LEGISLATIVE COUNCIL

Thursday 20 November 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

PETITION: MURRAY RIVER

A petition signed by 272 residents of South Australia praying that the Council urge the Government to zone the Murray River so that some areas of the river away from settled areas are zoned for power boating and other areas are zoned for birdwatchers and fishermen and to provide adequate marking and inspectors to police the zone was presented by the Hon. Diana Laidlaw.

The Hon. DIANA LAIDLAW: The petition should also refer to women who enjoy fishing.

Petition received.

QUESTIONS

HEPATITIS B

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Health a question about hepatitis B vaccinations.

Leave granted.

The Hon. M.B. CAMERON: I have been informed that a number of nurses at the Adelaide Dental Hospital are concerned that they are at risk of contracting hepatitis B. There are approximately 60 dental nurses at the hospital who have not been vaccinated against the disease. I am told that these nurses see an average of 15 patients a day, and of these approximately three a week are classified as being hepatitis B carriers. These carriers are treated in special cubicles in which the nurses work with them for up to four hours. Three nurses have already been involved in accidents where they have pricked their skin while working with infectious patients. Those nurses were given shots only after these accidents occurred.

Hepatitis B is highly contagious and can be caught through saliva and blood. It is potentially fatal, limiting the function of the liver and sometimes I understand causing cancer. The nurses work on a one-to-one basis with hepatitis B carriers regularly, handling dental instruments and needles. It is, therefore, not surprising they are concerned for their safety. This is probably an appropriate question to ask while we have occupational health, safety and welfare legislation before the Council.

The dentists at the hospital have all been vaccinated and I am told that, with some vaccine left over, about 50 per cent of the nurses were also inoculated. But that, of course, is no comfort to the rest. They work side by side with the dentists all day in cubicles, but they are not yet vaccinated. They have written to the administrator of the hospital, the assistant administrator and the PSA, but I understand that no action has yet been forthcoming.

I am also told that the South Australian Police Association has expressed concerns for the safety of police officers who have not been immunised against hepatitis B. I understand some police officers have been inoculated—that is, those in 'high risk' areas, such as the Drug Squad. However, the rest must, again, take their chances. A major concern is that officers working at random breath testing stations have not been immunised. This must be a high-risk area.

I am also told that there is concern about officers working in the Far West, Port Augusta, on tribal lands and in the city watchhouse because they, too, are at risk. In fact, the Minister would be aware that there is a very high level of hepatitis B carriers prevalent in Aboriginal areas (and I am told that it is 27 per cent). I understand that the Police Association wants every operational officer to be protected against hepatitis B because, as it says, there are numerous unexpected encounters where police officers are put at risk. My questions are: Will the Government immediately provide vaccination against hepatitis B to all dental nurses at the Adelaide Dental Hospital, and to all operational police officers? If not, why not?

The Hon. J.R. CORNWALL: This matter was actually covered in response to a matter raised by the Hon. Bob Ritson for the Hon. Mr Cameron about three weeks ago. Of course, the Hon. Mr Cameron was not able to ask that question about medical students because he would have had to declare that he had a vested interest. In response to that question I said that we were vaccinating recent graduates as they entered their internship and that it seemed to be plain commonsense to shift that vaccination back to the year in which the medical students begin their clinical studies, in other words, the year in which they start to have contact with patients in the wards.

Obviously, as a flow-on effect from that I was immediately asked about dental students. Again, I gave the same undertaking. I was then contacted by the Director of the South Australian Dental Service who told me that it had been a matter of contention for some time. There is no question that dentists, dental nurses and dental students are one of the high risk categories. Therefore, I have asked that the question of vaccination of dental nurses and dental students be considered, and the costing of that should be made available to me.

I might add that hepatitis B vaccine is relatively new and, from memory, it has been available only since 1984. It is still very expensive. Again, I am working from memory, but I believe that a course of vaccination costs somewhere between $120 and $130 for every person vaccinated. So we are not talking about a few hundred dollars or a few thousand dollars—we are talking, potentially, about hundreds of thousands of dollars. It may not be possible to find that money immediately. It was not budgeted for in 1986-87.

However, I have given the dental personnel a quite clear undertaking that it will be given the highest priority for the 1987-88 budget, and we will make hepatitis B vaccine available to dentists in the public dental service, dental nurses and therapists, more importantly, and we will certainly consider making it available to dental students. Whether that ought to be on a user pays basis to students is a matter that will have to be investigated. Whether the State Government has a responsibility for making hepatitis B vaccination available to dental students who will not be in the system after graduation is a matter that needs consideration.

I am able to give an undertaking that within the 1987-88 budget funding will be made available, even if it has to be by redirection from other areas, to ensure that dentists working in the public dental services generally, dental nurses and dental therapists will be vaccinated in the 1987-88 financial year. That will be at a cost of hundreds of thousands of dollars.

Whether or not the police should be considered in the high risk category is another matter. I would have thought at this stage that there would not be very much convincing evidence to suggest that most policemen, in the routine

course of their duties, would be in a very high risk category. I am prepared to take further advice on that, but we ought to remember that hepatitis B is spread in virtually an identical way to AIDS. The question of the possible transmission of AIDS to police by a variety of means has been canvassed publicly on a number of occasions. It is generally conceded that, although special circumstances might arise in which members of the force would be placed at some risk in going about their duty, if one considers the normal methods of transmission of AIDS and hepatitis B, current advice is that members of the force in normal duty would not be in the same sort of high risk category as dentists, doctors or even general nurses.

Because of the very expensive vaccine, we are trying to make it available to people in the highest priority areas. At the moment that does not include police. It does include dentists, dental nurses and dental therapists and they will be vaccinated as early as possible in the financial year 1987-88.

LANDBROKERS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question about the defaulting landbroker Hodby.

Leave granted.

The Hon. K.T. GRIFFIN: Over the past two days I have raised the problems created by the default of Ross D. Hodby and the crisis that his default has created for hundreds of trusting South Australians who have lost a lot of money as a result of his collapse. As I stated previously, the figures involved are claimed to vary between $2 million and $5 million. Many investors now face ruin. A meeting was held yesterday by the Official Receiver in Bankruptcy and several hundred people attended.

I am told by people who attended that meeting that, looking around the room, it appeared that about 70 per cent of those present were older people in their retirement years. Some of these invested money with Hodby believing it was fully secured and they did so in order to get regular monthly payments to avoid going on the pension. As a result of the expected loss of their money, a number of them now have nothing ahead of them except the pension, whether a veteran's pension or the age pension.

I have been told that rumours were circulating among landbrokers and agents about three years ago concerning the difficulties which Hodby may have been experiencing then, and that the Department of Public and Consumer Affairs may have become aware of these problems at that time. I am also informed that 18 months ago landbrokers did inform the Department of Public and Consumer Affairs about the grave concerns which they had that some landbrokers and agents were acting as finance brokers and were lending clients moneys, but that they were not subject to any supervision at all over the use and application of those moneys.

In respect of Hodby, it appears that questions may well arise as to whether or not the auditors were negligent—that is, for those years that audit reports were filed. As the Attorney indicated on Tuesday, they were not filed for two years. There is even a question of negligence by Hodby's bank which allowed cheques payable to Ross D. Hodby and Associates trust account that were marked 'not negotiable, account payee only' and were crossed to be actually paid into accounts other than the trust account, not being endorsed by Hodby but by one of his staff.

All that quite obviously indicates that the issues are complex. Yesterday, the Attorney-General suggested that people may have no option but to get their own legal advice. I have in fact suggested that to those who have contacted me, but a number of them will have to seek legal aid because their life savings have been dissipated by Hodby and they now have nothing more than a pension. If this does occur, and they seek legal aid, I would have thought that the Legal Services Commission could appropriately allow all of them to be represented by one lawyer or group of lawyers who have experience in commercial matters to assist them sort out the tangled mess. I know that the Legal Services Commission is not subject to any direction by the Attorney-General but, notwithstanding that, there is a close working relationship between the Legal Services Commission and the Attorney-General. My questions, Madam President, are as follows:

1. Will the Attorney-General ascertain when the Department of Public and Consumer Affairs first became aware of problems that Hodby may have been experiencing?

2. Will the Attorney-General ascertain why the department may not have acted on the concern expressed to it by some brokers 18 months ago?

3. Will the Attorney-General suggest to the Legal Services Commission that, for those who qualify for legal aid, the same top level experienced commercial lawyers be assigned to assist them as a group to sort out the many problems which they face and which this collapse brings?

The Hon. C.J. SUMNER: It seems as though the honourable member has decided to become the pedlar of rumour and unsubstantiated claim with respect to this matter. I think he really ought to behave somewhat better—

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: That is what he has attempted to do. He knows what he has attempted to do. He has come in here without a skerrick of evidence, said that he has heard some rumour, said that it is the Department of Public and Consumer Affairs when he knows it is not. He knows that the Land and Business Agents Board is responsible.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is what he said. He knows it is the Land and Business Agents Board. He knows also that he wanted to deregulate landbrokers completely.

The Hon. K.T. Griffin: I did not.

The Hon. C.J. SUMNER: Yes, he did. He wanted to introduce negative licensing when he and the Hon. Mr Burdett were in Government, and I scotched it.

The Hon. K.T. Griffin: Come on, the department services the board.

The Hon. C.J. SUMNER: The honourable member says, 'The department services the board.' The responsibility for the licensing of landbrokers was the Land and Business Agents Board, now the Commercial Tribunal.

If there were concerns about the operation of a land broker it was possible to take those concerns to the board at any time. I do not have any information which indicates the concerns that the honourable member has not specified. He has heard some rumour, apparently, and that is all it is—a rumour and nothing more. He comes in here and peddles the rumour in the hope to be able to exploit the situation that these people have found themselves in as a result of the default of Mr Hodby. He is trying to exploit their position by coming in here and peddling a rumour—that is the fact—and indicating somehow or other that the Government is involved in this thing, which was in the *Advertiser* report two days ago, and that is wrong.

An authority, independent of Government, which has an independent Chairman, two people representing the industry (land brokers) and two people representing the general public on it, was responsible for the licensing of land bro-

kers; it is also responsible for the disciplining of land brokers. If there were any complaints of this kind they would have gone to that particular body for action; and I know of none.

With respect to the honourable member's question relating to the Legal Services Commission, the Department of Public and Consumer Affairs, principally through a member of the Policy Division (Mr Kay), has made assistance available to those people who have found themselves in the position of having lost money as a result of having invested with Mr Hodby. I know that Mr Kay has advised them that they should get their own legal advice immediately to try to see whether there is anything that a particular individual can salvage out of it.

It may be that the interests of all the people involved are not the same. There may be a problem of having one solicitor acting for all of them. In fact, some may have interests that can be salvaged. For that reason, that independent legal advice was advised. It may be, as I said the other day, that the people concerned can get together over certain aspects of a claim against Mr Hodby or, indeed, a claim against the Consolidated Interest Fund, which presumably they will make.

I have every concern and sympathy for the people who have been caught in this situation. However, they invested with Mr Hodby who was apparently a reputable land broker, someone operating in the private sector in this State. Unfortunately, the individuals did not check to see that the moneys were being invested in the way that Mr Hodby had suggested they were. I suppose there was no reason why they ought to have checked it as individuals. Presumably, if there had been any suggestion that Mr Hodby was engaged in this particular practice, then the matter could have been checked and action taken to try to rectify the position.

Whether or not the auditors or the bank are negligent, I am not in a position to comment. If that is considered to be an issue then the people concerned should obtain their legal advice on it. I will take up the questions asked on Tuesday and Wednesday, as I said I would do on those days, and in particular this last question as to whether or not any initial assistance can be given, whether the matter can be taken up with the Legal Services Commission to see if it is able to assist these people and see whether anything further can be done. As far as the Government and the department are concerned, we are willing to assist in so far as it is in our power to assist. I indicated that on Tuesday and I repeat it. As to the specific suggestion of the honourable member, I will examine it and see whether anything can be done.

STAGE COMPANY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for the Arts a question about the Stage Company.

Leave granted.

The Hon. L.H. DAVIS: Yesterday, the Minister Assisting the Minister for the Arts, in response to my question, confirmed that the State Government was reneging on its 1986-87 budget commitment to the Stage Company. She noted that the Theatre Board of the Australia Council had withdrawn financial support from the Stage Company for the current year amounting to $60 000, and stated:

> Based on that decision the State Government has now decided that it would be irresponsible to continue funding to the Stage Theatre Company beyond the end of this year, that is, the end of 1986.

She also stated:

> The Arts Finance Advisory Committee recommended that money should be withdrawn.

I have made further inquiries today which clearly demonstrate that this is a scandalous affair and that the Stage Company has been treated in a shameful and shoddy fashion. First, it should be noted that the Arts Finance Advisory Committee consists of just three people: Rod Wallbridge, a public accountant, as its chairman; Mr Chris Winzar, Director of the Arts Development Division, Department for the Arts, and Mr Mike Keily, Senior Finance Officer, Treasury.

The facts are as follows: at the end of August the State budget papers were tabled in another place and approved only two weeks ago in this Council. They contained a line saying that the Stage Company was to receive $317 000 in the current financial year. On 11-12 September the Stage Company representatives met with an Australia Council Theatre Board representative, including the Australia Council accountant. Mr Chris Winzar from the Department for the Arts was present at these meetings. Mr Winzar was distinctly negative about the Stage Company at that meeting. Financial forecasts were provided by the Stage Company. The following day the accountant from the Australia Council rang to compliment the Stage Company on its financial presentation.

The Stage Company provided a copy of these financial forecasts to the Department for the Arts through Mr Winzar for perusal by the Minister for the Arts. On 14 October the Stage Company representatives saw the Premier who said that he had recommendations to close the Stage Company immediately. The Stage Company representatives were flabbergasted. The Premier said he would ask for a balanced report on the overall state of the arts funding before making a final decision and asked the Stage Company to be available for consultation.

On Friday 14 November, just one month later, the company was asked to see the Minister for the Arts on 18 November—this Tuesday. At that meeting the Minister told the Stage Company that funding would cease on 31 December. I should note that there was no consultation with the company whatsoever by the Department for the Arts, as had been promised. The Stage Company claims that the three productions in this financial year have all come in on budget: the *New Erogenous Zone*, in July, *Angie East* in August and *The Humble Doctor* in August. The company remains confident that it could operate on a small deficit and possibly break even in 1986-87.

The status of the company is undoubted: *Percy and Rose* by Rob George, four David Williamson plays, winner of a Fringe award at the Edinburgh Festival, one of the few theatre companies in Australia who constantly promote Australian playwrights; confirmation of its status is seen by the fact that artistic Director, John Noble, was Australia's representative at the New Zealand playwrights' conference in September this year.

As I indicated yesterday, this decision has provoked outrage in the arts community in Adelaide. It will see even more performing artists leaving South Australia seeking work in other States. It will cost the State Theatre Company and other remaining groups seeking top artists twice as much to bring them back. Madam President, to close the Stage Company will put out the lights in the Space Theatre for 13-16 weeks a year and will result in a significant loss of revenue to the Festival Centre.

Worst of all, it appears that the Arts Finance Advisory Committee of just three members includes one member, a senior officer of the Department for the Arts, who has been consistently negative about the Stage Company. I have also had it confirmed from two sources that the State Government, through the department, gave an adverse report on

the finances of the Stage Company to the Australia Council, and then the Government, through the Minister just yesterday, hid behind the Australia Council's decision to justify pulling the plug on the Stage Company: a wonderful double play, but fortunately it has been revealed for what it is—shabby treatment. This is a hasty and dishonest decision that has been arrived at without proper consultation. My questions are:

1. Will the Government suspend its decision to cut funding to the Stage Company at the end of 1986 pending a full inquiry into State Government funding of theatre companies?

2. Will the State Government immediately increase the size of the Arts Finance Advisory Committee to provide for more input from persons employed in the private sector, including arts accountants?

The Hon. BARBARA WIESE: I do not have much to add to what I said yesterday about this matter. I must say with respect to the question about review of the membership of the Arts Finance Advisory Committee and other questions relating to the structure and funding that, obviously, I will have to refer those questions to the Minister for the Arts. I will certainly do that and seek a reply for the honourable member. I must say that the statements that the Hon. Mr Davis has made in this place today are absolutely outrageous. Is he questioning the integrity and ability of members of the Arts Finance Advisory Committee?

The Hon. L.H. Davis: They should be consulted.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The Hon. Mr Davis should get up in this place and substantiate those claims and allegations about those people. That is quite unreasonable. It is okay at every other time of the year, when the Arts Finance Advisory Committee makes decisions about funding and makes recommendations to the Government. The Hon. Mr Davis is not uptight about that. He has not criticised the committee's performance in other areas, so apparently it is okay if it makes decisions with which he agrees, but, if he does not agree with its decisions, there is suddenly something wrong with the committee and so we must question the ability and integrity of its members.

That is quite unfair. Those people are not in this place and cannot defend themselves. If the Hon. Mr Davis wants to make allegations about the ability of the committee to make such decisions and recommendations, he should come clean and make them properly in this place and document his allegations. Also, it is quite outrageous that today and yesterday in his question the Hon. Mr Davis has implied that the Australia Council's decision to cease funding was somehow influenced by the State Government's decision to withdraw funding. All I can say on that question is that—

The Hon. L.H. Davis: The Australia Council was told by the Department for the Arts—

The PRESIDENT: Order! You have asked your question, Mr Davis.

The Hon. BARBARA WIESE: —before the Australia Council made its decision to withdraw its funding to the Stage Company it was aware that the South Australian Government had intended to allocate $317 000 to the Stage Company for this year. If it made that decision having that knowledge in its possession—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —one can hardly blame the State Government's withdrawal for the Australia Council's decision to withdraw funding. It happened the other way round and that should be put on the record. To come back to the specific questions that the honourable member has raised about the structure of the Arts Finance Advisory Committee and the funding decisions, I will refer those questions to the Minister for the Arts and bring back a reply.

VIDEOS AND BOOKLETS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about Liberal Party peace videos and booklets for South Australian schools.

Leave granted.

The Hon. M.J. ELLIOTT: There was a report in the *Advertiser* of 13 November concerning the videos, and it said in part:

> A video tape features the Opposition spokesman on foreign affairs, Mr Peacock, being interviewed by *Countdown* compere Ian 'Molly' Meldrum.
>
> The tape, according to the Liberal Party, gives secondary and private schools the 'mainstream Australian approach' to safeguarding the nation's peace, security and freedom. The 17 minute tape was written and produced by S.A. Liberal Senator Teague. He says he produced the tape and book to deal with the issues in what he called 'The Right Way.'

I do not know how far right. The article continues:

> The tape has the music theme and lyrics from the popular Sting song *Russians* and presents and explains the main themes of our 'peace through security' policies.

That is otherwise known as the 'we will get them before they get us' routine. The article continues:

> He has appealed for money to send a video and book to every secondary school in South Australia.

Apparently, the way that he gained permission to use Sting's music was somewhat devious. When he wrote to Mushroom Records he said, 'I am writing on behalf of this IYP peace video project...'. That is a rather gross misrepresentation, when he asked Mushroom Records to provide that music.

