural persons and persons with relevant experience and expertise to senior positions.
>
> We wish to draw to your attention the fact that migrants rarely have the opportunity to develop the skills and experience required for appointment to decision-making positions in the Public Service. Structured inequalities, as highlighted by the Rimmington Report,

maintain the absence of a migrant presence at all levels of the public sector. The Migrant Women's Lobby Group demands that the Ethnic Affairs Commission develop a policy of affirmative action of the employment and training of persons from non-English speaking background as a matter of urgency.

My questions are:

1. Will the Minister explain why the Government did not use the opportunity provided when filling the position of Senior Education Officer to the Commission to select a bilingual and bicultural person?

2. Will he advise whether he is prepared to ask the Ethnic Affairs Commission to develop a policy of affirmative action for the employment and training of persons from a non-English speaking background?

The Hon. C.J. SUMNER: The honourable member apparently does not understand the mechanisms of appointments that operate in Government, but I am quite happy to make the Chairman of the Public Service Board available to her if she wishes to obtain further information on that topic. What the honourable member should know is that appointments to the Public Service are made by selection panels under the Public Service Act.

The Hon. K.T. Griffin: You can set the job descriptions.

The Hon. C.J. SUMNER: It is all very well for the honourable member to interject, but he knows that appointments under the Public Service Act are made on the basis of merit, as determined by a selection panel. That procedure was followed, as I understand it, for the appointment to this job. The job was called in the normal way; a selection panel assessed the applicants. On the basis of the consideration of all the talents of people who applied for the job, Ms Ramsay was selected. As the honourable member knows, that is the procedure that is adopted in the selection of people for the Public Service. Should the honourable member require any further information on those procedures or should she consider that merit is not the proper qualification—

The Hon. Diana Laidlaw: I was not talking about merit; I was arguing for the skills sought.

The Hon. C.J. SUMNER: All those skills would have been considered by the selection committee. If the honourable member is suggesting by affirmative action that people should be placed in jobs when they do not have the same qualifications as other people, I would be interested in her expounding that view in the Council.

I believe that, when we are talking about affirmative action or equal opportunity, we should be looking to ensure that people are trained and that they have sufficient educational qualifications and experience—whether they are women or people from ethnic minority backgrounds—to compete for jobs on an equal basis, rather than adopting what the honourable member seems to be saying, that is, using affirmative action as a means of placing people in positions who may not have the same level of skills or experience as another person has. Is that what the honourable member is suggesting?

The Hon. Diana Laidlaw: I was reading from a letter: members of the Labor Party are looking for affirmative action.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: In fact, this was not a matter directly for the Government: it was a matter for the selection procedures under the Public Service Act. In any event, I understand that the position is temporary, and presumably it will have to be called on a permanent basis. The selection was made on merit, I understand, by a selection panel in accordance with the normal rules of the Public Service. I can say, however, that the Ethnic Affairs Commission has considered this matter and is developing a policy relating to appointments. That policy will be considered by the Commission and the Government in due course.

QUESTIONS ON NOTICE

COMMUNITY EMPLOYMENT PROGRAMME

The Hon. ANNE LEVY (on notice) asked the Attorney-General:

1. Up to the present time, what percentage of CEP jobs have been filled by—
   (a) women?
   (b) Aborigines?
   (c) disabled people?
   (d) 15-19 year olds?
   (e) long-term unemployed?
   (f) people with difficulties in speaking English?
2. Within each of the categories *(b)* to *(f)*, what percentage have been filled by women?

The Hon. C.J. SUMNER: As the reply to the first question is purely statistical information, I seek leave to insert it in *Hansard* without my reading it.

Leave granted.

Community Employment Programme placements

	General programme	Jobs on local roads programme (exempted from requirement to employ women)
(a) Women	35.1 p.c.	2 p.c.
(b) Aborigines	2.6 p.c.	6 p.c.
(c) Disabled persons	8.1 p.c.	7 p.c.
(d) 15-19 year olds	refer 2 below	
(e) Long term unemployed	48.7 p.c.	25 p.c.
(f) People with difficulties speaking English	1 p.c.	3 p.c.

The Hon. C.J. SUMNER: In reply to the second question, statistics on placements for 15 to 19 year olds and women with other employment disabilities are not currently collected by the Community Employment Programme statistical system. It is anticipated that these and other cross tabulations relating to placements of persons within the programme will be available once the placement data for the programme has been incorporated in the computer based management information system. This information is expected to be available by mid to late November.

MAGISTRATES ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Magistrates Act, 1983. Read a first time.

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

That this Bill be now read a second time.

This Bill proposes amendments to the Magistrates Act, 1983, relating to the office of supervising magistrate and the day-to-day management of magistrates courts. The Magistrates Act, 1983, authorises the appointment of supervising magistrates. The Attorney-General is able to determine the number of supervising magistrates and to nominate stipendiary magistrates for appointment as supervising magistrates.

In considering the number of offices of supervising magistrate that should be created, it has been recognised that it would be appropriate to provide for another group within the magistracy. Members of such a group would be involved

in day-to-day management of a court and other magistrates in that court but not carry the responsibilities that are intended for a supervising magistrate. Creation of this further category should, it is thought, ensure more efficient and economical administration of the magistracy.

Accordingly, the Bill proposes an amendment to the Act under which the Chief Justice would be able, with the concurrence of the Attorney-General, to assign special responsibilities to a stipendiary magistrate to be in charge of a court as circumstances require from time to time. A stipendiary magistrate, while performing such special duties, would, under the amendment, be entitled to such additional remuneration as may be determined by the Governor.

Linked with this is a proposal for more flexibility in relation to the number of supervising magistrates. The Bill, therefore, provides that a person appointed to be a supervising magistrate may be removed from that office by the Attorney-General with the approval of the Chief Justice as circumstances require. Such a stipendiary magistrate would as a natural consequence lose his entitlement to be remunerated at the higher rate set for supervising magistrates, but under the amendment his office as a stipendiary magistrate would be unaffected. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 amends section 6 of the principal Act which provides, *inter alia*, that a stipendiary magistrate may be appointed by the Governor, on the nomination of the Attorney-General, to be a supervising magistrate. The present subsection (4) provides that, subject to subsection (5), such an appointment is to be effective for so long as the person remains a stipendiary magistrate. The clause adds to the exceptions provided for in subsection (5), the further exception that, if a person appointed to the office of supervising magistrate is no longer required to carry out the duties of that office, his appointment to that office may, with the approval of the Chief Justice, be revoked by the Attorney-General without affecting his office as a stipendiary magistrate.

Clause 3 amends section 13 of the principal Act which provides for the remuneration of magistrates. The present subsection (1) provides that the remuneration of the various categories of stipendiary magistrate shall be at rates determined by the Governor. The clause inserts a new subsection (1a) providing that a stipendiary magistrate shall, while performing special duties for the time being directed by the Chief Justice with the concurrence of the Attorney-General, be entitled to such additional remuneration as may be determined by the Governor.

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

APPROPRIATION BILL (No. 2)

Received from the House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

This Bill, which is the main Appropriation Bill for 1984-85, provides for an appropriation of $2 623 769 000. The Treasurer has made a statement and has given a detailed explanation of the Bill in another place. That statement has been tabled in the debate on the motion to note the Budget papers and made available to honourable members.

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

ANTI DISCRIMINATION BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 1181.)

The Hon. ANNE LEVY: I support the second reading of this Bill with great enthusiasm. The legislation before us is, as indicated earlier by other speakers, a combination of the Sex Discrimination Act of 1975, the Handicapped Persons Discrimination Act of 1980, a complete rewrite of the Race Discrimination Act of the late 1960s and a number of new provisions that have resulted from further developments in the discrimination area since the first legislation was promulgated in 1975. We led the Commonwealth with our legislation of that year. There has since been legislation introduced in New South Wales, Victoria and more recently in the Federal sphere.

As ideas changed and developed, amendments to the Sex Discrimination Act were obviously required. I think that the Bill before us incorporates all of the recommendations that have been made over the years by the Commissioner for Equal Opportunity in her annual reports to Parliament. Since 1976 she has made recommendations in relation to amendments to the Act arising from her experience in administering it. I am glad to see that the recommendations she has made are being incorporated in the Bill before us. One point I wish to discuss is the inclusion of sexuality as a ground for prohibiting discrimination. This appears in the Bill before us. I raise this matter because it has been the subject of controversy raised by other speakers to this Bill.

I should point out that the inclusion of measures to prevent discrimination on the grounds of sexuality has been recommended by the Commissioner for Equal Opportunity from her very first report to the Parliament. She has received numerous complaints from homosexuals about the discrimination that occurs against them, but because of the wording of the Act has been unable to help them in any way. It is certainly true that the number of complaints she has received in relation to discrimination on the basis of sexuality has diminished as years have gone by. This, I am sure, is not because discrimination has diminished but merely because the news has spread that she is not able to help them in any way under existing legislation. I think we should all recognise that homosexuals have been victimised in our society, socially if not legally. I am very sorry that the Hon. Mr Griffin does not feel able to support their civil rights. Homosexuals are people, and I say that rather ironically.

The Hon. R.C. DeGaris: Why 'ironically'?

The Hon. ANNE LEVY: Well, it is rather as if someone was suggesting that homosexuals are not people.

The Hon. R.C. DeGaris: You said that.

The Hon. ANNE LEVY: It is ironical that I need to make such a remark, as if anyone felt that homosexuals were not people and did not have the same civil rights as any other member of society. There is certainly much misinformation about homosexuals that probably arises from old prejudices, lack of familiarity and deliberately misleading statements put out by certain groups that can be found in certain publications. Any psychiatrist can endorse the statement that homosexuals are not less emotionally stable than other people. They are not child molesters—and nor do any of the other vilifications against them have any validity. Despite what is said in some quarters, homosexuals cannot change

their sexual orientation and it is quite irrelevant to be discussing what the cause is.

We know that homosexuality is not a mental illness and that homosexuals are not able to change their orientation. As legislators we must accept that fact. It is certainly true that homosexuals can usually only be identified if they identify themselves. Homosexuality is not an obvious characteristic, as is one's gender, advanced pregnancy or a dark skin. However, the fear of victimisation that many homosexuals hold can certainly lead to secrecy and covering up of their sexual orientation. As a result, many marry and have children. This often leads to broken homes and disturbed childhoods for some children in the next generation. I certainly feel that society should encourage homosexuals to be open and honest about their sexuality without trying to pretend to be other than what they are.

Whether or not homosexuality should be considered immoral is, I think, irrelevant to us as legislators. There are many standards of morality in the community. Employers, for instance, should not be concerned about the private lives of employees. It should be irrelevant to an employer whether or not his employee is an adulterer, a homosexual, a confessed Christian or even a gourmet cook. As long as the employee carries out his responsibilities on the job properly and adequately: his private morality is not the business of the employer.

The Hon. R.C. DeGaris: How about the employer's business?

The Hon. ANNE LEVY: I deliberately stated that it is irrelevant to an employer whether or not his employee is an adulterer. Many people, and I am sure many members in this Chamber, consider adultery to be immoral. Many people also consider homosexuality to be immoral. Neither is an illegal activity and it seems to me that an employer should not be concerned with whether or not an employee fits either of those categories.

An employee's private sexual life is his own business. An employer should certainly not impose his own moral values on one of his workers. The Hon. Mr Griffin raised concerns about homosexuals working in schools and seemed to fear that proselytising might occur by homosexual teachers. It seems to me that proselytising by teachers is undesirable, whether it be homosexual or heterosexual proselytising. Most parents, I am sure, would agree; they would not wish their children in school to be subject to urgings to any type of sexual activity, be it homosexual or heterosexual.

There is certainly no reason to suppose that homosexual teachers are any more likely to do this than heterosexual teachers. Certainly, there are far more heterosexual teachers than homosexual teachers so, on a random basis, one may presume that heterosexual activity promotion is more likely than homosexual activity promotion. I feel that this is an unnecessary concern which it is misguided to apply only to homosexual, as opposed to heterosexual, teachers in schools.

The Hon. Mr Griffin made a number of remarks about the composition of the tribunal that is being set up under this legislation. This is the first time I have ever heard 'expertise' criticised as a qualification for any position. I could hardly believe my ears. Furthermore, the Hon. Mr Griffin apparently takes 'enthusiasm' to mean bias; that seems to me to be an extraordinary situation. The Hon. Mr Griffin stated that he wanted the members of the tribunal to be reasonable and balanced people; quite naturally, so do I.

It seems that the Hon. Mr Griffin is suggesting that 'enthusiasm' is incompatible with reasonableness. I wonder whether or not he is implying that only bored and uninterested people can be reasonable and unbiased. This is manifestly absurd.

The Hon. Mr Griffin objects to the phrase 'expertise relevant to the subject matter of proceedings'. He states that it is not necessary to have women on a tribunal considering a sex discrimination case; it is not necessary to have someone with a handicap considering discrimination in a case of a handicapped person; and so on. I agree with him completely, but I would say that it helps.

The Hon. Mr Griffin's own legislation on physical handicaps had a requirement that a member of the tribunal had to be a person with a physical impairment; that was part of his own Act. Now it seems that he is retracting that view and does not wish 'expertise' to be available to the tribunal in exactly the same way as he set down in his own Act. It is certainly true that a panel consisting only of white Anglo-Saxon middle-aged males can be enthusiastic, expert and sensitive in these matters: but women, Aborigines and handicapped people can also be enthusiastic, expert and sensitive. I would have thought that to be sensitive to sex discrimination it helps to be a woman and to be sensitive to racial discrimination it helps to be an ethnic person or Aboriginal.

The Hon. Mr Griffin also raised objections to the existence of class actions in this legislation. I support the class action clauses wholeheartedly; they occur in the Federal sex discrimination legislation and if, as elsewhere in his speech, the Hon. Mr Griffin argued that the two Acts should be similar to each other, it would seem to me that this is yet another case where there is great virtue in the two Acts being similar in approach. If there are class actions in the Federal Act it seems to be a persuasive argument to include them in our Act. One should notice that no damages can be awarded for a class action. Class actions can certainly save the endless time of many individual cases and ensure that justice is done to a large group of people.

If, for instance, a whole group of women were being refused promotion or refused consideration for promotion merely because they were women, a class action would seem far more appropriate than a great number of individual actions. The analogy to environmental class actions is very appropriate. Whether or not class actions under this legislation will be frequently used will depend on the magnitude of discrimination that is occurring in this country, and only time will tell.

Furthermore, the Hon. Mr Griffin seemed to object to the fact that trade union officials would have the right to appear before the tribunal and speak for their members. It seems to me to be entirely appropriate that trade union advocates be able to appear before the tribunal. Many questions that come before a tribunal have an industrial component and the trade unions and their advocates are used to undertaking industrial advocacy for their members. Trade union officials are the elected representatives of their members and it would seem to be most appropriate where there are industrial-type issues that members of trade unions be represented by officials from their own trade unions.

I would like to turn now to the question of superannuation contained in this legislation. In some ways I agree with the Hon. Diana Laidlaw that the provisions in the Bill are not broad enough in respect to sex. However, I feel that compromises are necessary at this time. The old concept of women in the workplace dies very hard indeed, and the attitudes of many people have certainly not caught up with the realities of 1984.

Legislation to prohibit discrimination on the basis of sex with regard to superannuation was promised in 1975 by the then Premier (Hon. D.A. Dunstan). He set up a working party into the whole matter and the work has proceeded intermittently since then. I believe that very little was done between 1979 and 1982.

The Hon. K.T. Griffin: I didn't even know there was a committee.

The Hon. ANNE LEVY: I was told a report was languishing in your office.

The Hon. K.T. Griffin: I didn't know that there was a report on superannuation—no-one drew it to my attention.

The Hon. ANNE LEVY: Perhaps they did not draw it to your attention—but it was in your office.

The Hon. Diana Laidlaw: Is it possible for us to see the report?

The Hon. ANNE LEVY: I have no idea—I have not seen it. I have been told that in fact since 1975 most new superannuation funds that have been set up have eliminated discrimination with regard to sex, and many of the old existing superannuation funds have also eliminated discrimination with regard to sex. So, the problems of adjustment to the new legislation before us should not be major for the superannuation industry. We have been waiting since 1975. It is not reasonable to ask us to wait even longer until the Human Rights Commission can consider the matter, following which—

The Hon. K.T. Griffin: You have to wait for the Human Rights Commission to report before you can proclaim the provision.

The Hon. ANNE LEVY: I am talking about legislating. We are not going to wait more than the nine years we have already waited to have legislation regarding the abolition of discrimination in superannuation. I know the provisions in the Federal Sex Discrimination Act are open ended, and it could be the year 2 000 before anything much happens at the Federal level. As I am assured that only a tiny minority of funds could have problems, and as the qualifications and exemptions that have been set out are extensive enough to be regarded as reasonable by all reasonable people, I believe we should go ahead with the legislation at this time.

With regard to clause 46 to which the Hon. Mr Griffin objected, it does not seem to me to be unreasonable to tell someone that, if they are being discriminated against on the basis of sex, they should have the actuarial information made available to them. When we are dealing with discrimination on the basis of sex, all that will be needed is a life table, which shows the different longevity of the two sexes. This will be a constant for all individuals, and will not need to be specially drawn up for each person applying for superannuation, and a standard document showing the different longevities of the two sexes can be produced easily and made available to all individuals who apply.

The Hon. K.T. Griffin: That's not what the Bill says: it says that it shall be made available to all people, regardless of whether or not they apply.

The Hon. ANNE LEVY: Only to those who apply: it does not mean that it has to be letterboxed from one end of the State to the other.

The Hon. K.T. Griffin: You're saying that it should be available only to those who apply for it.

The Hon. ANNE LEVY: No; it is for those who are applying for superannuation—not all the people in the community.

The Hon. K.T. Griffin: That clarifies what you are saying.

The Hon. ANNE LEVY: I am sorry. I suppose that one could argue that actuarial tables on longevity could be used for other than sex in permitting discrimination. For example, it is well known that the Aboriginal community in Australia has a lower life expectancy than caucasians here, yet the legislation is saying that actuarial data can be used to permit discrimination in superannuation and insurance when we are dealing with sex, but not with race. However, race problems regarding superannuation are insignificant in our community, so I am sure that it will cause no problems at all to prohibit discrimination with regard to race and superannuation completely. However, the same cannot be said with regard to sex, although I do believe that some of the problems have been exaggerated.

Women make up only 37 per cent of the work force, and only about 15 per cent of those who work currently have superannuation. This means that about 6 per cent of the work force are women with superannuation. If one takes as a rough estimate that the Australian work force consists of five million individuals, it means about 300 000 women in Australia have superannuation, and on a proportional basis one might expect about 30 000 in that category in South Australia. Of course, the number might increase when discrimination on the basis of sex is removed: 30 000 is not an insignificant number, and potentially may cause some problems to the superannuation industry.

Therefore, it seems reasonable to put exemptions in the legislation at this stage. I hope in a few years that such exemptions can be removed entirely, and the clause relating to superannuation in the Part of the Bill dealing with sex and marital status can be amended to be exactly the same as the clause regarding superannuation in the racial discrimination Part of the Act.

The one other matter that I would like to raise is the question of sexual harassment, which is not a new problem for many women in the work force. I would like to make a few quotations from publications dealing with the question of sexual harassment, and I begin with the publication 'Sexual Harassment in the Work Place' published by the Administrative and Clerical Officers Association, one of the largest clerical unions in Australia. This excellent publication includes a discussion of the history of sexual harassment. It deals with the history in other countries but, turning to Australia, it goes back to the earliest days when the vast majority of women in the colonies were convicts. The publication states:

> As many women convicts as possible were assigned to officers and settlers as domestic servants. Some masters were good, treating their female servants as family.
>
> The majority received them as prostitutes rather than servants. Redress was difficult; the woman convict could appeal against a molesting master to the local bench of magistrates. The case was generally dismissed for lack of evidence; not surprisingly, magistrates had little sympathy for the women and sometimes much to gain from a generous settler or officer.

The report also contains a quotation from a woman journalist, Florence Gordon, who was active in the late nineteenth century. She wrote of women in the late nineteenth century factories, predominantly in New South Wales. She certainly noted that the elements necessary for sexual harassment were present in the working conditions of women whom she interviewed in the factories. They had low pay, low status as workers, no representation by trade unions, and unequal and subordinate positions in society as a whole. In one of her writings, she says:

> Forewomen appear to be greatly wanted in our factories, particularly where both sexes work together. In very few, and those of the better class, are forewomen to be found supervising the girls. In many the want of discipline is disastrous to the girls, for it must be remembered that this class of girl wants to be saved as much from herself as from the cupidity and brutality of master or overseer, the latter of whom, in the case of a girl anxious to keep her place, can obtain a most undesirable hold over her.

The language is perhaps archaic, but it clearly shows one of the main reasons why sexual harassment is so hard to deal with, that is, the fear of losing one's employment when in a subordinate position subject to sexual harassment by someone in authority.

A great deal has been written about sexual harassment. I refer to the Report of the Sexual Harassment Support Service, which was set up in Adelaide not long ago. The Service offers a phone-in counselling service for any woman worker who feels that she is subject to sexual harassment, and it offers advice and counselling on how to cope with it and

what she can do about it. The Service has written considerably about the problem. Although by no means alone in so doing, I will cite some sections of the report in relation to this matter, as follows:

Sexual harassment is one of the most serious occupational hazards facing working women today. It is a form of sexual discrimination which is often unrecognised and which works most effectively to maintain the traditional power relationships between the sexes. Most sexual harassment at work comes from someone in authority, and most people in positions of authority are men.

What is Sexual harassment? Generally, sexual harassment can be seen as the display of unwanted sexual attention. At work, any verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- it is unsolicited and unwelcome, or
- submission to such conduct is implicitly or explicitly a term or condition of an individual's employment, or
- submission to such conduct is implicitly or explicitly a term or condition for decisions which affect grading, promotion, salary or any other job condition, or
- when such behaviour creates an intimidating, hostile or offensive work environment for one or more employees.

Sexual harassment can take many forms. It ranges from sexual innuendoes made at inappropriate times, perhaps in the guise of humour, to coerced sexual relations. Sexual harassment at its extreme occurs when a male in a position of control uses his authority and power to coerce a woman to have a sexual relationship with him with either a direct or indirect threat of loss of employment if she refuses. Other forms of sexual harassment include:

- verbal comments or abuse of a sexual nature.
- telling sexist jokes.
- displays of sexual literature.
- pressure for sexual activity.
- uninvited remarks about a woman's clothing, her body, relationships or her sexual activities.

The report also states:

Anti-discrimination legislation in general recognises that men and women are unequal in Australian society. Sexual harassment at work reinforces this inequality by viewing women as sexual objects, trivialising their work and preventing them from being serious and equal members of the work force. Women's economic inequality and generally lower work status makes it almost impossible to deal with sexual harassment in a way which will be treated seriously by co-workers or superiors. For women who are in non-traditional jobs the pressure is often even greater because they are expected to be tough and cope with the difficult problems of being in a 'man's world' if they are to succeed. In reality sexual harassment is a very effective device to prevent women entering or remaining in non-traditional occupations.

A commonly held view amongst men and some women is that there's nothing wrong with sexual harassment, that it is part of the way men are and that women should learn to accept it and be flattered by it. It doesn't occur to them that women might wish to be taken seriously like other workers and receive flattery on the basis of their work performance rather than their sex appeal.

It is true that until recently very few women have complained about sexual harassment, because it was not a topic which was talked about and they were unaware that their experiences were common to many others of their sex. There are many myths about sexual harassment which have contributed to the silence and non-discussion of the topic. One myth is that sexual harassment only happens to women who 'ask for it'. Like rape, sexual harassment is generally based on power, not on sexual attraction. It is not a personal tribute to the woman concerned. It happens to women of all ages, all occupations and all appearances. However, because of the myth that the behaviour is motivated by sexual desire and that women 'ask for it', the woman who is older and/or less conventionally attractive is bewildered when it happens to her against her will, and she is convinced, often quite rightly, that her complaint, if she made one, would be met with incredulity. Another myth is that a 'nice woman' can always say 'No' and get that message across. The comment is that like rape there is a myth that harassment does not happen to 'nice women'.

Allied to this is the myth that any woman worth her salt should be able to handle such situations. However, many men are socialised to believe that all women secretly are flattered by the attention of any old male and that 'No' is only coyness to increase his ardour. Therefore, when a woman is harassed without provocation and finds that her 'No' is ignored, she will feel guilty and embarrassed. She believes that if she tells someone about the incident there will be a negative reaction because most people are still ignorant about the dynamics of sexual harassment.

Another myth is that most charges of harassment are the result of vindictiveness or fantasy and that the incidents did not in fact occur. Women who make such charges of sexual harassment are often disbelieved. They may be ridiculed, demoted, transferred, or even lose their jobs. They have very little to gain and a very great deal to lose by laying even true charges of sexual harassment, let alone by making them up.

Another myth relating to sexual harassment states that women are really overreacting and that they have no sense of humour. Such behaviour classified as sexual harassment is not humorous; nor is it harmless because it can cause economic, physical and emotional problems to the person who receives it. The fact that some women do not show offence at an action does not mean that they have found it inoffensive. Maybe they have recognised the coercive nature of the advances if they come from a man who is their superior in the employment situation. Because the dynamics of sexual harassment are not very well understood throughout the community, men have not traditionally considered their behaviour to be objectionable and women have felt that there is something wrong with them if they have not been able to handle it, but it is clearly time for action on sexual harassment.

Action is occurring. Numerous bodies in Australia have been tackling problems of sexual harassment and have conducted workshops to sensitise members to the issue. The South Australian Institute of Teachers has had several workshops on sexual harassment. The union ACOA has produced an excellent booklet on the topic. The University of Adelaide developed a policy on sexual harassment in March 1983. That policy states:

Sexual harassment refers to behaviour of a sexual nature, either verbal or physical, which is not welcome, which is personally offensive, which impairs morale and which therefore interferes with the work effectiveness of its victims. It does not refer to occasional compliments but to behaviour which can create an intimidating, hostile or offensive learning or work environment.

Forms of sexual harassment which are commonly referred to as mild or 'trivial' can nonetheless be personally offensive, particularly in situations such as staff/student or employer/employee relationships where there is formal inequality of personal status. It will clearly be in the interests of the university if all cases can be resolved within the University itself.