Only yesterday Mushroom Records, realising that it had been duped, sent a telex back to Senator Teague. So that members can be fully aware of the misrepresentation that has occurred I think that it should be read into *Hansard*, as follows:

> As you are aware you sought and were granted permission for the use of the song *Russians* by Sting in a 'Peace' video. Your letter of 22 October, upon which basis we granted permission states: that the project does not support nor does it mention any political Party.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The telex continues:

> We had been led to believe that the video when distributed to schools will be accompanied by a booklet titled 'Living in a Nuclear World—'

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J.ELLIOTT: Clearly, the Liberal Party has an embarrassing policy. The telex continues:

> This booklet justifies nuclear weapons and is certainly in conflict with Sting's ideals; the booklet is also a Liberal Party publication and as such, is also in conflict with the statement in your letter of 22 October.

The Hon. J.R. Cornwall: Is this from Mushroom Records?

The Hon. M.J. ELLIOTT: Certainly, it is from Ian James, the General Manager of Mushroom Records. The telex concludes:

> We therefore hereby withdraw the permission previously granted until such time as we are satisfied that the booklet will not accompany the video and the contents of the video are indeed non-political and in no way attempt to justify nuclear weapons.

First, if the video and booklet do indeed tend to show bias on the important peace issue, what will the Minister's reaction be?

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: Among the genuine peace movement the Liberal Party policy is a joke. Secondly, in the interest of—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: —presenting a range of views on the nuclear issue—

The Hon. L.H. Davis interjecting:

The PRESIDENT: I said 'Order' Mr Davis.

The Hon. M.J. ELLIOTT:—will the Minister commission a booklet describing the different approaches to nuclear disarmament of the Government, conservative Parties and groups, the Australian Democrats and the peace movement for distribution in schools?

The Hon. BARBARA WIESE: The Hon. Mr Elliott certainly raises some very important issues in this place and this is clearly a very serious issue, if indeed members of the Liberal Party have deceived business houses in this State to obtain access to information that it wanted to use for political purposes in our schools. I certainly treat the matter with very grave concern, and I am sure that the Minister of Education will, too. I will be happy to refer the honourable member's questions to my colleague in another place and bring down a reply.

STAND PIPES

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Water Resources, a question about district councils' use of restricted stand pipes.

Leave granted.

The Hon. PETER DUNN: It has been alleged by a couple of district councils at least that the cost of roadmaking has increased by $1 500 per kilometre because they must use restricted stand pipes to get water for roadmaking. The standard 50 millimetre stand pipe, because of the Government's insistence on 'user pays' (and I do not disagree with that), has been restricted to an 18 millimetre stand pipe and the water has been metered. The difference that makes is that it takes 90 minutes to fill a rather large tanker as opposed to 30 minutes under the district council's proposal. So instead of a tanker being able to get 10 loads per day it is restricted to about seven loads a day. That is not the only implication: it really allows them to get only about 21 000 litres of water on a three kilometre haul. In the future, can district councils use 50 millimetre standard stand pipes and, if not, will the Minister consider granting a dispensation from the use of restricted stand pipes after tankers have been measured?

The Hon. J.R. CORNWALL: I am happy to refer that question to my colleague and bring down a reply.

WOMEN'S SUFFRAGE PETITION

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation before asking you, Ms President, a question about the women's suffrage petition.

Leave granted.

The Hon. DIANA LAIDLAW: When I was showing visitors around Parliament House recently one who has an interest in women's issues and the women's movement inquired about the petition for the enfranchisement of women. Ms President, you may recall that that petition used to be on display in the corridor outside the Premier's office in Parliament House. I have made some inquiries and discovered that late last year the petition was removed and it is believed (although it is not known) to be stored in the basement of this building.

I believe that the petition is an extremely important item of State heritage, and indeed of national heritage. Ms President, do you share my view that the petition should be recovered (if it is, in fact, being stored in the basement of Parliament House) and placed on public display? If you share my view, do you agree that the central hall of this building or possibly Old Parliament House or Mortlock Library would be suitable venues for the display of this important item of our heritage? If you accept those propositions, Ms President, would you be prepared to initiate inquiries to ascertain the location of the petition and the feasibility of placing it in a public venue?

The PRESIDENT: I certainly would be happy to undertake inquiries regarding this matter. Of course, the petition has never been the responsibility of the Legislative Council. It has been firmly in the control of the House of Assembly. I am unaware of the reasons for its change of location. I can well imagine that, being a fairly ancient document, the conditions of its display would need to be carefully controlled and it may be that certain conditions are necessary for its protection, which would take priority over full-time display. However, having no knowledge of the matter, I am guessing. I certainly share the member's view that this is an extremely important heritage item for the State. It would be nice to have it available for public viewing if that can be arranged, subject to its proper protection. I will certainly make inquiries regarding this matter and report back when I have found out why it has been moved and to where.

HUMAN SERVICES

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister of Local Government a question about human services.

Leave granted.

The Hon. J.C. IRWIN: I am sure that many of us in this place have read with interest the ministerial statement recently released on human services and local government. I hope to ask a number of questions over the sitting days ahead on this most comprehensive statement by the Minister. I appreciate the lengthy detail presented with it. The Minister expressed the Government's desire to develop a partnership between State and local government in this area of human services. It does not take much imagination, from reading the document and statement of the Minister, to realise that she envisages a long partnership in the area of human services.

First, how will the Minister go about this consultation process? Secondly, will the Minister promise to put all the cards on the table before any comprehensive cooperative partnership is sealed? It is not good enough for it to come out in dribs and drabs. I mention that because of my involvement in Local Government Week last week. Many people I spoke to during Local Government Week were apprehensive about the moral and financial role that they may have to play in the future as far as this partnership is concerned. When they are sealed into this partnership it is a commitment for a long time. Thirdly, will the Minister table the report of the task force?

The Hon. BARBARA WIESE: The Government is approaching this matter of the local government role in the

delivery of human services in a careful and measured way because we are very much aware of the misapprehension that exists in some sectors of local government. We understand the reluctance on the part of some councils to become involved in the delivery of human services because they largely fear the financial costs that may be involved with that. For that reason we are taking this policy development step by step carefully and in close consultation with local government at every step along the way.

The task force which produced the policy statement that I was able to release last week was made up of individuals who represent agencies and departments in the State Government sector that are responsible for the delivery of human services, but it also had representation from the Local Government Association. The President of the association represented local government on that task force and participated fully in the work of the task force which reported to me and which then led to the Government's position being formed.

I view that policy statement as very much a framework for future work and development both within the State Government and in cooperation and consultation with local government and the non-government sector in human services. We have a lot more work to do. The State Government through its agencies now has to sit down and look at the various human services that it delivers and determine which services within each agency are best kept in the hands of the State Government, which will be better delivered at the local level and which ones particularly local government can be involved with or assist with to facilitate in local communities. A lot of work is to be done in that one area within the State Government. We will be doing that over time in consultation with local government.

On the question of finances and funding arrangements, it will be the responsibility of individual departments to negotiate with councils about appropriate contractual arrangements and other matters. The Minister of Health has already embarked on programs of that kind and negotiated extensively with local councils about the delivery of services. He would probably say that he has not had a lot of luck so far in getting a large number of councils to enter into contractual agreements with the Health Commission for the delivery of some services, but that may be because in the past we have not had a stated policy. That will also assist in breaking down some of the barriers that have stood in the way of gaining agreement between the two levels of government.

Much work is to be done in all these areas. I consider it to be a long-term project as it will take a long time to establish which services we are talking about and then negotiate appropriate agreements with councils. Obviously in an economic climate like the one we are currently experiencing there will be even greater resistance to becoming involved in the delivery of new services. However, many councils around this State are currently undergoing projects like this and already delivering a wide range of human services. Over time, as people come to realise that these services can be best delivered and that people receive better service from programs delivered to them locally, they will help local government to make up its mind about some of these questions.

I assure the honourable member that at every step along the way there will be extensive consultation with local government about these issues, because it is not possible to seal a partnership unless there is cooperation and agreement, and that is what we are aiming for.

SCHOOL COUNCILS

The Hon. R.I. LUCAS: Has the Minister of Tourism a reply to a question that I asked on 18 September in relation to school councils?

The Hon. BARBARA WIESE: My colleague the Minister of Education has advised that consultation about leadership in schools has occurred with many groups almost continuously since 1980, when the Joint South Australian Education Department and South Australian Institute of Teachers Inquiry into the Deployment and Mobility of the South Australian Teaching Service (JESIFA) was created. In 1983 a discussion paper on leadership positions in schools was released. Amongst the 300 responses received at that time were comments from parents and school councils. In particular, Mr Ian Wilson, the President of the South Australian Association of State School Organisations, indicated support for the involvement of parents on school councils in the selection process.

Further, SAASSO and other bodies, school councils and school staffs, as well as individual parents and teachers, have been asked to discuss the contents of the leadership paper, and to comment on the proposals, before final decisions are made through negotiation with the South Australian Institute of Teachers. As a matter of courtesy, SAASSO and other parent organisations were contacted on the day before the release of the leadership paper and copies of the paper were sent to them. In addition, my colleague has advised that the preparation of the leadership paper was discussed with Mr Wilson. The paper is about leadership positions in schools, not about the role of school councils. However, the leadership paper does state, 'All appointments to the position of Principal will, in future, include a representative of parents nominated by the school council.'

It is expected that school councils will be involved in the process by which a school determines its future mix of leadership positions; as the leadership paper states, 'All appointments to the position of Principal will, in future, include a representative of parents nominated by the school council.' The deadline for submissions has already been extended to 28 November, as published in the edition of the *Education Gazette* dated 26 September 1986.

PRIVATE HOSPITALS

The Hon. R.J. RITSON: I seek leave to make a brief explanation prior to asking the Minister of Health a question on the sale of hospital beds.

Leave granted.

The Hon. R.J. RITSON: Some two years or so ago, the Parliament passed a Health Commission Act Amendment Bill which transferred the right to approve of private hospitals construction and operation from local government to the Health Commission. I understand that since then it has been the Health Commission's practice to charge for granting this permission and the charge is related to the number of beds, and the practice has become—

The Hon. J.R. Cornwall: It is the licence fee.

The Hon. R.J. RITSON: The practice is commonly discussed—the licence fee, which the Minister by interjection referred to—and is known as cost per bed, and people speak of 'buying beds'. The Minister with his resources behind him will know a lot more about this than I. It is a genuine question seeking information. Is the cost of obtaining a licence for a new private hospital or a hospital extension directly related to the number of beds? Can the Minister say how much per bed the licence charge is and whether

that is directly related to the costs of issuing the licence or whether it amounts to some form of new State tax or charge upon that industry?

The Hon. J.R. CORNWALL: The South Australian Health Commission now is the authority which issues and reissues licences. There is an annual licensing arrangement for private hospitals. As to the allocation of new beds, no new beds have been or will be allocated. Anybody wishing to build private hospitals—for example, the proposed hospital at Morphett Vale—can only expect those beds to be licensed if they are transferred from other existing hospitals. In other words, they will have to close beds in order to be licensed for the equivalent number of beds wherever they propose to relocate. There is no question of a fee for new beds. Beds in the private hospital sector in South Australia have a going rate of probably something in the order of $50 000 per bed, but that is as between one private proprietor in a sale to another.

The commission as such is simply involved in annual licensing. There is a licence fee, the details of which elude me, but it is certainly of the order of tens of dollars. It is in no way to be regarded as a revenue raising measure and in most instances I would think we would not be approaching cost recovery, so there is no suggestion whatsoever that it is a tax. I repeat that, as for the sale of beds from one entrepreneur to another, the going rate on the eastern seaboard I understand is probably of the order of $75 000 per bed and here it is around $50 000. There are only one or two movers in the market here who have, in competition I guess, set the going rate. It is some indication of the health of the private hospital sector that people are prepared to offer up to $75 000 per bed in the eastern States and up to something of the order of $50 000 per bed in this State. The commission has no involvement in that whatsoever. There have been no new beds created. There will be no new beds created. Where people wish to build new facilities and seek a licence, we have made it very clear that we are in favour of redistribution but that we do not at this time see any need for additional bed stock, overall, in the metropolitan area.

MENTAL HEALTH ACT AMENDMENT BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Mental Health Act 1977. Read a first time.

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

That this Bill be now read a second time.

The main purpose of this Bill is to make several changes designed to assist the Guardianship Board in carrying out its functions. The opportunity has also been taken to make some administrative changes to the principal Act. As members will recall, the Guardianship Board was established under the Mental Health Act to assist persons suffering from mental illness or mental handicap by acting as their guardian and ensuring the proper management of their affairs.

Since the establishment of the board in late 1979, its workload has steadily increased, to the point where there are now approximately 3 000 clients under board orders and new applications at the rate of approximately 550 per annum. The board anticipates a further significant increase in its workload when the Mental Health Act Amendment Act 1985 is proclaimed. As members will recall, that Act deals with the matter of consent to treatment. The legislation will give the Guardianship Board power to consent to treatment of mentally ill and mentally handicapped adults unable to consent for themselves. It also provides for the board to delegate the power to consent to most procedures for mentally ill and mentally handicapped adults. In order to delegate this power, the board will need to hear numerous applications from persons seeking to have the right to consent on behalf of those not capable of consenting themselves. The board itself will also hear and determine applications for consent to treatment. In particular, the board will hear applications for sterilisation procedures and for terminations of pregnancy. Consent to such procedures cannot be delegated under the Act.

This Bill is designed to assist the board in handling both its current workload and the increase which it is anticipated will occur with the proclamation of the consent legislation. The Bill doubles the size of the current Guardianship Board from five to 10 members and enables it to sit concurrently in two divisions. The increased board will be made up of persons with experience in the same fields as the current board, namely, two each from the legal, psychiatry and psychology profession. The Bill also continues to provide for the appointment of other members with appropriate qualifications.

Another change designed to assist the board is the provision enabling delegation of the board's powers to the Chairman. Currently, in order to determine matters, the board must sit as a full board. This causes unnecessary delays in routine matters and also occupies an increasing amount of the board's time. Under the proposed amendments, delegations by the board would be subject to the approval of the Minister. The types of powers which it is envisaged might be delegated in this way could, for example, include the transfer of custody by consent from one institution to another and the approval of sales of real estate under administration orders. It is not proposed that powers affecting a person's status and civil liberty would be delegated.

Miscellaneous matters of a non-contentious nature occupy an increasing amount of the board's time. The power of delegation of such matters to the Chairman will alleviate the drain this causes on the board's resources.

The Bill also provides for an increase in the powers of the Guardianship Board in order for it to be fully cognisant of all the relevant facts before making an order. The Mental Health Review Tribunal, which reviews decisions of the Guardianship Board, has the power to order the production of documents and to require persons to answer questions. The Guardianship Board has no such power. In the past, the board has usually been able to overcome this dilemma with the cooperation of all parties. However, this has not always been the case. The amendment enables the board to require the production of documents, etc., thus assisting it to make fully informed decisions in the interests of patients.

Third parties have complained at times that even though they have a valid interest in the detention or freedom of a person they are not given the opportunity to make submissions on the discharge of the patient, nor have they been notified of the discharge of a patient. The Bill will require the board and the Mental Health Review Tribunal to give notice to third parties of hearings and to afford those with a proper interest the opportunity to be heard. Such persons will also be advised of orders or variations to orders made by the board and tribunal.

In making orders the Guardianship Board currently treats the welfare of the mentally ill or handicapped person as paramount. The Bright Committee on Rights of Persons with Handicaps considered that the board should also be

statutorily obliged to have regard to the least restrictive alternative when making an order interfering with rights and independence of a person. This Bill imposes such an obligation on the board.

The Guardianship Board is given power under section 28 of the Act to impose such conditions as the board thinks fit when appointing an administrator of an estate. The board at times receives applications from persons for their affairs to be taken away from the Public Trustee. At times also circumstances of a person change and the administration of their affairs needs to be reviewed. This Bill makes it clear that the board has the power to make such variations.

Under the Aged and Infirm Persons Property Act, the Supreme Court has the power to direct that a will of a protected person shall be made only after such precautions as the court thinks fit. Any will not made in accordance with this direction is held to be ineffectual. The Guardianship Board is now responsible for many cases which previously went to the Supreme Court. However, the board has no power to direct that precautions be taken before a protected person makes a will. This Bill gives the Guardianship Board the necessary power.

The Bill also seeks to further protect persons residing in psychiatric rehabilitation centres. The Act requires that such centres be licensed by the Minister. Where the holder of such a licence contravenes or fails to comply with a condition of that licence, the Minister may, under the Act, give one month's notice of intention to revoke the licence. During that month the holder of the licence may appeal to the Mental Health Review Tribunal. At the end of that month, unless the appeal to the tribunal is successful, the Minister may revoke the licence.

Circumstances may arise where the safety, health and welfare of patients is at such risk that the immediate suspension of the licence is more appropriate than giving one month's notice of an intention to revoke the licence. The Bill will give the power to the Minister immediately to suspend a licence where patients are at risk and to make necessary alternative arrangements for the accommodation of patients.

In summary, this Bill aims to further protect the interests of the mentally ill and mentally handicapped and to ensure the continued smooth running of the Guardianship Board. I commend the Bill to the Council. A formal description of the clauses follows and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 effects some consequential amendments that make it clear that the expressions 'Chairman' and 'Assistant Chairman' include a reference to the deputies of those persons.

Clause 4 doubles the size of the Guardianship Board from five to 10.

Clause 5 makes several consequential amendments.

Clause 6 gives the Chairman the power to direct that the board many sit in two separate divisions for the purpose of expediting the business of the board. Each division will be headed by either the Chairman or the Assistant Chairman. A quorum for the full board is six and for a division is three. The person presiding at any meeting (whether of the full board or a division) has a casting vote as well as a deliberative vote. New section 25 gives the board the power to delegate any of its functions to the Chairman, but only with the approval of the Minister. New section 25a gives the board the power to require the attendance of persons before the board and the production of documents to the board. The usual offences of failing to comply with such a requirement are provided, and the usual protection against self-incrimination is given. New section 25b requires the board to afford a person who is to be the subject of an order, direction or requirement of the board to be given an opportunity to appear before the board, unless it is practicable to do so. The board must also give a similar opportunity to persons who have a proper interest in proceedings whereby a person may be placed under, or removed from, the guardianship of the board or the care and custody of another person, or whereby a person's affairs may be placed in, or removed from the hands of an administrator. If a person has made representations to the board in any matter, the board must give notice to that person of any order subsequently made by the board. New section 25c required the board to give due consideration to the wishes of the person the subject of the proceedings, and to the object of taking the least intrusive action in relation to a mentally ill or mentally handicapped person.

Clause 7 first limits the board's obligation under this section to review the circumstances of protected persons to those who are under the guardianship of the board. (The obligation to review the appointment of an administrator is to be inserted in a later section.) A consequential amendment is also made.

Clause 8 provides for the periodic review of the appointment of an administrator. Provision is also made for the revocation or variation of such an appointment. It is made clear that an administrator is a trustee of the protected person's estate.

Clause 9 inserts several new provisions. New section 28aa provides that an order of the board appointing an administrator is registrable under the Real Property Act if it affects land. New section 28aab provides that the board may direct that a protected person can only make a will after certain precautions specified by the board have been complied with. A will made without complying with those precautions has no effect.

Clause 10 provides that the tribunal must afford the same opportunities for appearance before the tribunal and give the same notice of orders as is provided in relation to the Guardianship Board in new section 25b inserted by clause 6 of this Bill.

Clause 11 provides the Minister with the power to suspend the licence of a psychiatric rehabilitation centre upon which notice of proposed revocation has been served. The Minister may only exercise this power if the Minister believes the safety, health or welfare of a patient would be at risk if the centre continued to operate pending decision as to revocation of its licence. If a licensee is suspended, the Minister is empowered to take steps to secure the proper care of patients in the centre.

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

STANDARD TIME BILL

Second reading.

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

That this Bill be now read a second time.

This Bill repeals the Standard Time Act 1898 and the Daylight Saving Act 1971 and provides for the adoption of Eastern Standard Time throughout South Australia together

with the observance of daylight saving for a defined or prescribed period during summer.

Significantly the Bill also authorises regulations exempting portions of the State from the observance of daylight saving. As discussed later it is proposed that that portion of the State generally west of 137° east longitude, with some minor variation to that line, will be exempted from daylight saving.

The original suggestion to adopt Eastern Standard Time in that part of the State adjacent to the eastern border came from the Green Triangle Council for Regional Development in Mount Gambier. The suggestion was put to the Joint Victoria/South Australia Border Anomalies Committee and was referred to the South Australian Government for consideration.

At about the same time, amendments to the Daylight Saving Act were passed to enable the extension of the period of observance of daylight saving by regulation. These amendments and the extension of the period by two weeks in March this year rekindled long standing sectional opposition to daylight saving particularly from the western region of the State. In fact the Hon. M.J. Elliott, MLC, was successful in urging the Government to adopt an amendment which would enable the exemption of that portion of the State from daylight saving. When those amendments were agreed to I indicated that the Government would not make use of the power without prior examination of the implications of such a move. Accordingly, as a result of these two concurrent pressures on Government, the whole question of this State's time zone was under detailed consideration.

The Government decided to release details of a proposal which envisaged Eastern Standard Time plus daylight saving east of the 137°E meridian of longitude through Franklin Harbor mouth, just east of Cowell and west of Iron Knob. The area to the west was to remain on Central Standard Time plus daylight saving in the proposal.

Following release of the proposal in April letters were received from interested parties. A diversity of views were expressed in the responses and not all views expressed regarding the proposal were easy to categorise. However, it is significant and worth noting that those most opposed to the proposal were also strongly opposed to the *status quo*. The alternatives suggested by those persons were unrealistic and undesirable involving, in some cases, the complete abolition of daylight saving and moving the State a full hour behind the Eastern States.

There were many of course who provided a more balanced view on the issue and these proved useful in developing the compromise proposal which emerged and is provided for under this Bill. The Chamber of Commerce and Industry kindly provided the results of a poll of their members which indicated that 57 per cent supported the introduction of EST (the majority for the whole State) and 43 per cent supported the *status quo*. The Chamber therefore advocated EST for the State. The Government has given weight to that evidence.

It became apparent from the response that some variation to the original proposal for an all-year division of the State into two time zones would be required. Furthermore, West Coast correspondents clearly were more opposed to daylight saving than other writers. A compromise has therefore been put forward for authorisation under this Bill and subsequent regulations.

The compromise involves the entire State adopting Eastern Standard Time, however, during the summer period only the eastern part of the State will adopt daylight saving. The western portion of the State, that is essentially that part which lies west of the 137°E longitude, will be exempted.

There will be two deviations. The first, in the north of the State, will involve shifting the line 30 km to the west between 30°S latitude and 32°S latitude. This will ensure that Roxby Downs, Andamooka and Woomera remain in the same part of the State observing daylight saving as well as Eastern Standard Time. Such an adjustment is required so that townships servicing and housing staff involved in the Roxby Downs development observe the same time.

Further south, another small deviation across the coast to Spencer Gulf will place the Mitchellville district in the western zone with Cowell, which is the district service centre. The boundary will then run down Spencer Gulf between Wedge Island and Yorke Peninsula and out to sea.

For eight months of the year South Australia will be a single time zone observing Eastern Standard Time. The proposal offers significant potential advantages to this State. Indeed, when first announced the Leader of the Opposition responded publicly saying the proposal has 'considerable merit'. Those advantages are generally known. I will take the opportunity to briefly discuss some of those advantages.

The competitive position of South Australian firms in the Australian market would be improved by an increase in communication time with the Eastern States. Approximately 80 per cent of the nation's population lives in that region, making it the main market for the consumer goods industries. The time or cost disadvantage which Adelaide money market operators and the Stock Exchange suffer would be removed.

The impression of South Australia's 'remoteness' from the eastern seaboard would be eliminated for business and tourism alike. In examining the benefits of Eastern Standard Time one should not overlook the benefits to recreation and tourism from the additional half hour of daylight saving. The proposal offers the State the opportunity to maximise the benefits of South Australia's unique summer climate. The local recreational, tourist and entertainment industries would greatly benefit from the move. I acknowledge that the proposal will pose some minor inconvenience to some people. However, such inconvenience has been wildly exaggerated by the detractors of the proposal.

The General Manager of South Australian Cooperative Bulk Handling Ltd. has advised that silo operations are sufficently flexible to cope with daylight saving. This flexibilty would of course extend to the changes currently proposed. The effect on shearing times has also been exaggerated. Most shearing takes place in the warmer months when there will be sufficient natural early morning light to commence shearing. Artificial light will need to be used for a relatively short period in those shearing sheds in that part of the State which shears in the winter. The effects on the dairy industry are acknowledged. Dairy farmers will have to rise at the same time by the clock to maintain present schedules of delivery to customers.

The problem of schoolchildren who travel to school by bus particularly in country areas has been taken into consideration. Most school bus runs currently commence at about 7.45 a.m. There are some that do commence earlier. In those cases I acknowledge that a small number of children will be picked up on winter mornings while it is still dark or only semi light. To overcome this problem the Minister of Education has been requested to examine the feasibility of adopting flexible school hours to those schools where pupils are bussed.

The complaint that children will have to travel home from school during the hottest part of the day is without foundation. An examination of the average temperatures in

Adelaide at hourly intervals between midday and 4 p.m. for the month of February indicates a variation of only 0.5°C. Although on a particular day there may be a significantly greater variation over any particular month, one would expect no significant difference overall in the temperature at the time children will be travelling home from school.

The relatively minor problem of programming of regional television stations is not considered to be sufficient to justify the abandonment of this proposal. Currently regional broadcasters who broadcast across the eastern border of the State cope with this situation all year round and there is no indication that this breaches the broadcasting regulations.

I point out that this time differential would only exist for approximately four months of the year. It should also be remembered that those people affected by this differential have for some time themselves lobbied for such a change in seeking exemption from daylight saving.

In conclusion, I draw the attention of the Council to the strong support for the proposal from the State's major industry representative (the Chamber of Commerce and Industry) and organisations such as the metropolitan television broadcasters, Advertiser Ltd., the State bank, Softwood Holdings and regional organisations such as the Mount Gambier Chamber of Commerce.

In discussions with these groups and with individuals, very strong support has been received. The attitude which I believe is common to all these groups and individuals is that the State should at the very least 'give it a go'. Unless South Australia takes up this proposal here and now, a unique historical, political, economic and recreational opportunity will be lost. I commend the Bill to the Council as a reasonable compromise which offers the State the advantages of Eastern Standard Time and at the same time overcomes the complaints of residents in the West about the effects of daylight saving during summer. 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 provides that the measure comes into operation at 2.30 a.m. Eastern Standard Time on 15 March 1987—the end date of the next daylight-saving period.

Clause 3 is an interpretation provision. The attention of honourable members is drawn to the following definitions:

'the daylight saving period' has the same meaning as 'the prescribed period' in the current Daylight Saving Act 1971.

'instrument' is widely defined to include legislative, judicial and administrative instruments, as well as contractual instruments.

'oral stipulation' is similarly widely defined.

Subclause (2) enables the Governor by regulation to divide the State into two time zones for the purposes of the measure.

Clause 4 provides that Eastern Standard Time is to be observed as standard time throughout South Australia except in the daylight-saving period. In the daylight-saving period, summer time (one hour in advance of Eastern Standard Time) is to be observed as standard time in South Australia except in a time zone excluded by regulation. In such a time zone Eastern Standard Time is to be observed throughout the year.

Clause 5 provides for the construction of references to time in instruments and oral stipulations. If the reference to time relates to a period over which Eastern Standard Time or summer time is being observed throughout the State then the reference is to Eastern Standard Time or summer time, as the case may require. If the reference to time relates to a period over which summer time is being observed in one time zone and Eastern Standard Time in the other then the construction of the reference depends in which time zone the instrument or stipulation operates. If it operates wholly in one time zone then the reference is to the time being observed as standard time in that time zone.

If it operates in both time zones then the reference is, in relation to the operation in each zone, to the time being observed as standard time in that zone. For example, a contract for delivery of items to a place in one time zone and a place in the other time zone by 3 p.m. on a particular day will require delivery by 3 p.m. Eastern Standard Time in the time zone not observing summer time and by 2 p.m. Eastern Standard Time (3 p.m. summer time) in the time zone observing summer time. The provisions are subject to the expression of contrary intention.

Clause 6 gives the Governor the necessary regulation making power.

Clause 7 repeals the Standard Time Act 1898, and the Daylight Saving Act 1971.

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1—Clause 5, page 3, line 4—After 'to' insert 'the person of'.

No. 2—Clause 5, page 3, line 32—After 'cause harm to' insert 'the person of'.

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

That the House of Assembly's amendments be agreed to.

The Hon. K.T. GRIFFIN: These are technical amendments to a clause that I moved when the matter was before us previously. There was some consultation with me before it was proposed in another place, and I agree to the amendments.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

Adjourned debate on second reading.

(Continued from 19 November. Page 2088.)

The Hon. R.I. LUCAS: I support the second reading of the Bill as I believe it to be a most important Bill which is part of an overall package which I hope will do much to improve the safety, health and welfare of workers in South Australian industry. It is a shame to some degree that some extreme statements from both sides—employers and unions—have tended to detract from the important agreed parts of this Bill. In particular, I instance statements quoted from the Small Business Association, statements made by the Minister (Hon. Frank Blevins) on the steps of Parliament House and elsewhere, and this morning's statement reported in the press from the Safety Officer of the UTLC concerning the Liberal Party's attitude to the Bill being dictated largely by its big business interests and, in particular, the mining companies.

I will be interested in the debate in the Chamber to see how in any way one could argue that the Liberal Party is defending the interests of mining companies in this Bill. The available statistics in relation to industrial accidents and fatalities may be inadequate, and that point was made by a number of speakers already. I understand that the definition that we use in South Australia for industrial accidents relates to those persons off work for one week or more so that, if one is injured and off work for less than a week, one does not show up in the official statistics that we have seen quoted here from the Australian Bureau of Statistics.

In relation to occupational disease, I understand that there are no official statistics other than compensation figures or, obviously, deaths recorded. Clearly, that is not an accurate description of the true extent of occupational disease in industry in South Australia or in other States. While the available statistics may be inadequate, I think that even the figures that we have seen indicate that there is still considerable cause for concern in relation to work practices in South Australia.

The bureau figures do show (and, as I said, it is an underestimate) that the fatalities for the past five years in industry in South Australia average somewhere between 20 and 30 a year. Fatalities and disabilities seem to be averaging between 12 000 and 15 000. I repeat once again: those figures are calculated on the basis of persons being injured and off work for longer than a week. We know from the workers compensation debate that there are many short-term injuries with effects of less than one week. If one looks in South Australia and realises that it is estimated that for every one day that is lost due to industrial disputes we lose about four days through industrial accidents, once again we can see the seriousness of the problem.

If one looks at the estimate made at the end of 1983 by the Federal Minister (Ralph Willis) that the total cost wasted through lost production and other costs as a result of injury and disease was about $6 billion, once again we can see the seriousness of the situation in South Australia and Australia. Clearly it is a major problem, not only from the viewpoint of workers and their families but also for employers in relation to lost production in employee turnover and obviously it is a problem from the Government's and Parliament's viewpoint; and it is obviously a problem that has to be addressed by all of us.

I support the intent of the Bill in relation to penalties, to provide a signal to everyone—employers in particular—of the importance of this Bill. The signal will indicate that there will be a significant lifting of the penalties for breaches of the legislation. Clearly, the present fine of $1 000 for breaches of the legislation is inadequate for the minority of firms—and it is not a majority of firms, as other speakers have indicated—in South Australia that do not abide by proper safety regulations and procedures for their workers. While it is only a minority of firms, I think we must concede that they do exist in this State and in other States, too.

There must be an appropriate level of penalties, and the present penalty of $1 000 is clearly inadequate. Figures have been quoted to show that under the existing range of penalties the average penalty or fine on firms that offend against the legislation has been of the order of $200. The example most often quoted by the Minister (Hon. Frank Blevins) relates to the worker who lost eight fingers as a result of an industrial accident. The employee worked for a company which had 27 reported breaches with the Department of Labour and Industry for prosecutions involving operating machinery unguarded. That particular firm was fined $450 for the accident that resulted in a worker losing eight fingers. Clearly, that is an unacceptable situation in South Australia.

I refer to 'Limbs, Lungs and Lives—Occupational Health and Safety Reform', a publication by Mike Rann, the former Press Secretary to the Premier and now, of course, the member for Briggs. Page 5 of that publication states:

> The tragic absurdity of existing penalties was at last brought home to the Victorian public in 1981. Two teenage boys were asked by their employer to clean out a degreasing vat. They were given no information about the nature of the chemicals they were working with, nor any protective clothing other than a pair of boots each. Within 20 minutes both boys were unconscious. The next day they were pronounced dead. Eventually the company concerned was fined $2 000 for its failure to observe enclosed space regulations.

That example and the one mentioned by the Minister involve, as I said, a minority of firms; nevertheless, they do exist in South Australia and in other States.

It is quite clear that the existing level of penalties is inadequate to cover that sort of situation which I believe no member in this Chamber would tolerate in his or her own workplace. Clearly, the penalties should be lifted. Whether the penalties are lifted by 50 times, 100 times, 1 000 times or whatever, in my view is not really a critical matter; they must be lifted significantly as a signal to employers and to everyone of the importance of complying with the legislation. I will support the amendment to be moved by the Hon. Trevor Griffin to lift the penalties by 50 times from a maximum penalty of $1 000 to $50 000. I hope that this significant increase in penalty, plus the overall package of not only this legislation but education programs and the like, will be sufficient to encourage the minority of employers, to whom I have referred, to institute safer worker practices and procedures in the workplace.

I do not believe that there will be many persistent and blatant offenders who could afford maximum penalties of $50 000 for an offence. I think that is especially true, if the contribution from the Hon. Terry Roberts last night is correct. I might say that I enjoyed that contribution although I disagreed with some aspects of it. I believe that one of the tragedies of the Liberal Party is that we do not have enough members in the Party room with union and working class background experience.

The Hon. Carolyn Pickles: How many have you got?

The Hon. R.I. LUCAS: I have not counted them. We used to have Bob Randall, but we lost him—you got rid of him. As I have said, I believe it is one of the tragedies of the Liberal Party that we miss that contribution within the Party room and within Parliament. People like the Hon. Terry Roberts are able to bring their background and expertise to Parliament. As I said, I disagree with some aspects of the Hon. Mr Roberts' contribution.

I refer to his assessment and argument—and I do not know whether it is correct, but he certainly argued persuasively last night—that the major problem was with smaller employers and that he did not believe that many of the larger employers had safety problems as significant as those of some of the smaller employers. If that is the case, then fines of the level of $50 000 will clearly be a significant deterrent for those employers in connection with offending or breaching the provisions of this measure.

At this stage I do not support what I see as the emotive provision of including a penalty of a maximum of five years gaol for someone who might offend against certain provisions of the legislation. However, I place on record that, if the lifting of the fine to $50 000 is shown in time to be insufficient and there are still blatant and persistent offenders within the system who have not been deterred by the significant increase in the penalty, I believe that I and

other members in this Chamber would need to reconsider the more onerous and drastic penalty of gaoling employers.

I believe that, for the legislation to be successful, it needs goodwill on both sides. This provision in relation to gaoling of employers for breaches of the Act has discouraged goodwill on the part of many employers towards what the Government and the Parliament are trying to achieve in this Bill. As part of my reading for this debate, I reread the booklet by Michael Rann, *Limbs, Lungs and Lives*, in particular the part in relation to chemicals in the workplace. I compliment Michael Rann. It is not often that I agree with him, but on this matter we ought to take a good deal of heed of much of what he has written and said.

No doubt exists that chemicals in the workplace have been and will continue to be a major problem, and it will get much worse as we get more toxic and dangerous chemicals in the workplace. Unless we have adequate controls for workers handling those chemicals, in the long term it will be not only to the workers' detriment but also to the detriment of South Australian industry. In his booklet Michael Rann quotes Bill Hayden, as follows:

> We have seen the tragic side of industrial progress: liver cancer in the plastics industry; bladder cancer in the rubber and dye stuffs industries; leukaemia from the manufacture of shoes and chemicals; coronary disease in the manufacture of viscose rayon; sterility from the use of pesticides; respiratory disease and cancer from the manufacture of asbestos.

Further on in a rundown of various hazardous chemicals, Michael Rann looks at Vinyl Chloride Monomer (VCM) and states:

> VCM—the raw material for the polyvinyl chloride (PVC) plastics industry, has been manufactured on a large scale since the 1930s. Yet, despite the 'plastics boom', nothing was done for decades to determine whether there were any health hazards posed by the handling of VCM—a heavy, sweetish smelling gas. This was tragic because the production process involved the pumping of VCM into huge vats which were later hand cleaned and scraped by workers. During cleaning, the gas would float around the workers' legs, making them numb.
>
> In his Fabian pamphlet, John Mathews wrote that by the early 1960s, several deaths had already been reported of men who had been overcome by the VCM fumes and not been rescued in time. 'But towards the end of the 1960s, VCM workers started to exhibit strange and frightening clubbing of the ends of the fingers and a hardening of the skin and finally acute sensitivity of the finger tips . . . a condition dubbed aero-osteolytis. An Italian researcher named Viola was trying to reproduce this condition in animals, when in 1970, he discovered quite by accident, that some of the animals developed tumours at high levels of exposure to VCM. This was the first warning of cancer. It finally prompted a consortium of European chemical companies to sponsor a full-scale carcinogenicity study in animals at the Bologna Cancer Institute, under the direction of Cesare Maltoni. By late 1972, Maltoni had confirmed and extended Viola's results, finding a variety of tumours in several organs in rats, including haemangiosarcoma of the liver, at levels of exposure even lower than those common in the industry at the time.'
>
> VCM manufacturers failed to act on this evidence and refused to allow the publication of Maltoni's research. Fortunately, under an exchange agreement, the results were provided to the US Manufacturing Chemists Association (MCA), on the understanding that they would not be publicly revealed. When the US National Institute for Occupational Safety and Health requested information on the health effects of VCM from the MCA, the industry still remained silent about the animal test results.
>
> Mathews writes that this situation might have continued indefinitely, except that, in 1974, workers began dying from a rare liver cancer at a Kentucky plant of the rubber manufacturer, B.F. Goodrich.
>
> 'A cluster of three deaths from haemangiosarcoma was absolutely extraordinary, and since the outstanding feature all three men had in common was their exposure to VCM, it forced even this most reluctant of industries to act. So Maltoni's results were published, and the carcinogenicity of VCM was announced to the world at large. Since then, VCM has also been associated with deaths from lung cancer, from gross liver disease, and with sterility and male impotence. Yet the PVC industry continues to boom, and new plants are being built around the world.'
>
> Following the Goodrich announcement, Government authorities worldwide, and the chemical industry, revised standards for VCM and lowered permitted exposure levels to one part per million in the US (but 10 ppm in Australia). The chemical industry also re-engineered the manufacturing process to reduce exposure of workers to VCM. But it had taken a long time and strangely Australia's National Health and Medical Research Council has yet to officially classify VCM as a carcinogen.