The fact that such behaviour may be unconscious or due to ignorance or thoughtlessness does not mean that it must be accepted as an inevitable or 'normal' part of human relations. All forms of sexual harassment are unacceptable. A non-punitive, educational or counselling solution to cases is the most satisfactory and desirable... However, serious or persistent cases are liable to be subject to disciplinary action.

There follow the detailed procedures by which sexual harassment is being dealt with at the University of Adelaide.

Turning to sexual harassment as dealt with in the legislation before us, I agree that the definition of sexual harassment that is contained in the Bill is not identical with that which is in the Federal legislation. I maintain that it is a better and more comprehensive definition, which will do more to combat the problem. There should not be any controversy over it as it was devised and recommended by the South Australian Consultative Committee against Sexual Harassment (SACCOSH), which had both employer and trade union representatives on it who were therefore involved in the defining of sexual harassment for the purpose of our legislation.

Several people have opposed the duties of an employer with regard to sexual harassment as set out in the legislation. I maintain that these are not onerous and that without them the problems of sexual harassment cannot be tackled. The tribunal will obviously be reasonable in interpreting the employer's duty to try to prevent sexual harassment from occurring in his workplace. A great deal can be done—from issuing instructions to conducting courses to sensitise people, particularly middle management. I have already mentioned various institutions and organisations that have set up means to cope with the sensitising question.

I have here a copy of a manual that is used in the United States Civil Service (the equivalent of the Public Service in Australia) which details the courses that are given in the United States Civil Service about sexual harassment. There, it was considered that the best way to prevent it was to sensitise people to the issue and run courses for this purpose, though agreeing that coercive powers must be necessary as a last resort. I received this manual several years ago and gave a copy of it to the then Attorney-General (Hon. Mr Griffin), but as far as I am aware no courses followed in South Australia.

In conclusion, in preparing this speech I looked in *Hansard* at the speech that I gave on the original Sex Discrimination Bill in 1975. It is possible to see how far we have moved as a community in the nine years since then.

Many of the examples that I then quoted would no longer apply, for example, hotels having sections of a dining room reserved for men only, and so on. Civilised society has certainly not fallen apart in the past nine years because of what the 1975 law was able to achieve. More importantly, the 1975 measure was treated with hilarity in this place as being a rather trivial and amusing topic, as evidenced from the *Hansard* of the time. I was certainly shocked by the frivolous approach in 1975. At least today this Council is taking discrimination seriously and is not trivialising or belittling it but giving it the careful and serious consideration that it deserves.

The Hon. BARBARA WIESE: I, too, support the second reading. I do not intend to address all aspects of the Bill, as that has been done admirably by previous speakers in the debate, notably the Attorney-General and the Hon. Ms Levy. I agree with all they said. I also congratulate the Hon. Miss Laidlaw on her speech and certainly on the time and effort which she put into preparation of the speech. I do not agree with everything she said, but I acknowledge the hard work that went into its preparation. I will restrict my remarks to some aspects of the sex discrimination section of the legislation, particularly in response to the comments made by the Hon. Mr Griffin in this debate. Before I do that, I want to make general comments about the Bill.

First, I approve of the amalgamation of the three sections dealing with sex, race and disability. It seems to me very logical to incorporate these three areas of discrimination, and it will mean greater efficiency in terms of cost and administration of the legislation. It will take us another step closer to the realisation of the concept of the protection of human rights for all people. In that sense, I believe that the move is educational, because it reinforces the idea that discrimination in any form is unacceptable.

It also allows a direct comparison between the provisions of the separate categories of discrimination, and that is highly desirable as a tool of education, because it highlights the contradictions and inconsistencies in the arguments put by many people in the community and, I am sorry to say, in this place that somehow some forms of discrimination are more acceptable than others. For example, if these provisions sit side by side in one piece of legislation it will be more difficult for people with, say, sexist tendencies but a commitment to promoting the rights of disabled people to argue in favour of one set of principles but not of the other. It also makes it more difficult to sustain an argument against including new categories of people in the framework of anti discrimination legislation, for example, homosexuals (and I will refer to that later).

Turning specifically to the sex discrimination provisions in the Bill, it is a source of great satisfaction to me that this Bill has finally come before the Council. I guess that many of us have been working in one way or another for a number of years to see these amendments come to fruition, and it has been obvious for many years that the original Bill introduced in 1975 is outdated. Since that time new needs have emerged in the community, and many community attitudes on a number of questions dealt with in this Bill have changed. In the meantime other States have introduced legislation that goes further than the legislation we introduced originally and, as has already been stated by previous speakers, the Federal Sex Discrimination Act has been introduced and a number of inconsistencies are emerging between that legislation and our legislation. Therefore, the new provisions, which were clearly identified a long time ago, are long overdue and are very welcome.

On the question of the philosophy of anti discrimination legislation, I agree with the Hon. Mr Griffin and the Hon. Miss Laidlaw that it is desirable to bring about change in attitudes and behaviour without conflict, if possible. Therefore, the promotional and educational aspects of this legislation are very important. I feel rather ambivalent about whether the Bill should be called an anti discrimination Bill or an equal opportunities Bill; I am more interested in outcomes than labels, and as long as all the desirable principles are embodied in the Bill I really do not mind what we call it. However, I must say it is rather euphemistic to call it equal opportunities legislation, since it came into being in the first place to eradicate discrimination that was recognised in the community. It is a bit like saying that the old excessive rents Act was to encourage landlords to charge fair rents: it probably had that effect, but it was primarily to protect tenants from excessive rents. However, if euphemisms are required, I am happy to go along with that.

While I acknowledge the important role of the promotional and educational aspects of the Bill and the responsibilities of the Commissioner for Equal Opportunities in this area, it should also be noted that more than that is needed to change the behaviour of people in the community. I recall that Dr Tonkin, who introduced the first sex discrimination Bill in the South Australian Parliament, said that change in behaviour would come only with change in attitudes. He said that this was a slow process—it was like dripping water on to a stone—and eventually desired change would come without conflict. I agree that this is the likely outcome, but I for one do not have that sort of time to wait. We women have been waiting for centuries for water to drip on to the heads of men in this society. We have been waiting for centuries for equal opportunities to evolve naturally. It simply happens too slowly. There are too many vested interests in our community, working against that sort of thing happening quickly.

Therefore, sometimes ideas must be promoted more forthrightly: they must be reinforced by other measures, and the Sex Discrimination Act is such a measure. Attitudes in the South Australian community would not have changed as rapidly in the past nine years without this legislation. The educational aspects of the legislation make up only one part of its success; the other part, which has been very important, is the sanctions backing up the educational aspects of the legislation.

If the legislation had had no teeth, if there had been no sanctions that could be brought to bear, then I am sure that

many employers, for example, would simply have ignored it. If they had thought that they could get away with discriminating against certain people in the community and not have any action taken against them, they simply would have ignored the legislation. I am saying that the discussion and conciliation referred to is the most desirable way to change attitudes, but that if that fails then there must be mechanisms available to protect the rights of people who suffer discrimination. That is why I disagree fundamentally with some of the points made by the Hon. Mr Griffin.

I will deal, first, with the part of the Bill dealing with sexuality or sexual preference, as it is sometimes called. That is not a term I prefer to use, since it implies that homosexuals, bisexuals and transsexuals choose their condition or sexuality as they would a new hat or coat, and that is clearly misleading. I must say that the Hon. Mr Griffin's remarks on this matter indicate that he seems to subscribe to this view. He thinks that, because he and some others in the community do not approve of the behaviour of such people, those people should simply pull themselves together, shake off the unacceptable behaviour, and we will not have to deal with it. Because such attitudes exist amongst members of the Liberal Party, I am pleased to hear that the Party has decided to grant a conscience vote on this issue to its members, because I think that that will enable a much more reasonable position to be expressed by some members on the other side of the Council.

I think that, on this question, we have to start by accepting that people have different ways of expressing their sexuality and that, in the case of transsexuals, we are dealing with a question of gender dysphoria rather than an issue of sexuality as such. To acknowledge these differences in people is not to pass judgment one way or the other; it simply faces the reality that it exists. The question that we must ask ourselves in relation to this law, which deals with discrimination in employment, education, the provision of goods and services and accommodation, is whether homosexuals, bisexuals and transsexuals should have fewer rights or less protection than the majority of the community whose gender is clearly established and who happen to be heterosexual. Surely the answer is that we are all entitled to a fair go and equal rights. The Hon. Mr Griffin, in his contribution, says:

> The rights and freedoms of individuals are to be protected so far as they do not impinge on the rights and freedoms of others, but to the extent that they do impinge a balance must be achieved...

Nobody could possibly disagree with that. He then goes on to give the following example:

> ... the right of a homosexual, bisexual or transsexual to choose to display and practise that sexuality is balanced against the right of other citizens to choose according to strongly held convictions not to work with them, or to employ them.

I think that this is an extraordinary mixture of ideas. I would have thought that it was undesirable for any form of sexuality to be practised and displayed in the work place, be it homosexual, bisexual or heterosexual. Therefore, why does he single out homosexuals, bisexuals and transsexuals.

Furthermore, if individuals respect this community expectation—that is, that they should not be practising or displaying their sexuality in the work place—then, whatever their sexuality, it seems to me that they are entitled to be employed and to be judged on their ability to do the job. In other words, I strongly disagree with the Hon. Mr Griffin that people have the right to refuse to work with or to employ homosexual, bisexual or transsexual people, based only on the knowledge of their sexuality. As long as a person's sexuality does not interfere with his or her capacity to do the job, then it seems to me absolutely irrelevant.

We no longer condone the refusal of work to Aborigines based only on the colour of their skin, and neither should we condone prejudice based on sexuality. It should be noted, however, that this Bill departs from this principle in one important area—that is, the provision which existed in the first Act and which is retained in this one to allow schools established for religious purposes to have the right to discriminate on the grounds of religious principles. In other words, those Christian schools that currently do so will be able to continue to discriminate against homosexuals if the principles of their religion so demand. I hope that, in the near future, churches which hold such views will develop more enlightened doctrine.

In the meantime, it seems we have to stay with this provision. It should be said, also, that the same provision will allow Jewish schools, for example, to reject teachers who are not of their faith, or Buddhist schools to employ only Buddhist teachers if that is what they wish to do. If one accepts the idea that religious institutions should be allowed to set up their own schools, then I guess it follows that they must be free to do so according to their religious principles. The dilemma we have here is a conflict of principles: the rights of the individual to be protected from discrimination against the rights of religious organisations to practise their religions in their own establishments.

Later, the Hon. Mr Griffin went on to say that there has been no public call or debate as to whether homosexuals, bisexuals or transsexuals should be protected from discrimination. This is simply not true. In fact, this matter has been discussed publicly for many years. Successive reports from the Commissioner for Equal Opportunity have discussed the matter and recommended change. I will quote from those reports, because I think that they clearly indicate that there has been some discussion and that a lot of thought has gone into this matter over a number of years. The first time the matter was mentioned was in the very first Commissioner's report of 1977. The argument was set out very clearly, as follows:

> One area of complaints which could not be proceeded with concerned gross discrimination against homosexuals and transsexuals, particularly in employment and in the provision of rental accommodation. Five written complaints were received, and several more complainants telephoned or came for an interview. Typically, discrimination is in the form of dismissal from employment, and refusal to provide accommodation. It did not seem possible to proceed with investigation and conciliation because the Sex Discrimination Act refers throughout to a notional comparison with 'a person of the opposite sex' in order to test whether there is discrimination on the basis of sex.
>
> Nor can the other proscribed basis 'marital status' be extended by interpretation to cover the case of a person cohabiting with a person of the same sex: the definition of 'marital status' is express and uses the phrase 'the opposite sex'. Despite this apparent legislative intent not to render unlawful discrimination on the grounds of a person's sexual proclivity, I submit that the situation is anomalous. The philosophy of the Sex Discrimination Act is to encourage the elimination of discrimination, and to promote equality of opportunity 'between men and women generally'. From my vantage point, discrimination on the basis of sexual proclivity is little different in kind from discrimination on the basis of marital status. In both instances, a person's private and lawful domestic arrangements are being made the basis for disadvantaging him or her in the pursuit of basic social goods.
>
> Indeed, there is also a close parallel with discrimination on the grounds of sex; a person's capabilities, capacities and characteristics are being unreasonably assessed on the basis of stereotyped models; the individual is being judged according to the discriminator's views of the category to which he or she belongs. It is not unlikely that the process of stereotyping according to sexual proclivity has the same origins as that of sex-role stereotyping by gender; certainly the two attitudes reinforce each other, and the effects on the individual are identical.
>
> In February 1977 I received a submission from the South Australian Council for Civil Liberties recommending amendment to the Act to render unlawful discrimination on the basis of sexual proclivity; the submission reads, in part:
>
> > It appears to the council, on whose behalf I am writing, that the South Australian Sex Discrimination Act is lacking in its definition in that it excludes (if merely by expression of other forms of sexual preference) any consideration of

> discrimination on the basis of sexual proclivity. This appears to us to be an avoidance of a basic liberty with which the Act ought to be concerned.

I agree. Not only is it a question of basic liberties, but it is closely connected with an area of social policy which Parliament has seen fit to enter with the Sex Discrimination Act. After all, it is a question of providing a remedy for people who have lost their livelihood on the whim of a prejudiced employer, and of acting decisively to discourage such expression of prejudice.

> Accordingly, I recommend that the Sex Discrimination Act be amended by the addition of the third ground of 'sexual proclivity' to the existing proscribed grounds of discrimination; and that the definition of 'marital status' be amended to read in part, 'cohabiting otherwise than in marriage with any person'.

I think that that states the case very clearly, and in subsequent reports the Commissioner renewed that recommendation. The following year, in 1978, her report stated:

> From the experience of the office over the past year we have no reason to believe that discrimination against homosexuals is decreasing, particularly in the employment area.

The report then went on to recommend that homosexuality be included in the Act as a ground for discrimination. Again, the 1979-80 report, after the appointment of a new Commissioner, noted that previous reports had recommended the inclusion of sexual proclivity and the Commissioner, at that time, considered that these recommendations still stood. In the 1982-83 report the Commissioner said:

> Complaints of discrimination on the ground of sexuality are received by the office of the Commissioner but at present the legislation does not cover this form of discrimination. The Act should be amended to include discrimination on the basis of a person's sexuality.

In addition to those reports presented by the Commissioner for Equal Opportunity year after year, successive women's advisers to the Premier have recommended that such a change should take place. The first Sex Discrimination Board also recommended that such a change should occur. In addition, various church leaders have publicly discussed this problem. For example, the Anglican Archbishop, the Most Reverend Dr K. Rayner, who has never exactly been noted for his radical views, in an article in the *Advertiser* on 8 March 1980, stated:

> An act of homosexuality is sinful. But the fact of homosexuality is not. The Church should care deeply for homosexuals, and help to eliminate prejudice and injustices against them . . . [He] believes most homosexuals have no responsibility for their condition—it is not a matter of conscious choice—and they should accept it 'without any sense of guilt'.

It seems to me that including sexuality as a ground for complaint in this legislation is one way of eliminating prejudice and injustice suffered by that group of people, as recommended by Dr Rayner. Over the years the Commissioner has received numerous complaints of discrimination but she has not been able to act on behalf of those people because the legislation has not covered them. From my own contacts, I know that many homosexuals and transsexuals have ceased to complain of discrimination, or have never reported acts of discrimination in the first place, because they know what the legislation says and they know that nothing can be done on their behalf. Therefore, the extent of the problem is not known.

The Hon. Mr Griffin would have us sweep it under the carpet yet again, and let those people go on suffering. As honourable members know, during the past three years I have taken a particular interest in the question of the legal status of transsexuals, and during that time I have received many complaints about discrimination and victimisation, primarily relating to employment and accommodation. I have heard stories of employers who will not employ transsexuals when they find out about an employee's transsexualism; of employers who sack transsexuals when they learn of their condition; even of people who have been employed for a long period of time and may have been considered quite satisfactory workers have been sacked once they are known as transsexuals. There is nothing that these people can do about it.

There are stories of landlords who will not rent flats to transsexuals. The other day I heard about a transsexual woman who was recently driven out of her flat by neighbouring tenants who, over a period of time, had subjected her to verbal and physical abuse to the extent that she could take it no longer and had to leave. These people tipped up her rubbish bin, pushed and shoved her on a regular basis as she walked to and from her car, and threw things at her windows. I know of cases where workmates consider transsexuals fair game and subject them to verbal and physical harassment. So the stories go on: there are numerous examples along those lines.

Such stories have been brought to the attention of lawmakers and appropriate authorities in Government departments many times over the past few years. For example, in a letter to the Commissioner for Equal Opportunity in January 1977, the Metropolitan Community Church listed a number of areas of discrimination against transsexuals. Among matters that could be remedied if covered by anti discrimination legislation were examples such as employers who would not employ transsexuals because they knew that those people had no legal redress if refused employment; and employers who dismissed transsexuals knowing that they could do nothing about it. The letter pointed out that this difficulty in obtaining and keeping employment sometimes leads transsexuals to take illegal or distasteful work such as prostitution, strip tease or work in massage parlours.

The Transsexual Association of Australia, in a submission dated 5 November 1982, pointed out that discrimination against transsexuals occurs in the areas of employment, welfare, banking, loans, housing and emergency shelter accommodation. Apparently shelter operators turn away transsexuals, claiming that they do not have adequate facilities for them. God knows what sort of facilities these operators think transsexuals need; it is not as though they have two heads or particularly unusual physical needs. On the question of anti discrimination legislation itself, the Transsexual Association's submission states:

> At present the anti discrimination law or, for that matter, any laws concerned with discrimination, do not specifically protect the transsexual against discrimination on the grounds of their transsexuality. Transsexuals daily face humiliation due to the insensitive acts of persons involved in housing, employment, welfare, banking and loans and wherever they require accommodation at a refuge. This latter is becoming an alarming concern, because refuges in tightening up control of intakes are using the excuse of not having any of the proper facilities for transsexuals so that they can feel justified in refusing their admittance. Here again the transsexual is being denied a fundamental right, a place to sleep. The same goes for obtaining a flat or a job: transsexuals are being deprived of basic needs. Against social prejudices transsexuals should at least have the same redress as Aborigines, women and the physically handicapped.

Another point made by the Hon. Mr Griffin was as follows:

> Inclusion of sexuality will create major concerns within the educational community on the basis that the law would then regard this behaviour as normal and would require education authorities to treat it as such to the detriment of children and the concern of many parents.

That is an extraordinary statement. The inclusion of sexuality in this Bill does nothing more than recognise that homosexuals, bisexuals and transsexuals exist and may not be subjected to discrimination. It does not pass judgment on whether the behaviour is normal or abnormal. Nor does it advocate or promote those forms of behaviour any more than the sections relating to racial discrimination or discrimination against disabled people advocate or encourage people to be black or to be physically impaired. The Bill does not, as the Hon. Mr Griffin claims it does, require the Commissioner to positively promote homosexuality, bi-

sexuality or transsexuality as, to use his words, 'normal and acceptable choices'.

The Bill does require the Commissioner to foster and encourage informed and unprejudiced attitudes to these forms of sexuality with a view to eliminating discrimination on those grounds. It is the elimination of discrimination that must be promoted, not the particular types of sexuality. I want to conclude my comments on this point with reference to an article written by a transsexual woman in *Issue*. The author says:

> I feel that I act as a kind of mirror to people's sexuality. When faced with me, and the knowledge of my background, they are forced to question themselves, and men in particular feel highly threatened. With a popular notion of the sexes being almost subspecies apart, confronted with someone who has crossed the 'sex-barrier', people are suddenly made to realise that the genders are closer than they thought. It disturbs a lot of people and many just don't want to know me for that reason. A one time man who is a successful woman is simply too close for everyone's comfort. We all try to keep the sexes as far apart as possible . . .

I have quoted from that article because I suspect that much of the prejudice that exists in the community against transsexuals, homosexuals and bisexuals has its origins in the sentiments expressed in that article. I appeal to members to examine their consciences and measure the extent to which their attitudes to this matter are influenced by their own level of security or anxiety about gender identity and sexuality.

Another point to which I want to refer concerns the composition of the Anti Discrimination Tribunal. I support the provisions in the Bill and reject specifically the Hon. Mr Griffin's request for the removal of the requirement for members of the Tribunal to have expertise related to the subject of the proceedings or hearings. There can be no justification for this, and even the Hon. Mr Griffin admitted that expertise is helpful. If that is so, I do not understand why he is rejecting that expertise. As the Hon. Miss Levy said in her contribution, it is probably the first time that expertise has been classed as a disqualification for employment.

I can only assume that the Hon. Mr Griffin is reflecting the views of employer organisations, whose ideas he quoted extensively throughout his speech. They clearly have a vested interest in winning cases brought against them. Perhaps they believe that this is more likely if the Tribunal is composed of people who are ignorant of the areas they are judging. Also, I find it difficult to understand the Hon. Mr Griffin's attitudes to class actions. It seems that his main objection is that this will be the thin end of the wedge, that it will herald the introduction of class actions in other areas of the law. If that is all he is worried about, then he need have no fear because he should know that there is still too much disagreement among lawyers—and among Labor lawyers—on this question for it to be accepted or introduced soon by a Labor Government.

As for employer group comments on this matter, I can say only that this Bill does not try to imply that current legislation is totally ineffective against checking widespread discrimination. Neither does it imply that we are experiencing discrimination of such magnitude that class action is the only form available to deal with the complaints. This language is extreme and unnecessary. Class actions are being introduced because the current situation is inadequate where a group or class of employees is experiencing the same form of discrimination in a work place. Each must take his or her complaint to the Commissioner individually for a remedy if the employer does not act to remedy the problem for all employees so affected. So, very simply, this is a matter which is straight forward and which is designed to make the administration of the legislation smoother. It is not designed to be the thin end of the wedge for the introduction of class actions to other areas of the law.

Finally, in regard to the Hon. Mr Griffin's comments on sexual harassment within the legislation, I want to make the point that, although sexual harassment itself is made unlawful, which I think is desirable, it should be remembered that it is only unlawful in certain circumstances; that is, a person subjects another to sexual harassment, which is defined in the Bill, only if the other person feels offended, humiliated or intimidated, and it is reasonable in all the circumstances that the other person should feel that way. As far as the employer's liability for acts of harassment by employees and the need to provide a sexual harassment free environment are concerned, employers should be reminded that they are required to take reasonable action to see that this is so. So, if an employer had drawn attention to this matter and had advised employees of his or her expectations in the work place, that would be considered by the Tribunal to be reasonable. I do not think that the problems signalled in this regard by the Hon. Mr Griffin will eventuate.

In conclusion, although there are many aspects of the Bill that I have not addressed, I would not like that to be interpreted as a lack of interest or a lack of support. On the contrary, I wholeheartedly support the entire Bill and hope to have a chance to speak about other matters in the Bill during the Committee stage. As I said at the outset, we have been waiting for many of the amendments embodied in the Bill for a number of years. It is heartening to know that, particularly with regard to the sex discrimination provisions of the Bill, there will be many people in the community who will now have some recourse at law against certain forms of discrimination which, for the most part, they now suffer in silence. I hope the Bill has a speedy passage through Parliament. I support the second reading.

The Hon. R.C. DeGARIS: I congratulate the Hon. Mr Griffin on his second reading contribution to the Bill, and I support most of his suggestions in relation to changes to the Bill. Occasionally, I do not agree with some of the views put forward by the Hon. Mr Griffin, but I admire the amount of work he does on legislation and the large number of amendments that he puts forward in relation to Bills which come before the Council.

Even if one does not agree with the amendments, it is necessary that members of the Council should dissect each piece of legislation carefully and put forward amendments that need discussion. I will not cover the Bill meticulously, as the Hon. Mr Griffin has done, but I will speak on certain parts of the Bill that I feel are of concern. First, I refer to the powers of the Tribunal, which must deal with all the defined areas of discrimination. Representation on the Tribunal thus becomes extremely important. My leaning would be to have people appointed to specialist tribunals to cover various aspects of discrimination. However, the point that concerns me most is the extensive powers of the Tribunal and the limited access of appeal in relation to the Tribunal's findings.

As pointed out by the Hon. Mr Griffin, there is no limit to the powers of the Tribunal to award damages—a power currently only possessed in South Australia by the Supreme Court. With such wide powers, an appeal to the Supreme Court should be allowable on all aspects of a case. The appointment of members of the Tribunal for terms of office up to three years also seems to me to present some difficulty. It would seem reasonable that, if the Government wishes to stagger appointments, the staggering should apply to the first term, and appointments following the initial appointments should be for three years. This would ensure that Tribunal appointments are staggered but that the second appointments are for a full period of three years. The pre-

siding officer should also be accountable to the senior judge of the Local and District Criminal Court.

The next point, which was also covered extremely well by the Hon. Mr Griffin, deals with the fact that the Tribunal can act as investigator, inquirer, almost prosecutor and then as judge as well. I will listen to the Attorney's reply and his comments on this question. The Bill also introduces class actions. I have not supported class actions in the past and probably will not support them again. I believe that we will soon probably see the introduction of class actions in this State. As legislation such as this Bill comes before the Council, I wonder how long it will be before employers will suddenly throw in the sponge in despair. Almost every week we hear of new legislation which places excessive burdens on those people on whom we rely to contribute to the creation of employment in this State. I think we will see class actions not only in legislation of this type but also in other legislation.

The time for actions to be taken has been extended to 12 months. This also seems to me to be rather unfair. Reducing this period considerably seems to be a reasonable suggestion. I oppose the inclusion of the new area of discrimination based on sexuality. The problem that I see in including sexuality is that people who I believe have a right to make a choice are denied that right or are threatened with proceedings before the Tribunal, with considerable probable damages. The classic argument against the inclusion of sexuality in a discrimination Bill is the question of education. This area has been covered fairly well by the Hon. Mr Griffin.

Apart from the question of education, where parents have a right to decide the education processes provided for their children, other problems relate to the area of sexuality. An employer whose business suffers because of the sexual preference of an employee of which he had no knowledge when originally employing that person seems to be placed in an impossible position with the inclusion of sexuality in the Bill. If sexuality remains in the Bill, considerable changes will be needed. My preference at this stage is to see that this provision is removed. If the provision remains in the Bill but amendments are accepted so that the discrimination based on sexuality does not apply in certain circumstances, the provision becomes rather foolish.