There are many other views in relation to the toxicity of the various chemicals mentioned in Mike Rann's publication. I am not able to comment on the accuracy or otherwise of those statements but, in relation to VCM and the difficulty for workers and unions to find out the dangers of particular chemicals in the workplace, it is a fair warning to all of us that it is something that an occupational health and safety system must consider and cover in South Australia.

It is clearly an important matter for us to address. We must note that some diseases have long time delays between the unsafe work practice and the onset of disease in the worker. We should not do anything in this Bill to prevent a negligent employer from incurring a penalty because of such a long time delay.

The Hon. I. Gilfillan: Is five years too long?

The Hon. R.I. LUCAS: We will discuss that in the Committee stage. It is an important question that all members need to consider in relation to occupational disease, in particular dangerous chemicals in the workplace, and I will certainly address myself to that part of the clause and any amendments during the Committee stage.

I support the introduction of health and safety representatives and health and safety committees as a positive part of this Bill. The Liberal Party policy at the last State election argued for safety representatives to be introduced into companies with fewer than 50 employees and safety committees to be introduced into companies with greater than 50 employees. We must have a situation where, if the health or safety of a worker is threatened, immediate corrective action must be taken, and we should not put anything in this legislation that could prevent that immediate corrective action taking place. Clearly there must be checks and balances against the capricious use of that power and the amendments being moved by the Hon. Trevor Griffin and the Hon. Ian Gilfillan will, if passed, achieve those checks and balances.

The last matter I wish to raise is the fundamental difference between the two opposing major Parties in this Chamber—the Liberal Party and the Labor Party—on this Bill. It is clearly the Labor Party's view that unions should have a pre-eminent role in relation to occupational health and safety legislation. I have said previously and say again that trade unions have a most important role to play within the workplace. I have instanced previously my own personal knowledge of the importance of the Printing and Kindred Industries Union concerning safe work practices in relation to my father's workplace, and I acknowledge the good work of the member for Henley Beach, Don Ferguson, in that matter as well as the good work of the PKIU in relation to making representations to the employers in Mount Gambier on behalf of workers in the printing industry in Mount Gambier.

I acknowledge the importance of trade unions but I do not believe, and neither does the Liberal Party, that trade unions should have a pre-eminent and dominant role in relation to occupational health and safety, or anything for that matter. I do not accept, and neither does the Liberal Party, that only trade unionists can be health and safety representatives. We support a system that believes in democracy and freedom in the workplace, and the workers themselves should be able to democratically choose their

own representative and they should not be hamstrung by the provision that their representative must be a member of a trade union or a registered association.

If they choose their representative to be a member of a trade union—and I believe that in the vast majority of cases they probably would—I accept that and that is a decision taken by the workers in the workplace. However, if the workers want to choose someone else who is not a member of a registered association, I believe, and the Liberal Party believes, that they should have that freedom, and it is the democratic right of those workers to choose that representative. I hope that this difference between the two major Parties on this part of the Bill will not prevent satisfactory progress in relation to the whole Bill. I support the second reading and look forward to the debate in the Committee stage.

The Hon. M.J. ELLIOTT: My contribution will be brief. I support the second reading. I think the direction we are taking in relation to occupational health and safety and workers compensation is inevitable and to be welcomed. One particular sorrow that I have is that the Workers Compensation Bill and the Occupational Health, Safety and Welfare Bill are not in this Chamber together, although while we are debating this one we are still cognisant of the other one. In fact, I would have gone a step further, as I would have liked to see both schemes operating under a joint commission because, as I see it, occupational health and safety and workers compensation are really two ends of the same problem. Obviously, we are aiming as much as possible to avoid accidents from occurring in the first instance. I believe that, if the workers compensation commission was amalgamated with the Occupational Health, Safety and Welfare Commission, the direct access between the two would mean that statistics would be far more readily available. Certainly, the workers compensation scheme, which would probably be battling to keep costs down as much as possible, would put a great deal of pressure on the occupational health and safety side to be successful. I will simply float that as an idea. At the very least, I hope that perhaps a requirement could be included whereby the two commissions should be required to meet regularly or, alternatively, we could consider housing the two bodies together. The feedback that could occur between those two bodies would be highly valuable. I simply leave that as an idea that the Government may consider.

There has been some heat coming lately about both this Bill and the Workers Compensation Bill; people have been very upset by the amendments proposed. It is somewhat like looking at a doughnut: how much time you spend looking at the hole compared with how much time you spend looking at the doughnut itself. Certainly, the amendments that we are proposing in no way alter the intent or purpose of the Bill, but are simply what we consider to be fine tuning.

I was interested that the Hon. Ms Laidlaw was concerned that the Bill seemed to display an anti-employer or anti-boss attitude. Even if that attitude does exist in part, it is reasonable (not that all employers are unreliable—far from it—as I would say the majority are reliable) since there is an element in any group of people, people being what they are, that do not do as they should. In fact, if that was not the case, most of the debate that we have in this place would be irrelevant. So many of our laws are simply because there are elements within our society who fail to do what the majority would consider is the right thing to do. The fact is that a large number of employees are now being killed or maimed owing to the irresponsibility of some people, and it is absolutely inevitable that steps must be taken to ensure that that sort of thing does not occur.

However, there is a balance to it, and that is what I was getting at. It would also be true that there would be the odd—and I say the odd—employee representative who may occasionally do what should not be done. It is for that reason that we considered it was a fair and reasonable thing that, if a person had maliciously caused a stoppage for industrial purposes or for purposes clearly unrelated to this Bill, they too could suffer some penalty, just as an employer could suffer a penalty for doing the wrong thing. I see that as nothing but fair and balanced; among any group of people—employer and employee—there are renegades.

I understand the fears that employers have been expressing, but I do believe they are wrong. I think it is the fear of the unknown and what they fear might happen. I have had discussions with people who have had experience in the Victorian system and the employers who have worked with that system really have not found it to be the horrifying piece of legislation that they had anticipated. In fact, I have heard praise about it in some employer circles. With those brief words, I support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contribution to the debate and for their support of the second reading of this Bill. I will deal with some of the major issues by way of reply and give attention to the more detailed aspects in the Committee stage. The Hon. Mr Griffin opened his remarks by stating that his Party supports health and safety in the workplace, but he then proceeded to refer to provisions of the Bill which his Party would seek to reduce in effect. The honourable member argued that the penalties in the Bill should be cut in half and that more emphasis should be given to persuasion and education.

However, the honourable member's comments ignore and indeed underestimate the continuing problems of industrial safety. In each year in South Australia, some 12 000 to 13 000 workers are injured in accidents at work. Approximately 30 of these accidents will prove to be fatal, and some 1 600 workers will be left permanently disabled. This record requires changes in the workplace which will place workers in a better position to protect their own life and limb and, I believe, increased penalties.

The Hon. Mr Griffin and other members opposite have been highly critical of the important role proposed for unions and unionists under this Bill. Once again, the Opposition is revealing its preoccupation with the role of trade unions in the industrial arena. The Opposition should know that trade unions have been at the forefront on matters involving safety in the workplace and, without their extensive involvement, many of the proposals under this Bill would either simply not work or be severely undermined. Only unions have the necessary resources, expertise and ability to back up their representatives in situations where complex safety issues are involved.

That this is so is clearly shown in Victoria where, of the 5 000 to 6 000 worker safety representatives appointed under that State's laws, less than 20 have been non-unionists. If a group of workers is not sufficiently motivated to join a trade union, there is little likelihood that they will be willing or able to self-regulate on safety matters in the manner envisaged in the Government's Bill. Not only does the Opposition want to remove unions from what has been one of their traditional roles of policing the safety of workers in the workplace—it also wants to hem around the role of worker safety representatives with a range of penalties and constraints so as to discourage workers from taking on the unpaid role of a worker safety representative.

The Opposition has given lip service to the constructive role that can be played by worker safety representatives. When one analyses the comments made by members opposite, it leaves the impression that they do not want such representatives to operate with any degree of independence or to become too effective.

With trade union backing, worker safety representatives can have a significant impact on safety in the workplace. The Opposition keeps saying that it believes in safety in the workplace yet it is proposing hurdles to stop this from occurring. The Hon. Mr Griffin's comments were basically negative. On not one point did he propose that the Bill should be changed to make it more effective in terms of protecting workers while at work. The honourable member wants workers, particularly unionists, to be discouraged from becoming worker safety representatives. He wants subcontractors to be exempted from the provisions of the Act, when he well knows that many such subcontractors are, for all intents and purposes, *quasi* employees.

The Hon. Mr Griffin wants to take away the ability to prescribe that organisations above a certain size should appoint persons with prescribed qualifications, such as safety officers. He wants to avoid employers having the responsibility of providing health and safety information to their employees in appropriate languages. He wants the highly risky mining industry to be excluded from the coverage of any new Act. I could go on. The list of negative proposals put forward by the Hon. Mr Griffin does not end with those.

Many of the matters raised by members opposite are better discussed in Committee, and I will do that at that stage. However, a number of issues require some comment. The first is the proposal to delete any reference to the consideration of psychological factors in the workplace. This is an incredible position to adopt when work stress is becoming a major cost burden to industry. We simply cannot afford to adopt a head-in-the-sand attitude to this matter. This Bill does not, as some Opposition members appear to think, impose costs on industry as a result of providing for consideration to be given to such things as work stress. Rather, the Bill seeks to encourage the prevention of this problem.

Some nonsense was talked by a number of members opposite that the Government's proposals on this matter would necessitate employers having regard to psychological problems that arose in the home. That is not the case. The reference to 'psychological' in the Bill under clause 4 (4) is limited to:

> The psychological needs and well being of workers while at work.

The Hon. Mr Griffin questioned the policy contained in the Bill of keeping the proposed occupational health and safety commission at arm's length from the resolution of disputes. This is quite a deliberate policy of the Government and is consistent with the commission having an oversighting role. To the degree that the commission becomes involved in the implementation or policing side of the proposed new laws it is rendered less able to take an independent position and to advise Government on any corrective action which may be necessary to improve the working of those laws.

The Hon. Mr Griffin also stated his and his Party's belief that safety committees should be at the core of the new system. The Government believes that that is not entirely satisfactory. A more important need is to have trained worker safety representatives who are vigilant to the day-to-day threats that arise in the workplace. Committees, by their nature, are ill placed to do this. Rather, the Government sees committees as having an important but complementary role to that of safety representatives. Committees are generally concerned with longer term issues and policies and less with day-to-day decisions which require on-the-spot decisions and actions.

Much noise has been made by members opposite of the threat of worker safety representatives closing down industry. In Victoria, when similar laws were debated, the same criticism arose. That State was warned of an end to civilisation if worker safety representatives were given powers to stop the job. After those dire warnings it is interesting to note what has occurred.

Since the commencement of the new Victorian Act in October 1985 there have been only 13 work cessations notified to the authorities. Of these, only one had been shown not to have been justified and that matter concerned an over-reaction to an asbestos scare. Worker safety representatives on the waterfront in South Australia have had stop-the-job powers under the Waterside Workers Award for some 16 years. By all reports from the parties concerned (employers, unions and the Department of Transport) those powers have been used responsibly and to good effect.

It is not surprising, since every trade unionist knows that safety is too serious a matter for such powers to be abused. The Government is confident that these powers will not be abused, and condemns the proposals put forward by the Opposition and the Democrats which are aimed at discouraging workers from taking on the onerous, unpaid and unloved role of a worker safety representative.

If it should happen that a representative does abuse the powers proposed under the Bill, then common law penalties exist, including dismissal, to discipline such persons. In addition, peer group pressure will be at work because, in those cases where the worker safety representative has acted improperly, his or her colleagues will lose pay. For all these reasons the inclusion of extra penalties on worker safety representives will only act to kill the whole concept. Interestingly, such a policy of subtle discouragement is more likely to put off non-unionists than union members who would normally be given backing for their actions by their union.

The Hon. Mr Griffin was critical of the proposal for employers to have responsiblities in relation to the question of welfare. It should be pointed out that this concept is not new and is already provided for under the current Act. Clause 19 (1) (*b*) of the Bill also makes it clear that the employers' responsibilities for 'welfare' only relate to facilities of a 'prescribed' kind. Thus, the employers' responsibilities in this area are not at large but will be strictly defined. Regulations under the current Act cover such matters as change rooms, drinking water, toilets, etc., and these will be continued under the new Act.

The inclusion of subcontractors under the Government's Bill was an issue addressed by a number of the members opposite. It needs to be pointed out that provision exists to cover subcontractors under the current act.

The Government has accepted employer submissions on this point that if subcontractors are to be covered the principal contractor should only be responsible to the degree that control exists over the work of a subcontractor. That was a reasonable and commonsense proposal which the Government was happy to adopt. In Victoria subcontractors have been covered under their safety laws for many years without any practical or legal difficulties. What is more, they were brought under the umbrella of the safety legislation in that State as a result of action taken by the then Liberal Government.

The Hon. Ms Laidlaw spoke at some length on problems with current occupational health and safety regulations that

discriminate against women such as the regulations dealing with the lifting of weights. It was not clear, however, whether she supports the proposal of her Party to have the safety laws override the equal opportunity laws. The Government's view on this is clear. We believe that the two areas of law can co-exist. The equal opportunity laws allow regulations to be drawn up that discriminate on grounds of sex provided they are objectively based. The task is to ensure that such regulations do not discriminate without proper biological cause. Certainly, that is the preferable course rather than to create a system that allows regulations to be promulgated which could have the effect of unfairly limiting the employment prospects of women.

The Hon. Mr Gilfillan expressed his concern over the Bill's proposals to make senior management bear some direct responsibility for offences committed by their companies. The comments made on this matter by the Hon. Mr Gilfillan completely miss the point. The Government's view is that such senior management has a responsibility for safety matters which cannot be avoided by delegation to lower levels. Because they have this basic responsibility, if a breach occurs they should be liable unless they can show that they could not have prevented the offence by the exercise of reasonable diligence. The Bill places a clear onus on senior management to be involved in and concerned with issues affecting safety in their organisations. If this senior group can be influenced to have that direct interest it is obvious that this should have major positive effects in workplace safety. The Hon. Mr Gilfillan talks of such senior management only being liable if they are found to be directly responsible. The Government's argument is, however, that they should have this direct and unavoidable responsibility by reason of their senior position.

The Hon. Mr Gilfillan was also critical of the provisions relating to the training of safety representatives under the Bill. In particular, he argued that the Bill's proposals on this would place a severe imposition on small business and that he will be putting up amendments to restrict the rights of training of worker safety representatives where they are employed in a small business. This is a very short-sighted attitude. It is well recognised that the biggest occupational health and safety problems arise with small business. This is the problem with the exemption proposed by the Hon. Mr Gilfillan. The cost of an accident to a small employer would absolutely swamp the cost of any training leave by a worker safety representative to attend a course of training approved by the Occupational Health and Safety Commission.

I have covered the major points raised by members opposite during the second reading debate and will address the remaining matters in what I anticipate, from the amendments that have been filed, will be a very extensive Committee debate.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

RADIATION PROTECTION AND CONTROL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1839).

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill. However, I wish to say a few words about the situation that has led to its presentation before this Council. The present Act in section 24 provides that the Minister of Mines is essentially in charge of mining operations for mining radioactive ores, but that he must consult the Minister of Health in the case of every prescribed mining tenement so that the Minister of Health can attach conditions to the licence.

Section 25 of the Act provides that before any milling of radioactive ores can proceed, the Minister of Health must issue a licence unless an exemption is given by way of regulation. The amending Act proposes to delete references to the Minister of Mines and the new section 24 would require a licence for the mining and milling of radioactive ores to be issued by the Minister of Health, with conditions attached, unless some exemption is given by way of regulation.

The special situation at Roxby Downs is that it is not a prescribed mining lease, but that the joint venturers have a special mining lease which gives them exemption from the current section 24. This has clearly been a sore point with the Health Commission for some time, and the Minister of Health is obviously of the same mind. The reason for the special mining lease was that stringent safety requirements, including strict codes to be observed, are spelt out precisely in the Roxby Downs Indenture Act. It is interesting to note that the present Government and the present Minister of Health in April 1985 through regulation 47 of 1985 of the Radiation Protection and Control Act gave the Roxby joint venturers an exemption from the requirement for a licence from the Minister of Health in relation to the milling of their ores. It seems strange when the Minister of Health suddenly suggests he has not got sufficient control over operations at Roxby Downs in recent weeks, when last year he gave them an exemption from the requirement that they get a licence from him before they could mill their ores. Something odd has happened, because section 25 of the Act refers specifically to an operation of a prescribed class. The company did not need to get a licence if it was an operation of a prescribed class, and this is clear in a copy of regulation 47 of 1985 as it refers to section 203 (1) *(c)*, as follows:

> The operation is carried out on land the subject of a special mining lease issued pursuant to clause 19 of the Olympic Dam and Stuart Shelf Indenture as defined in section 4 of the Roxby Downs (Indenture Ratification) Act 1982.

It was clear that it was taken out and that the company was in fact given an exemption. The fact is that there has been a demarcation dispute for some time between the Minister of Health and the Minister of Mines. The Minister of Health, as I understand it, started out with not many supporters in Cabinet. The first time, I understand, he had only his own support, but he seems to have won through in this long battle.

The Hon. J.R. Cornwall: True grit.