The same thing applies to the question of marital relationship, where the Hon. Mr Griffin suggested that the Bill should not apply to the Family Relationships Act. Once again, this places some of the provisions in question. Although I voted for the inclusion of an exemption from the provisions of this Bill in the Family Relationships Act Amendment Bill, I do not agree that we should apply that exemption to this Bill. If a provision of the Bill does not stand on its own and apply to all conditions, it should be removed entirely from the Bill in the first place. I understand the Hon. Mr Griffin's view, but I have expressed a different view and will hold to it. The Family Relationships Act Amendment Bill has been so amended, and I hope that changes to that Bill will occur following the report of the Select Committee so appointed.

In relation to sexual harassment, the point made by the Hon. Mr Griffin should be considered by the Council extremely carefully. Harassment is made unlawful and is actionable while there may not be any act of discrimination. An employer is also liable for the acts of harassment. The Hon. Mr Griffin suggests that, because the Federal and State provisions will be administered by State commissions, it would be appropriate to have identical provisions in the Federal legislation. This appears to me to be a more reasonable approach.

The question of sexual harassment is not an easy issue to handle, particularly when an employer has a responsibility for an employee. The other side of the question is that speeches made so far all referred to sexual harassment of women by men. There is another side to this question where some women use their sexuality to ensure promotion and position. The legislation we pass relating to sexual harassment needs close thought and attention to ensure that its provisions can be applied with fairness to all concerned. I support the second reading, but will support changes to the legislation in Committee.

The Hon. R.J. RITSON: I support the second reading of this Bill and in doing so I inform the Council that my attitude is substantially that of the shadow Attorney-General and that I will support a number of his amendments. I address my remarks fairly briefly, but forcefully, to the question of the Tribunal, looking at it in the context of democratic government in Australia today and of the violence that this sort of QUANGO—the worst sort of QUANGO—does to democracy and justice.

The Hon. C.J. Sumner: It already exists.

The Hon. R.J. RITSON: A good deal of administrative law already exists and there is a good deal wrong with the operation of some of it. In fact, the Chief Justice made statements in the public press in recent weeks or months that the trend to build up this layer of administrative law had got to the point where a good deal more of it should be in the courts and not in the hands of QUANGOS. In fact, we are building up a layer of administrative law that in many cases amounts to a fourth branch of government, which is appointed and not elected, which is unquestioned in Parliament and which is seldom troubled by the courts. I am not the first person to raise that question about this Tribunal.

As has been said, the Tribunal will operate more or less as it sees fit, not constrained by the laws of evidence. Legal representation may be allowed at the discretion of the President, but it is not there as a right. The Tribunal itself is capable of and appears designed for political stacking. The experience, knowledge and sensitivity qualifications indicate that an ALP Government would be delighted to put people there like Gary Foley to hear racial discrimination complaints, and a few very angry Marxist feminists instead of the more worthwhile modern liberal feminists would gravitate to that Tribunal. I appreciate that a lot of administrative law is necessary in the name of expediency, but it need not be cut off from the courts as it is in this case.

This Statute is not a penal Statute; it aims at conciliation; its remedies are civil. The penalties are for breaches of orders of the Tribunal, perhaps in the same way as a court may impose a penalty for breach of a civil remedy ordered by that court. This brings me to another curious aspect of the Tribunal: whose side is the Government on? If one has a civil case before an ordinary court, the plaintiff is responsible for mounting his case and the defendant is responsible for mounting his defence. In this case, the Government pays the cost of presenting the plaintiff's case in what is essentially a civil matter.

Another matter that has worried me about this is the principle of the separation of powers—the very principle that caused the old Industrial Court to be divided into the court and the tribunal so that the authority that made the orders did not then judge its own case. The Hon. Mr Sumner as a lawyer will be more aware of that litigation than I am, but I am sure that he knows what I am talking about. It is not so here, where the Tribunal will present the plaintiff's case and then judge the case of the person for whom the Government is paying the costs.

If there was then the right of a complete rehearing I would not be so concerned. There are other examples where there is the right to have the evidence that has been presented

to various QUANGOS re-examined by the court, but that is denied in the case of this Bill. When we look at all these aspects together and at the great power of the Tribunal, it is not a tinny little tribunal to whiz a few minor complaints through, because there is no limit to the damages. It has very wide powers of entry and seizure of books. It is a kangaroo court and a Star Chamber, and awards unlimited damages.

What happens if someone is awarded $1 million on the basis of aggrieved emotional feelings because one of the so-called sensitive people, with no special educational qualifications, who is sitting on this Tribunal suddenly decides that that would hurt them to the tune of $1 million? The Tribunal member would identify and, instead of making or attempting an objective measurement as to the effect on the victim of the form of discrimination, would insightlessly and unconsciously identify with their own problems and hang-ups. That is extremely likely. I do not think that the selection of these people will be made on the grounds of any training in being judicially objective; those appointments will be made on the grounds of who is whose friend in the political circles of the ALP.

So we have a very dangerous body here. If it were possible for people who are aggrieved by the decision of this QUANGO of the worst kind to take their witnesses into court and to have the evidence reheard and cross-examined by people who are trained in seeking the truth in the adversary system, the conciliation aspect and the small cases would be dealt with expeditiously, but major wrong decisions could be fully re-examined in the courts and some measure of justice done.

If the Attorney-General would accept the Hon. Mr Griffin's amendments on this point, I could accept the limitations of the QUANGO, knowing that anybody who felt that they had a grievous injustice done to them by the QUANGO could get their evidence and witnesses before a court so that that respected institution (the Australian court system—not a heap of political appointees) could decide which set of liars to believe. I expect the Attorney-General to support the Hon. Mr Griffin's amendment on this point because over the years in which I have been in Parliament he has shown himself to hold great respect for the judicial system and for the democratic process. I am astounded that he has allowed the Bill to come into this Council, creating an unelected, uncriticisable, all-powerful body that would be rarely troubled by the courts in terms of its decisions about what evidence to believe and not to believe.

I will not prolong this very exhaustive debate. A great deal has been said. I support the second reading and I will support the amendments of the shadow Attorney-General. I expect the Hon. Mr Sumner to support democracy and justice in the question of the appeal of this QUANGO to the courts.

The Hon. K.L. MILNE: Let me say at the outset that I am unable to understand why this Government, or any other Government, should give so much time to this social legislation, most of which is quite unproductive at this time. There are much more important problems to be addressed. Here we all are, worrying ourselves sick over assumed discrimination based on sex, marital status, pregnancy, physical impairment, race, abnormal sexuality and heaven knows what, when tens of thousands of our people are unemployed, living below the poverty line, or both.

There is something rather unwholesome about this Bill, as there is about the Family Relationships Act Amendment Bill. I feel that they both attack the whole basis of our society and I wonder who is promoting them, and why. Much of this Bill is out of character with the Premier, the Deputy Premier, and the Attorney-General; in fact, much of it is out of character with the entire Cabinet. Perhaps they are being influenced by other interested parties. This whole Bill appears to be an attempt to enforce in legislation an immoral position, particularly in the matter of sexual morality, encouraging the community to accept views and behaviour which are unacceptable to the majority, or at least to a very substantial number. It is certainly unacceptable to me in its present form.

This Bill, let me warn members now and the Government in particular, will increase the difficulties already experienced by the private sector in carrying out the normal and essential routines of commerce and industry. God knows, it is difficult enough already, and the passage of this Bill will cause untold difficulty and trouble, particularly for small businesses, which employ 70 per cent of the workforce. It will unquestionably cause sackings, court cases, fines, and bitterness, and it will do exactly what it is intended to prevent. The Hon. Mr DeGaris says it is only a matter of time before employers and entrepreneurs give up, and that is true. For many, it is getting to that stage. People are beginning to consider what we in the accountancy world call the cost of alternatives foregone.

The Hon. Diana Laidlaw: New technologies instead of workers.

The Hon. K.L. MILNE: Not so much that, but ordinary businesses may be labour intensive. However, there are so many rules, problems, frustrations, guidelines, controls and dangers that people say, 'To hell with it. Why should I bother?' In fact, there is a very good book about this called *Atlas Shrugged,* the story of when the entrepreneurs gave up. I believe that the author is a socialist.

The Hon. R.I. Lucas: Malcolm Fraser read that book.

The PRESIDENT: Order!

The Hon. K.L. MILNE: The Hon. Mr Griffin has given the Liberal Party view in great detail and I substantially agree with it. Like the Hon. Trevor Griffin, I would have thought that with the Sex Discrimination Act and the Handicapped Persons Equal Opportunity Act, coupled with Federal legislation on discrimination, we had enough of such legislation already. I believe that putting all this into one Bill is not only distorting the whole subject but also grossly exaggerating it. I have worked in an office and I can say that sexual harassment was not all on one side—and I was not all that attractive.

I thoroughly agree with the suggested change in the short and long title. 'Equal opportunity' is part of the philosophy of all of us: discrimination and, by corollary, anti-discrimination are not. There are a number of ways of dealing with discriminatory practices in our society, of which this legislation is one example. One may remove laws which continue to foster discrimination; leave the situation as it is, but develop educational programmes to make the community more aware of the discrimination and to change community attitudes towards such practices; or legislate positively to outlaw discrimination and to force the acceptance of such an outlook on the community in view of the penalties and dangers attached. This Bill is an example of the last approach.

The framing of this last form of legislation focuses on the rights and views of groups of individuals who claim that they are discriminated against and enshrines these values in the laws of our State. It does not look at the rights or the response of the general community or of any other group in society. In particular, this legislation in its present form does not respect the rights of people who have strong moral or religious objections to the Bill, nor does it give them any right to act on their personal moral convictions. Thus, if the legislation is framed in this way, this latter group will be discriminated against, and their religious freedom will be compromised. Not only will they be forced to act against their beliefs but also they will see the Commis-

sioner charged with 'fostering positive and unprejudiced community attitudes' towards such values, that is, promulgating views that are abhorrent to so many. The Hon. Ms Wiese says that the Commissioner will not be promoting these views, but he has been asked to do that, and that is extremely dangerous.

The Hon. C.J. Sumner: It is not necessarily promoting the views. You have got it all wrong.

The Hon. K.L. MILNE: It depends on how the Commissioner interprets it. One must take into account activities or values that are grossly offensive to so many people and, irrespective of the views of the legislators, the views of such people must be considered when framing legislation. I am not sure that they have been considered to the proper extent. In fact, on the question of sexuality, we must be reminded that that matter was not brought into the suggested Bill by the working party: it has been brought in since then.

One must therefore be extremely careful in choosing the areas covered by such legislation before it is introduced. This is reinforced when one considers the almost unlimited powers of the tribunal to award damages, the waiving of the rules of evidence in making determinations, and the composition of the panels. With all this power, it is ridiculous.

The Hon. R.J. Ritson: We can't even take our evidence into court and have it examined properly.

The Hon. K.L. MILNE: I suppose that that means that we cannot take evidence into court. If areas covered by the legislation offend the sensitivity of a large portion of the community, these people will attempt to subvert the law, and I am sure that the law itself will be brought into contempt. In examining the areas covered by this proposed legislation, we find they may readily be divided into two groups. First, there are those areas which are physical or legal states of a person and which have characteristics over which they have little or no control. These do not include overt inherent values as part of those states in our society, and do not lead to large numbers of people holding strong moral views about such states. These include marital status, pregnancy, physical impairment and race.

Secondly, there are those that contain within them an inherent set of values, attitudes and preferences and which become an orientation or preference of a person rather than a state of being—and this group includes sexuality. An indication, I think, that this Bill is badly drawn is that an enormous amount of time has been spent by some speakers on the problem of sexuality. I am sure that it would have been better had reference to sexuality been left out of the Bill. In my view it should not be included in the legislation at this time. The proposed Bill, by including this as a ground on which it is illegal to discriminate, suggests that the sexual orientations included in the definitions are equally acceptable and that it will be illegal to discriminate against a person who is not of normal heterosexuality. I believe that the community as a whole still believes that homosexuality, bisexuality and transsexuality are unacceptable, while at the same time not condemning people who have such orientation.

I agree with the speakers who said that this state of a person is not one of choice but an orientation. Debate is continuing on these issues in the churches and elsewhere; so I believe that we should not endorse a proposed law which gives these orientations equal status with normal heterosexuality—certainly not now, nor in these terms. The Hon. Anne Levy spoke of this for quite a long time, during which she referred to the teachers' responsibilities. I will quote from the *South Australian Teachers Journal* of February 1984, a remarkably frank article, which I draw to the attention of members of this Council, and which appeared under the heading 'Gay rights'. It states:

> The protection of the rights of male homosexual and lesbian teachers was a major issue for discussion at the Australian Teachers' Federation conference. It ultimately received almost as much publicity as the controversial issue of State aid. Recommendations on the issue came from the ATF's first national policy workshop for lesbian and homosexual male teachers, held last year. Cases of discrimination and victimisation were cited in the debate. It was stated that some lesbian and male homosexual teachers, wishing to attend last year's workshop, were actually prevented from doing so. They were victimised and discriminated against.
>
> The new policy put forward recommends more protection and encourages lesbian and homosexual male teachers to become public and take an active role as unionists. The policy also recommends that seminars, workshops, discussion groups and committees be set up to support the personal, industrial and workplace rights of lesbian and male homosexual teachers. It also encourages their close working relationship with the union. It appears that in our society and in our school curriculum heterosexuality is presumed. Consequently, discrimination is learned from early childhood.

It then refers to matters which I would prefer not to quote because to do so I think would be unfair. It continues:

> The conference called for comprehensive sex education in primary and secondary schools. It agreed that any teacher-directed presentation or discussion of homosexuality in a class situation should aim to be positive in approach within an understanding of the implications of sexuality.

It then goes on about a letter to the paper. That disturbs me very much, and I think it would disturb other members of this Council. Accordingly, I foreshadow a number of amendments that I propose putting forward in relation to this Bill. I will seek to delete any mention of sexuality and sex from the Bill because I think it is in the wrong place.

The Hon. Diana Laidlaw: Are you moving your own amendments on these things, did you say?

The Hon. K.L. MILNE: I have suggested some amendments that are being co-ordinated by Parliamentary Counsel with suggestions made by the Hon. Mr Griffin and others. We can discuss who will introduce them later. The functions of the Commissioner and the powers of the Commission and the Tribunal were mentioned. I think that that is ridiculous in a sensitive case like this on a subject about which people are sensitive. One only has to have a difference of sexual opinion or sexual behaviour between an accused and the Tribunal and one cannot imagine what trouble would ensue.

The Hon. Frank Blevins: What about the militant feminists who are supposed to be taking over the Democrats?

The Hon. K.L. MILNE: They terrify me.

The Hon. C.J. Sumner: You will be resigning soon, Lance.

The PRESIDENT: Order!

The Hon. C.J. Sumner: They tell me Janine Haynes is not too happy with you.

The Hon. K.L. MILNE: That would not be new, and it would not be one sided. I will not worry the Council with my other amendments, but there are a number which I hope to move and will seek support on later.

The Hon. C.J. Sumner: Go through them.

The PRESIDENT: Order!

The Hon. K.L. MILNE: Clause 17 sets up the Tribunal and Part 2 sets out the qualifications for members of the Tribunal. There is no definition of what is relevant experience, knowledge or sensitivity. The requirement that members be enthusiastic and committed is objectionable to me.

The Hon. R.J. Ritson: The Minister decides that.

The Hon. K.L. MILNE: Yes. This requirement suggests that the tribunal may be biased. It also leaves open the possibility that members will be appointed to foster particular views—that is a danger. Clause 20 raises a possibility that members will be selected for particular cases with particular biases. As the Hon. Mr DeGaris has said, and I have said here, random selection from the Tribunal panel would be a better process of selection and needs no reference in the Bill at all. He went one step further to have selection of

people for a particular purpose. I think that that is dangerous. I think that people on the Tribunal should be on a roster system if they are going to change the panel from time to time. In relation to clause 21, the fact that the Tribunal is not bound by the rules of evidence is of grave concern in ensuring that justice is done to all parties. Inclusion of this condition leaves a wide and undefined area of what may be acceptable to the Tribunal and the possibility of hearsay, malice, rumour and misrepresentation. If people do not abide by the rules of evidence it will be a free for all, surely.

The Hon. J.C. Burdett: Most tribunals of that kind do not.

The Hon. K.L. MILNE: I think it is dangerous in this case. Clause 27 deals with the view of sexuality which tries to make abnormality normal. I believe that this is unwise, unfair on a basically heterosexual community, and inappropriate for inclusion in this Bill. I also believe that it will embarrass homosexuals, except for the very militant. I turn to clause 32. What on earth is a 'genuine occupational requirement'? I could tell some stories about this matter: for instance, about a project to repair the wharf in Echuca under the CEP scheme that did not proceed because they could not get two female pile drivers. Another project, to rebuild the stables at the Sturt Memorial House, could not proceed because they could not find two female bricklayers. Where are we going? Who is bringing dignity to whom?

The Hon. Diana Laidlaw: Those projects did not go ahead at all?

The Hon. K.L. MILNE: So I am told. Clause 47 is selective. In my view it would be better to have a different clause granting exemption. The provisions of the clause are very narrowly defined. What bodies are to come under those known as 'established to propagate religion'? How does one determine what conforms with the doctrine of our religion? It would also seem that in this exemption bodies set up other than for the propagation of religion are not exempt. There is no provision in the proposed Bill for any individual exemption on the grounds of religious belief.

The Hon. C.J. Sumner: Do you want the exemption on religious grounds removed?

The Hon. K.L. MILNE: I want the whole Bill removed.

The Hon. Peter Dunn: You want it extended, don't you?

The Hon. K.L. MILNE: That is right. It is to be noted that this exemption is only for Part III (on the grounds of sex, sexuality, marital status and pregnancy), and consideration should be given whether exemption clauses of this type should be inserted in Part IV and Part V. This clause should be widened to cover both the church and other special cases. It should also cover individuals who carry out discrimination on the grounds of strongly held religious beliefs. Incidentally, I ask members to look carefully at Part VI of the Bill. Nearly everything we do is in danger of being misinterpreted and becoming unlawful. We will have to be very careful cracking jokes in the office in future. To me this Bill makes fascist Germany look like a democracy.

Clause 82 concerning sexual harassment is not really discrimination in the sense of this Bill. In this Bill the Government is trying to bring in something which is a cause of complaint and which is indeed unfair and unwholesome, but it is not a matter of discrimination. It is a different kind of offence altogether and should not be in the Bill. There is a great deal of sexual harassment of men by women, but it is more subtly done. Frequently I notice that the men in the office finish up marrying the women.

Clause 85 deals with vicarious liability. The definition of 'vicarious' in the *Concise Oxford Dictionary* is:

> Deputed, delegated . . . done, for another, as [vicarious] *work, suffering, sacrifice* . . .

It seems to me that the object of this clause is to make people suffer for others' mistakes. It is typical of the whole Bill, which assumes that people are nasty and will improve if threatened with punishment. I seek to delete that entire clause. It really goes too far and will cause enormous trouble for quite innocent people. Other members have referred to exactly the same matter.

I will oppose the Bill at the end of the second reading, hoping that the Government will consider legislation which is less stringent and less comprehensive. The Bill is anti-social, and is the direct opposite of what all fair-minded members of this Council would want. If the Bill proceeds I will probably oppose it at the third reading.

The Hon. R.I. LUCAS secured the adjournment of the debate.

COUNTRY FIRES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 18 October. Page 1240.)

The Hon. PETER DUNN: The Opposition supports this Bill mainly because of overwhelming evidence brought forward by a number of committees that have looked at the operation of the Country Fire Services, in particular, the March 1984 Auditor-General's Report; the Public Service Board report; the corporate review by an external consultant; the Lewis-Scriven Report, which dealt with the administration; and the Public Accounts Committee report, which was probably the most comprehensive, critical and damaging report of the operation of the CFS. To demonstrate my point, conclusion 4 of the PAC report states:

> The Country Fire Services Board has failed to sufficiently determine the role that it should play with respect to management and administration of the Country Fire Services, particularly the headquarters component. The PAC considers that attention to such a wide range of issues has detracted from the more important role of overall financial management and control.

That is probably the crux of the matter. However, conclusion 5 states:

> The PAC finds that the Country Fire Services Board has exercised ineffectual financial control over its funds.

Once again, this demonstrates that the CFS did not really control its funds to the degree that the PAC thought it should. The conclusion continues:

> It has failed to give sufficient priority to the development of systems or methodologies which would allow it to better monitor and control expenditure. The Board has also failed to recognise or accept the extent of its responsibility for efficient management of the whole Country Fire Service budget.

It is obvious that there was deep trouble and no proper expertise in the Board and senior administration of the CFS by today's acceptable standards. This Bill, introduced in the Lower House last week, eliminates the Board of 10 members and replaces it with an interim Board of five members. In doing so the Government first flagged its actions in the papers without notifying the Board members. I believe that that was very crude, rude and rather unattractive to those people who have served diligently and to the best of their ability during the previous years.

I castigate the Government for its handling of the matter. I believe that it would have been right and proper for the Government to at least have called the Board members together, after having made its decision, and notified them of the action it intended to take. The Government did not do that—it merely explained the decision through the medium of the newspaper that they were sacked. Indeed, I understand that those Board members still have not been officially notified that they have lost their positions.

In regard to the new Board that the Minister has introduced in his Bill, in his Ministerial statement made before intro-

ducing the Bill he said that the Board would represent all sections dealing with the CFS. He said it would deal with the CFS personnel, the brigades, the council, the Treasury (through the representation of the Under Treasurer), the Director and the Minister's appointee. The Bill has a heavy bias towards administration of funds dealt with by the CFS. Perhaps before dealing with the ramifications of what the new Board will do, I refer to what the old Board's tasks were under the Act. I refer to the points raised by the member for Alexandra (Hon. Ted Chapman) in another place, who said:

The basic responsibilities are that the Board or the structure servicing the community is required to:

1. Prevent and suppress bushfires and other fires—

that is obvious—

2. Co-ordinate regional and district firefighting organisations in emergencies.

3. Conduct research, fire protection projects and training courses.

4. Review and report to the Minister on the most modern and effective methods of firefighting—

I will expand on that a little later—

5. Make payments of grants to local authorities for purchase of equipment and maintenance of firefighting facilities—

it is that paragraph that has caused the most problems—

6. Test and appraise firefighting equipment and other equipment for firefighting and publish the results for the benefit of the Country Fire Services organisations.

Those are the tasks of the Board and to carry out those tasks the CFS has attached to it a field staff and a headquarters staff of 38 paid personnel, who administer seven CFS regions outside Adelaide and outside the 19 Metropolitan Fire Service municipalities. Involved in those seven CFS regions are 468 brigades and about 1 500 registered volunteers who have the task of containing wild fire in areas outside municipalities and Adelaide. Certainly, the job is not one that can be taken lightly, especially in the case of registered volunteers. Because the CFS is made up of paid staff and many volunteers, it is a complex organisation to run. With such a mix of people the problem is complex. It is difficult to administer groups of volunteers who, by their very nature, if they do not like the tasks assigned, can withdraw.

However, let me say that that has not been my observation of volunteers over the almost 25 years with which I have been associated with the CFS. The further one gets away from town the more the CFS has relied on volunteers and on very little help or financial backing from the central organisation. Change has occurred only in the past few years and this financial assistance has been much appreciated especially by people who have worked over long periods without much recognition. The CFS has developed over a long period and much of that development has resulted from the good offices of the former Director, Fred Kerr, who developed the CFS from a small and minor outfit attached to the Police Department at Thebarton to what is now a very pleasant and excellent headquarters situated on Richmond Road. The number of paid staff and the number of volunteers have grown.

I distinctly recall in my own area the public meeting called to establish a firefighting service attended by about 20 people. We raised enough funds to buy our first vehicle which was a very old army truck and which we converted into service with a pump and a tank to become a respectable firefighting unit. Certainly, by today's standards it was spartan. Although at that stage there were few firefighting units on individual farmers' properties, this unit had the task of controlling fires in the small township to which it was attached as well as travelling a radius of about 15 miles to 20 miles and covering that whole area. The volunteers were called out often in those early days to control fires.

This Council can see that there is much complexity involved in controlling volunteers who run their own organisation in their own areas when little paid staff is involved to administer their wants. As Eyre Peninsula is a region in its own right it has one paid staff member who has a considerable job.

Great emphasis has been placed on the CFS in past years because of several significant factors. The most obvious ones are the Ash Wednesday fires of recent years. Both of those fires were dangerous and wild. Until that period we had a relatively free period in regard to bad fires, but if one checks South Australian history one will note that we have had some significant fires. We are in a fire belt: we are in a Mediterranean climate with wet winters and very dry summers. If we have a wet winter followed by a dry summer we have a potential fire hazard and that should be at the forefront of every person's thinking in South Australia. Many people forget that fact and when I drive through the Adelaide Hills I am always reminded that some people imagine they are living in central Europe or areas more like New Zealand, which has a high rainfall and which is green for 10 months or 11 months of the year—South Australia is nothing like that.

Because of that, we have a great problem in combating fires generally during the late summer period. If one looks at the records, you will see that very few disastrous fires occur early in the season. One reason for that is that people are aware of fires, they are very careful and very cautious. Late in the season people forget that fact and become more careless; fires get away and in some cases, as we saw recently, are deliberately lit. Of course, the biggest risk in any fire is to the humans involved. Because of that, the areas most susceptible to fires and their ravages are closely populated areas, particularly the Adelaide Hills and the South-East, which is more closely populated than the northern and western parts of the State. The South-East is also more susceptible because of the tremendous amount of growth that that area potentially can provide for the running of a fire.

It is easy to see that the fires that have caused problems in this area, particularly in 1983 with the loss of a number of lives here and in Victoria, were caused by some very unstable people, based on the findings and results of inquiries. I refer to the people who light fires and who are commonly termed pyromaniacs. I suppose there is a fine line between a person who seeks enjoyment in watching a fire and someone who seeks to put out a fire. I think history shows that we have had those sorts of people attached to firefighting services. Because of that fact, it is rather difficult. As the Hon. Mr Cameron said, it is a very sad fact that this happens. It is quite well documented that there have been people who light fires because of the enjoyment they get in putting them out. That is indeed very sad because very often fires get away. The Ash Wednesday fire is an example, because parts of it were deliberately lit. Therefore, the responsibility falls on landholders to reduce the fire hazard on their properties.