The Hon. M.B. CAMERON: To start from the base of one not all that long ago—three months ago—

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: I am talking about when the vote was taken in Cabinet. The Minister of Health had only his own support and suddenly he started getting the numbers. He used emotional blackmail along the way and raised the subject of the extra 40 deaths from cancer and a few other emotional things. Of course, nothing will change; everyone knows that. In fact, the Premier recently has been to Roxby Downs and stated clearly that Roxby Downs and its safety conditions are excellent, so I do not expect there will be any principle. The ALARA principle clearly has been carried out by the joint venturers, and I will say something about that in a moment. The Minister and the Health Commission have clearly had a win in this matter. They have overtaken the Minister of Mines and Energy—

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: I do not think it affects the workers at all—it is clearly an internal Party matter. It is similar to the dispute some time ago in relation to occupational health and safety when the Health Commission wanted to control and administer occupational health in industry. On that occasion, the Minister of Labour won and the Health Commission did not get control although, of course, it had input.

It is also interesting to note that there will be no changes to present practice at Roxby Downs where the radiation standards will not be changed and where the present system has been working satisfactorily with weekly meetings being held between Mines Department officers, Health Commission officers and operators at the mine.

The argument that the only alternative to enforce standards is to close down the mine is quite ridiculous. The Mines and Works Inspection Act applies and mines inspectors have the authority to enter at any time of the day and night and demand changes to mining practice in the interests of safety. Breaches of these instructions carry a penalty, as the Minister knows.

An inspector can close them down for periods of time until their requirements are met. This is confirmed in evidence before the select committee which met during the passage of the Roxby Downs Indenture before Parliament in June 1982. Evidence was given by the Health Commission that it believed all requirements could be enforced using the Mines and Works Inspection Act.

If the Minister wishes the reference, it is paragraph 218 of the evidence to the indenture select committee by Dr Keith Wilson. The transcript states:

> Q: Is Dr Wilson and the commission satisfied that the general welfare and safety of the community and employees who would be engaged in this operation is adequately met by the provision of this legislation and the radiation protection legislation?
>
> Dr WILSON: Yes. Personally that is so and commission officers generally believe that both pieces of legislation give ample ability for controls to be imposed and monitored and to ensure adequate protection of employees and members of the public.

A further question was:

> Are you happy that the ALARA principle is there and that it will give you the protection that you desire?

Dr Wilson said, 'Yes'. Then the present Minister of Mines and Energy (Hon. R.G. Payne) stated:

> It [ALARA] is an excellent principle and I certainly agree that it appears to be contained in this Bill, but has such a principle ever been tested before in a court? It is really a statement of intention requirement?

Then Mr Bowering, who was in charge of the negotiators, said:

> It has been used extensively interstate. The only other example of which I know in the South Australian health sphere arose under the clean air regulations made under the Health Act.

The publicity about 40 extra cancer deaths by the Minister of Health was part of the phoney war being waged between him and the Minister for Mines. It was, of course, designed to create emotional appeal. As I have said, that emotional appeal has obviously worked and a sufficient number of Caucus and Cabinet members, or both, have agreed to give the Minister some sort of control. Mr Bannon, as usual, has had two bob each way. He was making a lot of noise about assuring worker safety initially and then last week went up to Roxby Downs to assure the public that there were no problems with safety.

The Hon. K.T. Griffin: He did not wear a mask down in the mine.

The Hon. M.B. CAMERON: No, he is prepared to take the supposed risk. The Bill also makes some other changes to give more flexibility in relation to suspending or cancelling licences, or some modifications to the penalty sections to reduce fines for minor breaches of the Act and to increase in respect of prosecution the limitations period from six to 12 months. That means that the Minister can institute prosecutions up to 12 months after an alleged offence rather than six months.

To sum up, the Bill is the result of a power play between the Minister of Health and the Minister of Mines and Energy, where the Minister of Health has, as usual, made misleading statements publicly to strengthen his standing, suggesting that things needed to change at Roxby Downs when in fact nothing will change in practice.

The Premier has not known which way to jump, but in view of the Minister's public stance has given him his head. There is one question which needs resolution and that is whether the decisions of the Minister are still subject to the arbitration provisions spelt out in the Roxby Downs indenture if the joint venturers believe the conditions attached to their licence to mine and mill at Roxby are excessively restrictive. The Opposition supports the Bill.

However, I condemn the hypocrisy of the Minister in one area of the Bill which I explained before the Minister came into the Chamber, that is, the fact that he gave exemption last year to the joint venturers from the necessity for him to issue a licence to mine and mill their radioactive ores. That indicates how phoney this whole issue is. One could be fairly confident in predicting that it has been undertaken to boost his stocks within the Labor Party (and probably the left wing, I would assume) to help his preselection prospects. I support the Bill.

The Hon. M.J. ELLIOTT: In rising to speak in support of the Bill I express some reservations. However, the reservations are not so much about what the Bill is doing so much as what it is reinforcing, that is, wrongs that were committed at a previous time. Those wrongs go back to the lunacy of the Government that first drew up the Roxby Downs (Indenture Ratification) Act which gave the Roxby Downs venturers the sorts of legal rights which really are not offered to anyone else in South Australia. At the moment the joint venturers have a special mining lease under the indenture and are not answerable under the Radiation Protection and Control Act. It has been necessary for all places working with radiological substances to come under the Act, and this is done through the issuing of licences. As I have said, Roxby Downs has been given some rather special privileges which flow back to the days when the indenture was first drawn up.

Roxby Downs is the only company in South Australia which must be granted a mining licence; and it is the only one which cannot have that licence suspended or cancelled. No matter what the company does, the licence cannot be suspended or cancelled. That is truly amazing stuff. Schedule 9 of the Bill is a repeat of what is in the indenture Act, as follows:

> The conditions of the mining licence granted to the joint venturers must not be more stringent than the most stringent requirements and standards contained in any of the codes, standards or recommendations referred to in clause 10 of the indenture.

Section 23 (1) of the principal Act provides (in part):

> To ensure that exposure of persons to ionising radiation is kept as low as is reasonably achievable, social and economic factors being taken into account.

I rather believe that the joint venturers will still be relatively protected. A court will have a very interesting job trying to decide what is 'as low as is reasonably achievable'. I think that it is most likely that a court will uphold the maximum radiation level allowed. I think that, if the joint venturers exceed that level, they will be open to a fine. And another

innovative aspect of this Bill is that they can be fined $50 000 for an offence. That could not have happened prior to the introduction of this Bill and it is indeed a start.

I suspect that courts, with their usual attitude towards white collar crime, are likely to impose much lesser penalties even if the company is operating up to the very maximum allowed radiation exposure. The Minister could place conditions on any other licensed operator which could require much lower standards by being able to enforce the concept of being reasonably achievable. No-one can deny that Roxby Downs is still getting incredibly favoured treatment. Yes, it will cost lives. There is absolutely no doubt at all that it will cost lives.

The BP documents which mention 40 extra deaths never in any way try to deny that that will occur. There is afoot in our community a great ignorance about radiation. There are some who would like to believe that there is a magical level and, if you go below it, there is no danger at all. That is a lunatic idea. I refer to the *New Scientist* of 23 October 1986 which deals with the work of Alice Stewart, a researcher at the Department of Social Medicine at Birmingham University. The author has done a great deal of work on background radiation. The overwhelming evidence is proving that background radiation causes cancer.

The Hon. Peter Dunn: Just living is dangerous.

The Hon. M.J. ELLIOTT: The honourable member displays some ignorance, but there is some truth in what he says. The article states:

> . . . we would be forced to conclude that external penetrating radiations were the principal cause of childhood cancers since, either as background radiation or as prenatal X-rays, they would be causing about 80 per cent of all cancer deaths before 16 years of age.

Amongst people up to the age of 16 years this researcher has attributed 80 per cent of all cancer deaths simply to what could be called background radiation and what comes from X-rays. The Hon. Mr Dunn is correct when he says that just living is dangerous. The important point is that even background level radiation causes cancer. As you move above that background level, the number of cancers increases. I am not sure whether it is a linear progression but, as the level of radiation increases, so do the cancer deaths. It is for that reason that section 23 (1) of the principal Act is so important. It stresses the concept of 'reasonably achievable'. You do try to get the levels of exposure as low as possible.

It is quite clear to me that this Bill will enable the joint venturers to operate at the maximum level of exposure, because their licence cannot be under any sort of threat; nor can they be fined for operating at that maximum level. I believe that there is no way of enforcing that concept of reasonably achievable lower levels of radiation. This Bill has to some extent picked up the joint venturers but they will still get away with murder. There is no doubt at all that they can get away with what no other company can get away with. I am glad that the Minister has done what he can to improve what was a bad situation created by the total ignorance of the people who drafted and supported the original Roxby Downs legislation. I support the second reading.

The Hon. I. GILFILLAN: I refer to a copy of a memo of some significance that was sent to me. It is headed 'Roxby Management Services Security'. It is addressed to the Security Supervisor, Olympic Dam Project Management, and it is from a security officer (whom I will leave unnamed), and it states:

> I bring to your attention two occasions where regulations were ignored.
>
> (1) No radiation clearance was issued to main gate for the clearance of the lease of the laboratory building from the pilot plant to the site in the municipality.
>
> (2) No follow-up when, in mid-1985, an employee at the pilot plant was instructed to clean out the yellow-cake manufacturing bowls, where I saw him, head, arms and shoulders inside these bowls chipping away the yellow-cake with hammer, chisel and scraper without any mask, gloves or protective gear beyond overalls. This work continued for two shifts.
>
> The yellow-cake chips and dust were to be flushed down the drain under the precipitation tower; however, I requested it to be collected and there was enough to fill a four gallon drum which I placed inside the yellow-cake security building.
>
> (3) I handled a few chips before I identified the substance (night shift light applied).

It is signed 6 August 1986.

The Hon. C.M. Hill: Is it marked 'confidential'?

The Hon. I. GILFILLAN: No, it is not.

The Hon. C.M. Hill: Why don't you disclose who wrote it?

The Hon. I. GILFILLAN: I do not intend to use the name. If anyone wants to see it, they can come to me and find out.

The Hon. C.M. Hill interjecting:

The Hon. I. GILFILLAN: I have made the name available to the media, and they have made contact. I have also been in touch with the employee.

The Hon. C.M. Hill: You told the media, but you won't tell us.

The Hon. I. GILFILLAN: The purpose, as far as I am concerned, is quite reasonable. The officer concerned was fired the very next day after making this report. Further, he is frightened that he will suffer further penalty if he is widely known as having been involved in this. I am not saying that the officer made this available to me. It came to me anonymously in the mail, but I have checked up and am assured that it is genuine. I have spoken to the employee involved who has corroborated exactly the detail of this report. I have also spoken to other people involved in the mining and environmental group of the Health Commission and I will come to that in a moment.

The consequence of a security officer making this memo was dismissal. If that is the way that people who are prepared to make critical remarks about the safety regulations in a so-called uranium mine are treated, it is a sorry situation in that workplace. For the Premier to come back glowing and beaming with satisfaction at the safety standards in that mine is a completely erroneous impression and quite false. This security officer made the comment that Western Mining was completely hopeless as far as maintaining adequate and reliable safety standards, compared with BP. He gave BP a high rating as being efficient and thorough in its efforts to handle these things. He made the comment that Western Mining has a long history at Roxby Downs of firing security people and therefore it is most unlikely that there would have been much publicity either in the past or in the future of deficiencies in the safety procedures unless it is most rigorously enforced and inspected. That is one of the basic reasons that we support the legislation.

We cannot rely on the people in the mine to protect the safety of the people working there. The foreman, whose name I also have, assured the employee that there was no need for him to have a mask or any other protective clothing and that in any case after he had finished his working shift of four or five hours he would have a shower and everything would be okay. In discussing the specific details of this report with officers in the mining and environmental group of the Health Commission they indicated that in no way would that procedure be acceptable under those circumstances in that workplace. They also commented that in the first instance, where the laboratory building was moved into the municipality, it was agreed that there would be radiation attached to that facility.

I bring this matter before the Council because I am sick of the sort of gloss and painting over to create some sort of image that all is well and that we do not need to have concerns about the safety at Roxby. Obviously we do. It is tragic when an officer who is paid to be vigilant in this area fulfils his responsibility and finds that he is no longer with a job and indicates that that is the fate of security officers who dare to rock the boat and indicate that there are safety risks at Roxby. With the good intention of the Government and the Minister in this legislation I hope that Roxby and the joint venturers will not be able to avoid their responsibilities in this legislation. That is essential, if we are not to have a crop of people further down the line who will rightly be claiming workers compensation and suffering the results of excess radiation and illness because of inefficient health standards maintained in the mine.

I am sorry that this incident occurred. It is sad to think that in this day and age, with the increasing knowledge we have of the danger of handling radioactive materials, an incident such as this should have been allowed to occur at all. It is an example of the reason why this legislation is so important and it proves the lie of the Premier and others who are trying to portray that Roxby is immaculate and parroted here by the Leader of the Opposition who can only see gleams and dollar signs coming out of Roxby Downs. They are far from perfect and this legislation is needed. It is with great enthusiasm that I support it.

The Hon. J.R. CORNWALL (Minister of Health): I am pleased to see that the Hon. Mr Gilfillan has a specific interest in occupational health and safety. I am sure it will stand him in good stead during the Committee stage of the major Bill currently before this Council to significantly reform occupational health and safety across the board in South Australia. I would have to hope and do believe, as Mr Gilfillan is an honourable man, that he will be able to carry those same worthy principles forward in the marathon Committee stage of the Occupational Health, Safety and Welfare Bill upon which honourable members will shortly embark.

The Hon. Mr Cameron as usual gave a fairly sloppy performance—he is not diligent and does not do too much homework. He trumpeted that last year we put through a regulation as part of the general regulations in bringing the various parts of this significant Radiation Protection and Control Bill into force which exempted Roxby Downs from the necessity for a licence to mine or mill uranium. All that that was doing at the time was reflecting the provisions in the indenture and in the indenture Act. Prior to this Bill coming before the Council there was a specific exemption for the joint venturers from the necessity to obtain a licence to either mine or mill uranium. Mr Cameron's remarks show a serious misunderstanding of the spirit and clear intent of the Bill currently before the Council.

Mr Cameron went on to say that nothing will change—that nothing will be any different. Again he completely misses the purpose for which this legislation has been drawn up. It has been drawn painstakingly over a period of very many months. We had to be scrupulously careful not to have anything in this legislation that would in any way impose conditions that were tougher than those contemplated in the codes of practice enshrined in the original indenture and in the indenture Act. However, there is one outstanding difference—a quite outstanding difference. The codes of practice under the indenture and under the indenture Act were simply not enforceable.

The ALARA principle—the 'as low as reasonably achievable', principle—social and economic factors being taken into account—was simply not enforceable under the indenture and under the indenture Act as they stood. Under the legislation which happily we are about to pass in this Chamber there will be specific and appropriate penalties for breaches of the legislation. The only penalty previously available was to cancel the indenture. That would be quite unthinkable. It is a ludicrous proposition in a venture such as Roxby Downs—a billion dollar venture—a venture in which the Government itself is committed to investing many tens of millions of dollars under the indenture agreement in developing the Roxby Downs township.

So, of course, it would be an absolute nonsense to suggest that either side would act to cancel the indenture for breaches which are far more appropriately handled by legally enforceable penalties. In drawing it up, as I said, we have been very careful—scrupulously careful—to go no further than is appropriate under the codes of practice. At the same time, there are penalties of up to $10 000 for relatively minor offences and penalties of $50 000 or up to a maximum of five years gaol for serious and continued breaches. That not only gives us the chance to enforce the safety regulations in the sorts of specific matters that have been outlined today by the Hon. Mr Gilfillan, but it also enables the Occupational Health and Radiation Protection Branch of the Health Commission to be involved with the Department of Mines inspectors, with the Chief Inspector of Mines, and with the mine management in ensuring that social and economic factors are being taken into account.

They are able to proceed with the mining operation in such a way that the exposure of the miners and the exposure of any of the workers at Roxby Downs involved in milling radioactive ores is kept to the lowest level reasonably achievable. There is no doubt that because this is enforceable and because the codes of practice which are current at any time will be followed now—I am not about to debate whether or not they have been in the past, I do not think that is a very fruitful exercise—from the time that this Bill is proclaimed, the occupational health and radiation protection officers in quite clear partnership with the mines inspectors and with the cooperation of mine management will be able to ensure that there will be literally, because the exposure is kept to the minimum reasonably achievable, less lung cancers in the long term in miners at Roxby Downs, which incidentally is a project which may well go for 100 years. What we are doing today is to protect the miners involved in that operation to the most reasonable extent possible for the next four generations. I commend the Bill to the Council and ask all members to ensure its speedy passage.

Bill read a second time.

In Committee.

Clauses 1 to 18 passed.

Clause 19—'Insertion of schedule.'

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

Page 7—

Paragraph 5 (1) of the proposed schedule—Leave out 'under the Indenture' and insert 'by the Minister or the Joint Venturers'.

After subparagraph (1) of paragraph 5 of the proposed schedule, insert the following subparagraphs:

(1a) A reference to arbitration under subparagraph (1) is deemed to be a reference to arbitration under clause 49 of the Indenture, and that clause applies, with such modifications as are necessary, to such a reference.

(1b) The Minister must comply with the decision of the arbitrator on a reference under subparagraph (1).

Paragraph 5 (2) of the proposed schedule—After 'under the Indenture' insert ', but nothing in this Act affects any right to arbitration under the Indenture or the Roxby Downs Indenture Ratification Act 1982'.

Paragraph 6 of the proposed schedule—Leave out '6. The Minister must grant a mining licence to the Joint Venturers—' and insert the following:

6. (1) The Minister must, within one month after the Joint Venturers apply for a mining licence, give notice in writing to the Joint Venturers of the terms of the licence proposed to be granted and of the conditions proposed to be included in the licence at the time of grant.

(2) The Minister must grant a mining licence to the Joint Venturers—.

Paragraph 6 of the proposed schedule—Leave out 'under the Indenture'.

Paragraph 7 of the proposed schedule—Leave out '7. After' and insert '7. (1) After'.

Paragraph 7 of the proposed schedule—Insert the following subparagraph:

(2) At least one month before the Minister gives a notice under subparagraph (1), the Minister must give notice in writing to the Joint Venturers of the terms of any condition proposed to be attached to the mining licence granted to the Joint Venturers or of any proposed variation or revocation of the conditions of the licence.

Paragraph 8 of the proposed schedule—Leave out 'paragraph 7' and insert 'paragraph 7 (1)'.

Paragraph 8 of the proposed schedule—Leave out 'under the Indenture'.

The amendments generally are being made as a result of discussions held between the Crown Solicitor's office and senior counsel representing the joint venturers. The amendments take account of the matters raised at that meeting and whilst they do not substantially alter the schedule, they clarify its terms for the joint venturers and, as such, the Government is agreeable to the changes being made. With regard to the specific amendment that we are discussing, this is a formal change which makes it clear that an arbitration under this schedule is a parallel procedure to an arbitration under the indenture agreement. Whilst not actually being a reference under the agreement, the provisions under the agreement relating to arbitration will apply, I am told, *mutatis mutandis*, that is, in the same manner but with necessary modifications to any arbitration under this schedule.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

EGG CONTROL AUTHORITY BILL

Adjourned debate on second reading.

(Continued from 19 November. Page 2090.)