I think that will be part of the responsibility of the new Board of the Country Fire Services. Part of the Board's responsibility will be to educate the public in relation to the fact that we must be more fire conscious in this State. I am sure that we have lapsed into a false sense of security. As I have said, travelling through the Adelaide Hills I am astounded at some of the areas where housing has been permitted. In this country we know that very hot winds come from the hinterlands to the north and, therefore, areas to the south and the east are placed at great risk. Invariably, on these days a change in the weather is followed by a severe westerly and, if there is a large fire front coming from the north, it swings around to the west and places at great risk areas to the east. The Adelaide Hills are very

susceptible to severe fires. I think it is time that the public looked carefully at where building occurs in the Adelaide Hills. If building is to continue there, perhaps we will have to plan more carefully. In fact, perhaps the Country Fire Services should have more input in relation to housing in the Adelaide Hills.

[*Sitting suspended from 6.1 to 7.45 p.m.*]

The Hon. PETER DUNN: Before the evening meal I indicated that the board had a fairly onerous task in overseeing the control of fires in the whole of the State other than the metropolitan area and those metropolises that have the Metropolitan Fire Brigade looking after them, and that in the Adelaide Hills there were problems, mainly because of the number of people who were involved. Wherever we get people in such density, combined with considerable amounts of vegetation, there seems to be a problem with fires. It is not confined to South Australia; it is a problem that is seen in other parts of the world that have our type of climate, particularly California.

It has been the board's task to educate these people or to put forward ideas of education to promote the idea of fuel reduction so that if and when a fire gets into the area it can be controlled more easily. Only about a month ago, because of a Select Committee's looking into reducing hazards in national parks, it was our pleasure to go to the Mount Lofty summit and look over the area that was so severely burnt out in the Ash Wednesday fire. It was obvious that an area was not burnt. When questioned, National Parks personnel indicated that that area formerly had had fire purposely burned through it, so reducing the flammable material that was the floor store of that area. So it is obvious that if the floor store is reduced the upper timber does not burn as well.

The Country Fire Service board has been saying this for some considerable time, but we have not heeded its warnings. Even so, the necessity to do so in the future has been highly emphasised in that case that I related to honourable members and in other areas in the Adelaide Hills. So the board has a fairly onerous and objective task to carry out this education process even further than it is carried out today.

The Minister and the PAC were very critical of the board's administration and decisions. I suppose that there is some merit in saying that because whenever there have been fires there has always been a problem with who is in control. In every case where we have had a major fire in the Adelaide Hills and near environs, and when it borders the Metropolitan Fire Brigade area, we seem to have run into problems as to who is in control of that fire.

I do not have the answer to that and I do not think that anybody would because it is such a complex area, where one has the heads of departments, the police, the Metropolitan Fire Brigade and the Country Fire Service all involved and cutting across each other, not necessarily deliberately but by the mere fact that they are there. That creates a problem.

Some of that criticism has washed off on to the board, probably unnecessarily. I do not think that in the future we will cure that problem. We can have guidelines from here that appear clear to us, but I assure honourable members that when one gets into the field and has to fight the fire things are much more complex. I was a supervisor in my own district council for a number of years. Everyone else knows how to put out the fire except the supervisor. They are all very willing to give him advice as to how to put it out, but the person in charge always receives the flak when something goes awry.

The Hon. Frank Blevins: Probably the Minister.

The Hon. PETER DUNN: I know how you feel, Mr Minister. The criticism is aimed not so much at that, but at the monetary management, as I have said before, and at the management of the subsidy that the board had when dealing with the purchase of equipment for country fire brigades.

Going into the history, briefly, as to how the brigades were built up, I recall attending a meeting in the late 1950s in my area with about 20 people. It was agreed that we needed fire protection, that we would become affiliated with the Country Fire Brigade (I think it was in those days), put in a certain amount of money along with the district council and receive a subsidy from the Country Fire Brigade of those days; then we started our first unit. It was not very flash; it was an old army truck. We purchased from somewhere or made a tank and put a very ordinary pump on it, and that became our unit. With great enthusiasm and pride we painted it and then asked the then Director of the Country Fire Brigade, Mr Fred Kerr, to come and commission that unit. He did so, and from those humble beginnings we grew very rapidly.

At that stage there were very few, if any, fire units on farms. Today, without doubt, almost every farm has its own unit, usually not very big but suitable for putting out spot fires and speedily attacking small outbreaks. That has caused a total change in the outlook on and the necessity for the Country Fire Service and its role today. We have gone from that unit, which attended every fire within about a 20 mile radius, to the present stage where we have a much more sophisticated unit with much more sophisticated pumping equipment. By that I mean high pressure units that have the ability to knock out a flame and a quite severe fire travelling at high speed, from a long distance.

We can now use the smaller farm units to mop up after these larger units; so a great number of these units is not required, but we need some of these more sophisticated and expensive units that have been brought into use. Instead of spending some $2 000, which was the price of the original unit, the Cleve District Council only two years ago purchased a unit for $88 000. Because of that sort of escalation in price, the Country Fire Service got into some financial trouble.

Because of that, the 50 per cent subsidy was introduced. The subsidy has been 50 per cent for as long as I can recall, but it has blown out. In the mid 1960s the Board decided, with the agreement of the Director and the Deputy Directors, that the firefighting equipment should be upgraded. Councils, in their wisdom, agreed that that was necessary and so provided large sums. As well, country fire services raised money voluntarily by cropping and other methods, and so, with the 50 per cent subsidy, they had considerable sums to purchase units. That was where the problem started.

I believe that the 50 per cent subsidy should be maintained: if it is not, the more affluent district councils will be able to raise money to purchase sophisticated equipment, whereas the less affluent councils will have poorer equipment, even though they may have a greater need because of the fire risk in their area. There should be clear guidelines on how the subsidy is distributed, and it must be done on a needs basis.

Identification of high risk areas was referred to in the other place. The CFS has considered this matter over at least the past three years to determine the fire risk in certain areas and thus the type of vehicle required, but it will be necessary to carry that investigation even further in the future, as the PAC highlighted. I was a member of the committee that considered the standardisation of CFS vehicles. The PAC made great play of standardisation, bulk purchase, and the fact that vehicles can be manufactured in this State. I agree with that. The committee on standar-

disation made recommendations in relation to heavy pumpers, medium pumpers, or light pumpers, that is, considering the size of the vehicle, its ability to put out a fire and the load of water it can carry. Those recommendations are being observed when the brigades determine their requirements.

A year or two ago vehicles of a very high standard were purchased from overseas and, even though they were a high price, I back up the purchase of those vehicles because it set a standard for our manufacturers. At that stage we did not have that sort of sophistication in this State, including the high pressure pumps used in America and suitable material for fighting certain fires, perhaps involving the hazardous chemicals that are carried in large tankers across the nation. The townships on some of our main highways have to deal with those problems. In the past couple of years there have been several bad spillages, and sophisticated vehicles can handle those emergencies. They can make foam and wash away the chemicals.

Constant upgrading is required: the vehicles must be kept up to date. We will also have to consider aircraft for fighting fires, particularly in the Hills or other inaccessible areas, although perhaps not in the next five or even 10 years. The CSIRO is investigating the types of aircraft that could be used. I expect that aircraft will be used for firefighting in the future, especially if they are cheaper. Multi-role aircraft could be used for coastal surveillance as well as firefighting. Enormous sums will be required to maintain the CFS if it is to combat the fires that occur at irregular intervals, although I must say that the Ash Wednesday fire could not be controlled by any type of vehicle or with any amount of money: it required only that the authorities keep people away from the front. The CFS had to stop people from doing foolish things. They could only wait and pray for a change in the weather. We have seen the devastation and we know that no amount of money could control that fire. However, sophisticated equipment and a well trained force could control many fires.

I flag the fact that South Australia has a very good voluntary organisation and we must promote it, otherwise we will end up with the Victorian situation. Victoria spends 10 times more money on the Country Fire Authority than we spend on the CFS, primarily because there are more paid staff. South Australia will head in that direction if we get the volunteers offside. We should not do that.

The Hon. C.J. Sumner: This Bill won't do that.

The Hon. PETER DUNN: Not necessarily, but, if we continue to knock their representatives, the volunteers may lose interest. I agree that this Bill does not do that immediately, but we must look down the track and ensure that we get it right this time. The Bill provides for an advisory authority, and we must select people who have the confidence of the volunteers. I have a feeling that the members of the Board were fairly unceremoniously dumped by the Minister, although they had been warned for a long time that things were not well. However, they were not informed that their time had expired—they found out in the newspaper. The new Board will continue for a couple of years, and we must get it going quickly. Instead of a statutory authority under the control of the Minister, the service will virtually be a Government department, the Director being immediately responsible to the Minister. The proposed advisory authority has some merit, and I hope that it adopts an educational role to the best of its ability, because many people come under the auspices of the CFS.

I refer here to the Woods and Forests Department, National Parks and other smaller organisations. The Bill deals also with the Director. The Minister says that the Director has agreed to stand aside, although he may apply for either the job as Director or the one as Chief Officer. The Minister defined the roles of the Chief Officer and the Director. We know what the Director does, but the Chief Officer is a new position. This split will separate the administrative or corporate side of the Board from the pure firefighting side. The Chief Officer will be purely a firefighting officer. The Director, according to the Bill, should have corporate training in the handling of funds and in management. I agree with that wholeheartedly. I believe that this may have been the problem before and that this split should have been made some years ago. If this had happened, the Director would not have had to worry about corporate matters and could have got on with fighting fires. A person with those corporate management skills who is also a fire fighter would be a rare bird. There are not many such people around.

The separation of those two roles shows sound judgment and I support the move. The Director came under fire from the Public Accounts Committee because of his lack of control and input to the Board in connection with setting up projects and allocating resources. I agree with all those comments. However, I think that his task was formidable. He has agreed to stand aside, that is a wise move on his part. This Bill attacks the problem from a different position and has set up this corporate management structure to control the money involved. However, money does not fight fires: personnel fight fires. If those people are not kept on side and are not supported by the Minister then I see our Country Fire Services heading in a direction where a great deal more money will have to be provided by the Government of the day. I would not like to see that happen as I think it is a useful, suitable and objective organisation as it exists at the moment. I think that the changes this Bill will introduce will make it an even better service. For all those reasons, I support the Bill.

The Hon. M.B. CAMERON (Leader of the Opposition): I support the Bill, too. I have some misgivings about where we are heading in this matter as there seems to be a presumption that because we are changing the Board somehow all problems will be solved. Frankly, I do not believe that that is necessarily the case. It will depend very much on the people concerned—the people who are on that Board. However, the matter goes beyond that in a fire situation. One of the problems we face when debating issues such as this is that there are few people, particularly in the Parliament, who have practical experience in what happens when one is facing a bushfire. It is not easy.

It will not matter who is sitting in Adelaide on the Board: on the day a fire is out of control it will depend on the people on the spot. Equipment can be the best in the world, but if it is not handled properly, and if the right people are not in control of it, then it is all a waste of time and money. I am a little sad about what has happened to some of the people on the Board, although I will not introduce names into this debate. I personally know some of those people. One of the problems when one makes a change and a headline appears 'CFS Board is sacked' is that that inevitably reflects on every member of the Board. The problem is that not everybody on the Board agreed with every decision made. If we knew the discussions that had taken place on the Board we would know that there were people on that Board who were concerned about what happened and about certain issues but who did not necessarily have the support that enabled those concerns to be brought into the decision making process.

I happen to know one or two people on that Board. Let me assure members that from my discussions with them I know that they were aware of the problems that existed but did not have support on the Board to do anything about them. In the wash-up, they got thrown out, and their names are to some extent sullied by the impact of the decision. I

am not saying that that decision did not have to be made, because it certainly did, in my opinion, but the problem is that inevitably it washes over the top of people on that Board who had sensible points of view that they put and who were introducing the sorts of ideas that the new Board might perhaps introduce. I do not want Government members, or anyone else, to run away with the idea that because we have changed the system we can forget about it and everything is okay.

Let us talk a little about the day when most of the problems really started to come to the fore—Ash Wednesday. It was not just the CFS that had problems on that day—almost everybody in the field had problems, for instance, the police. The police were, and are, an important part of any response to a fire. We had on that day the unedifying sight of police in telephone boxes trying to communicate with their central control room because police radios failed to work in the existing conditions. That is the sort of problem that has to be looked at. I know that there are already changes being made, although they are running into problems at the top of Mount Barker. However, changes have to be made to that system. I would like to see considerable changes to the communication system in my area. We have non-compatible radios. That is not only a CFS problem, but also a communications problem experienced by other people.

There was that problem of communication between the police and the CFS and within our area on that day and we ended up making contact through farmer-owned radio sets, which seemed to be the only ones that worked. So far as fighting a fire is concerned, that is a decision that has to be made, many times, on the spot. The effect of a decision can be quite dramatic. One decision can stop a fire that, if not stopped, would go on for miles. There needs to be weather forecasts available to everybody in the field on fire days. We have to know when changes are coming through. For instance, on Ash Wednesday, had we known of the intensity of the change coming through a lot of decisions would have been made to make it a lot easier a lot earlier to control the fire. Also, a lot of lives would have been saved.

Why did people not know about the fire? First, there were the communications difficulties with Adelaide and, secondly, the communications difficulties in the field between the police, the CFS and everybody else. The result was that people got caught because they did not have any idea of what was coming or what was facing them, or where the fire was. One township that I have mentioned before had only one communication about a fire approaching, apart from the smoke (an obvious sign), was that a person rang and said they had approximately an hour and a half to prepare for their town to be wiped out. After that, there was no more communication. This was the town of Kalangadoo. The people then gathered at the hotel and surrounded it with every firefighting unit they could find. When everything was ready to go, the power went off and they had no water because they must have power to have water in that town. Therefore, in fact, they were trapped in the hotel. If the weather had not calmed down there is no doubt that there would have been a horrifying situation in that area.

Many decisions have to be made in relation to fires. Decisions cannot be made because of a once in a lifetime situation, but a lot of assessments have to be made of the potential for fire and the prevention of it in country areas of the State. These decisions are not made at fire fighting competitions or at boards in town; they are made by practical people in the field. I was horrified last year when I went to the hills face zone to see, after all that had happened, that the situation was worse last season than it was on Ash Wednesday. It is the same again this year. I invite members in the Government to come with me on a weekend, I will take them through the hills and show them the areas that are now potential fire bombs. They (and everyone else) will say, 'Why didn't we learn last time?'

The Hon. C.J. Sumner: What are you supposed to do then?

The Hon. M.B. CAMERON: I would like to see decision making by someone to stop the situation that occurred on Ash Wednesday. At one stage on Ash Wednesday I believe that it was thought that the fire was going to come down through the suburbs and into the city. Why? Because there was nothing to stop it. There is still no boundary between the city and the hills face zone. There is no area that could even be burnt back to stop a fire. The grass starts at the last house. Because there is a hills face zone which is untouchable, or a national park, then the grass grows four foot or five foot high, right up to the back fence. It is the same this year. I predict that within a few years, maybe even this year, we will find that there is the same sort of fire again. Country towns are no better. Somehow people do not learn. I am critical of country towns, and of many of my fellow country people on farms in my own area. There is no more preparation now than there was in the past, in spite of what has happened.

The Hon. C.J. Sumner: Have you done anything?

The Hon. M.B. CAMERON: Yes I have. Come down and have a look. If my wife comes down, I will be in real strife because I have done too much. It is horrifying to think that people do not learn and that people let things slip from their memory. The new CFS board should take up the problems I have outlined. Frankly, I do not think these problems will be addressed. They were not addressed to any great degree by the old board and I do not think the new board will address them. I do not know how one can teach people; it is a very difficult task.

I do not want the Government to believe that just because we are appointing a new board, which is really the same as the board before the board that was dismissed, that it will alter the situation. There were just as many criticisms and problems with the old board. Now there is an opportunity to start afresh and for people to turn their minds to the real problems of fire hazards in the State. There is the opportunity for the Government to address many of the problems that arose on Ash Wednesday. People have not stopped long enough to think about that. I must give some credit to ETSA, in spite of much of the criticism that has occurred. It is dealing with the problems that it caused on Ash Wednesday very seriously.

The Hon. C.J. Sumner: And the price of electricity goes up.

The Hon. M.B. CAMERON: I do not want to get into that issue. If the honourable member would like to debate it, I would be happy to. I left it alone during the Budget debate. There is no doubt that there has been a lot of negligence (and I use that word advisedly) in the operation and maintenance of ETSA lines in the past. If ETSA had put the spaces in its lines that it has put in since Ash Wednesday, seven out of the eight fires would not have started in our area because seven of those fires were started by the clashing of power lines as there was insufficient space between them. ETSA has also cleared many obstructions over lines. There is some diccussion about putting lines underground. I have no doubt that that is the answer, but it would be a very expensive answer. As one who has just—

The Hon. C.J. Sumner: Are you suggesting that?

The Hon. M.B. CAMERON: The economics of it would have to be looked at very closely as it is a very expensive business. I put in a short underground line at my house and found it to be a very expensive proposition and one that I would have to think very deeply about before I suggested

it as an answer to the problems that have occurred. The replacement of the CFS board is very sad. It has affected some people unfairly and adversely because sensible people were on the board and have been left with some sort of taint, which is unfair. I trust that the new board will be comprised of people who are sensible, practical, understand the problems, and are prepared to address the practical questions that have to be addressed.

I despair at the situation in the national parks. We are facing another fire season and again people will have to face fires in national parks with bulldozers because no-one has taken sensible decisions to burn during the low-risk seasons. People who have not been in scrub fires have no idea what it is like to have a wild fire in the middle of scrub. One cannot do anything about it. The national parks will be continually destroyed by fire. I used the word 'destroyed' because they will be subject to hot wild fires in the middle of this summer because no-one has taken the decision to be sensible and burn firebreaks in the parks that will provide shelter for animals and be a means of stopping a fire.

I hope that that question will be addressed by the CFS, as it seems that some organisation has to address it at some time. It seems to be beyond the people in the national parks system to take this matter up on a sensible basis, and that fills me with despair. To my mind they do not understand the problems they cause by refusing to address this problem sensibly. Practical people do not wish the destruction of national parks and do not wish to damage them. I am a strong supporter of national parks, but I also want to see them and the animals in them survive. I hope that the new CFS board will look at that and other questions. I know that a Select Committee is looking at it and I look forward to some sensible decisions coming from it. I trust that if it reports in the right manner the CFS will take part in the burning that will have to be conducted. I assure the Government that country people will assist to protect national parks provided they are allowed some role in their protection through burning in the off seasons. I support the Bill and look forward to seeing whether the new board is able to make the decisions that people in country areas know are necessary to provide protection both to country people and to the farmlands of the State.

The Hon. K.T. GRIFFIN: My contribution is limited to the question of penalties that are increased quite substantially by the Bill. The increase in penalties was moved by the Hon. Bruce Eastick in the House of Assembly and accepted by the Government after some consultation. I record my appreciation to the Government for being prepared to accept those amendments and incorporate them in the Bill that is now before us.

The question of penalties has a relatively long history. The Country Fire Services Act provided for penalties in 1976, and they have not been reviewed since that time. Last year constituents of Dr Eastick drew to his attention difficulties with the very low penalties that were being imposed by the courts and, as a result of that contact with his constituents, I introduced a private member's Bill in this Council earlier this year to increase penalties ten fold.

That Bill was passed but lapsed in the House of Assembly at the end of the last session. The Bill was reinstated on the Notice Paper in this session. The penalties have been subject to a substantial increase. For example, lighting a fire in the open during a fire danger season under section 39, for a first offence the penalty is increased from $500 to $5 000 or six months imprisonment, or a second or subsequent offence has an increase in penalty from $1 000 to $10 000, 12 months imprisonment or both. For lighting a fire in a council area where it is prohibited by notice under section 41, the first offence penalty is increased from $500 to $5 000 and six months imprisonment, and a second or subsequent offence is increased from $1 000 to $10 000 and 12 months imprisonment.

In regard to lighting a fire on a day of extreme fire danger under section 42, the penalty for the first offence increases from $1 000 to $10 000 or 12 months imprisonment, and a second or subsequent offence has an increase in penalty from $2 000 to $20 000 and two years imprisonment. Of course, these penalties are the maximum penalties that may be imposed by the courts, but at least it gives the courts a much wider range within which they can operate to impose penalties that are more appropriate to the circumstances of a particular offence, remembering of course the considerable damage that is caused by either deliberate or inadvertent behaviour that leads to the sort of conflagration that we saw on Ash Wednesday 1983. The increase in penalties is long overdue. I believe it will provide a much more appropriate range of penalties right across the operation of the Country Fire Services Act, and I am pleased that the Government has seen fit on this occasion to facilitate the consideration of an increase in penalties by accepting what originated as a private member's Bill in this Council. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): In reply, I thank honourable members for their contributions in support of the Bill. A number of thoughtful contributions raised several important issues in regard to firefighting, and in particular firefighting by the voluntary CFS in this State. As honourable members have indicated, a Select Committee of this Council is looking at the general question of bushfires in South Australia and, in particular, in national parks. Doubtless that Select Committee will look at some of the issues raised. I do not wish to traverse every issue or point that was put; suffice it to say that there is general agreement about the need for a restructuring of the CFS, and for that reason the Bill is supported.

Obviously, there are different views about what may happen in the future, and there were different views and concerns shown about the way in which the CFS Board was dismissed. Nevertheless, the end result of the discussion is support for the Bill, and I thank honourable members for that.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

Clause 8—'Apportionment of insurers' contribution.'

The Hon. PETER DUNN: This and subsequent clauses deal with penalties. I wish to advise the Committee that penalties have been increased dramatically—ten fold. The reasoning behind the increase is to stop pyromaniacs or people who want to light fires because they like to see them burn. However, this increase could result in a great burden on people operating machinery, particularly the farming community and cereal growers who have stringent controls placed on them. These penalties will impose a great requirement that machinery is maintained up to date. There is no room whatever for manoeuvre, and I suggest that the CFS and the press make that position clear. As happens in all communities where someone is a little slack in not having a shovel or spark arrestor up to scratch, various incidents can occur. If a property is burnt out the penalties are Draconian and a good educational programme is required so that people feel they have had fair warning and to ensure that no excuse can be made that these increases were introduced in an underhand manner. Although the increase in penalties has not been introduced surreptitiously, it has been through an amending Bill rather than in the original Bill. I hope that the rural press and the CFS will spend money

advertising this fact. I flag this position because I see people being hurt if they are not aware of the increases in penalties.

Clause passed.

Remaining clauses (9 to 29) and title passed.

Bill read a third time and passed.

APPROPRIATION BILL (No. 2)

Adjourned debate on second reading (resumed on motion).

(Continued from page 1312.)

The Hon. J.C. BURDETT: I refer to the appalling performance of the Minister of Health before the Estimates Committee. First, I refer to the late distribution of the blue book. The health budget has traditionally been presented in the form depicted on page 117 of the Details of the Estimates of Payments, Minister of Health, Miscellaneous—$487 980 000. At page 175 there is brief reference to the expenditure 'South Australian Health Commission—$18 450 000'. Absolutely no detail is provided in the line budget; therefore, members of Parliament and others get no reasonable information on the health budget from the Estimates of Payments themselves. If members of Parliament are to be informed of the Estimates with reasonable detail, it is absolutely essential that the blue book should be distributed within a reasonable time before the Estimates Committee. That was not done.

The Hon. Jennifer Adamson complained about the fact that the blue book was not received by Opposition members of the health Estimates Committee at all and that they had to rely on photocopied documents. The blue book was not distributed at all before the Friday preceding the Wednesday on which the health Estimates Committee was held. Most members of Parliament, but not the committee members, received it on that day. I suggest that this was quite disgraceful. It is not possible for an Opposition to address the Budget without reasonable detail. The Minister responded to the Hon. Jennifer Adamson's reasonable comment as follows:

> The blue book is an adjunct. It is additional information which has been made available since the introduction of programme performance budgeting. The simple answer to the question is that it was not available until last Friday and my instruction to my staff was that it was to be posted to all members of Parliament immediately.

The Hon. C.J. Sumner: What's wrong with that?

The Hon. J.C. BURDETT: That was on the Friday preceding the Wednesday. There was no budget information at all before.

The Hon. J.R. Cornwall: Of all the Government departments we are the only one to produce a blue book.

The Hon. J.C. BURDETT: I said that. The line Budget is so small—

The Hon. J.R. Cornwall: It's in the yellow book.

The PRESIDENT: Order!

The Hon. J.C. BURDETT: The yellow book does not go into great detail in regard to figures.

The Hon. L.H. Davis: It's very superficial.

The Hon. J.C. BURDETT: It is. Because all other budgets are in greater detail in the line budget, it is essential that the blue book be distributed in reasonable time. That was certainly done in my Party's time in Government. The previous Minister made a great point of ensuring that it was available in reasonable time—but in this case that was not done. The Minister is responsible for not allowing Parliament to scrutinise his budget. His action in not ensuring that the blue book was distributed in reasonable time was disgraceful, it was improper, and it was reprehensible. Not giving information to Parliament was the pattern of the health Estimates Committee. For example, I refer to the number of questions addressed—

The Hon. J.R. Cornwall: The committee spent 4½ hours trying to beat up the Queen Elizabeth Hospital story.

The Hon. J.C. BURDETT: The Minister has referred to the Queen Elizabeth Hospital story. The Minister took over an hour on one question and still did not answer it.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. BURDETT: The Minister did not allow the budget to be scrutinised. In assessing the number of questions asked before the Estimates Committees involving the Minister of Health and the Attorney-General, I have taken account of double-barrelled questions and questions asked by way of interjection. Applying that to the two Ministers, the Minister of Health was asked about 40 questions—many of which were not answered, and on one of which the Minister took an hour and still did not reply to it—and the Attorney-General was asked more than 150 questions and he answered them all. In relation to the Queen Elizabeth Hospital, a number of questions were asked, quite properly, and the Minister objected that that was political and that it was merely a matter of administration. Surely the whole Budget is 'merely a matter of administration'. The main way in which a Government operates is through its Budget, and there is an entitlement to question the Budget. That entitlement was not granted through the health Estimates Committee because the Minister and his officers did not answer the questions and carried on at great length in completely filibustering.

The Hon. J.R. CORNWALL: Mr President, I rise on a point of order.

The Hon. J.C. Burdett: You're too sensitive!

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I am not at all sensitive. The Hon. Mr Burdett can reflect on me as much as he likes. He may be out of order, but I will cop it. However, I will not have him reflect on senior officers of the Health Commission—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —who are quite unable to defend themselves. The Hon. Mr Burdett is making great play about things being disgraceful, improper and so on. The Hon. Mr Burdett just made a completely cowardly attack on senior officers of the Health Commission and I ask that he withdraw his comment.

The PRESIDENT: The honourable member has been asked to withdraw a certain statement. I am sorry, but I was talking and I missed the statement. Is the Hon. Mr Burdett prepared to withdraw his statement?

The Hon. J.C. BURDETT: I said that the Minister and his officers took an undue amount of time in answering the questions.

The Hon. J.R. Cornwall: 'Evaded', you said. That was quite clearly what you said. Check it in *Hansard* tomorrow.

The Hon. L.H. Davis interjecting:

The PRESIDENT: The Hon. Mr Davis should not buy into this argument because it will not extend into across-the-floor debate. If someone has to leave the Chamber just because they are being stupid, that will be the case. I ask the Hon. Mr Burdett to give consideration to what he did say.

The Hon. J.C. BURDETT: I do not withdraw the statement. I have no doubt that the method of answering the questions that was adopted by the officers was directed by the Minister. I do not withdraw the statement, but I do not make any kind of personal reflection on the officers involved.

The Hon. J.R. CORNWALL: How far can this fellow go within the Standing Orders? He is now alleging a conspiracy

between the Minister of Health and the most senior officers in the Health Commission. I am not an expert on Standing Orders, but I would have thought that that is entirely out of order. If not, it is certainly quite a disgraceful allegation and should be withdrawn if the man has any honour at all.

The Hon. R.I. Lucas: What Standing Order?

The Hon. J.R. CORNWALL: I do not have a clue. If there is not one, there should be.

The PRESIDENT: The honourable member must draw my attention to the particular Standing Order under which he has raised the objection.

The Hon. J.R. CORNWALL: With respect, I draw your attention, Sir, to what is acceptable behaviour and what is outrageous: to attack senior officers of the Health Commission, in this case under Parliamentary privilege, is disgraceful conduct and totally dishonourable.

The PRESIDENT: The Minister again raises the point that he believes that what the Hon. Mr Burdett said is outrageous. As I say, because I was distracted, I did not hear the initial words that caused the Minister to be concerned, but if the honourable member likes to repeat them I will make a decision. On the other hand, the honourable member may wish to withdraw the words.

The Hon. J.C. BURDETT: I do not propose to withdraw the remarks. I cannot recall exactly what I said.

The Hon. J.R. Cornwall: Short term memory.

The Hon. J.C. BURDETT: The Minister has often said that sort of thing and it does not do him any credit. I said that the Minister deliberately filibustered, deliberately took the time of the Committee in not answering questions, and that his officers did the same thing. I suggest that the officers were acting under instruction. It was perfectly clear to anybody who listened to that debate before the Budget Estimates Committee that the direction of the Minister was not to answer the questions. I said before that the Attorney-General answered 150 questions. In the same time the Minister of Health answered only some of 40 questions. All that I am saying is that it is very clear that there was an instruction and an attempt on the part of the Minister not to answer the questions but to obstruct the Committee, and that his officers, as is to be expected, assisted him in that matter, and that is all.

Questions were answered, or rather not answered, at great length. I refer particularly to the question of waiting times for elective surgery in hospitals. The matter had been raised publicly before, and the Minister must have known that it would be raised. The Hon. Dr Ritson had several times placed a question on notice, and finally received his answer last Tuesday.

The Hon. L.H. Davis: Three months after asking it.

The Hon. J.C. BURDETT: Yes, but before the Committee no adequate information was given, although a lot of words were used in not giving the information. The members of the Committee very properly persisted in this line of inquiry, but to no avail. The member for Morphett, who asked the question, was not given the figures. As is the Minister's charming way, the member for Morphett was said to be 'maliciously mendacious and recklessly irresponsible'. He did not get the answer that he asked for. On page 97 of *Hansard*, the member for Morphett said:

> I find it quite incredible to believe that the Minister of Health does not know the length of his waiting list for various types of surgery in his hospitals. I realise that he would not know down to the last operation, because it could vary from day to day, but this Committee cannot accept that the Minister is unable to pull out of a brief case now the waiting list for public hospitals in South Australia.

The Minister should have been able to do this. He carried on at great length about the complexities in providing a waiting list, and I agree that, to be meaningful, various complex explanations would have to be given, but one cannot explain until one first produces the list, and the lists do exist.

The Hon. J.R. Cornwall: Not really.

The Hon. J.C. BURDETT: They do exist. They are kept in every clinic, and it would be only a matter of contacting each of the clinics. The member for Morphett even offered to have his staff—

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order! The Minister will no doubt have an opportunity—

The Hon. J.R. Cornwall: I wouldn't waste my time.

The PRESIDENT: Then he should not waste the Council's time by interjecting continually.

The Hon. J.C. BURDETT: The lists do exist and are kept in every clinic within hospitals. It would only be a matter of contacting each of the clinics. The member for Morphett even offered to have his staff do just that, but the offer was declined, although he was given access to the Chairman of the Commission and sector directors. As the member for Mallee indicated by interjection, the trouble was that the member for Morphett might have got to the truth of the matter. Then, within a couple of days of the Budget Estimates Committee, the Minister miraculously produced such of the figures as he wanted to release and gave them to the press. He must have been able to produce them to the Committee.

The Hon. L.H. Davis: Before he produced them to Parliament, which had asked for them 10 weeks before. Quite contemptuous!

The PRESIDENT: Order!

The Hon. J.C. BURDETT: That is right. He must have been able to produce the figures to the Committee if he had wanted to, but he preferred to do it in another way so that he would not be subjected to questioning on the figures produced. It was pleasing to note that on page 104 the Minister conceded that he is only human and has all the frailty of an ordinary human being despite rumours to the contrary.

The Hon. R.I. Lucas: That was overstating it.

The Hon. J.C. BURDETT: Yes. The member for Coles referred to documents relating to the Queen Elizabeth Hospital. The Minister said in his reply that anyone who had done his homework would have read the very lengthy reply (and those were his words) that he gave in the Legislative Council on the previous Thursday concerning the Queen Elizabeth Hospital. It was lengthy indeed, but did not go very far towards answering the question. The Minister referred to the so-called 'scurrilous campaign' that he said was being conducted by a small number of 'recklessly irresponsible faceless men at the Queen Elizabeth Hospital'. There is no scurrilous campaign, and if the men and women to whom I have spoken are the same people about whom the Minister was talking, I can say that, far from being recklessly irresponsible, the persons involved had a real concern and were sincere, responsible people.

The Hon. J.R. Cornwall: I have no truck with the anonymous. Name them!

The Hon. J.C. BURDETT: The anonymous are coming to see the Minister in a deputation, so he can see who they are.

The Hon. J.R. Cornwall: They can explain what they do not understand.

The PRESIDENT: Order! The Minister will have the opportunity to rebut.

The Hon. J.R. Cornwall: No, this is too silly to rebut.

The PRESIDENT: Order! The Minister must refrain from interjecting.

The Hon. J.C. BURDETT: If the Minister thinks that this is too silly to rebut, he should be silent. The concern of the people who spoke to me is patient care and the

interests of the Queen Elizabeth Hospital—not anything else. As the Hon. Mr Cameron indicated when he spoke in the debate on the Budget papers, because the questions asked in the Estimates Committee were stalled and were not answered satisfactorily, members on this side will question the Minister of Health in detail in Committee. I support the second reading.

The Hon. L.H. DAVIS: First, I would like to make some observations about the 1983-84 Budget result. 1983-84 was a year of generally buoyant economic activity, which benefited the private sector through higher profitability and also the public sector through a general increase in revenue by way of taxes and charges. Indeed, it was a matter of some surprise to me at least that, against a proposed deficit of $5 million, there was an actual deficit for fiscal 1984 of $1.6 million, only a $3.4 million betterment on the budgeted amount. Given that this was the most buoyant year for some time, that was surprising. State taxation receipts totalled $36.7 million in advance of budget, largely due to higher stamp duties. This bonus was offset by a puzzling shortfall of $20 million in recovery of debt services, including interest on investment and interest from statutory authorities.

It should be properly understood that the strength of the recovery is not due to the policies of the South Australian Government. The strength of the recovery in the United States has been a particularly vital factor. The underlying importance of South Australia's rural economy is also emphasised by the fact that the net value of rural production in 1983-84 increased by 157 per cent to a record $1.1 billion. However, interest rates and the benefits of the salaries and wages pause initiated by the Fraser Government and a strong recovery in domestic and commercial building also contributed to the pleasing economic recovery in South Australia. Indeed, the official vehicle for the South Australian Government's comments on the state of the economy confirms the truth of what I have just said. The July 1984 issue of the Economic Report states:

> Economic growth in two of Australia's major markets, Japan and the United States of America, remains strong.

It also confirms that the recovery has been assisted by the excellent rural season, the big recovery in the housing industry, and strong overall economic growth in Australia, although it comments on the puzzlingly poor performance of retail sales over the past few months.

However, it is surprising that, notwithstanding the strength of the economic recovery that has occurred over the past 18 months to two years, unemployment in South Australia still remains higher than it was when the Government came to office. Indeed, there are 7 900 more people unemployed now than was the case in November 1982.

The Financial Statement of the Premier and Treasurer tabled on the delivery of the Budget, which was of course the subject of discussion in the Estimates Committees in another place, refers to the impact of Medicare. Because of Medicare, there was an artificial reduction in the CPI in the March quarter of 1984; a reduction of 2.7 per cent can be attributed to Medicare. There is no doubt that that assisted in the salaries and wages pause, but it will be interesting to see to what extent the salaries and wages pause will be sustained, especially towards the end of fiscal 1985. Although some benefits have been associated with the salaries and wages pause that was introduced in the last months of the Fraser Government, there have also been some minuses, and I want to refer to one that has not really been commented on at length, that is, that the grant from the Federal Government to the State Government is determined by reference to the movement in the CPI plus 1 per cent.

Because of the effect of indexation associated with Medicare, the increase in the grant in 1984-85 was only 4.5 per cent, some 2.7 per cent less than it would otherwise have been. Therefore, South Australia's grant from the Commonwealth for 1984-85 was $997.1 million ($47.4 million in advance of the grant for the preceding year) but, because of the introduction of Medicare and the artificial reduction in the CPI, the South Australian Government received $25 million less from the Federal Government. Certainly, some offsets are associated with that in the sense that one would hope that salaries and wages would not increase by the same amount because, of course, they are linked, by and large, to indexation. Nevertheless, that is a point to note, and in fact the States and the Territories were subjected to a real reduction in Federal receipts for 1984-85 of 1.7 per cent. I refer now to employment in South Australia, and I seek leave to insert in *Hansard* without my reading it a table of a statistical nature.

The Hon. C.J. Sumner: Where is my copy? How can I follow the debate if I don't have a copy? That is the practice. This is a controversial issue.

The PRESIDENT: Order! I cannot provide a copy. The question is whether leave is granted.

Leave granted.

PERSONS EMPLOYED, SOUTH AUSTRALIA
('000)

Year	State Government		Total Government (Commonwealth, State and local)		Private sector	Total
1971 June	76.7		110.9		N.A.	N.A.
1972 June	80.2		116.0		N.A.	N.A.
1973 June	84.9		122.7		N.A.	N.A.
1974 June	91.7		128.8		N.A.	N.A.
1975 June	99.9		140.4		N.A.	N.A.
1976 June	104.9		143.7		N.A.	N.A.
1977 June	109.0		147.5		N.A.	N.A.
1978 June	103.5		150.3		412.2	562.5
1979 June	102.2		148.0		407.3	555.3
1980 June	101.4		146.4		403.8	550.2
1981 June	100.7		145.5		415.4	560.9
1982 June	98.9		143.2		414.1	557.3
1983 June	100.5	102.5*	144.7	146.3*	392.3	538.6
1983 September		105.5*		149.7*	397.6	547.3
1983 December		105.1*		150.3*	413.0	563.3
1984 January		97.3*		142.3*	407.2	549.6
1984 February		101.8*		147.2*	404.9	552.1

PERSONS EMPLOYED, SOUTH AUSTRALIA
('000)

Year	State Government	Total Government (Commonwealth, State and local)	Private sector	Total
1984 March	104.4*	149.9*	413.1	563.0
1984 June	N.A.	N.A.	N.A.	559.3
1984 August	N.A.	N.A.	N.A.	558.6 *(p)*

* New series *(p)* Provisional

Source: *The Labour Force, Australia* (Cat. No. 620310)
Survey of Employment and Earnings (Cat. No. 6248)

The Hon. L.H. DAVIS: This table lists the number of persons employed in South Australia over the past 13 years. It highlights the fact that there has been little or no growth in the private sector. Indeed, there has been no movement in private sector employment over the past six years. In fact, one can go back 12 years and see that the employment of 419 000 people in 1973-74 was several thousand more than are currently employed, as shown by the latest figures set down in the table I have just had incorporated.

However, State Government employment has increased. The Attorney-General will well remember that under the Tonkin Government there was an emphasis on effectiveness and efficiency in the public sector. That Government reduced public sector employment by some 3 500 people during its three-year term. Since that time the Labor Government has reversed that trend and there has been, on its own admission, an increase of some 1 600 in the number of people employed in the State public sector: when I talk about the public sector I am talking about departmental employment and employment by statutory authorities.

I was interested to note that, following the introduction of a new series by the Australian Bureau of Statistics relating to this area of employment in South Australia in the State Government and the total Government sector, there appears to be a discrepancy between the figures contained in the Budget papers and the figures contained in the latest ABS publication. The detail is set down in the table and shows that in June 1983 there were 100 500 people employed in the State Government. The new series adjusted that figure to 102 500. Now, as at March 1984, the figure is 104 400. It will be interesting to see in ensuing months whether or not there is a discrepancy of significance, because not only has it been difficult to reconcile the past series with the current one but also it has been difficult to reconcile the figures contained in the Budget papers. It may be that during the Committee stages of the Bill the Attorney-General, with his known interest and grasp of this area, will be in a position to provide information on this important matter.

In the helpful document 'Employment aspects of the 1984-85 Budget', which was presented following the introduction of the Budget, the Treasurer made the following observation at page 5:

> It should be recognised at the outset that despite its size and importance to the South Australian economy, the State Government's ability to direct the South Australian economy is relatively limited. The main reasons for this are:
>
> - the relatively small direct contribution to aggregate demand in the South Australian economy that is financed by 'discretionary' State Government financing decisions. (The bulk of State Government receipts are grants from the Commonwealth);
> - the high degree of openness (or export—including to interstate—and import orientation) of the South Australian economy, which means that the level of activity in this economy is largely determined by the state of the Australian and world economies.

I accept those two propositions. However, State Governments can, and must, have an impact on the economy that will be for the future well being of that economy, if they are seeking to do their job properly.

We have examples of this in the past. Sir Thomas Playford, in the industrialisation of South Australia in the mid 1930s and through the war years and beyond, is an example of this. Singapore, for a long time an important *entrepot* for traders, has been strengthened in the past two decades by a deliberate plan of development. Therefore, it is important that a Government by its actions fosters a climate that encourages investment by local, interstate or overseas investors.

There are several disturbing features of the South Australian Government's approach that I feel compelled to mention. First, we have a fragile economic base. Contrary to popular opinion, the contribution of the manufacturing sector to the South Australian economy is not above, but rather only in line with, the national average.

It is interesting to reflect on the growth in manufacturing employment over the past 50 years. In 1929, 7 per cent of employment in South Australia was in the manufacturing sector; in 1932, during the depression, it fell to 4 per cent; in 1952, at the peak of the Playford post war industrialisation period, it was some 12 per cent of employment; in 1962 it fell to 10.3 per cent; 1972, 10 per cent; 1982, 8 per cent; and, currently, manufacturing employment accounts for some 7.8 per cent of total employment in South Australia. In other words, manufacturing employment in South Australia has been declining for over 30 years. However, that is not to say that manufacturing does not have its importance in South Australia.

Quite clearly, the value and volume of manufacturing in South Australia is still most important to the strength of the economy in this State. Any downturn in manufacturing obviously has an impact on employment and prosperity. Therefore, it is quite clear that costs should be kept down.

The reality is that South Australia has the lowest gross domestic product at factor cost per capita of any State or Territory in Australia. The Budget papers do not mention this, but it is a fact of life that the Bureau of Statistics, in a recent publication, has presented the real gross domestic product at factor cost per capita by State and Territory for the four years 1977-78 to 1980-81 inclusive.

In each of those years South Australia had the lowest per capita gross domestic product. That hardly matches our slogan 'SA Great'. It illustrates the point that I am making that we have a fragile economic base.

The second point that I make about the South Australian Budget relates to the impact of State taxation. State taxation receipts, as I have already mentioned, were $36.7 million higher than estimated and there were good reasons for that. But that was a savage 20.9 per cent higher than in 1982-83. State taxation receipts were treble the 6.5 per cent inflation for 1983-84. This increase was in sharp contrast with the Tonkin Government's record, where State taxation receipts increased by only 11.4 per cent in 1981-82, and 10.8 per cent in 1982-83. The hike in State taxation is dramatically illustrated by a table of a purely statistical nature, which I

seek leave to have incorporated in *Hansard* without my reading it.

Leave granted.

	STATE TAXATION*				
	1980-81	1981-82	1982-83	1983-84	1984-85 Estimate
	$M	$M	$M	$M	$M
Liquor	13.9	15.9	18.9	22.7	31.0
Petroleum	20.2	23.8	25.8	38.6	43.5
Tobacco	10.7	14.6	16.1	29.1	38.5
	$44.8	$54.3	$60.8	$90.6	$113.0
Stamp Duties	96.0	108.5	118.3	168.3	187.0
Financial Institutions	—	—	—	11.1	28.5
	$140.8	$162.8	$179.1	$270.0	$328.5
Annual increase		15.6%	10.1%	50.8%	21.7% (Est.)

* Selected items

The Hon. L.H. DAVIS: Thirdly, I want to comment about the importance of the mining industry to South Australia. Mineral exploration activity in South Australia has declined further in 1983-84. We learn that from the Budget papers. In fact, page 23 on the South Australian Economy states:

> Exploration expenditure for uranium was about 10 per cent of that of 1982 and substantial areas covered by exploration licences for uranium were surrendered.

That underlines an important point I have already made. There is a perception and an attitude that has to be developed by a fragile economy such as South Australia if we are to attract investors to this State. There is already enough uncertainty associated with mining without putting barriers in the way of potential explorers. We all know that someone who takes an exploration licence cannot be certain what they will find when the drill goes down. They may well be looking for gold and copper, yet perhaps they will find a commercial ore body containing uranium. Given the Government's present attitude, it may be that valuable mineral deposits are left lying unexplored and undeveloped because of the quite contrary and illogical attitude towards exploration and development of all uranium mining, except that established at Roxby Downs.

So many people in the community—and I suspect some members on the Government benches—have the view that because they cannot see mining it is therefore not important; out of sight and out of mind. I illustrate that with a pertinent example. In the 1981 calendar year the mining sector took up half the private office space in the central business district of Adelaide. Indeed, for the calendar years 1981-83 inclusive the mining, oil and gas sector accounted for about 25 per cent of central business district office space absorption in Adelaide—a significant factor underlining the importance of the contribution of that often unjustly maligned industry.

We all know full well the value of the contribution from the rural sector. I have already mentioned the record value of rural production in the year just ended. However, the publication, 'The South Australian economy' presented by the Treasurer on the occasion of the Budget on page 22 states:

> The net value of Australian rural production in 1984-85 is forecast to decline by 29 per cent to $3 330 million reflecting a fall in gross value of rural production and increased costs—

and I think the Government should underline 'increased costs'—

> In real terms this is a decrease of 32 per cent to the second lowest level on record.

Hopefully, the decline in the value of South Australia's rural production will not be of that order, but it underlines the volatility that exists in the industry and that, notwithstanding good seasons, they are at the mercy of world markets and, if commodity prices are not high and markets are not there then the rural industry and urban sectors suffer. Again, we see further evidence of the fragility of the South Australian economy. After a very buoyant period during the Tonkin years—

The Hon. C.J. Sumner: You've got to be joking.

The Hon. L.H. DAVIS: —when there was a strong expansion in capital expenditure, we see on page 17 of the South Australian Economy that at the end of March 1983 the value of work yet to be done in South Australia on construction other than building had fallen to $118.1 million, only 4.2 per cent of the Australian total, compared with a figure of 11.6 per cent a year earlier.

Again the Attorney can see that I am not joking when I say from his own document that we in South Australia had 11.6 per cent of total capital expenditure on construction other than building in March 1982. By March 1983 that figure had fallen to 4.2 per cent. My understanding is that following the completion of the Stony Point liquids scheme capital investment in South Australia is well under what one would expect for South Australia, namely, 8.5 per cent (or in that order), in line with our share of the national population.

I also instance some examples which, I believe, underline the lack of sensitivity, understanding and perception of this Government in dealing with business matters. We have seen several examples over the nearly two years since it came to office. I instance the Ramsay Trust—an ill-conceived, doomed-from-the-start project.

The Hon. C.J. Sumner: It didn't do anyone any harm.

The Hon. L.H. DAVIS: The Attorney-General said that it didn't do anyone any harm. It cost the State taxpayers $130 000; it raised bemused eyebrows in financial circles in other States; it illustrated a financial naivety on the part of the Government which, unfortunately, tends to underline the view that some people in the East have of the South Australian Government, that it is a Cinderella Government when it comes to dealing with business matters.

In recent months I have addressed myself to other examples which show the Government's lack of alacrity to act in situations which would be of advantage to South Australia in financial markets. For instance, the abolition of stamp duty on fixed interest securities traded on the Stock Exchange introduced in other States. People in South Australia wishing to sell those securities are doing that interstate because the South Australian Government is still looking at the matter.

Again, in relation to the question of secondary mortgage markets, other States have moved in that field but this Government is still considering the matter.

In the case of the Enterprise Fund, we see that the original concept dreamed up at some heady ALP convention back in May 1982 has been absolutely sliced apart and replaced with a very modest unrecognisable model. The Government has brought some excellent people in to manage the fund: Mr Tom Urban, ex of Elders Finance, is a man for whom I have a great admiration.

However, I must say that I have some reservations about the need for the Enterprise Fund. What specific projects will the Enterprise Fund be able to support financially that could not be supported by traditional financial circles?

The Hon. R.C. DeGaris: Only those that are not going very well.

The Hon. L.H. DAVIS: The Hon. Mr DeGaris makes the acute observation: 'Only those that are not going very well'. I refer to *Business Review Weekly* of 25-31 August 1984 and the fact that the Enterprise Fund will give a $7 million boost to public companies through equity and loan finance. The funds are to be underwritten through a Government guarantee. There are going to be convertible notes listed with the Government taking up shares. A spokesman

for the Enterprise Fund said, 'It will be in the business of picking winners. There will be a tendency for the fund to cut its teeth on companies with an established track record.'

The Hon. R.C. DeGaris: Even favourites run last sometimes.

The Hon. L.H. DAVIS: Exactly. This illustrates that the Government is not really aware of what is happening out in the capital markets of Australia. There has been a significant deregulation of banking and broking circles.

The Hon. C.J. Sumner: Who did that?

The Hon. L.H. DAVIS: That was initiated by the Fraser Government and, I am pleased to see, the Hawke Government has continued that initiative.

The Hon. C.J. Sumner: By Paul Keating—Treasurer of the Year.

The Hon. L.H. DAVIS: Do not say that with such disbelief in your voice.

The Hon. C.J. Sumner: He was Treasurer of the Year.

The Hon. L.H. DAVIS: We have not seen you named Attorney-General of the year, and I suspect we never will.

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order! The honourable member should address the Chair.

The Hon. C.J. Sumner: He is the best since Colin Rowe.

The Hon. L.H. DAVIS: I suspect that some of the delusions of grandeur of the Minister of Health, who sits next to the Attorney-General, have rubbed off on the Attorney. His modesty is usually one of his more redeeming features, but it seems to have deserted him tonight. In concluding my comments on the Enterprise Fund, I would like to say that whilst we are currently in a climate where undoubtedly profitable businesses can seek and receive support from the Enterprise Fund I question whether or not it is really necessary, and I would like to hear specifically from the Government of examples of organisations that will receive support from the Enterprise Fund. I seek examples of companies that have gone to the Enterprise Fund because commercial finance has not been available. I find it hard to conceive of an example, and I will be interested to hear the Attorney's response, because he is so well known for his interest in such matters.

Of course, the Enterprise Fund is not without its costs. Mr Bannon has said that the cost to the taxpayer in setting up the Fund will be $1 million in the payment of interest and guarantees, with administration costs in the first full year being about $300 000. Of course, that is something that should be noted in taking into account any benefits that may flow from the establishment of the Enterprise Fund. I wish now to turn to the Accord because, although we are operating in a State Parliament, we are dealing with a Federal system and this Budget relies heavily on Federal Government moneys and is affected strongly by Federal Government initiatives—the Accord is one of them. It was conceived in an air of euphoria. It was accepted by and large by the people of Australia, yet there are many well respected business men who are uneasy about the impact of the Accord, given that it has cemented a link that admittedly exists between the trade union movement and the Labor Government. One should take note of leaders in the business sector who express reservations about the Accord. The Chairman of the Council of Small Business Organisations of Australia, Mr Alex Brown—and I am quoting as recently as September 1984—said:

> We are suspicious of what is in the Accord. A lot of what is happening now was not apparent when the Accord was first raised, for example, the repealing of the secondary boycott laws.

The Chairman of Western Mining Corporation, Sir Arvi Parbo, said:

> I think the unions in a way are part of the Government, because they dictate to the Government. The unions are in a much preferred position because of the Accord. They, in effect, have a hold over the Government because whenever the Government does something that is different from the Accord, the unions say, 'No, no, no!'.

I have some reservation about the Accord, and I believe that some of those reservations will be justified in the months ahead. Already we have seen in legislation before this Parliament and other Parliaments the influence of the unions in seeking to abolish subcontracting. In recent times we have had moves for redundancy payments; we have had pressure building up in regard to superannuation. If Australia is to succeed in the international world of business—in the international economy—there should be a partnership between capital and labour. It should be a partnership of balance between capital, labour and Governments. That balance does not exist at the moment.