The Hon. K.T. GRIFFIN: This Bill was conceived in cloud cuckoo land and I oppose it. It is an extraordinary piece of legislation if one looks at some of the principles behind it, and I intend to do that, particularly in so far as it relates to expropriation of property of a body which is not an instrumentality of the Crown in favour of a statutory authority which is an instrumentality of the Crown. I agree with my colleagues, the Hons Jamie Irwin, Peter Dunn and Murray Hill, in all that they have said about this Bill and the egg industry at large. I do not propose to canvass the arguments which they have put as to why this Bill is totally unsatisfactory, although I do support and share their views that some review of the Marketing of Eggs Act and the operations of the South Australian Egg Board may be appropriate in the interests of endeavouring to find mechanisms for reducing the wholesale and retail prices of eggs, but that is another matter.

As has been indicated, the shadow Minister of Agriculture (Mr Gunn) has some proposals in hand to deal with that issue. There has been an incredible lack of consultation in the development of the Bill which is before us. My colleague, the Hon. Jamie Irwin, drew attention to the fact that there has been virtually no effective consultation either with the United Farmers and Stockowners Association or with other sectors of the industry in the preparation of this Bill and its presentation to the Parliament.

As I understand it, the Minister met with the Chairman of the poultry section of the United Farmers and Stockowners in June of this year and at that time stated that the report of the inquiry into the Egg Board had not been submitted to him. The next meeting was on 7 October and at that stage the Minister undertook to provide the industry with a copy of the legislation by 5 p.m. on the Friday of that week. I understand that he said he would take into consideration any amendments that the industry may have, provided they were submitted by 17 October. That allowed four working days, including the Labor Day long weekend. Previously, I understand that there had been a meeting with Mr Blevins in mid 1985, just after the announcement of the inquiry, and he then expressed his personal view that the egg industry should be totally deregulated but he had been convinced by his department that quotas should remain.

The Minister, in his second reading explanation, refers to discussions that the Minister of Agriculture held with large producers. I am informed that a number of the large producers that have been contacted have not, in fact, been consulted and say that despite many attempts to see the Minister of Agriculture personally no meeting could be arranged. In somewhat typical fashion the Minister of Agriculture has blundered ahead with this piece of legislation without consultation and ignoring the fact that the present administration of the marketing of eggs in South Australia is undertaken by a body which is significantly representative of the industry in which producers have an opportunity to elect certain members of the controlling body, and that it is not specifically, by legislation, an instrumentality of the Crown. Unless it is specially authorised by the Governor it cannot act on behalf of the Crown or be the agent, servant or representative of the Crown.

This Bill seeks to establish a statutory authority, the members of it to be appointed by the Minister. The Minister may remove members of the authority from office on the basis of some breach of or non-compliance with the conditions of the member's appointment; mental or physical incapacity to carry out official duties; neglect of duty; or dishonourable conduct.

In fact, the Minister may wind up the statutory authority. There is no accountability by the Minister who will have responsibility for the administration of this piece of legislation and, in fact, that Minister may be a law unto himself. His activities with respect to the appointment, and removal of members from office, and the termination of the statutory authority, are not in any way subject to legal or other public scrutiny. The only way that it may be possible to call the Minister to account is by a prerogative writ through the Supreme Court, but even that is somewhat dubious.

The functions of the authority, if established, are to advise the Minister on any matter relating to the administration and enforcement of this Act; to consider and report to the Minister on legislative proposals affecting the egg industry; to investigate and report to the Minister on any matters referred by the Minister to the authority for advice; and to carry out such other functions as are prescribed by the Act.

Essentially then, this statutory authority is a creature of the Minister, accountable to the Minister, and its head can be removed and laid to rest by the Minister. The authority though, in the exercise of its limited responsibilities, may have inspectors, and those inspectors have very wide power to enter and inspect any premises or vehicle that is being used for or in connection with the keeping of hens for the production of eggs; or any premises being used for or in

connection with the packing of eggs; the production of egg pulp; or the hatching of eggs. That suggests to me that such an inspector can enter any local fowlyard which might not be subject to the jurisdiction of the authority and undertake an investigation or inspection. Not only may the inspector enter those sorts of premises—the suburban fowlyard—but he may also enter the residential accommodation of the person whose fowlyard is being subject to the inspection.

That is prohibited by the present Act, but of course it is open under the present legislation. When an inspector enters premises or a vehicle and asks questions, he can take copies of any documents, examine any hen in the premises or the vehicle, or inspect any object in the premises or vehicle, and, where he suspects on reasonable grounds that an offence against the Act has been committed, he may seize and remove any object that may, in the opinion of the inspector, afford evidence of the offence. There is no licensing requirement. Therefore, we cannot argue (and the Government cannot argue in the context of this Bill) that, because there is a licence to produce, consequently there is the obligation to allow access to investigators and inspectors. These inspectors have wider powers than officers of the Police Force. They may enter without being in possession of a search warrant, and their powers of seizure are extraordinarily wide.

If we look to the transitional provisions in this Bill, we see that clause 3 of the schedule deals with those consequences which flow from the repeal of the Marketing of Eggs Act 1941. Among the consequences are that any contract imposing obligations of a continuing or recurrent nature on the board (not being pecuniary obligations relating to borrowings by the board) is, subject to this clause, terminated as from that repeal. What that means is that, unless there is some special provision in the later paragraphs of the transitional provisions or in some other part of the Bill, the contracts which might impose a continuing obligation on the board are terminated.

But a curious paragraph follows. Where a contract was made between the board and two or more other parties, the contract continues to operate as between those other parties. What happens if there is a contract with one other party? In those circumstances, it is cancelled. However, if there is a contract with two or more other parties, it continues to operate. Notwithstanding that provision, it seems to me to be very much in conflict with paragraph *(a)* of clause 3 of the transitional provisions in the schedule because, as I have said, paragraph *(a)* terminates any contract that imposes a continuing or recurrent obligation on the board. I believe that they are in conflict, and I must confess that I cannot understand how they interrelate.

I have considerable difficulty with paragraph *(a)*, because what it is saying is that by statute the rights of third parties who might have legally binding obligations or who might be entitled to require the board to honour obligations will be cut off from any legal remedy that may flow from that contractual obligation. I am surprised that a Government which professes some concern for civil liberties and fairness and reasonableness could ever consider such a proposition in a Bill of this nature.

The assets of the present Egg Board are to vest in the Crown. As I have said, the present Egg Board is not an instrument of the Crown: it is totally independent. It is a statutory corporation, but there are hundreds of statutory corporations which are incorporated by Act of Parliament but which are not instrumentalities of the Crown. As I said in the debate on another Bill yesterday, there is the Anglican Church Property Trust and the Uniting Church Property Trust, and even the Bank of Adelaide was established by charter, but a variety of other bodies are established by statute. The Egg Board is established by statute, that is true, and under a 1983 amendment a majority of members are appointed by the Minister. But notwithstanding that, it does not make it a body that is an instrumentality of the Crown.

If it is not an instrumentality of the Crown, it can only be a private body. What this clause in the schedule is providing is expropriation, that is, the seizure of assets of a body which is not an instrumentality of the Crown against its will and vesting in the Crown.

Madam President, that is the most extreme act which any Parliament can impose. The board does not agree with it, the board does not support it, the board has not been consulted on it, yet here we have a Bill which is sought to be an Act of Parliament saying that the Government—the Parliament—will seize your assets and give them to another statutory body. That is outrageous and I, for no other reason than that, would oppose the second reading of this Bill. If the Bill gets through, and I hope it does not, I can tell you, Madam President, that there will be an even greater fuss about this issue than we have heard yet, because it is an extreme course of action to follow and it is most outrageous.

If perchance it gets through and the assets are vested in the Crown, the Minister has the responsibility for applying the assets. They do not go to the creditors first of all: no, the creditors come fourth and are way down the list.

The first is that assets are to be used in making a contribution of an amount determined by the Minister towards the costs of redeployment or retrenchment of the officers and employees of the board. The Minister determines it. There is no right of review or appeal. It is an arbitrary decision of the Minister. Perhaps the Ombudsman can look at it, but it is too late then when it has been done.

Secondly, the assets are to go to making a contribution of an amount determined by the Minister towards the costs of establishing the Egg Control Authority. Here we have the Government taking the board's money—money which has been built up from producers and by levies and by acting as an entrepreneur—according to the decision of the Minister and not subject to review, towards the cost of establishing a Government instrumentality. That is outrageous.

Thirdly, it goes in satisfying the liabilities of the board and the remainder, if it goes anywhere, goes into the Egg Industry Fund. Also, there is a provision that, if the assets of the board are insufficient to meet its liabilities—that is, those which rank after the contribution towards the redeployment or retrenchment of officers and employees and the costs of establishing the Egg Control Authority—there is to be a rateable distribution amongst creditors.

So, the creditors come way down the list and they will carry the cost of establishing this Government instrumentality. If there is not enough money, they get a rateable proportion. It is as though the board is bankrupt and we have a distribution of what is left to creditors. That is also an outrageous proposition. What we have got is expropriation of assets, their being valued in some way that is not provided for in the Bill and one would suggest a fire sale price and that, as a result, with no scrutiny of the Minister's actions, those who have contributed over the years to the establishment of about $1.5 million in assets are to suffer.

I just cannot believe that the Government is serious in wanting to proceed with this piece of legislation because of those consequences of enacting it. If the Government is serious about it, all that I can say is that it is off its head and that it has really not given serious consideration to the civil liberties issues, and the principles of reasonableness and fairness in dealing with the issue. There should have been proper consultation with the industry. There should

have been ample opportunity to discuss any proposals but, no, the Minister of Agriculture in another place has rushed the Bill into the House and wants to achieve a quick result, hoping that no-one will pick up the significant issues of principles of issue to which I have drawn attention.

For those reasons alone I oppose the second reading of this Bill and will resist it at every stage of its consideration by this Council. There are other issues, however, to which my colleagues on this side of the Council have referred and, as I said earlier, I will not refer to them again. Suffice it to say that it is an objectionable piece of legislation, regardless of what it does out in the community in terms of egg prices. I do not believe that any presumed benefit out in the community can ever justify this outrageous piece of legislation.

If the Bill does get through the second reading, it ought to go to a select committee, because it expropriates the property of another—a private organisation. I hope that it does not get to that stage but, if it does, I can intimate that in some way or another I would certainly want to see it go to a select committee for proper consideration, because of the way in which it deals with the assets of the present Egg Board. I reject the Bill and will strenuously oppose it at all stages.

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

BOTANIC GARDENS BICENTENNIAL CONSERVATORY

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

Botanic Gardens Bicentennial Conservatory.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 19 November. Page 2071.)

The Hon. K.T. GRIFFIN: Madam President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. C.J. SUMNER (Attorney-General): In replying on this matter, the first point I wish to make is that the interpretation of the Hon. Mr Griffin of the comment in the discussion paper was quite erroneous. As I said by way of interjection, the interpretation which he gave in relation to changes to private tenure is completely erroneous. There is no intention to change the system of private ownership of property within the metropolitan area or in country areas—and I think that ought to be laid to rest. In any event, the discussion paper was prepared by the department for the purposes of the discussion, and I felt that, in terms of its objectives, it was a comprehensive review of all the issues.

It should not pass without my saying that, first, the Hon. Mr Griffin's interpretation of the quote that he used from the discussion paper with respect to page 38, paragraph 66, relating to the competing attitudes to the ownership of property and the enjoyment of the environment, was certainly not as he painted it in his second reading contribution. Secondly, I refer to a quotation used by the Hon. Mr Griffin from the Lenswood and Forest Range Branch of the Agricultural Bureau of South Australia that, 'They (trespassers) have little or no regard for private property, fences or livestock.' It is precisely these areas that are specifically addressed by the Bill. They are mischiefs which the Government is persuaded need to be addressed by the criminal law of this State, and they are so addressed in this Bill. So that argument hardly holds water as a criticism of the Bill.

With respect to the question of enclosed lands and the definition in the Trespassing on Land Act 1951, I point out that the current definition that we are including under the Summary Offences Act is a significant extension of the definition of the lands to which the Trespassing on Land Act applies, and therefore the new provision under the Summary Offences Act represents a significant improvement on the restrictions that are currently in the Trespassing on Land Act.

If honourable members have some query about the definition (and I assume that they will address the issue in the Committee stage), perhaps it can be examined. The fact is that the Bill that we have introduced significantly extends the coverage of the law in relation to private property. The third point that I comment on is the fact that the Hon. Mr Griffin seeks to extend the present period of 24 hours under section 17a to a period of seven days. Obviously any period is arbitrary. I do not believe that a case has been made out to extend that time. However, I will address that issue in the Committee stage.

The Hon. Mr Griffin referred to significant difficulties in the way of establishing interference with the enjoyment of premises by an occupier. I do not believe that that is strictly accurate. I refer the honourable member to the discussion by the Full Court of the Supreme Court in the case of *Semple v. Mant* 1986, 39 SASR at page 282, where His Honour Mr Justice Zelling said:

> The real problem thrown up by the case is the concept of interfering with the enjoyment of the premises by the occupier. I do not think that the concept of quiet enjoyment well known in the law of landlord and tenant helps greatly here. That is a doctrine to prevent a lessor from derogating from his grant by denying the lessee the quiet enjoyment of the demised premises.
>
> In a section 17a prosecution the concept is a wider and more factual one: is the trespass by its nature such as to interfere with the occupier's enjoyment of the premises? The enjoyment of these premises by the occupier is for mining purposes [in that particular case]. To give out leaflets on the occupier's premises seeking to persuade the occupier's employees not to take part in the occupier's mining activities must interfere with the occupier's enjoyment of its premises.

His Honour Mr Justice Prior observed:

> Section 17a was inserted into the Police Offences Act by Act No. 53 of 1984. It joined section 17, which was itself the subject of amendment in 1984. In essence, that section punishes people for being on premises for an unlawful purpose, or without lawful excuse. In *Samuels v. Nicholson*, this court held that the test of the absence of lawful excuse within that section was whether the conduct of the person charged went beyond a mere matter of civil compensation and should be treated as a crime deserving punishment.
>
> In contrast to section 17, the supply of a test is not called for by the language of section 17a. By its terms, Parliament has prescribed the kind of trespass and trespasser who is to be deserving of 'punishment'. Parliament has said that he who trespasses on premises commits an offence if, being asked to leave, he fails forthwith to leave provided that the nature of the trespass is of a certain kind. Not all trespassers are punished, but only those whose trespass is 'such as to interfere with the enjoyment of premises by the occupier'.

Later at page 288 His Honour stated:

> Enjoyment of the premises includes what is known in the civil law as quiet enjoyment. Enjoyment is interfered with if it is restricted or inconvenienced, or if the right to exclusive possession is destroyed.

It is a question of fact in each case obviously of whether there is sufficient interference with the occupier's enjoyment

of the premises to trigger the operation of section 17a. It is clear from the case I have quoted that there are not, in the words of the Hon. Mr Griffin, difficulties in the way of establishing interference with the enjoyment of the premises by the occupier. As that case established, it is not difficult to establish the circumstances in which there has been interference with the quiet enjoyment of the occupier. I do not therefore accept the criticisms that the Hon. Mr Griffin made in that respect.

The Hon. Mr Griffin seeks also by amendment to proceed with the codification of the law in this area by in effect making trespass a criminal offence and providing for certain exemptions. That was debated in 1985 and the Government has not changed its view on that topic. It was defeated then and I assume it will be defeated again. The Hon. Mr Burdett has said that the philosophy of the discussion paper was that, if there was a trespasser on the property and he or she was committing no misconduct, the landholder had to grin and bear it. This is not so. The discussion paper addressed itself to criminal and civil sanctions against trespassers. There is nothing in the discussion paper that seeks to inhibit or restrict the availability of civil remedies. It is still open for a landholder to seek to remove a trespasser by civil proceedings and seek an injunction against repetition of acts of trespass that constitute an unreasonable infringement of his rights, that is, by way of nuisance.

The Hon. Mr Burdett asks why a landholder should not have the right to terminate the risk by ordering the trespasser to remove himself or herself. A landholder can do so. It is a question of the remedy to give effect to the landholder's will. Again, in the absence of criminal conduct a landholder has civil rights and remedies that he can pursue. Nothing in this Bill or the discussion paper sought to restrict or prohibit those existing rights.

The Hon. Mr Elliott raised the question of a landholder who lost several hundred lambs that did not go to water because of human presence and perished as a result. It was wrong to suspect that no wrong of any sort known to the law had been committed. Such consequences to the landholder could attract civil liability under torts such as trespass and negligence. It may well be that such behaviour could constitute a criminal offence under the existing law, for example, section 126 of the Criminal Law Consolidation Act, which provides that any person who unlawfully and maliciously commits any damage, injury or spoil to or upon any real or personal property whatsoever, etc., shall be guilty of a misdemeanour. I do not wish to canvass all the implications of that at this stage. Clearly there would need to be criminal intent for that to apply, but it indicates that, in the sorts of circumstances which the honourable member has put, if there was criminal intent, that is, malicious committing of damage, injury or spoil to the person or property of another, there would potentially be the commission of a misdemeanour.

The Hon. Peter Dunn: That's ignorance—

The Hon. C.J. SUMNER: All right, I am getting to that. I am saying 'potentially'—

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: The honourable member interjects not knowing the situation. First of all, the civil liability could be under tort, for example, trespass or negligence could apply, and there the criminal intention is not relevant. The second point I am making is that there is also the capacity, where there is the criminal intent, for there to be possibly a criminal offence committed. That would be a much more limited circumstance and would not be the precise circumstance outlined by the Hon. Mr Elliott. I am saying there is also the possibility, if it were done deliberately, that there was also a criminal offence in some of these sorts of circumstances. The most important point is that there would be the possibility of the civil torts of trespass and negligence coming to the aid of the landholder in those circumstances.

I would also refer members to the Bill presently before the Parliament to amend the law in relation to criminal damage to property, in particular, the new contemplated provisions dealing with offences relating to property (sections 84 to 87). Again, that deals with the criminal law, but it does show that, where there is criminal intent, significant criminal penalties can be brought in aid in protection of the landholder. In addition to that, in the sort of circumstances the Hon. Mr Elliott outlined, there is the question of civil proceedings that would be possible.

The Hon. Mr Dunn has raised the question of policing the Act. I point out that landowners or their employees are already well armed with the power of arrest, and I refer to section 76 of the Summary Offences Act, which gives the power of arrest to a landowner. The main problem in the Opposition's point of view and their approach to it is that they wish to render criminal conduct that in no way harms the person or property of another, and that constitutes no threat of harm to such personal property. That is basically the philosophical problem that I have, and indeed that the law has had for centuries under our common law system, with the propositions put forward by members opposite.

Their propositions say that, despite the fact that the conduct in no way harms the person or property of another, and constitutes no threat of harm to such person or property, that action ought to be criminalised. I believe that members ought to think a little more carefully about whether they really seriously wish to proceed with that sort of approach. Given the general history of our law and the sorts of philosophical underpinnings that it has, to take that step is a significant departure from the traditional approach to the criminal law.