Certainly, it can be said that business has disadvantaged itself by failing to have one voice. I have been interested to see in the creation of the Business Council of Australia moves to rectify the situation. Certainly, the union movement through its umbrella organisation—the Australian Council of Trade Unions—has effectively developed a spokesman for labour. I believe it is important not only for Governments but also for the future of the country that business develops in time one voice to represent it in negotiations with Government. Certainly, I wait to see with interest what will happen, given that there are many hidden costs emerging from the so-called Accord. Unions are starting to exert pressure on Governments so that they will be forced to adopt policies that may not be in the interests of the business community, and certainly they may not be in the interests in the long term of the community at large.

Of course, that is of particular importance to South Australia, given the nature of our economy, given that the traditional advantages that we have had in recent years have recently been eroded. Our so-called cost advantages are perhaps not so important now as they have been. I believe that they have been replaced by quality of life issues. If one looks at the cost advantage, paradoxically the recent explosion in the real estate market in the domestic housing sector, where house prices on average have increased by 50 per cent, one sees interestingly enough that Adelaide now has the second highest median price for domestic housing in Australia—second only to Sydney. Of course, whilst that is reassuring to people who own a house, it is not so reassuring for people seeking a house, nor is it perhaps a bull point when it comes to inducing an interstate firm to move to South Australia or expand its operations in South Australia.

The Hon. C.J. Sumner: We are in a period of optimism.

The ACTING PRESIDENT (Hon. G.L. Bruce): Order!

The Hon. L.H. DAVIS: One of the so called advantages to come from the accord was the fact that it led to the salaries and wages pause and the hope that the average weekly earnings of all employees would move in line with the consumer price index. Indeed, what has really happened is that average weekly earnings of all employees in the period between June 1983 and June 1984 increased by some 12.1 per cent. An element of that was attributable to overtime in the more buoyant economic conditions. That 12.1 per cent is certainly much higher than the artificial consumer price index movement of only 3.9 per cent (or 6.5 per cent after taking into account the adjustment for Medicare.)

Average award wages increased by 8.9 per cent over the June 1983 to June 1984 period, reflecting wage indexation. It seems true—and I think the National Institute of Labour Studies at Flinders University verified this—that there has been a movement in wages over and above indexation. One of the worrying features in particular has been the increase in on-costs. I seek leave to incorporate in *Hansard* without

my reading it a statistical table which sets out the total hourly costs of labour over the period 1974-1983.

Leave granted.

TOTAL HOURLY COSTS OF LABOUR

	1974 $	1974 % of Total	1981 $	1981 % of Total	1982 $	1982 % of Total	1983 $	1983 % of Total	% Growth Rates 1983 over 1982
Direct Wages Costs									
Hourly Wages	na		6.59		7.92		8.25		4.2
Overtime	na		.60		.66		.66		0.0
Shift Allowance	na		.60		1.03		1.02		−0.8
Total	3.62	77.5	7.79	71.3	9.61	67.7	9.93	65.5	3.3
Labour On-Costs									
1. Allowances	na		.33		.42		.44		
2. Annual Leave	na		.49		.61		.63		
3. Leave Loading	na		.11		.12		.14		
4. Long Service Leave	na		.10		.14		.34		
5. Sick Leave	na		.16		.22		.22		
6. Compassionate Leave	na		.01		.01		.01		
7. Other Paid Absence	na		.01		.03		.03		
8. Superannuation	.08		.24		.51		.59		
9. Employee Amenities	na		.23		.28		.38		
10. Employee Health	na		.03		.05		.04		
11. Company Cars	na		na		.04		.05		
Sub-total (1-11)	na		1.71	15.6	2.43	17.12	2.87	18.92	10.5
12. Workers Compensation	.04	0.9	.28	2.6	.57	4.0	.62	4.1	2.5
13. Non-productive Paid Time	na		.37		.51		.51		
14. Public Holidays	na		.22		.24		.30		
15. Payroll tax	.07		.40		.57		.64		
16. Uniforms	na		.03		.05		.05		
17. Training	na		.07		.14		.13		
18. Safety	na		.05		.04		.07		
19. Other	na		.04		.04		.05		
Sub-total (13-19)	na		1.18	10.8	1.30	9.2	1.75	11.5	22.0
Total Hourly On-Costs	1.05	22.5	3.14	28.7	4.0	32.3	5.24	34.5	14.4
Total Hourly Cost of Labour	4.67	100.0	10.94	100.0	14.19	100.0	15.17	100.0	6.9

Source: Business Council of Australia, *Bulletin*, March 1984

The Hon. L.H. DAVIS: The table vividly underlines the development of on-costs as an important factor in the hourly costs of labour. Whereas in 1974 direct wage costs made up 77.5 per cent of total hourly costs, by 1983 that figure had fallen to 65.5 per cent because of increases in labour on-costs, annual leave, leave loading, sick leave, and many other factors including workers compensation, pay-roll tax, and so on. In fact, data from this survey of manufacturing and mining firms this year showed that direct hourly wage costs increased by only 3.3 per cent, but hourly on-costs increased by 14.4 per cent. Continuing pressure in this area, together with pressure for productivity increases and productivity claims, will put wages under severe pressure in late 1984-85. In fact, the unions have already announced that they will press for a 3 per cent productivity claim, which I understand is based purely on a statistical discrepancy in the national accounts which in turn resulted from the Fraser Government's tax avoidance legislation. In 1985 the accord will be under severe pressure, and I believe that pressure will be reflected in the salaries component of the South Australian Government's Budget.

I turn now to the current position in Australia as seen by experts on the outside. I refer to the Organisation for Economic Co-operation and Development, which recently examined Australia. In fact, in early September three experts from the OECD visited Australia to prepare a report on our industrial and economic problems and to examine our science and technology policies. They identified four areas of concern: they saw that Australia had low industrial research; inadequate technology transfer between research laboratories, academic institutions and industry, low technological exports, and a low number of science and engineering graduates. In fact, the OECD report states:

As a result of lack of capital investment and lack of investment in research and development, the technological base of much of Australian industry has remained relatively unchanged since the 1950s, while other industrialised countries have undergone a revolution.

The report went on to argue that there should be more subcontracting of Government research to industry, improved Government purchasing and offsets policy and increased tax incentives. The OECD study finally concluded by saying that the economies which have adjusted best to structural change are those which have had the strongest employment growth. The key challenge is to make economies more resistant so that structural change can be grasped as an opportunity and not resisted as a threat. If Australia is to have a future in international economy and if it is going to provide opportunities for our young people, it certainly has to have a great deal more flexibility in its institutional framework and in its approach to industrial relations, wage determination and structural adjustment.

I am particularly concerned about the current plight of young Australians. Like many other honourable members, I have received the booklet 'It's a Rocky Road—Young People in Australia', which was prepared by the Catholic, Anglican and Uniting Churches in Australia as a contribution to discussion in International Youth Year in 1985. The study provides an excellent profile of young people in Australia. There are 2.6 million in Australia between the ages of 15 and 24—17 per cent of the population. Seventy per cent of 15 and 16 year olds are in full-time education, 25 per cent of 17 and 18 year olds are in full-time education, 9 per cent are in part-time education or training (including apprentices), 5 per cent are studying in tertiary institutions, 19 per cent are looking for work but cannot find it, 40 per cent have full-time work, 4 per cent have part-time work, 17 per cent are first generation migrants, 12 per cent receive unemployment benefits, 2 per cent receive single parent benefits, 1.5 per cent are Aborigines or Islanders, 17 per

cent are married, 82 per cent have never been married, 1 per cent are separated or divorced, 4 per cent head households with dependants, 49 per cent have an annual income of under $6 000, 82 per cent have an annual income under $12 000, and 12 per cent say they have no religion.

The rate of unemployment in the age group 15 to 19 years in South Australia is nearly 25 per cent; nearly one in four South Australians seeking work in the 15 to 19 year old age group are unemployed. We are in danger of creating a lost generation. The wage pause initiated by the Fraser Government and continued by the Hawke Government has certainly directed savings from the Commonwealth Public Service's salaries and wages to the Commonwealth Community Employment Programme schemes, which have assisted young people in many ways. One can only wonder what the rate of unemployment would have been if schemes such as that were not in operation.

There is, though, the problem of the longer-term effects of the high rate of youth unemployment and the breakdown of the traditional social process that young people used to make from adolescence to adulthood. There undoubtedly must be long-term psychological and physical effects associated with long-term unemployment. The Chairman of the Canadian Mental Health Association commented on unemployment recently. He said that research had shown that there was a direct link between unemployment and deteriorating health caused by poor diet, inactivity and stress. He said:

> Jobless workers experience the roller coaster effect: a gut-wrenching series of emotional highs and lows in which the initial burst of optimism about finding a new job soon gives way to crushed hopes, self-reproach and chronic depression.

I seek leave to have incorporated in *Hansard* material purely of a statistical nature that sets out unemployment rates and participation rates for people aged 15 to 24 years.

Leave granted.

LABOUR FORCE SURVEY *(a)*

1. Unemployment Rates: States by Age, August 1980-84

August	NSW	Vic.	Qld	SA	WA	Tas.	ACT	NT	Aust.
				per cent					
15-19 Years—									
1980	15.5	16.3	14.8	23.1	18.3	16.5	*	*	16.6
1981	11.2	16.0	11.5	21.0	13.6	21.1	*	*	13.9
1982	15.9	16.1	12.9	22.4	17.5	25.1	26.4	*	16.6
1983	23.6	23.5	18.9	25.0	20.3	29.3	20.9	*	22.6
1984	21.2	20.1	21.4	24.3	18.0	27.1	*	*	21.0
20-24 Years—									
1980	7.8	8.6	9.3	11.7	10.2	7.3	*	*	8.7
1981	7.7	7.8	8.6	10.9	9.9	10.9	15.1	*	8.5
1982	10.3	8.9	9.2	11.9	12.0	16.6	*	*	10.2
1983	16.2	12.2	15.5	16.0	15.1	14.3	*	*	14.7
1984	12.9	9.8	13.8	13.9	13.1	20.1	*	*	12.5

2. Participation Rates: States by Age, August 1980-84

August	NSW	Vic.	Qld	SA	WA	Tas.	ACT	NT	Aust.
				per cent					
15-19 Years—									
1980	57.9	60.1	66.1	66.3	62.7	58.8	59.8	62.3	61.1
1981	57.3	55.9	65.6	63.1	65.6	57.6	53.3	60.2	59.5
1982	56.6	57.5	63.4	63.6	63.9	63.8	49.9	52.3	59.3
1983	56.2	55.0	63.2	58.6	61.3	56.8	53.1	50.1	57.6
1984	56.6	53.6	61.8	64.1	60.5	55.0	51.1	42.8	57.4
20-24 Years—									
1980	81.1	81.0	81.6	82.0	77.3	80.4	82.4	74.0	80.8
1981	80.2	84.5	80.0	81.0	77.4	75.6	80.7	80.3	81.0
1982	79.6	80.7	79.6	79.2	79.1	73.3	80.0	81.1	79.6
1983	80.1	80.2	82.0	79.3	77.8	78.9	86.7	79.9	80.2
1984	80.9	80.0	81.0	82.6	81.0	75.7	84.7	62.6	80.6

Source: Australian Bureau of Statistics
(a) Estimates are subject to sampling variability

The Hon. L.H. DAVIS: As I have already mentioned, the unemployment rate in South Australia for young people in the 15 to 19 year old age group is nearly 25 per cent. In fact, the Budget papers stated that in mid year it was higher than that, approaching 27 per cent. As at August 1984 that figure was 24.3 per cent and it was by far the highest of all the mainland States. In fact, over the past five years South Australia's unemployment in the 15 to 19 year old age group has been continually higher than that rate in all other mainland States.

That, unfortunately, has been generally true for the unemployment rates in the 20 to 24 year old age bracket. Interestingly enough, South Australia's participation rate (that is, the number of people aged 15 to 19 who are defined as being employed or unemployed) is higher than that in all other States: 64.1 per cent. It is alarming to see with this high participation rate and unemployment rate that we have such a chronic problem amongst the young people of South Australia.

The retention rate of people in years 11 and 12 at South Australian schools has increased dramatically in recent years. People of all political persuasions have in recent years emphasised the importance of this point: namely, that Australia's retention rate of children aged 17 and 18 is much lower than in countries such as Japan and America. Therefore, it is interesting to see that in South Australia, in all schools—Government and non-government—in year 12 there has been an improvement in the retention rate from 35.7 per cent in 1978 to 48 per cent in 1983. Indeed, in the past two years, from 1981 to 1983, there has been an improvement from 38.9 per cent to 48 per cent. By 'retention rate', I mean the number of students in a particular year of

secondary school (and here I am referring to year 12), expressed as a percentage of those who started secondary school an appropriate number of years beforehand.

There has also been an encouraging growth in the retention rate in year 11. That figure in the past two years has lifted dramatically from 77.5 per cent to 85.1 per cent. However, I fear that that retention rate improvement is not only a product of the constant urging of the community at large, and no doubt the parents and teachers, for schoolchildren to stay longer so that they can accumulate more skills and thus have a better opportunity of getting a job, but also very much a function of the fact that if they left school they simply would not get a job.

It seems that some good news is ahead for 15 to 19 year olds in the sense that that group in 1984 is the product of the baby boom generation. In 1980 in South Australia there were 118 700 people in the 15 to 19 year old age group. That figure fell to 116 300 in 1981; it will fall to 112 200 in 1986, 103 500 in 1991 and 95 100 in 1996. In other words, over the next 12 years there will be a fall of some 15 per cent to 20 per cent in the number of people in the age group 15 to 19 years. That to some extent will take the pressure off the work prospects, but as these people grow older they will still require jobs.

The plight of the young people underlines the need to look carefully at junior rates of pay. It is unfortunately now a rarity for Federal or State awards to have junior rates of pay. Often, we see adult rates of pay commence at 18 years of age. Whilst that may seem equitable, in many cases the person of 18 has just left school and simply does not have the skills of someone who has been in the work force for two or three years. The Australian Council of Trade Unions, unfortunately, continues to believe that youth wages should move in line with adult wages. It was interesting to see that a recent Commonwealth report on youth wages, employment and the labour force reached the following conclusion:

> Youth employment has been adversely affected by the increase in relative youth wages in the 1970s.

There seems to be little doubt that wage levels are a major factor in the unacceptably high level of youth unemployment. I have previously cited Clyde Cameron in support of an argument, and honourable members may recall that I read into *Hansard* a letter from Clyde Cameron in support of my stand on Public Service superannuation. In his recent book *Unions in Crisis* Mr Cameron states:

> We have not helped the young by demanding that they not be employed unless paid excessive wages. We have priced them out of the labour market and we deserve no thanks for that.

I believe that the unions, the arbitration tribunals and do-gooders have to realise that compassion must be matched with a sense of reality and that, if we are to help young people find a job, we must ensure that wage levels are not unacceptably high.

I realise that I have covered a wide range of areas. I have expressed views that may well be contrary to those of members opposite, but I have done so in the belief that this is an important opportunity to express views on matters affecting the economy of South Australia and the future shape and direction of this State. I support the second reading.

The Hon. R.C. DeGARIS: The noting of the Budget papers and the presentation of the Appropriation Bill give members of the Council an opportunity to speak twice on the Budget.

The Hon. C.J. Sumner: No. That is not the idea.

The Hon. R.C. DeGARIS: That is not the idea, but it is possible. It has been done, but I assure the Attorney-General that I will not follow that procedure. I would prefer the Council to spend its time on Committee work rather than on second reading contributions when the Budget is presented to the Council. Perhaps there may be such a process in the future, but I will touch on that point later. The Budget shows the estimated receipts for 1984-85 as $2 599 million, an increase over actual receipts for 1983-84 of $438 million, or 20.3 per cent. Although this appears to be a large increase in receipts, changed accounting procedures have added considerably. If an adjustment is made for those changed accounting procedures, the proposed increase in receipts would be $238 million, or 10.5 per cent.

The proposed increases in receipts are: State taxation, $103 million, or 15.5 per cent; public undertakings, $26 million, or 12.7 per cent; recoveries of debt services, $43 million, or 51.8 per cent; department fees and recoveries, $44 million, or 46.8 per cent; territorial (royalties and so on), $18 million, or 112.5 per cent; and Commonwealth (tax reimbursement and so on) adjusted to previous accounting procedures, $43.3 million, or 4.5 per cent. In examining the increases related to the burden on the taxpaying public, we see that there is an increase in taxation and fees for the 1984-85 Budget of $147 million.

A second point that must be understood is the relatively small increase of $43.3 million, or 4.5 per cent, in regard to Commonwealth tax reimbursement. It can be seen from these figures that there has been a dramatic increase in recoveries from the taxpayers of South Australia in this Budget. The Government came to office facing considerable financial problems, which were added to by the serious loss of property due to the tragedy of the Ash Wednesday fires of 1983. With credit to the Government, it faced those problems and improved the budgetary position for 1983-84. Not all the blame for the heavy increase in costs to the taxpayers can be placed entirely upon the shoulders of this Government; I made that point previously and I do so again.

I pointed out that the increase in receipts proposed for 1984-85 is $238 million, of which $147 million can be attributed to increases in tax receipts and fees. About $100 million is to be gathered in other forms. Since 1980-81 we have directed $179 million from capital sources and we have used $67 million from other resources, so the interest bill from the use of capital funds will be about $30 million per annum. Part of that $30 million contribution to the use of capital funds and the absorption of resources must be placed on the shoulders of this Government as well as on any previous Governments: $20 million of that burden placed on future taxpayers can be blamed on the previous Government and about $10 million can be directed to this Government.

Therefore, it is fair to say that, in the increases of revenue due to taxation and fee increases, the blame must be borne by this Government. It is no longer valid for this Government to place the bulk of the blame on the previous Government, and it will lose support in public opinion if it continues on that course. An article in the *Sunday Mail* by 'Onlooker' presented a reasonable report—

The Hon. R.I. Lucas: He had a good source.

The Hon. R.C. DeGARIS: I am not quite sure what source he had. The article presented a reasonable report, one with which I agree. I criticised the Budget philosophy of the previous Government, but there is a limit to the amount of blame that can be placed there, realising that it has been two to 2½ years since that Budget. Having said that in fairness to the present Government, I draw the attention of the Council to the continuing increase in costs to the taxpayers of South Australia and the continuing use of capital funds to balance the recurrent budget. The following figures show—

The Hon. C.J. Sumner interjecting:

The Hon. R.C. DeGARIS: I will give them soon. The following figures show the absorption of capital funds to

produce a balanced Budget in South Australia since 1980-81: in 1980-81, $37.27 million; in 1981-82, $61.8 million; in 1982-83, $51.9 million; and in 1983-84, $28.1 million, making a total of $179 million. The proposed sum this year is $25 million, which means that we would have absorbed $200 million of capital for recurrent budget purposes in five years.

The Hon. C.J. Sumner interjecting:

The Hon. R.C. DeGARIS: Sure. To this figure one must add the accumulated deficit amounting to $64.8 million, so we can say that $20 million to $30 million is the requirement in perpetuity from the taxpayers of South Australia to meet that absorption. I refer again to the changes that are taking place in the American States: nearly all the States have enacted constitutional or statutory provisions to prevent a Government from continuing to absorb capital funds for recurrent budget use. In referring to that matter some time ago (in 1981-82, from memory) the Attorney-General appeared to give some support to the views I expressed at that time.

The Hon. C.J. Sumner: I didn't do that.

The Hon. R.C. DeGARIS: I suggest that, if the Attorney goes back and has a look, he will see that he did not disagree, anyway. I wonder whether he still feels that way. I hope he does. The Government cannot continue to be critical of the previous Government in its absorption of capital funds when in its Budgets of 1983-84 and 1984-85 it is continuing that policy.

The Hon. C.J. Sumner: At a significantly lower rate.

The Hon. R.C. DeGARIS: But in a few moments I will compare the rise in taxation as well, and see what the position is there.

The Hon. C.J. Sumner: What about the recurrent deficit we ended up with at the end of 1983?

The Hon. R.C. DeGARIS: I thought that I might have already covered that matter for the Attorney-General by pointing out that there was a budgeted deficit and the Ash Wednesday fire in that particular Budget year. Also, one must realise that this Government had control of that Budget for a period of almost nine months.

The Hon. C.J. Sumner: In December, a month after we were elected, the deficit problem was outlined to the Parliament, as the honourable member knows.

The Hon. R.C. DeGARIS: That is correct.

The Hon. C.J. Sumner: As a result of the Tonkin Budget of 1982-83, which was an absolute disgrace.

The Hon. R.C. DeGARIS: The Attorney must also appreciate that I was one person who made a critical comment about that Budget at the time.

The Hon. C.J. Sumner: You were quite right.

The Hon. R.C. DeGARIS: The Government cannot continue to be critical of the previous Government and its absorption of capital when it continues this policy, although the Attorney-General has pointed out that the absorption is a good deal smaller than the previous Government's absorption. Last week I received a reply from the Attorney-General to a question I directed to the Treasurer on the financial institutions duty. The question I asked the Attorney, representing the Treasurer, related entirely to the Bill introduced in the Council to impose a financial institutions duty of 4c per $100, and to the explanation given to the Council at the second reading.

As we know, the financial institutions duty in this State is the highest level of that duty operating in Australia. During the debate I pointed out that the receipts from FID estimated by the Government were very conservative and the amount would be achieved at 3c per $100 instead of 4c. Indeed, I supported the amendment to reduce the tax to 3c per $100. Unfortunately that amendment was not supported by the ALP or the Democrats, so the 4c duty went through. The argument put forward that the repeal of certain stamp duties were higher than anticipated, so the overestimation of returns from FID should be adjusted, does not apply to the second reading explanation of the FID legislation.

It is quite clear, if one looks at the figures I gave when that Bill passed this place, that they are almost entirely accurate; that the Government has, by the imposition of that 4c per $100, increased its collection from what it stated it would get by 22 per cent to 23 per cent. It is quite clear that the Government should now reduce the impact of that FID to bring it in line with the duty imposed in other States and to bring it back to what it claimed it wanted when that Bill was introduced. The Government must bear some of the blame for the increased costs to the taxpaying public in South Australia.

That is one illustration of the point I wish to draw to the attention of the Council. The proposed expenditure for 1983-84 amounts to $2 624 million, an increase of $434 million, but once again this figure, for comparison with 1983-84, needs to be adjusted due to accounting changes. But the $25 million of capital funds transfer is required, whichever accounting procedure is used to balance the 1984-85 Budget.

During the year some members receive statements from Treasury for their perusal. The May document showed that the capital expenditure for the 11 months from June 1983 to May 1984 was approximately $270 million. The capital expenditure proposed for the 1983-84 Budget was $378 million. However, the June figures came out showing capital expenditure to be on target. In other words, what one can claim from those figures is that $25 million per month for 11 months was expended on capital works in South Australia, but in the last four weeks of 1983-84 the Government spent $100 million on capital works—or capital expenditure (I should not say 'capital works').

Will the Attorney-General, who will no doubt be replying to this debate, supply information to the Council on the expenditure of $100 million between the end of May and the end of June 1984? It appears to me that the reserves of this State, which have been absorbed in overexpenditure in various Budgets and which have been accumulated over the years, have now been replaced by capital funds and that those funds have not been used for capital purposes. I would like the Attorney-General to examine that question, bring back a reply and explain to the Council the expenditure of that $100 million of capital between the end of May and the end of June and to say exactly what was done with those capital funds.

One could make a lot of comments regarding a Budget and could spend some time on it. However, I do not intend going into the figures in the Budget any further. I would like to take a different course and to begin with I will quote the words of James Callaghan, when Britain's Prime Minister, taken from a speech given to the Labour Party conference of 1976, as follows:

> When we reject unemployment, as we all do, then we must ask ourselves unflinchingly, 'What is the cause of high unemployment?' Quite simply and unequivocally, it is caused by paying ourselves more than the value of what we produce. It is an absolute fact of life which no Government, be if left or right, can alter. We used to think that you could just spend your way out of recession and increase employment by cutting taxes and boosting Government spending.
>
> I tell you in all candour that that option no longer exists and that in so far as it ever did exist, it worked by injecting inflation into the economy. And each time that happened the average level of unemployment has risen. And each time we did this, the twin evils of unemployment and inflation have hit hardest those least able to stand them—our own people—the poor, the old and the sick.

The Hon. Diana Laidlaw: That is still valid.

The Hon. R.C. DeGARIS: I agree with the Hon. Diana Laidlaw. The trouble is that James Callaghan quoted a conservative viewpoint and the Labour Party did not follow it. The important point put so well by James Callaghan expresses the point that spendthrift and wasteful habits in public expenditure need to be brought under control if we are going to solve the problems of unemployment and inflation. My next quote is from the Canadian Auditor-General's Report of 1976 which says:

> I am deeply concerned that Parliament and indeed the Government has lost, or is close to losing, effective control over the public purse. Based on the study of the systems of departments and agencies, and Crown corporations, audited by the Auditor-General, financial management and control of Government is grossly inadequate.

This statement from the Canadian Auditor-General led to the Lambert Royal Commission on Financial Management and Accountability tabled in the Canadian Parliament in 1979. The recommendations of the Lambert Commission were largely accepted with a considerable increase in the work of the Public Accounts Committee and greater attention paid to the quality of inquiry, following value for money accounting and improved management practices throughout the Canadian Government system. Apart from the improvements and effectiveness of those changes it can still be seen that Canadian politicians still continue to judge spending on political merits alone. While the Canadians have made considerable improvements, politicians seem to remain the same the world over.

Politicians are still big spenders and they survive on promises, new programmes, and favours delivered. They are better at making promises, spending and gaining acknowledgements, than they are at planning, co-ordinating and curtailing. While the Canadians have made considerable progress, this political problem related to management needs and the use of taxpayers' funds still remains, in Canada, a major hurdle yet to negotiate.

It should be one of the essential roles of Parliament to press for better and more effective Government. The fact that the Parliament does not exert effective direct control over public spending does not mean that the Government itself does. Perhaps the Government, too, has lost control over its own behaviour. The Canadians, so far, have done well in their management controls. They are now looking at how the Parliament might organise itself to fulfil its responsibility, in a better scrutiny of both proposed and actual spending.

A special committee of the Canadian Parliament is presently examining the need for coherent and usable information to offset the tendency of Government to overwhelm or even intimidate the challenges of backbench members. The Canadian Parliament is presently examining, among other things:

1. The adversary nature of politics which pre-occupies members' attention and interferes with an apolitical approach to financial accountability.
2. The imbalance of resources available to members *vis-a-vis* the resources available to Government.
3. Proposals for committee reform, so that these committees may exercise new influences on the business of Government.