So, I think what the Government has done in this area has already been quite significant in giving additional protections to landowners. There is no question about that. New section 17a, which deals with a situation where trespassers are interfering with the enjoyment by a landowner of his property, has been introduced giving the power to remove the trespasser, and I think that obviously would enable the landowner and the police to deal with such situations as squatting or magic mushroomers. This Bill further extends the scope of what was previously the Trespassing on Land Act.

Furthermore, it introduces specific offences dealing with interference with property, fences or livestock. So, the reality is that the Government has taken into consideration the concerns that have been expressed in this area. There is always the problem of policing, and to just change the law in the way that members opposite wish to do would not overcome the problem of policing. I think that what we have done in the previous Parliament and in this Bill does improve the situation in respect of landholders confronted by trespassers. It gives them significant new means, whereby they can deal with the problem of disturbance on their property while at the same time not taking that extra step, which I do not believe is indicated, of making criminal conduct which does no harm to any person or property. So, I thank members for their support for the second reading. The Government will consider some of the amendments, but the Government will oppose the ones that are a re-run of the arguments advanced in 1985.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Trespassers on premises.'

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

Page 1—
Line 15—After 'subsections' insert '(1)'.
After line 16—Insert new proposed subclauses as follows:

(1) For the purposes of this section, a person has lawful authority to enter or remain on land if the person—

(a) is the owner or occupier of the land;

(b) is authorised by or under any Act or law to enter or remain on the land;

(c) has the permission of the owner or occupier to enter or remain on the land;

(d) enters or remains on the land for the purpose of seeking from the owner or occupier permission to be on the land;

(e) enters or remains on the land for social or business reasons relating to the owner or occupier of the land;

(f) enters or remains on the land for the purpose of dealing with a situation of emergency;

or

(g) enters or remains on the land in circumstances permitted by the regulations.

(1a) A person who, without lawful authority, enters or remains on any premises is guilty of an offence.
Penalty: $1 000.

(1b) A person who is on premises without lawful authority shall, if asked to do so by an authorised person, leave the premises forthwith.
Penalty: $2 000 or imprisonment for 6 months.

(1c) A person who, within 7 days of being asked to leave premises by an authorised person under subsection (1a), re-enters the premises, or attempts to re-enter the premises, is guilty of an offence.
Penalty: $2 000 or imprisonment for 6 months.

The amendments to this clause do a number of things. I refer first to the proposal to insert four new subsections in section 17a of the principal Act, namely, subsections (1), (1a), (1b) and (1c). At present section 17a (1) of the principal Act provides:

> Where a person trespasses on premises, the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier and the trespasser is asked by an authorised person to leave the premises, the trespasser shall if he fails to leave the premises forthwith or again trespasses on the premises within 24 hours of being asked to leave be guilty of an offence.

The penalty applying is $2 000 maximum fine or imprisonment for six months. During the second reading of the Bill, I pointed to a concern that, having to establish that the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier is difficult and, notwithstanding that judgment by the Hon. Mr Justice Zelling in the Supreme Court earlier this year, it seems to me that there is a difficulty from a practical point of view of establishing interference with the enjoyment of the premises by the occupier.

I made that point when we were debating this legislation in 1984, but at that time I did not have the numbers to remove that provision from the section. Whether the property is rural or urban, the fact that someone is on those premises without any lawful authority (that is, without permission) and, even if that person merely sits in the corner of the block, nevertheless it is a potential concern, if not an actual concern at that point, that that person may be on the property. At that point it is likely to be difficult for the occupier of those premises to establish interference with his or her enjoyment of the premises. I think that any occupier or owner has a right to ask a person who is on the premises to leave and, if that person does not leave, to be able to call the police and to establish that a statutory offence has been committed.

I do not take too kindly to the possibility of having somebody walking through my front garden (whether it is in a suburban or rural area) and, when I ask, 'What are you doing on the premises? I want you to leave,' for that person to be able to thumb his or her nose at me. It does not seem to be unreasonable that we delete from section 17a reference to that ingredient of the offence. If subsection (1) is deleted from the present section 17a, the concept that I seek to have incorporated in the Bill essentially is that a person ought to have lawful authority to enter one's premises, whether in the urban or rural areas of the State, and they ought to have lawful authority or permission to remain on that land. If a person does not have that permission or authority, then an offence occurs and, if that person is requested to leave and does not do so, then an offence also occurs. If that person returns within a period of time (and in my amendment I have suggested a period of seven days), then a further offence is committed. I see no difficulty with the concept of a person being required to obtain permission to be on another person's land, whether it be in the metropolitan, urban or rural area.

In relation to establishing whether or not lawful authority or permission, either express or implied, is present, my new subsection (1) proposes a number of categories of persons who will in fact be deemed to have lawful authority. Obviously, the person who is the owner or the occupier of the land has that lawful authority. A person who is authorised by or under any Act or law to enter or to remain on the land, has lawful authority (for example, a meter reader, inspectors under the Vertebrate Pests Act, council officers, building inspectors, or any person who, by an Act, law or regulation, has authority to enter or to remain on land). A person who has the permission of the owner or the occupier to enter or to remain on the land has lawful authority. Obviously, that is express or implied permission. A person who enters or remains on the land for the purpose of seeking from the owner or occupier permission to be on the land has lawful authority.

A person who enters or remains on the land for social or business reasons relating to the owner or occupier of the land has lawful authority to be there. For example, a stock agent or a person seeking to sell or hawk merchandise would, in my view, be covered by that provision. A person who enters or remains on the land for the purpose of dealing with a situation of emergency has lawful authority, whether that be any of the fire, ambulance, police, or State Emergency Services personnel. Those persons have that lawful authority if there is an accident and somebody comes on to the land as a result of the accident, or if somebody seeks assistance because the car has broken down, has a flat tyre, has run out of petrol or the radiator has boiled.

There is then a provision that any person who enters or remains on the land in circumstances permitted by the regulations has lawful authority. This allows the Governor in Executive Council to widen the classes of persons who might be regarded as having lawful authority to enter or remain on the land. That is a comprehensive list of persons who, by virtue of the operation of my proposed subsection (1), will have lawful authority to enter or remain on the land. If a person does not have that lawful authority and enters or remains on premises, then that person is guilty of an offence.

I recognise that what the Attorney-General said is appropriate to be noted here; that is, that there is a distinction between providing a statutory offence for being on property without authority or providing merely a civil remedy if a person is on the premises without causing harm or concern either to the owner or occupier, or to the buildings, stock or fences on that property. The issue is important, and I believe that the scheme that I am proposing is a not unreasonable recognition of proprietary interests whilst safeguard-

ing legitimate activities associated with the land and with persons who may be on that land.

If a person who is on premises without lawful authority is asked to leave and does not leave, then an offence occurs. If that person returns within seven days, then a further offence and penalties are imposed. It is true that if there is no police officer in the vicinity to make the actual arrest or note the offence, it will be difficult, but not impossible, to bring these matters to court. The effectiveness of any of these provisions depends on a police officer being within a reasonable distance and time of the property to make the necessary observations and, if necessary, the arrest.

The fact is that if a police officer is not readily accessible there will nevertheless still be an offence and, hopefully, the provisions of this Bill will be a deterrent to persons unlawfully or without lawful authority entering premises both in the urban and rural areas of the State. It is interesting to note, among other things, that the National Parks and Wildlife Act deals with the question of being on private land for the purpose of taking protected animals or eggs of protected animals, and for other purposes.

Among other things, it makes it an offence in the case of a person who has been requested to leave land but who re-enters the land without the permission of the owner. No time limit is prescribed. In my view, the 24-hour time limit provided in section 17a is too short. Seven days is not an unreasonable time limit, and this section is at least more specific than sections 64 and 68b of the National Parks and Wildlife Act. For the purposes of those two sections in the National Parks and Wildlife Act, permission is the criterion that determines whether or not the person on the property is there unlawfully. It is not unreasonable to extend it generally in the way to which I have referred.

The Hon. PETER DUNN: The Minister referred to people obtaining permission. That would be desirable. If I set up my barbie on the Attorney's front lawn and if he did not like that, he would have the right to have me taken off the land and charged for either stepping on his meter, picking his roses, or whatever.

The Hon. J.C. Burdett: Which you might not have done.

The Hon. PETER DUNN: Which I might not have done. The cost would be considerable and the time delay would be enormous. That happens time and time again in the Adelaide Hills. Day after day people wander around looking for magic mushrooms or other things. All they have to do is ask permission, and 99 per cent of people will say, 'By all means. If you want to boil them up and make yourself so stupid that you cannot understand what is going on around you, fine, do that.'

If people seek permission they will head off the problem before it starts, before we have to include the law and lawyers—present company excepted. They are just about breaking the community when it comes to getting something judged and determined. The fact is that by seeking permission people will head that off. As I pointed out yesterday, very few people refuse. During very wet weather, when stock agents come to my property and their cars carry a considerable amount of weed seed, if I have known that they have come from a certain area, I have said, 'Please stop in the yard and we will travel in my vehicle.' That is quite acceptable to them, and it certainly stops them heading off across a rough paddock and dropping weed seed, which has actually happened.

By seeking permission, people head off the legal cost that may be incurred. People cannot wander over Aboriginal reserves, and thus people cannot wander through a big part of the State. Some areas are open, but in general the public may not go into those areas. If people seek permission and if they have a good cause, they may be permitted onto that land. We are applying one law to one group and another law to another group. I just ask the Committee to take that into account when it makes up its mind on this amendment, which I support.

The Hon. J.C. BURDETT: I support the amendments moved by the Hon. Mr Griffin. In his second reading reply the Attorney pointed out that in many of the circumstances that had been suggested by members on this side of the Committee a civil remedy was available. A civil remedy is usually 2½ years down the track and generally speaking the only effective remedy is one in damages, and often the trespasser may be broke. The remedy is no remedy at all.

The Attorney also referred to the fact that in some of the circumstances about which we were talking it may be possible to launch a prosecution under the Criminal Law Consolidation Act, and that again is a pretty heavy handed procedure. In general, what members on this side of the Committee have been saying is that in many of the current circumstances at present what is needed is a summary remedy, where a person can be brought before the courts of summary jurisdiction and dealt with, and that provides a real deterrent.

The Hon. C.J. Sumner: That's what we are providing for.

The Hon. J.C. BURDETT: The Attorney interjects that the Bill provides for that, but we suggest it ought to be provided for in a wider range of circumstances. In the Attorney's reply on second reading he referred to the history of the law relating to trespass and certainly I respect the historical nature of the law. However, the law traditionally has been able to be brought up to date, to be put into modern circumstances. As I said on second reading, people are more mobile now and some have less respect for property than they had in the past.

Every Bill that we pass changes the law; every amendment that we pass changes the law. There is no argument to say that the law should not be changed. One has to look at the situation. The matters outlined by the Hon. Mr Griffin in moving the amendment referred to by the Hon. Mr Dunn and referred to by most members on this side in their second reading speeches set out circumstances where a summary remedy is appropriate.

The Hon. Mr Griffin is seeking through this amendment to outline a series of circumstances where the trespasser ought to be able to be proceeded against summarily because that does provide a practical remedy which is a practical deterrent. I support the amendment.

The Hon. C.J. SUMNER: I honestly do not believe that members opposite have really considered the implications of what they are doing through this amendment. To say the least, it is going down a track which has some very serious implications. First, let me say that what the Government has done is to provide a summary remedy in the sort of circumstances where there is disturbance as a result of a trespass. We have brought the law up to date: we have provided a summary remedy by a number of initiatives over the past three years.

First, we had the insertion of section 17a in the Summary Offences Act which provides that, where there is an interference with the enjoyment of the premises, the trespasser can be asked to leave and must leave. That was a new insertion in the law promoted by this Government as a result of problems that were drawn to its attention.

Secondly, in this Bill we are dealing with a situation identified as not having been properly covered, namely, interference with gates and the causing of interference with animals and therefore, in that respect, we are dealing with issues that have been identified.

Thirdly, we are dealing with and have extended the coverage of the trespassing provisions by removing the restrictions that were in the Trespassing on Land Act to provide that the law, as it will be when this is passed, covers not just enclosed fields but all land and property, all premises are covered. So, there has already been a significant change promoted in the policies and the Bills brought by this Government so that there are summary remedies.

The other problem one has is in policing it and that, I agree, is a problem. What members are doing will not improve that situation at all. One will still need to have someone police it, whether it be the landowner or the police. Let us not get too carried away with what members opposite are saying by this amendment. Why I say it is a serious matter that they have not really considered is this: they are now making criminals out of people who cause no harm to anyone; who cause no harm to any property. Their proposal is clearly to make people like that criminals.

Secondly, they are saying that the mere withdrawal of consent by a landowner, having given the consent to someone to be on the property, saying, 'You can no longer be on this property'—from that moment that person is a criminal. That is the effect of this amendment. Not only are they interfering with the sorts of concepts we have had in the criminal law in this country and in the United Kingdom for a long time—and rape is the only other area where that applies—they are also saying that the act of a landowner by changing the permission for a person to be on the property can, by that very act, turn that person into a criminal.

That is the effect of what they are doing. Let us now look at some of the specific areas and the sorts of people who would now be rendered criminals by the amendment proposed by the Hon. Mr Griffin. People who have a social or business purpose for going on the land would be exempted. They would have a lawful purpose, in accordance with his amendment. When the Hon. Mr Griffin goes canvassing at the next election and knocks on the doors of his constituents down at Glenelg he will be prosecuted by the police because he will, under his amendment, have committed a criminal act.

If he decides to put on his Uniting Church hat, or someone goes canvassing for converts, he too will be a criminal. If the Salvation Army comes along and tries to collect money for the Salvation Army Appeal, under this they are criminals. That is the fact of the matter.

The Hon. R.I. Lucas: That is not the advice you've been given.

The Hon. C.J. SUMNER: Certainly it is the advice I have been given. If the honourable member reads the amendment, that is what—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That's not true. That is what we are covering. If one is a lost wayfarer in the country, has just spent six hours on the Heysen Trail and just happens to lose one's way and walk on to a person's property, one is a criminal under this legislation. Lost wayfarers, hikers who get lost, are criminals under the amendment introduced by the Hon. Mr Griffin. That is why I say it simply has not been thought through.

Not only is the Hon. Mr Griffin interfering with the basic concepts that we have had about the criminal law for a long time, the amendment has simply not been given any proper consideration. Those few anomalies clearly show that the thing is not viable. The honourable member says, 'Why add them in?' We can add them in and we just go on and add lists of people who have a lawful excuse to be on the property. That is just not a tenable position.

The other thing, as far as members opposite are concerned—in particular the Hon. Mr Griffin and the Hon. Mr Burdett—is the proposed clause, subclause (1) *(g)*, where they are providing for people to be lawfully able to be on premises in circumstances permitted by regulations.

Here we go again. With every Bill introduced by the Government, members opposite rail day in and day out about how these sorts of things should not be put in regulations. They say, 'You should not be able to effect the criminal law by regulation.' They say that that is outrageous and something that should not be countenanced by Parliament. Yet their amendment determines whether or not people are criminals—by regulation. That is what they are doing in an amendment introduced by the Hon. Mr Griffin, after all that the honourable member has said in this Council day in and day out that regulations should not be used in this way. This is legislation which prescribes certain activity. It makes it criminal. The Hon. Mr Griffin is affecting whether or not that activity—not some regulatory offence—comes within the Summary Offences Act: whether you can be prosecuted in the courts can be determined by a regulation. I trust that in the future we will not hear anything more from the honourable member on the question of regulations.

I think that the examples that I have given surely indicate that the Opposition's attitude has not been thought through properly. I can only suggest to honourable members opposite that they sit and think about it for a while and really work out what they are trying to do. They are interfering with a hitherto basic concept in the criminal law. They seem to have forgotten the steps already taken by the Government and the steps being taken in this Bill to overcome the problems that have been identified. I believe that as far as we go in this Bill is adequate.

The Hon. K.T. GRIFFIN: The Attorney-General has got it hopelessly wrong. The fact is that, when he talks about the power to describe classes who might be included within the category of persons with lawful authority, he misses the whole point. Each time that I have referred to regulations I have referred to the fact that when the Government enacts legislation it frequently provides that regulations will prescribe the classes to which the law will apply in the sense that under the—

The Hon. C.J. Sumner: Don't split hairs like that.

The Hon. K.T. GRIFFIN: That is not splitting hairs. There is a significant difference. In the Controlled Substances Act, for example, there are provisions which enable the amounts of particular drugs to be prescribed by regulation. It is the fixing of the amounts by regulation which determines whether or not you will be subject to a particular penalty, that is, life imprisonment or a maximum fine of $500 000 for trafficking in certain drugs. It is also the nature of the drugs which are to be prescribed by regulation. It is not a question of excluding people, as this is, from the operation of the law, the law having been fixed and certain, as it is in the other areas to which I have raised objection, where the law has been applied by regulation and the criteria have been fixed by regulation and the application of the law has been determined by regulation. So the Attorney-General has got it wrong in trying to identify that this exception by regulation is similar to the areas that I have complained about in the past. I will continue to complain about those problems with regulations in the future.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am not finished. The Attorney-General has got it wrong, as I say, and he has made a mistake. I am identifying why he has made that mistake. The fact is that section 17a of the Act was originally pro-

posed by the Liberal Party in a different form to deal with the question of squatters in urban areas. The Attorney-General accepted that, made a few changes and subsequently made some other amendments, as I recollect, last year when the then Police Offences Act Amendment Bill was before us for amendment.

The original concept of dealing with squatters under the Summary Offences Act came initially from the Liberal Party. Neither the Bill nor the principal Act deals with all land, as the Attorney-General said. It deals with certainly more land than is dealt with under the Trespassing on Land Act.

The Hon. C.J. Sumner: It is a different amendment.

The Hon. K.T. GRIFFIN: You said though, as you were talking about this, that your Bill extends to all land.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You did say that. You said that it applies to all land.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You have backed off that—good! In respect of the withdrawal—

The Hon. C.J. Sumner: What about you with your political canvassing? You are a criminal under this.

The Hon. K.T. GRIFFIN: I am not a criminal—I am there for business or social reasons.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Well, if I do not get elected I do not have a business or an occupation.

The Hon. C.J. Sumner: What about religious canvassing? What about lost wayfarers? They are all criminals under this Bill.

The Hon. K.T. GRIFFIN: They are not criminals under this Bill—come on! You are really casting the net so wide.

The Hon. C.J. Sumner: Explain why they're not.

The Hon. K.T. GRIFFIN: They have lawful authority, expressed or implied to operate—

The Hon. C.J. Sumner: That is what you're trying to do away with.

The Hon. K.T. GRIFFIN: I do not know where we are going to get with the Attorney-General as he is being rhetorical about this. None of those people is envisaged as being a person who can be sent to gaol or brought before the courts as a result of this amendment.

The Hon. C.J. Sumner: What happens if someone complains about you being on their property under this Bill? The police will have to investigate you.

The Hon. K.T. GRIFFIN: That is all right. If I go out into the Adelaide Hills and walk across somebody's property without permission I deserve to have the police come and ask me what I am doing there.

The Hon. C.J. Sumner: I meant when you are politically canvassing.