In dealing with the committee systems proposed in the Canadian system, the Hon. Ron Huntington recently said:

> In concert with the efforts of the Auditor-General and the Committee on Public Accounts the new committee system should go a long way in bringing together the expertise, information and political will necessary for a more relevant Parliament capable of effecting better Government.

This Council could, with a well staffed committee on management and accountability, make a considerable contribution to the management of Government. While I do not believe a State Government has the same ability to cope with the dual evils of unemployment and inflation as quoted earlier from a speech of James Callaghan, nevertheless strong Parliamentary influence on the expenditure of State funds would be of benefit to this State and make contributions to the general problem raised by James Callaghan. I briefly refer to the Government's promise to establish an Enterprise Fund, which has already been referred to by the Hon. Legh Davis. I am certain that this Fund will not contribute anything to South Australia's competitive position, but it is a Government promise; therefore, it must be accomplished at any cost.

It would be beneficial if the Parliament examined this proposal before committing the taxpaying public to another idea that may not be in the interest of the development of this State. The Budget for 1983-84 is not a bad Budget, but I stress again that the continuing absorption of capital funds to balance a recurrent Budget should still cause concern to all members of the Parliament. If one looks at the five year capital absorption, we have placed a tax burden of $20 per annum on all South Australians—man, woman and child—in perpetuity, with no advantage from that expenditure. If one adds to that the $50 per annum in perpetuity for Public Service Superannuation, to add just one more tax burden, one can see the size of the burden we are placing on future taxpayers by actions we take to finance the present.

None of us can be without blame. After all, Parliament has agreed with the financial proposals that have come before it, although Parliament's ability to effect financial changes and provisions is minor. A greater influence by well staffed committees of the Parliament will assist in providing better financial and managerial controls over Governments, which are constantly enslaved by promises made to the public in the hope of gaining a handful of votes at an election.

Another policy that needs to be given attention is the clear demands developing for less Government activity. As one looks at the number of activities undertaken by Government, which should be left to the private sector, one can see that Government activities could be reduced with benefits generally to the South Australian taxpaying public, with more efficiency in that operation. All commercial operations undertaken by the Government should prove that those operations are conducted with just as much efficiency as if those operations were carried out by the private sector. The Canadian experience in British Columbia and Alberta should have a marked effect upon our operations in South Australia.

I suggest that the first step is for a special management group to be established in Treasury to ensure that efficiency and accountability is fulfilled by all Government departments and agencies, and if in the reports of that management group it can be shown that operations in departments or agencies should be put out to tender to the private sector, this course should be followed. If such operations should not be continued by the Government then those operations should be transferred to the private sector.

I go back to the words of James Callaghan, 'What is the cause of unemployment?' Quite simply and unequivocally Callaghan replied, 'It is caused by paying ourselves more than the value of what we produce'. Value for the taxpayers' dollar should be our concern. Value for the taxpayers' investment is just as important and we should not shirk from that viewpoint.

The Hon. R.I. LUCAS: I wish to address three matters in debate on the Appropriation Bill. The first relates to page 18 of the Ombudsman's 1982-83 Annual Report which states:

> . . . recent complaint has highlighted the need for my involvement in an area where, in the past, I have not necessarily looked at the broader issue of the *raison d'etre* of a particular body. Many

Government boards, tribunals and committees are authorities under section 3 of my Act and, hence, I am able to have regard to administrative acts involving the particular body.

It seems to me that a thorough review is needed to determine how many of these bodies can still justify their existence, whether they still meet their original objectives, whether those objectives have been developed beyond what was originally intended and, if so, whether that development is legally or morally, correct. In effect, I suspect that some of these bodies may have become QUANGOS which have quietly grown up around us. . . . I believe that I am in a much better position to gauge the effectiveness of a particular body and whether, in fact, it is exceeding, or attempting to exceed, its bounds.

In future, when I receive complaints about committees, boards and tribunals which fall within my jurisdiction, and which point to the existence of a body which has become obsolescent or which, for all intents and purposes, has turned into a QUANGO and cannot justify its existence, then I will recommend that it be abolished thus saving unnecessary and unproductive manpower and Government expenses.

That statement is quite remarkable. The present Ombudsman, as a former public servant, would have been well aware of attempts at empire building during his time in the Public Service. I suggest that his statement is clearly a blatant example of empire building by the Ombudsman to usurp what I believe is the rightful role of Parliament. I would be the first to concede that Parliament has been tardy in becoming active in the area of accountability of QUANGOS. I have said as much in a number of previous contributions. In my view there is no justification at all for the Ombudsman's taking it upon himself in a God-given manner to encroach into this area.

No evidence is produced by the Ombudsman in his report of any discussion by the Ombudsman with the Government or its representatives. Is the Attorney-General aware of the Ombudsman's intention to take it upon himself to become, in effect, a self-imposed decision maker as to the existence or otherwise of QUANGOS in South Australia? If the Attorney-General was not consulted about that, perhaps in his reply to the debate he would indicate whether he supports the declaration—it is not a suggestion—by the Ombudsman that he is in effect taking over in this area. As I said, Parliament has been tardy in this area and I guess there is at least a small amount of justification for the Ombudsman's raising the matter and pointing out the tardiness of Parliament in controlling the growth and accountability of QUANGOS in South Australia. However, as I have said, I believe that there is no justification at all for the Ombudsman to take it upon himself to encroach on what I believe is the rightful province of this Parliament. The Ombudsman's role should be as is laid down in his constituting Act; that is, a review of administration or administrative acts involving departments or, in this case, the particular QUANGO.

It was not intended from my reading of the Ombudsman's constituting Act and the debates of the time that he would become the arbiter as to whether a QUANGO or QUANGOS in South Australia can still justify their existence. In my view it is wrong for the Ombudsman to believe that he alone can make the judgment as to whether a particular QUANGO should continue in existence. In fact, it is somewhat ironic that the office of the Ombudsman—a QUANGO itself—is seeking to assert a role for itself or himself as a reviewer of other QUANGOS. Nevertheless, if the Ombudsman's empire is to be prevented from further expansion Parliament needs soon to assert its own role by establishing a Standing Committee in this Chamber with particular responsibility for reviewing the activities of QUANGOS. Certainly, at least in the short term I will be interested in eliciting the Government's view as to the intention or the declaration of the Ombudsman in this area. The second matter that I wanted to refer to is a related matter, that is, the Joint Select Committee on Law, Practices and Procedures of the Parliament. I am extremely disappointed at the lack of action that has come from that Committee.

The Hon. C.J. Sumner: Hear, hear!

The Hon. Diana Laidlaw: We hear that you are the ones delaying it.

The Hon. R.I. LUCAS: No! I have attacked the Attorney on many occasions, but on this occasion I do not intend to do that because I do not believe that the fault lies with the Attorney himself. The problem lies in other areas. The problem lies not just on one side of the political fence. It is not right for the Attorney to suggest that the problems all lie only with Liberal members in the Lower House. If the Attorney is honest with himself and the Council he will accept that he has problems in his own Party in regard to progress on the Joint Select Committee.

The Hon. C.J. Sumner: It is the most stupid thing I have ever done.

The Hon. R.I. LUCAS: The Attorney interjects that it was the most stupid thing that he has ever done. I do not agree. As it turns out, the Attorney has not been able to make it work at present, but I hope that from now on something can be salvaged from what looks like the wreckage of a Joint Select Committee. I do not believe that we ought to allow the Joint Select Committee to founder. I have argued previously my view that we ought to have a Standing Committee on Finance and Government operations in this Chamber. That Standing Committee ought to have specific responsibility for statutory authorities. Also, I have argued previously that I see some strong argument for a Constitutional and Legal Affairs Standing Committee of this Chamber.

The Hon. C.J. Sumner: You ought to sort Griffin out.

The Hon. R.I. LUCAS: In this Council we are entitled to put our individual views—I am putting my view for what it is worth to the Attorney this evening. That is my view. In my short time in this Chamber I have been a strong—and I remain a strong—supporter of a system of Standing Committees in the Legislative Council. I know that the Hon. Mr Bruce is similarly a strong supporter of the Committee system in this Council, and there are many other honourable members who support a strong and effective Standing Committee system in this Council. I am concerned that the opportunity for achieving some modicum of progress towards a Committee system in the Legislative Council may well be lost by forces unknown or unnamed by me anyway in this debate within the Joint Select Committee. As I said to the Attorney, I am not laying the blame on any one particular side of the political fence: blame needs to be shared by both sides.

The Hon. C.J. Sumner: The problem you have is what your blokes are doing with Select Committees—you have five, with another on the Notice Paper. There are not enough members to service them all.

The Hon. R.I. LUCAS: I do not support that.

The Hon. C.J. Sumner: Plus the Subordinate Legislation Committee and the Public Works Standing Committee.

The Hon. R.I. LUCAS: The Attorney makes the point that there has been widespread use of Select Committees. I do not believe that members of this Council in working on these Select Committees are overworked. I believe it is a full time job in the Legislative Council—it ought to be—and Committees can work when the Council is not sitting: they ought to work when we are not sitting. The other point that ought to be made is that if we had Standing Committees of this Chamber some of these references forced to Select Committees could have been referred to Standing Committees of this Council. If we had two Standing Committees of this Council, a number of those Select Committee references could have been referred to a Standing Committee. The six Select Committees to which the Attorney refers may not have been needed to have been established.

The Hon. R.C. DeGaris: How many operate in the Senate?

The Hon. R.I. LUCAS: The Senate is a bigger body.

The Hon. R.C. DeGaris: Is it eight?

The Hon. R.I. LUCAS: From my recollection there are at least 20 Senate Standing Committees. We are in a different situation. All I am arguing for is a modest two Standing Committees.

The Hon. C.J. Sumner: Two?

The Hon. R.I. LUCAS: Yes.

The Hon. C.J. Sumner: What about road safety?

The Hon. R.I. LUCAS: I am not arguing for a road safety committee. I think the Attorney makes one point which has some validity, that is, with respect to the servicing of those committees. If we do establish standing committees, together with a number of other Select Committees, I think the question of servicing standing committees and other committees of this Chamber should be looked at by Governments of both political persuasions. Equally, I believe the servicing of back-bench members of the Legislative Council with regard to staffing should be looked at by Governments of both political persuasions.

The Hon. C.J. Sumner: You're doing very well.

The Hon. R.I. LUCAS: We are not doing very well at all. I am not seeking to make a political point.

The Hon. C.J. Sumner: You're much better off than we were.

The Hon. R.I. LUCAS: That is not really the point. The Attorney meanders into the past when he is looking for an argument. I do not care about the past. Cannot we look at what is occurring now, try to correct it and make it better for the future? It is a simple request.

The Hon. C.J. Sumner: I would first like to resolve the other Joint Select Committee on the administration of Parliament. When that is finished we can move on to the next one.

The Hon. R.I. LUCAS: In my view the committee on law, practice and procedures is a more important Select Committee and should be resolved. I wonder whether at some stage we might not reach a situation where the Joint Select Committee will be disbanded and in its place we establish a Select Committee of this Chamber to take up references that we can look at wholly and solely within this Chamber. I think there are enough members in this Chamber of goodwill and common sense to achieve some reforms within this Chamber. I hope that the Joint Select Committee can be made to work. I am not suggesting that it should be wound up now. If after the passage of a little more time there is no progress at all, I hope that the Attorney will consider disbanding that committee and reconstituting a Select Committee of this Chamber.

The Hon. C.J. Sumner: The Government will bring in a Bill to fix it up.

The Hon. R.I. LUCAS: The Attorney suggests that the Government should bring in a Bill. That does not provide members in this Chamber—

The Hon. C.J. Sumner: It's too big. There are too many people. We can't get the committee to meet. The Liberal Party in another place is not interested.

The Hon. R.I. LUCAS: And some of the Labor Party members in another place are not interested, either. Let us not make criticisms of a Party political nature. I hope the Attorney will at least consider my suggestion and, if he thinks it has merit, he will take it up. In relation to practices and procedures, I refer to answers to questions without notice in this Chamber. I hope that we can reach a sensible procedure where Ministers' replies to questions without notice can be incorporated in *Hansard* without having to be read. I can recall that that procedure was allowed once for the Hon. Ms Levy who received a number of letters during a break, and there was agreement for incorporation on that occasion. Generally, what is required is that we must stand up and ask the Minister to read the reply into *Hansard.*

The Hon. C.J. Sumner: We could adopt the House of Assembly practice, if you like.

The Hon. R.I. LUCAS: I hope that we can just incorporate them into *Hansard.*

The Hon. C.J. Sumner: They don't even ask the question again in the House of Assembly.

The Hon. R.I. LUCAS: I think that is a worthwhile reform to look at. We are already allowing replies to Questions on Notice to be incorporated in *Hansard,* even though they are not of a statistical nature. That practice has been adopted in recent weeks. For some years second reading speeches have been incorporated holus bolus into *Hansard* by Ministers of both Governments. However, we still have problems, as I experienced the other day with the Minister of Agriculture, in relation to incorporating some tables during a speech I was giving. We wasted some 10 minutes in the Chamber trying to incorporate those tables in *Hansard.* I hope that we can come up with a simple procedure whereby we can iron out the inconsistencies that have grown up as a result of different precedents being established in different areas.

The third matter that I raise relates to opinion polls. An important element of Government budgetary and economic performance is the public perception of that performance. Obviously, the usual way for measurement of public perception is the procedure of opinion polls. The most recent opinion poll was the Morgan poll recently published in the *Bulletin* magazine for the months of July and August. It showed the Labor Party with an approval rate of 51 per cent, the Liberal Party at 38 per cent, the National Party at 3 per cent (giving the combined Opposition Parties a total of 41 per cent), the Democrats at 7 per cent, and others at 1 per cent. That is a lead for the Labor Party of some 10 per cent over the Liberal/National Party coalition.

Certainly, on first brush, it appears that the Government budgetary and economic performance is being greeted with some approval by the majority of the electorate. However, those polls raise a number of interesting questions. Are Morgan opinion polls accurate in the South Australian context? Do Morgan Gallup Polls have a history of accuracy in the South Australian context? Do Morgan Gallup Polls tend to understate support for any particular political Party in South Australia? I seek leave to incorporate in *Hansard* without my reading it a table entitled 'Morgan Gallup Poll results—voting intentions'.

Leave granted.

See Page 1342.

The Hon. R.I. LUCAS: There are two interesting points that I wish to make with respect to the table and the September 1979 election in the first instance. There was a State election in September 1979. The Morgan team conducted two polls, the first in August 1979 in the weeks just prior to that election

The Hon. R.C. DeGaris: Which clause of the Bill are you on?

The Hon. R.I. LUCAS: On Government expenditure on opinion polls, and whether or not they are accurate. The second poll was conducted in the first weeks of September (1-8 September). The Liberal Party rating recorded in August was 35 per cent and its rating in September was 38 per cent, yet as we all know when the election was held in mid-September the Liberal Party vote was some 48.1 per cent; that is, the Liberal Party vote was some 10 per cent higher than the recorded vote by the Morgan poll in the weeks leading up to the election.

TABLE 1. MORGAN GALLUP POLL RESULTS—VOTING INTENTIONS
1979-82

Party	Aug 1979	Sep 1-8 1979	Election 1979	Sep/Oct 1979	Jan/Feb 1980	May/Jun 1980	Oct/Nov 1980	Feb/Apr 1981	Jun/Aug 1981	Aug/Nov 1981	Nov 81 Feb 82	Mar/Apr 1982	May/Jun 1982	Jul/Aug 1982	Sep/Oct 1982
	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%
Liberal	35	38	48.1	36	44	39	43	43	39	36	35	32	37	38	34
ALP	54	52	41.6	49	46	47	44	44	48	47	50	55	50	48	53
NCP	—	—	1.9	2	1	2	1	2	2	5	3	1	2	2	3
AD	—	—	8.3	9	5	8	9	7	9	10	10	10	9	10	8
Other	—	—	0.1	4	4	4	3	4	2	2	2	2	2	2	2
			100.0	100	100	100	100	100	100	100	100	100	100	100	100

1982-85

Party	Election Nov 1982	Nov/Dec 1982	Jan/Feb 1983	Mar/Apr 1983	May/Jun 1983	Jul/Aug 1983	Sept/Oct 1983	Nov/Dec 1983	Jan/Feb 1984	Mar/Apr 1984	May/Jun 1984	July/Aug 1984
	%	%	%	%	%	%	%	%	%	%	%	%
Liberal	43.1	35	38	37	38	38	39	40	39	37	36	38
ALP	47.5	55	52	51	53	48	52	48	51	52	53	51
NCP	2.3	3	2	3	3	4	2	2	2	3	2	3
AD	7.1	5	6	7	5	8	6	7	7	7	7	7
Other	—	2	2	2	1	2	1	3	1	1	2	1
	100.0	100	100	100	100	100	100	100	100	100	100	100

The Hon. R.C. DeGaris: Two Party preferred vote?

The Hon. R.I. LUCAS: No, that is a primary vote for the Liberal Party. In October, straight after the September election, the Morgan company recorded the Liberal Party's approval rating at 36 per cent—a drop of 12 per cent within the space of a couple of weeks following the State election. I am sure most members would agree that most governments face some sort of a honeymoon period, which generally lasts for longer than about one month.

Certainly, the September 1979 history of the Morgan polling company in South Australia at least shows that it under-estimated the Liberal Party vote by 10 per cent to 12 per cent. Conversely, it vastly over-estimated the Labor Party vote in South Australia at that time. Equally, if one looks at the November 1982 State election and the poll that was taken just prior to that election, in September and October, the Liberal Party vote was recorded at 34 per cent and the Labor Party vote at 53 per cent. Yet, when the election day came some weeks later the Liberal vote was 43 per cent—some 9 per cent higher than the Morgan polling result. Again, when the Morgan company went out in South Australia straight after the election, in November and December, it recorded a South Australian Liberal Party vote of 35 per cent, some 8 per cent lower than at the State election some weeks before.

For the benefit of those few *Hansard* readers, the table that I incorporated includes the Morgan polling results as published in the *Bulletin*. They are rounded to the nearest percentage point; so 0.5 percentage point errors are possible in those figures. The two figures that are produced for the actual elections are in effect primary vote figures for the Parties, except that a minor adjustment has been made for the Liberal and Labor Parties because of independent Liberal or independent Labor candidates standing.

In 1979, for example, there was an independent Labor candidate in Semaphore. In 1982 there were independent Labor candidates in Whyalla and Semaphore. Adjustments have been made, but no adjustment or preference allocation has been made for the Democrats or for the National Party.

The Hon. R.C. DeGaris: Do you think we will see an independent Labor vote in Elizabeth?

The Hon. Diana Laidlaw: What is the bet on that?

The Hon. R.I. LUCAS: There is some possibility, but if I were a betting man I would be surprised if Martin Evans stands as an independent, having been beaten by Mr Roe. I imagine that Mr Hemmings or Mr McRae will be moved on in three years or even less, and Martin Evans will be convinced that the Party's and his own best purposes would be served by a deal of this nature. But, that is not related to this Bill; so I will not comment on it.

I seek leave to incorporate in *Hansard* a small table of a statistical nature relating to Morgan polls and the actual election results over the past three election periods.

Leave granted.

TABLE 2

	Morgan Pre-election Poll %	Actual 1977 Result %	Morgan Pre-election Poll %	Actual 1979 Result %	Morgan Pre-election Poll %	Actual 1982 Result %
ALP	55	51.9	52	41.6	53	47.5
LIB.	36	42.1	38	48.1	34	43.1
Gap—						
ALP		+3.1		+10.4		+5.5
LIB		−6.1		−10.1		−9.1

The Hon. R.I. LUCAS: As I indicated, in table 2 the figures for actual results are adjusted in a minor way to take account of independent Labor candidates in 1979 and 1982 and independent Liberal candidates in Goyder and Murray in 1977. Other than that, they are primary vote calculations for the major Parties—Liberal and Labor Parties.

The table shows that in 1977, when one compares the Morgan pre-election poll with the election result, the Liberal vote was under-estimated by 6 per cent. In 1979, if one does the same calculation, the Liberal vote was under-estimated by 10 per cent. In 1982, when one does the same calculation, the Liberal vote was under-estimated by 9 per cent. Conversely, the Labor Party vote in 1977 was over-estimated by 3 per cent; in 1979 by 10.4 per cent; and in 1982 by 5.5 per cent.

There is a clear history, then, in the South Australian context of the Morgan polls understating the Liberal Party vote and overstating the Labor Party vote in South Australia. If one takes those figures of 6 per cent, 10 per cent and 9 per cent, one comes up with an average figure for the past three elections of about 8 per cent understating of the Liberal Party vote. It is also fair to note that this is not solely a personal criticism of the Morgan polling company in South Australia because other market research conducted by local companies, which is known to me in a previous capacity, indicates a similar situation: that is, the Liberal Party vote is considerably understated when one goes out into the field.

The question, then, is: why is there this history in South Australia of understatement of the Liberal Party vote? To answer that one needs to understand the Morgan methodology. I will not go through the complete detail that is produced here in a document for the Morgan Gallup Poll company other than to say that its general practice is to conduct 1 100 interviews throughout Australia each weekend on a Saturday and Sunday between 9 a.m. and 2 p.m. and on that basis it conducts about 100 interviews per weekend in South Australia. It aggregates over eight weeks, generally, the South Australian results and at the end of that two-month period it has a sample of about 800 to 1 000. It then gives its figures and produces them in the *Bulletin* magazine.

I am sure that most members, other than possibly the Minister of Health, who has a particular weakness with respect to opinion poll and market research studies, would understand that that is not a very satisfactory technique for garnering or monitoring public opinion in South Australia. One is taking a very small sample each weekend for eight weekends and then aggregating the samples over the two-month period.

I have categorised possible reasons for understating the Liberal Party in South Australia by some 8 per cent into three areas: first, the Morgan methodology in South Australia is deficient. Certainly, on the calculations that I have done, the Morgan surveys have a sample error of 4 per cent to 5 per cent at least in their regular two-monthly survey in South Australia as compared with their overall national sample, which would have a sample error of only 1 per cent to 2 per cent. However, that does not answer the long-term trends that are evident from table 1.

It is clear that the Morgan methodology in South Australia must have an element of bias against the Liberal Party in South Australia: I believe that it is with respect to the

understatement of the country vote for the Liberal Party. To emphasise the importance of the country vote to the Liberal Party, at the last election, in 1982, the Labor Party polled 51 per cent in the metropolitan area but only 34 per cent in the rural area. Conversely, the Liberal Party polled only 39 per cent in the metropolitan area but 51 per cent in the rural areas of South Australia.

The Morgan methodology of taking 100 interviews per weekend indicates that possibly it is taking only 10 to 20 interviews from country areas per weekend.

The Hon. R.C. DeGaris: Usually, those would be in the major towns.

The Hon. R.I. LUCAS: The Hon. Mr DeGaris makes the point that possibly one would find that those country votes, for administrative convenience, may come from the major provincial centres in the country rather than from the outlying farms because of the difficulty of locating farmers.

The second reason may be that Liberal Party voters in general are more reticent to indicate their voting intention to the prying eyes and minds of opinion polling researchers or interviewers.

The Hon. Diana Laidlaw: Why?

The Hon. R.I. LUCAS: I do not know. Some research has been done to indicate that that is possibly the case and that Liberals are more inclined to indicate that they have not decided or that they are not prepared to answer the question.

From my reading of the Morgan company research it would appear that it either ignores the undecided and refused categories or allocates them pro rata between the two major Parties. Either way, if there are a greater number of Liberal Party people among the undecided and refused categories, that could be another reason for possible understatement of the Liberal Party vote. The final reason, possibly, is that in the last weeks of the campaign there is a move towards liberal and conservative Parties and away from the Labor Party. Some research has been done nationally and internationally, in the United Kingdom for example, which shows that this is possibly the case, although generally it is thought that only a factor of about 1 per cent to 2 per cent is involved.

Of course, the problem with the research techniques of the Morgan company is that, of necessity, it polls public opinion some two to four or even six weeks prior to election day. It can only be an accurate reflection of opinion at that date, even though it might be published some two days prior to the election. If one discounts the average understatement of the Liberal Party vote of 8 per cent by a factor of about 2 per cent because of the late movement towards the Liberal Party, one comes up with a figure of about 6 per cent as an average understatement of the Liberal Party vote in South Australia in Morgan Gallup polls. I certainly believe that this is an interesting area, one into which political Parties (and, I guess, Governments are in effect political Parties) will have to conduct their own research to try to understand why there has been a history of understating the Liberal Party vote by about 6 per cent and overstating the Labor Party vote.

If one uses the adjustment factor of about 6 per cent, one sees that the latest opinion poll results from the Morgan company for July and August this year (which indicated a 10 per cent lead for the Labor Party over the Liberal Party in South Australia), show that the real electoral situation in South Australia at present may well be closer to a line ball situation, with both major Parties polling about 45 per cent.

The Hon. R.C. DeGaris interjecting:

The Hon. R.I. LUCAS: I have just cited them. If that is the case, the Opposition campaign, led by the Leader, Mr Olsen, against the Government and in respect to its broken promises on taxes and charges (and they were certainly mirrored in November 1983 when there was a sharp dip in approval for the Government and the Premier, Mr Bannon), is certainly taking effect in the community, and I am sure that it will be reflected in the only poll that counts, that is, in November 1985 or in 1986—whenever the next election is held.

The Hon. C.J. SUMNER (Attorney-General): A number of issues have been raised. Members opposite have indicated that they will ask questions in Committee, so I will respond at that time.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

ELECTION OF SENATORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October. Page 1171.)

The Hon. K.T. GRIFFIN: Technically, there is no need for this Bill, but the Opposition is prepared to facilitate its consideration by the Council in the light of the impending early general election.

The Hon. L.H. Davis: Which is not necessary, either.

The Hon. K.T. GRIFFIN: It is not necessary, either.

The Hon. Anne Levy: It is for the Senate.

The Hon. K.T. GRIFFIN: Let us refer to that, in the light of the interjection. It is not necessary to hold a half-Senate election until the latter part of the first half of 1985, because the Senators who are elected on 1 December will not take up their seats until 1 July 1985. So in respect of the half-Senate election, it just happens to be a convenient opportunity and a spurious basis for the present Federal Government to call an early general election when it perceives that the vibes from the electorate might be more favourable towards it in consequence of predictions about the economic climate in 1985.

There is no justification at all for an early election for the House of Representatives, and there is no justification for the half-Senate election this year. Of course, the Prime Minister has been concerned that, if he did not have a general election but had only a half-Senate election, it would be a convenient opportunity for the electors of Australia to register some disapproval for the uncertainty created by the Federal Government. If the House of Representatives election was held at the end of next year or in early 1986 the prospect would be that the Government would lose considerable support. I believe that the Government will lose considerable support in any case in the lead-up to 1 December, but that is another issue.

In the context of this Federal election and in the light of the amendments to the Commonwealth Electoral Act, this Bill is not technically necessary, because under the Constitution Act the States have the responsibility for determining when writs will be issued. Section 9 of the Commonwealth Constitution Act provides that the Parliament of the State may make laws for determining the times and places of elections of Senators for the State, and section 12 provides for the Governor to issue the writs.

Therefore, technically, the Governor can issue the writs for an election on such date as the State Government deems appropriate. Traditionally that has been done in conjunction with advice from the Commonwealth Government and particularly the Governor-General. Technically, also, the present power of the Governor to issue the writs does not require compliance with any particular time constraint. I can accept,

the Commonwealth Electoral Act having been passed and providing certain time constraints for a House of Representatives election, the Government's desire to have at least some uniformity in respect of time constraints for the election of Senators. However, even though there are time constraints proposed by this Bill, the State Governor will have some flexibility in the way and in the time for which the writs are issued and consequential actions taken.

The Bill actually seeks to specify seven things: first, that seven days after the writ is issued the electoral rolls are to close; secondly, that nominations are to close with the Australian Electoral Officer in South Australia not less than 11 days nor more than 28 days after the writ; thirdly, polling is to be not less than 22 days nor more than 30 days after the close of nominations; fourthly, polling is to be on a Saturday; fifthly, the writ is to be returned not more than 90 days after the issue of the writ; sixthly, polls are to open at 8 a.m. and close at 6 p.m.; and, seventhly, where a candidate dies before the time of nomination, time of nomination is extended for one day, only for the purposes of nomination but without prejudice to the proposed date for the election. They are all features of the writs for the House of Representatives elections.

I am not concerned about them being consisent for the Senate, but the Government is concerned to incorporate the provisions in this Election of Senators Act. I am prepared to support it. The Election of Senators Act has been amended only twice since its enactment in 1903, the first occasion being in 1978 and the second in 1981. I hope that the amendment that we have before us is the last for a number of years. As I have already indicated, the Bill does not remove the State Governor's powers conferred upon the Government under the Australian Constitution. It does not alter the term of office of Senators; as I have indicated, those who are elected on 1 December will, in fact, take their place on 1 July and, subject to the outcome of the simultaneous elections referendum, will hold office for a fixed term of three years. Because it does not impinge on the ultimate authority of the State Governor under the Australian Constitution Act and is consistent with the present Commonwealth Electoral Act, the Opposition supports the second reading of this Bill.

The Hon. R.I. LUCAS: I support the second reading. I want to refer to two or three matters.

The Hon. Frank Blevins: You have a good student there, Trevor: nothing is too trivial.

The Hon. R.I. LUCAS: Is the Minister quite finished?

The Hon. Frank Blevins: Attend to your business.

The Hon. R.I. LUCAS: Having been rudely interrupted by the Minister of Agriculture, I will now try to continue. I now turn to section 2b (1) *(c)*, which states that the day fixed for the closing of the electoral roll will be seven days after the date of the writ. I support this new provision in the Commonwealth Electoral Act, which is mirrored in this State legislation. It has been an unfortunate fact that previous Commonwealth Government have closed the electoral rolls rather too quickly after the issue of the writ thereby creating problems for certain people who wanted to get on the electoral roll to ensure that they were entitled and allowed to vote at the next election.

I think that this is a good reform that will ensure that everyone will have seven days in which to get on the roll. We have all seen in recent days massive publicity from the Commonwealth Government, both in the press and on television, with respect to ensuring that people get on the roll and that they have an opportunity to express an opinion as to which political Party will govern after the 1 December election. I hope that this particular provision will be incorporated in the Attorney-General's amendments to the State Electoral Act when they are produced for us to consider.

The other matter I wish to comment on is that if one takes all the provisions together what it will mean is that, in effect, there will be a minimum of about five weeks for an election campaign from the date of issue of the writ to election day. That is as opposed to a period under the previous Act of roughly three weeks, from memory, so we will have a minimum period of about five weeks during which electors can inform themselves of the policies and views of political Parties and hopefully make informed decisions on election day. Once again, this tends to take away from incumbent Governments the element of surprise they have. Governments like to have the power to spring a quick election and have it over and done with in about three weeks. The problem that that creates for electors, potential electors, officers of the Electoral Office, clerks on polling day, and Presiding Officers is sometimes secondary to the overall goal of having a quick election.

I support this provision to extend the period for election campaigns to about five weeks. Similarly, I hope that the Attorney-General will look at—and it does not have to be quite as long—an extension of the minimum period from the date of issue of the writ to election day in his amendments to the State Electoral Act. There are many other provisions in the Commonwealth Electoral Act that I hope the Attorney, based on advice from the Electoral Commissioner, Mr Becker, and others, will not incorporate in the amendments to the State Electoral Act. There are many provisions in the Commonwealth Electoral Act, particularly in relation to scrutineering for Upper House elections—and I do not know whether the Attorney has had time to cast his eye over those provisions—that I hope will not be mirrored in the State legislation. I will leave my comments regarding other Commonwealth Electoral Act matters *viz-a-vis* the State Electoral Act to another day. With those few words, I support the second reading.

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

EVIDENCE ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading

(Continued from 17 October. Page 1184.)

The Hon. C.J. SUMNER (Attorney-General): In concluding the debate I wish to address my remarks to some of the matters raised by the Hon. Mr Griffin. He raised some questions in relation to new section 34i (5) which deals with the question of the traditional warning to a jury in relation to convicting on the uncorroborated evidence of an alleged victim in a sexual case. The question raised by the honourable member was, 'Does new subsection (5) prevent appeal courts from establishing guidelines?' The amendment will leave it to the discretion of the judge to comment, when appropriate, on the weight to be given to the evidence of various witnesses. The judge has a duty to sum up fairly to a jury on the evidence so as not to produce a miscarriage of justice. Generally, the judge is left to provide a fair resume of important evidentiary points for the jury to consider and it is left to the common sense of the jury to determine questions of a witness's credibility.

This general rule will now apply in relation to corroboration in sexual assault trials, as in almost all other matters. Once this special rule is removed the situation is that the general rules relating to a fair trial and the miscarriage of justice will apply. Presumably, if an appeal court decided that on the evidence some comment should have been made

by the trial judge in such a matter involving the uncorroborated evidence of a victim in a sexual assault or rape case then it would order a retrial and a comment may be made on the fact that there was no corroboration in a case such as this.

The second question raised by the Hon. Mr Griffin relates to new subsection (2), which deals with the circumstances in which a judge would allow evidence to be admitted of a prior sexual history. One of the criteria that would need to be established to enable the judge to give leave for such evidence to be admitted is if the evidence in respect of which the leave is sought is of a substantial probative value. This response is akin to the Victorian and Queensland provisions which prohibit the admission of evidence in cross-examination of the alleged victim as to her sexual activities with persons other than the complainant unless the proposed evidence or question has substantial relevance to the facts in issue. In a paper prepared by Ms Wendy Eyre on the effectiveness of the present section 34i, data was presented which showed that the present section had not been particularly effective in achieving its objectives. While various interpretations have been advanced, it appears that once the evidence proposed to be introduced is shown to have some relevance, that is at the present time, it is ruled admissible.

The slightest probative effect will result in evidence being regarded as directly relevant to a live issue and therefore admissible. Prior sexual experience evidence is often admitted as being relevant to the issue of consent where its probative value must be very slight. In one of the cases that Wendy Eyre studied the defence counsel successfully sought leave to cross-examine a complainant with respect to two previous incidents. The first incident related to alleged intercourse with a person she had met the same evening at a party. The second incident related to her allegedly having intercourse with a boy under bushes in the parklands.

There is no doubt that where the act of consensual intercourse with another man or other men is so closely connected with the alleged rape, either in time or place, or by other circumstances, that evidence of that other act may be probative of the fact that the complainant was consenting and should be admitted. This provision now under consideration will allow such evidence to be admitted. Evidence of the type sought to be adduced in *Gregory's case* (1983) 57 ALJ, page 629, will be admissible. In that case the accused sought to adduce evidence that the complainant had had consensual sexual intercourse on the occasion in question, not only with each of them but also a number of other young men who had been present. The alleged acts of intercourse with the other men took place in one house during one afternoon on an occasion on which the accused were present and when, according to the case for the accused, the various men took it in turn to go into the bedroom with the complainant. It was held that the trial judge was wrong in refusing to admit the evidence. While this New South Wales case was decided before any statutory tampering with admissibility started, there is no doubt that such evidence would be admissible under new section 34i. It is a classic example of the type of evidence that should be admitted.

The next question raised by the Hon. Mr Griffin concerns the second leg of the matters a judge must consider in deciding whether or not to admit such evidence, that is, whether the admission of the evidence of prior sexual history would be likely materially to impair confidence in the reliability of the evidence of the alleged victim. One would hope that the day is long gone when it can be suggested that because an alleged victim has engaged in sexual intercourse in the past she is somehow untrustworthy and that her evidence should not be believed.

Present section 34i draws no explicit distinction between cross-examination on an issue and cross-examination to credit. It has been accepted, though, that the Act does restrict the latitude of cross-examination to credit and, while it precludes the use of sexual behaviour as a basis of the inference of unrealiability *(R v Gunn ex parte Stephenson* 17 SASR 165) Bray CJ in Gunn (at p.170) suggested it might have been enough simply to forbid any questioning of a witness about the alleged victim's previous sexual experiences which is only directed to credit and is not relevant to any of the factual issues in the case.

In Tasmania this has been done (Evidence Act, section 102A)—cross-examination of the complainant as to her credit, based on prior sexual behaviour with persons other than the defendant, is precluded altogether. However, there may be instances where evidence of prior sexual behaviour with persons other than the defendant should be admitted. There may be, for instance, an allegation that the alleged victim has previously made a false report that she was raped. Knowledge that such a false report occurred would be most material in assessing the alleged victim's credit as a witness and therefore in deciding as to the guilt or innocence of the accused. It may, however, be impossible to establish that the report was false without eliciting that the alleged victim engaged in sexual intercourse willingly. This is the type of case section 34i (2) *(b)* is intended to cover. None of the judges has objected to this provision. It is similar to the Victorian provision which prohibits evidence of prior sexual activities in the absence of special circumstances by reason of which it would be likely materially to impair confidence in the reliability of the evidence of the complainant.

They are the issues that the honourable member raised. When I said that none of the judges objected to that provision, that is not to say that there are not some objections to other provisions of the Bill and, in particular, some objection raised to the abolition of the corroboration warning. Indeed, some objection had been raised to the question of the exclusion of evidence which only raises inferences about the general disposition of an alleged victim. I have considered the representations of the Supreme Court judges, and it appears that there is no unanimity amongst them about the Bill. In fairness, having said that the judges did not object to the particular provision that I have mentioned relating to evidence which materially impairs confidence in the reliability of the evidence of the alleged victim, in indicating that they did not object to that provision, I did not want it to be thought that there were not some objections raised by some Supreme Court judges to parts of the Bill. However, I have considered their concerns and I believe that the Bill should proceed.

As I indicated before, in general terms it follows statutory enactments at least in some other States—Victoria and Queensland in particular—and it is also fair to say that the corroboration warning has been abolished in Victoria and New South Wales.

The Hon. K.T. Griffin: Did they give any reasons for their objections?

The Hon. C.J. SUMNER: A number of objections were made. First, in regard to deletion of the present subsection (1) in regard to not leading evidence about recent complaints—that is generally accepted. The Chief Justice considers that the provision which precludes evidence relating to the general disposition of an alleged victim is extremely dangerous but, in presenting his views on that topic, he gave an example of a case of multiple or pack rape. He states:

> It might have the effect of depriving a jury of information of the utmost importance, In some cases, such as alleged multiple or pack rapes, the circumstances strongly indicate the unlikelihood

of consent, that inherent likelihood is much weakened if the alleged victim has consented to sexual intercourse in such circumstances on previous occasions. Evidence of such earlier consents in similarly unlikely circumstances is logically relevant to the issue of consent as tending to negative the inference which would otherwise arise from the circumstances in which intercourse took place. If such evidence were considered by a trial judge as 'evidence the purpose of which is only to raise inferences from some general disposition of the alleged victim', he would be bound to exclude it. To withhold such important and relevant evidence from the jury would be to incur a serious risk of a wrongful conviction. I express no opinion as to whether the proposed subsection (4) should be construed so as to exclude such evidence, but I think that it is a dangerous and unnecessary clog on the exercise of the judge's discretion.

I do not believe the circumstances that the Chief Justice has outlined would necessarily be excluded. In fact, I would have thought that that is the sort of evidence that could be admitted as being of substantial probative value, but what I do maintain is that evidence of general disposition is not something of relevance to this question of consent, or relevant to the accused's state of mind in relation to consent. Therefore, I do not accept the Chief Justice's criticism of that provision. I believe that the example he has given, the sort of involvement in group sex on a consensual basis would be admissible under the proposed provision. The Chief Justice is opposed to the deletion of the corroboration warning. He states:

The rule requiring a corroboration warning was developed by the courts out of their long experience of trying sexual cases for reasons which are as valid now as they have always been. The risk of false accusation and wrongful conviction in sexual cases is considerable. A sexual charge is easy to make and difficult to refute. There are often hidden motives, difficult to discover, for the making of a false accusation. It is of the nature of sexual appetite that people do things under its influence which they afterwards regret. Sometimes they seek to convince others, even themselves, that what occurred was against the will. Moreover sex excites the emotions and imagination causing some people difficulty in distinguishing fact from fantasy, truth from falsehood.

There is real danger is convicting on uncorroborated evidence. The warning is given as a protection to the innocent against false accusation. It would be a serious matter to deprive the jury of that warning. Prudent judges would still give the jury advice as to the desirability of confirmation of the alleged victim's evidence. But if no such advice were given and conviction resulted, the proposed subsection (6) would place an appellate court in a very difficult situation. It would be difficult, there being no rule of law or practice requring the warning, for an appellate court to overturn the conviction by a jury which had seen and heard the witnesses, however uneasy the appellate judges might feel about the conviction based upon uncorroborated evidence. To strike down by Act of Parliament a rule developed by the courts for the protection of the innocent is to run a grave risk of innocent persons being wrongly convicted.

Again, I do not accept the Chief Justice's criticism. The warning has been abolished in New South Wales and Victoria. Apparently there are no reported cases on the topic. Therefore, I do not accept that it has a place in our law as a matter of practice. I think it is a matter that should be left to a judge in his discretion in any trial, depending on the circumstances of the trial. The distinction should not be made between sexual cases and others. Mr Justice Olssen generally agreed with the view of the Chief Justice. Mr Justice Cox had concerns about the abrogation of the corroboration warning. Mr Justice Prior supported the removal of the need to give a direction with respect to corroboration, while some judges expressed a view about the abolition of the unsworn statement. That view has been expressed on previous occasions.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Some of them do.

The Hon. Diana Laidlaw: The majority?

The Hon. C.J. SUMNER: I do not know—not all of them have responded. Mr Justice Jacobs generally supported the amendments. His view of subsection (4) was that he would not interpret or apply it in such a way to exclude evidence which was clearly probative as being relevant to a fact in issue.

As to subsection (6) the judge had never been happy with the classical direction. He thinks that it is confusing to juries and that it leads to significant miscarriages of justice. The judge said:

We tell the jury that in the absence or corroboration it is unsafe or dangerous to convict but that, nevertheless, they can convict if, heeding the warning, they are thoroughly satisfied. There is in law only one standard of proof, proof beyond reasonable doubt, but that direction conveys to juries that there is a higher standard in a case where there is no corroboration; and I frankly resent having to tell juries that it is unsafe to convict in a case in which it does not appear to be at all unsafe.

If the amendments were passed, I think that many judges would, in deference to the experience which underlies the present warning, remind the jury of the risk that allegations of rape can be invented, and the strength of any such reminder might well vary with the perceived magnitude of the risk in a particular case. I do not think it would be beyond the wit or power of a Court of Criminal Appeal if a judge, in the exercise of his discretion, gave no warning at all in a case in which some warning was clearly called for. It is indeed the conventional language of the present warning and, in particular, the use of the word 'unsafe' that troubles me, and that indeed seems to me to be the main thrust of the proposed amendment—it does not say it is unnecessary to give any warning of risk at all.

I think Mr Justice Matheson generally agreed with the Chief Justice, as did Mr Justice White. As I have said, not all the judges have responded. However, there is a difference of opinion amongst them. It would not be true to say that the judges are unanimous in their support of the Bill. However, I have considered their representations, and I believe that the proposition as put forward is still worthy of support.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

PRICES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 17 October. Page 1167.)

The Hon. J.C. BURDETT: I support the second reading. The first thing which this Bill does is to relieve the Commissioner of Consumer Affairs of his obligation of secrecy imposed by section 7 of the Act when he is communicating with other State and Federal consumer affairs agencies. As the Minister suggested in his second reading explanation, it is arguable that such communication will not infringe the Act at the present time because of other provisions. While I think that this matter is highly technical and think that this provision in the Bill is out of an excess of caution, I certainly do not oppose this provision if the Commissioner feels that he is in any way impeded in providing information to other Government consumer affairs agencies. I agree with putting the matter beyond doubt.

The second thing which the Bill does is to remove the present limitations upon the powers of investigation of the Commissioner. Under the present section 18a the Commissioner may investigate excessive charges or unfair trade or commercial practices or the infringement of a consumer's rights where either there has been a complaint from a consumer, at the request of a Commonwealth, interstate or Territory consumer, or where the Commissioner suspects on reasonable grounds that excessive charges have been made or that an unlawful or unfair practice or an infringement of a consumer's right has occurred.

I believe that these existing limitations are reasonable. I think that the Commissioner ought to have these powers in these circumstances, but I do not think that he ought to

have an unrestricted power. The present provision has applied for many years and I am not aware that it has created serious problems and, apart from the example of an advertisement, the Minister does not suggest in his second reading explanation that there have been serious problems. On the other hand, such a wide power of investigation is very much open to abuse. Investigations can impose a very serious burden on a business, particularly a small business. Where the conditions (namely, consumer complaint, reasonable grounds of suspicion or request by an interstate consumer) apply, this inconvenience cannot be avoided and, in the public interest, the business concerned must put up with the inconvenience and expense. However, to allow the Commissioner to investigate on his own motion, when none of these three matters are present, could be used quite oppressively.

I am not suggesting that this Minister or this Commissioner would be likely to use the power oppressively, but it could very easily happen. An investigative staff could be built up in the Department and investigations could be conducted willy-nilly over a wide range of businesses. Unwarranted investigations can be extremely oppressive, particularly on small businesses. As I have said, the power is unnecessary, has not been shown to be necessary, and is open to abuse. The Minister in his second reading explanation says that these limitations were inserted at a time when the consumer affairs function was relatively new and some concerns were expressed about the way in which the statutory powers under the Act might be abused. I can assure the Minister that these concerns are still there, even with these limitations. I quite frequently hear complaints from businessmen, particularly small businessmen, about the inconvenience and cost caused by investigations which they allege are unnecessary. From inquiries which I have made, these concerns would be very greatly increased if the Minister had unlimited power to investigate. After all, where something is wrong a consumer is almost bound to complain, thus giving the Commissioner the neccessary power.

The Minister in his second reading explanation said that any fears of abusing powers should have been lessened considerably, having regard to the way in which these powers have been exercised over the past seven years. In the first place, as I have suggested, I do not think that this is altogether true, but in the second place the Minister is basing this argument on the way in which these powers have been exercised with these limitations over the past seven years. It does not follow that the administration will always be the same or that it would not become oppressive if these limitations were removed.

I am surprised to see the Government seeking to widen consumer powers at a time when I had thought that all concerned were moving away from the concept of consumer protection and from the Government's holding the consumer's hand, and that we had moved towards a concept of fair trading. If we are to allow the Commissioner to investigate suppliers for any reason or for no reason at all, we are certainly not supporting the concept of fair trading. I am surprised that the Government at this stage is introducing this quite aggressive kind of legislation, and I shall oppose this clause in Committee.

The third thing that the Bill does is remove certain limitations upon the Commissioner in the Prices Act to commence, defend or assume the conduct of civil proceedings on behalf of consumers. The Commissioner must be satisfied that there is a cause of action and that it is in the public interest or proper to represent the consumer. He must also have the consent of the consumer and obtain the consent of the Minister. The further limitation at present is that the upper monetary limit is $5 000 and that cases of purchase of land are excluded. The Bill proposes to remove the monetary limit and the exclusion of land. I do not agree with this proposal. When a consumer believes that he has a cause of action against another person, the traditional procedure has been that he commences action in the courts, either with or without legal assistance. That is the procedure for settling disputes that cannot be resolved by negotiation or conciliation. If there is something wrong in the system, that should be addressed. If there is not sufficient legal aid available, that should be attended to, but to allow the Commissioner to represent consumers without any monetary limit at the taxpayers' expense really is eroding the present system. I do not believe that the Commissioner should be able to represent consumers in large commercial cases involving perhaps hundreds of thousands of dollars.

The Minister in the second reading explanation refers to an investigation that the Commissioner is currently conducting, where there are a large number of consumers; I understand that there are about 60. Some of the monetary claims are above and some below the $5 000 limit; some are likely to be successful in application for legal aid and some not. It may be convenient for the Commissioner to represent all these consumers. However, I do not see any great problem if any of the other available procedures are used, and it would be a mistake to change the law in this regard because of this one instance.

The correct procedure at this stage in regard to the monetary limit is to increase it to allow for inflation, since it was last fixed in 1977, and to index the limit. The power of the Commissioner to act on behalf of consumers can be justified in cases where the sum of money in issue is small. In such cases it is often unattractive for the consumer to take action on his own behalf in the courts because of the cost situation.

If a consumer is successful, the costs which he recovers from the other party will usually fall far short of the costs that he is charged by his own solicitor. Therefore, in these cases, particularly where there is some issue that needs clarification or when the case is in the nature of a test case, there is justification for the power which presently exists in the Act. However, when we start to move into the many thousands of dollars area and where litigation becomes ordinary commercial litigation, I do not believe that there is any justification in disturbing the present system. Subject to these reservations, I support the Bill.

The Hon. C.J. SUMNER (Attorney-General): Allow me to express my extreme disappointment in the attitude of the Hon. Mr Burdett and members opposite. These are quite reasonable, sensible and rational amendments to the Prices Act, in which I would not have thought any vaguely sensible person could see any objection.

For the honourable member to say that the propositions are moving away from the concept of fair trading is nonsense. The fact is that the Commissioner for Consumer Affairs has the authority and responsibility to investigate matters to ensure that there is fair trading. Fair trading does not mean a removal from any sort of surveillance of commercial activity. It means what it says—that is, that the relationship between people (whether they be companies, consumers and companies or consumers and businesses) is fair.

That concept is being pursued by the Government in an attempt to get to some uniform legislation with the Commonwealth relating to unfair practices. It is based on the general concept of fair trading between people, but that does not mean that the rights of consumers are to be ignored. The Department of Public and Consumer Affairs is established to assist consumers. It did that when it was set up; it does it now. It did it less effectively when the honourable member was a Minister.

The Hon. J.C. Burdett: That's not true.

The Hon. C.J. SUMNER: If the honourable member again wants me to produce the figures to this House as to the devastation that was committed on that Department in the years from 1979 to 1982, I will. He knows that the Tonkin Government cut a swathe through that Department to quite a significant extent. He cannot deny that: I am not blaming him. He did his best, but the fact is that the previous Government did not think that any priority should be given to the area. So, when there was a case for cuts that was one of the first areas that it went to. The honourable member had to front up to the famous budget review committee, or whatever it was called in those days, comprising Commissioners Griffin, Brown and Goldsworthy as I recall, who knocked his Department around.

There was that reduction. The basic principle of fair trading is not argued with; the support that the Department gives to consumers is not argued with. All we are asking for is some greater additional powers for the consumer, to investigate whether there is fair trading and to take up matters on behalf of consumers. I believe that in the past that has not been used or abused by the Commissioner. In any event, if it were to be abused by the Commissioner or a particular Government, political sanctions would operate and questions could be asked about it.

I believe that the arguments put forward in the second reading explanation are valid. For instance, at present the Commissioner is not able to conduct monitoring programmes to ascertain whether the law is being complied with. If the Commissioner must act on the complaint of the consumer, he can deal only with isolated individual instances. Surely there is a case for some sort of monitoring of compliance with legislation, even in this area. I believe that the case has been made out. As has been pointed out, there are problems at present. The Commissioner has to suspect on reasonable grounds that something requires investigation. That is the present situation, and it is often not possible to establish such grounds until after an investigation has commenced. Further, the restriction on the Commissioner's powers at present means that he cannot monitor a situation to see whether the law is being complied with. Therefore, I believe that it is not an unreasonable amendment.

I find the honourable member's opposition to the final question even more astonishing. Apparently, he wants to deprive the poor people who have suffered as a result of the activities of Action Home Loans in South Australia from being represented by the Commissioner for Consumer Affairs. This is a difficult area. The question arises whether the company was in breach of State legislation, and I would have thought that that was just the sort of case that the Commissioner should be able to take up on behalf of about 60 consumers who borrowed money from Action Home Loans. Why should there be an artificial monetary limit of $5 000? In this case, if more than $5 000 was borrowed, why should not the Commissioner be able to represent that person in determining what is the law in relation to this important topic?

The action taken by the honourable member will deprive the Commissioner of the authority to act for those consumers. I believe that that is the sort of case which should be taken up and on which there should be no restriction in the legislation. I believe that the honourable member is prepared to support one of the three planks of this amendment, and I am thankful for that, but I am disappointed in his attitude to the two matters to which I have referred.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

HOUSING AGREEMENT BILL

Received from the House of Assembly and read a first time.

ADJOURNMENT

At 12.2 a.m. the Council adjourned until Wednesday 24 October at 2.15 p.m.