The Hon. K.T. GRIFFIN: It is all related to social or business purposes.

The Hon. C.J. Sumner: It isn't.

The Hon. K.T. GRIFFIN: It is a matter of definition. The matter has been adequately explored. The principle is clear and from my viewpoint and that of the Liberal Party, the amendment will be persisted with.

The Hon. M.J. ELLIOTT: I have sympathy with what the Liberal Party is trying to achieve because I have owned land in rural areas and had people wandering across it helping themselves to produce and other things. We have two major concerns: first, the question of criminal acts. Will people stop stealing fruit and not nip into an orchard because of these changes? If they are going to steal machinery, which sometimes happens, will a person with criminal intent be stopped? I suspect that most of the criminal acts perpetrated now will continue under the changes. We would probably have as much chance of remedy now as we would with the proposed change.

The greater problem is where a person creates damage through ignorance. With increasing numbers of city people not knowing how farms operate, not understanding stock and a whole lot of other things, out of sheer ignorance they may be the greater danger. In discussion with Mr Griffin this morning I expressed a couple of concerns on which I thought he was contemplating amendment. They have not emerged.

I could think of all sorts of instances where a person could be prosecuted where it would be unfortunate. For instance, a person travelling up north on a very large property could simply stop by the roadside to sleep for the night. If there were no fences, would they be trespassing under the proposal that he has? A person driving up north who wanted to climb a hill to look at the view, who would pose no possible risk to the property owner and who would do no damage, could be prosecuted under the proposals. While the intent is very sound, I am not convinced that there are not a whole lot of exceptions that are not being adequately addressed here.

In March last year, I believe, the Hon. Mr Milne suggested (and in fact I believe the Attorney-General even conceded) a possibility with this issue was the appointment of a select committee. I know that we do not want masses of these committees, but certainly if anybody wishes to propose a radical change to the law—I am not saying that it is a wrong change—to do it on the basis of circulating amendments yesterday to be voted on today seems to be rather dangerous. Just on a brief study, I can see difficulties with the amendments as now proposed. As I said, I do have extreme sympathy for them and would suggest to the Opposition that perhaps a select committee might be the way to go, because this is a very important issue to a lot of people. I cannot support the amendments, because I believe they have several holes in them.

The Hon. I. GILFILLAN: I would suggest that the amendments, as in a similar situation when we debated this last year, are a very dramatic alteration to the legislation and would more properly be addressed as a private member's Bill. That was in fact one of the options discussed at the time of the earlier debate. I am sorry that that is not the way it has been presented to the Council. I would encourage the Hon. Trevor Griffin, if a select committee is not proceeded with, to consider introducing legislation next year in his own name.

The Committee divided on the amendments:

Ayes (9)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T.Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, and R.J. Ritson.

Noes (10)—The Hons G.L. Bruce, J.R. Cornwall, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pair—Aye—The Hon. R.I. Lucas. No—The Hon. B.A.Chatterton.

Majority of 1 for the Noes.

Amendments thus negatived.

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

Page 2, after line 4—Insert new paragraph as follows:

(ab) by striking out from subsection (3) the definition of 'premises' and substituting the following definition:

'premises' means—

(a) any land;

(b) any building or structure;

or

(c) any aircraft, vehicle, ship or boat.

As I indicated when I was speaking previously, the present definition of 'premises' does not deal with land such as

orchards and vineyards that may not be enclosed and, accordingly, I believe that the definition ought to be broadened, and the proposed definition of 'premises' does just that.

The Hon. C.J. SUMNER: That is in accordance with the intention of the Government and I accept the amendment.

Amendment carried; clause as amended passed.

Clause 3—'Interference with gates.'

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

Page 2, line 15—Leave out 'farming operations' and substitute 'primary production'.

This amendment broadens the scope of the clause, as 'farming operations' could be a bit limited, and the term 'primary production' certainly encompasses all forms of agricultural pursuits.

The Hon. C.J. SUMNER: That is acceptable.

Amendment carried.

The Hon. M.J. ELLIOTT: A question that I asked the Minister yesterday about where animals are kept has not been addressed. Will the Attorney provide a response to that question?

The Hon. C.J. SUMNER: Perhaps that point could be examined. What we are really looking at here is the question of the disturbance of property where animals are being kept and the matter of harm that may result if there is interference with, say, gates. I suppose that that situation postulated by the Hon. Mr Elliott could occur, but then one would have to broaden the scope of section 17b virtually to say 'interference with any gate, whether or not animals are kept on the property'. That may have some implications that have not been fully appreciated.

We are really looking at a situation where animals are kept on the property and there is interference with the gates. This provision does not cover the point raised by the Hon. Mr Elliott although, if a gate were left open and animals from somewhere else got into someone's property and caused damage, there would still be remedies through civil action but, if it were a gate between adjoining properties of landowners, then presumably this provision would apply in that case. I think the only hiatus would be where perhaps a gate to a road or something like that were left open. Presumably, animals would have to wander on the road before that problem could occur. It is perhaps something to which we can give attention, but at the moment I think that is the only explanation that I can give.

The Hon. K.T. GRIFFIN: I notice that there is another reference to 'farming operations' in clause 3, page 2, at line 29. It seems appropriate that an amendment be moved and I move:

Page 2, line 29—To strike out 'farming operations' and insert 'primary production'.

Amendment carried; clause as amended passed.

Clause 4 and title passed.

Bill read a third time and passed.

EGG CONTROL AUTHORITY BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2160.)

The Hon. J.R. CORNWALL (Minister of Health): This Bill has generated a great deal of heat from the other side of the Chamber but very little light. It has been interesting to see how some of the rich and powerful friends of the Opposition have rallied around and lobbied very hard to have this legislation defeated. If one looks at the facts it is not hard to see why. There is a small but significant number of people who would stand to lose quite a great deal if the present restrictive trade practices were to be altered; if, in fact, the production and sale of eggs in this State were to be deregulated. I will return to that shortly.

On the other hand, the consumer would benefit significantly. Let us look at some of the facts and figures. Approximately 420 registered egg producers are in this State and 280 of them have fewer than 500 hens. On the other hand, 45 producers—a little more than 10 per cent—have more than 5 000 hens each and produce 75 per cent of the eggs and do so at an estimated profit of around $15 per hen per year. Members can do their own sums.

There are 13 million dozen eggs sold by the South Australian Egg Board each year in this State; 11.2 million dozen as shell eggs and 1.8 million dozen as egg pulp. The gross value of the industry is approximately $24 million—a sizeable industry. The annual administration and promotion costs in this $24 million industry are $1.5 million. Losses associated with domestic and export pulping are additional costs and are equalised over all eggs produced. All South Australian Egg Board costs are recovered by levies based on hens or eggs and, in turn, that is passed on to the consumer.

Current levies are equivalent to 11.5c a dozen for administration and promotion and 3.5c a dozen for equalisation. Simple arithmetic shows that 15c a dozen costs are passed on to the consumer through administration, promotion and equalisation. The Australian Bureau of Statistics data indicates that retail egg prices in South Australia are consistently higher than in other mainland States. In the September 1986 quarter the retail prices in South Australia were 51c a dozen higher than in New South Wales. Producer prices in South Australia at $1.28 per dozen were 25c a dozen higher than New South Wales, where that price is 90c a dozen.

The Hon. J.C. Irwin interjecting:

The Hon. J.R. CORNWALL: Never mind about looking at them now; look at the position during 1983, 1984, 1985 and the first three quarters of 1986. My source is the Prices Surveillance Authority, report No. 9 dated 5 September 1986, an Inquiry in Relation to Retail Prices of Food and Groceries. This inquiry produced the quarterly cost of eggs in the Australian capital cities for the period from June 1983 to June 1986, updated to September 1986. Throughout that entire period (1983, 1984, 1985 and the first three quarters of 1986) Adelaide consistently had the highest—and significantly the highest—prices for eggs in the nation.

The Hon. J.C. Irwin: What do producers get?

The Hon. J.R. CORNWALL: I will come to that shortly. Significantly every quarter—quarter after quarter—for almost four years the price of eggs per dozen in South Australia has been the highest in the country. Never at any stage did it dip below any of the other capital cities. Let us take September 1986. In Sydney the retail price of eggs was $1.51 a dozen; Melbourne was $1.78 a dozen; Brisbane was $1.82 a dozen; Perth was $1.71 a dozen; and Adelaide was $2.02 a dozen. The consumer has been paying through the neck for this regulation for years and years.

That is a simple fact, and it is because of that that this Bill is before the Council. Hen quotas are freely negotiable, and prior to the announcement of the proposed legislative changes estimated prices were $12 to $14 per hen for quotas sold with the farm and $20 to $25 per hen for quotas sold separately from the farm. Under the proposed legislation—and I stress this—hen quotas will remain but egg marketing controls will be removed, so there is no proposal before the Council to remove hen quotas.

Producers will be protected from intense competition from new entrants to the industry and will be free to market their

eggs where they wish and to negotiate prices with packers and retailers. So, in that sense there will remain significant protection for people in the industry, and we will protect their investment. The difference, of course, is that there will no longer be guaranteed prices for the producers. There is already a well established egg marketing infrastructure in South Australia which will continue to operate after the proposed legislative changes have been implemented. The South Australian Egg Board assets will be sold and the funds lodged in an industry fund to be used for industry approved projects.

An honourable member interjecting:

The Hon. J.R. CORNWALL: I will come to who owns the assets—it is certainly not the producers. The egg pulping plant will be sold to operate on a commercial basis and will continue to provide egg pulp in South Australia. Consumer interests regarding egg weight and egg quality will be protected by regulations under the Food Act 1985, which of course is committed to the Health Commission, and the Packages Act 1976, which is committed to the Department of Public and Consumer Affairs. The Egg Control Authority, which will have a majority of egg industry members (three of the five), will control hen quotas, and estimated operating costs for the Egg Control Authority are about $200 000 a year. That compares with the current $1.5 million, which is passed on directly to the consumer in the price of eggs per dozen.

It is considered that retail prices would fall by about 20c a dozen due partly to reduced administration and equalisation costs and partly to increased competition in the market which would be opened up. If one considers that, one sees that our prices would come down significantly to at least be around the sort of price that consumers are currently paying in supermarkets in Melbourne and Brisbane. I might say that the price would still be significantly higher than it tends to be most of the time in Sydney.

I refer now to some of the furphies that were raised particularly by Mr Irwin, who showed more passion in this debate, I must say, than at any time since he has been in this Council. Mr Irwin asked whether it was an ALP election policy to deregulate the egg industry—indeed, to deregulate all statutory authorities. He also asked, if this was so, whether there was any conflict with the anti-privatisation policy. The answer to that is very simple.

According to the rural policy of the ALP we clearly undertook to review the efficiency and effectiveness of all statutory authorities and agricultural marketing boards. The Minister of Agriculture is in the process of doing that in a most orderly and progressive fashion. He found neither the Potato Board nor the Egg Board to be efficient and effective in protecting all interests, including consumers. That, of course, is the reason why this Bill is before the Council, and I wonder how Mr Cameron would go if he was exercising his conscience. If he was allowed the luxury of a conscience vote on this issue, I suspect that Mr Cameron would most certainly have to cross the floor and vote with the Government.

Mr Irwin claimed, in the 50 minutes that he was on his feet making this impassioned plea for the 10 per cent of egg producers in the State who had made representations to him, that the Minister of Agriculture did not consult properly. Of course, that was a ludicrous claim. The egg industry in this State has been on notice for nearly 18 months: it was put on notice by the former Minister of Agriculture, Frank Blevins, that the Government believed that egg prices were too high and that the board had to address the matter.

Of course, the board did not do that. Prices have increased by 8c a dozen in the six months to September 1986, and the board hoped that the Government would not be game to do anything about it. The members of the board thought that they were calling the Government's bluff. The Minister and his office have been in constant contact with the Chairman of the Egg Board which, of course, is the proper channel of communication.

The Minister attended a meeting of the egg producer members of the UF&S on 16 September where there was ample opportunity for exchange of views with producers. The Hon. Mr Irwin also made the quite outrageous claim that the Minister tried to direct board members not to come to Parliament. Of course, that is plainly silly. The Minister certainly did not. Quite appropriately, he did point out the conflict of members of a Government statutory authority openly supporting opposition to a Government Bill relating to that authority and indicated, most properly, that he did not approve of such behaviour. He did not seek at any time to curtail the 'rights' of members of that authority.

The fact that they chose to act improperly was their own business, and be it upon their own consciences. The Hon. Mr Irwin asked what right the Government had to sell what he called 'growers assets'. Of course, they are not growers assets at all. The assets have been purchased with levies whose value has been passed on directly to egg consumers. If there is any question about who owns the assets, it is South Australian consumers who have paid through the neck year after year.

Members interjecting:

The Hon. J.R. CORNWALL: Who paid for the eggs? The consumers paid for the eggs. Who imposed the levy? The Egg Board imposed the levy.

Members interjecting:

The Hon. J.R. CORNWALL: No, General Motors is a private enterprise industry. The Egg Board is not. It is an unreasonable intrusion and regulation—one might almost say a socialist initiative, a dreaded socialist foray—into the private enterprise market. They interfere with market forces, and the result of that has been an artificially inflated price for eggs in this State for many years.

Members interjecting:

The Hon. J.R. CORNWALL: This is what the Government thinks, and this is what consumers think. I am just dumbfounded. Here sits the poor diminished Liberal Party—I do not mean that in the intellectual sense, although that is something that we could perhaps debate on another day—with no urban base at all. There is not one seat that the Liberals hold in the metropolitan area that could be classified as marginal, because all the seats that could possibly be lost were lost in the last election. Yet here, the Opposition is going into bat for 10 per cent of the 400-odd egg producers in this State, to the detriment of all South Australian consumers.

If that is the sort of politics that they believe they should pursue, so be it, and may they continue it for a long time. Of course, it is the politics of self-interest, and of minority vested interests and, frankly, I think it is disgraceful. As I have said, the assets have been purchased with levies by a public statutory authority, not by General Motors—not by some free enterprise private company but by a public authority which was established a long time ago for the so-called orderly marketing of eggs, an idea whose time has long since passed.

The Hon. Mr Irwin, again, in this impassioned speech, stated that the farm gate price in September 1984 for 55 gram eggs was $1.61 a dozen, and that had dropped over two years by 37c a dozen. That is simply not accurate: he

was given the wrong figures. The price the producer received after all board levies were deducted was $1.06 in September 1984 and the price the producer receives for 55 gram eggs is now $1.29. That is a rise of 23c a dozen, or 22 per cent: fact, not fiction. The Hon. Mr Irwin went on to talk about the New South Wales situation and stated that 'pockets of producers in New South Wales were going broke'. The quota prices in New South Wales are still $20 a hen—the industry must be in pretty fair shape—which indicates that efficient producers still have confidence in the industry and are operating profitably. There are some producers in New South Wales in financial difficulties who are mainly those who have recently entered the industry, paying high prices for quotas and for farms, with the expectation of continuing high prices. So, market forces have prevailed and a small number who have recently entered the industry have burnt their fingers, but that is the nature of a free enterprise economy and that, of course, is the risk they take. The Hon. Mr Irwin then referred to the cost of the Egg Control Authority and said:

> The levies will still have to support a board arrangement costing . . . about $200 000 with advertising, and so on, which may well bring it close to $800 000.

That is to misunderstand or deliberately misrepresent what the proposed Egg Control Authority is about. Its function will be to manage hen quotas, and the estimated cost of carrying out that function is $200 000. If the industry wishes to carry out promotional activities, it will be up to producers to support those activities. It will certainly not be within the charter of the Egg Control Authority to be involved in promotional activities.

The Hon. Mr Irwin went on to indicate that UF&S concerns had been voiced about the future of the pulping plant. We understand that the New South Wales Egg Corporation and the Victorian Egg Board, with the cooperation of South Australian egg producers, are both considering setting up a producer controlled consortium to operate the pulping plant should the South Australian Egg Board be abolished.

There is no reason why such a consortium could not successfully tender for the purchase of the South Australian Egg Board pulping plant and thus retain control of the facility. The Hon. Mr Irwin agrees that prices should be deregulated and that quotas should be retained, and the Egg Control Authority would determine and release quotas. If we follow that logic, would the Hon. Mr Irwin therefore support the legislation if the producers were involved in the production of egg pulp in South Australia?

The next point, of course, was made by the Hon. Mr Elliott—a promising young man, I might say, of considerable integrity, but he seems to have been gravely misled on this and had his coat pulled again by that 10 per cent, the minority among the egg producers. There must be some residual links to the days when the Hon. Mr Elliott was a conservative and a member of the Liberal Party. He said:

> It is quite amusing that a representative of the Housewives Association who is on the board . . . wrote to me saying that the board should not be abolished.

In fact, the consumer representative on the South Australian Egg Board is a member of the Consumers Association of South Australia, an organisation which has written to the Minister formally supporting the proposed partial deregulation of the egg industry. The consumer representative is going against the members of her own organisation.

There are a number of other matters I could take up, but the hour is late and I do not think I should pursue them. There are two final points I would make, however. The Hon. Mr Dunn stated that the price in New South Wales to the producer for 61 gram eggs was currently $1.64 a dozen. I do not know where he got his information, but it was even worse than the Hon. Mr Irwin's. It is certainly not accurate. The price the producer receives after all levies have been paid is about $1.20. It should also be noted that New South Wales producers receive about 99c a dozen for 55 gram eggs compared to the $1.29—30c more—received by South Australian producers.

The Hon. Mr Dunn also stated that there would be no eggs available from other States to make up any shortfall in supply which might arise if the proposals to deregulate the industry were implemented. Again, this is quite inaccurate—indeed, it is grossly inaccurate, as it is not uncommon for States to sell eggs to other States to make up shortages. That has been going on for a long time. Last year, for example, South Australia sold egg pulp to New South Wales, and Western Australia purchased shell, eggs and pulp from Victoria and Queensland to overcome short-term shortages. So the idea of trade in eggs across State borders has in fact been going on for a long time and there is absolutely no reason to think that under this legislation the situation would be any different.

Finally, I make a plea yet again on behalf of the consumers of South Australia—the 1.4 million consumers of South Australia rather than the 40 or even the 400 egg producers of this State who have been in an over-protected industry for too long. This Bill does not seek to remove hen quotas—it leaves the significant protection of hen quotas. The Bill deregulates the way in which those eggs are currently marketed through the South Australian Egg Board. I urge members, on behalf of the 1.4 million consumers in South Australia, to support the Bill.

The Council divided on the second reading:

Ayes (7)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, and G. Weatherill.

Noes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, K.T. Griffin, C.M. Hill, J.C. Irwin (teller), Diana Laidlaw, and R.J. Ritson.

Pairs—Ayes—The Hons B.A. Chatterton and Barbara Wiese. Noes—The Hons I. Gilfillan and R.I. Lucas.

Majority of 3 for the Noes.

Second reading thus negatived.

STEAMTOWN PETERBOROUGH (VESTING OF PROPERTY) BILL (No. 2)

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 6.57 p.m. the Council adjourned until Tuesday 25 November at 2.15 p.m.