LEGISLATIVE COUNCIL

Thursday 19 March 1987

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

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

PETITION: BOTANIC PARK

A petition signed by 44 residents of South Australia praying that the Council request the immediate return of the area designated for a car park, located in the south-east corner of the Botanic Gardens, and that the Council urge the Government to introduce legislation to protect the parklands and ensure that no further alienation would occur before the enactment of this legislation was presented by the Hon. I. Gilfillan.

Petition received.

QUESTIONS

PIKA WIYA HEALTH SERVICE

The Hon. M.B. CAMERON: I seek leave to make a statement prior to directing a question to the Minister of Health on the Pika Wiya Health Service.

Leave granted.

The Hon. M.B. CAMERON: Yesterday I asked the Minister a supplementary question and, for the benefit of the Council, I will repeat the question and his reply. My question was:

Is the Pika Wiya Health Service an independent health service under the control of the Aboriginal people? If so, have there been recent changes to the constitution of the Pika Wiya Health Service, and what are they?

The Minister's reply was:

Yes, it is an independent health service. I am unaware of any changes which have been proposed recently in the constitution, although I do not claim to be entirely up to date with anything which might have happened in the immediate past. Certainly, I am unaware of any request which has come near my desk for changes in the constitution.

I will now describe some of the history of the health service. Its constitution was ratified on 13 November 1984, and I seek leave to table the document which indicates that, at a meeting of the Health Commission on 13 November 1984, the Health Commission approved the constitution for the Pika Wiya Health Service. I also seek leave to table that constitution.

Leave granted.

The Hon. M.B. CAMERON: Section 8 of that constitution says:

8.1 The board shall be comprised of no more that nine members, who shall be Aboriginal persons.

8.2.1 In the case of the first board after incorporation, eight members shall be appointed by the Minister, after due consideration of the skills they possess with a view to establishing a balance of expertise.

8.2.2 Such members shall hold office for a term of two years.

8.3 In the case of subsequent boards, four of the members appointed by the Minister shall be community residents of the district of the Corporation of the City of Port Augusta (excluding Davenport ward), and four such members shall be community residents of the Davenport ward.

There are further clauses which deal with nominations. Clause 8.3.5 says:

In the event that more than the required number of nominations are received for any of the vacant positions by the closing date, the names of the nominees shall be published in a newspaper or newspapers having a weekly circulation in the district of the Corporation of the City of Port Augusta not less than two days before the annual general meeting. An election by secret ballot shall be held at the annual general meeting at which community residents shall be entitled to vote. The persons so elected shall be deemed to have been appointed members at and the term of office of each such member shall commence immediately upon the conclusion of that annual general meeting.

Members will note that it is quite clear that the eight members of the subsequent board (after the first two years) were to be elected by the Aboriginal community of Port Augusta, and that would fit in with the Minister's description at the time of the setting up of this health service of it being a community-based and controlled health service. It would also be in line with the report on Aboriginal health prepared for the Minister by Gary Foley in 1984, and certainly a board elected by the Aboriginal community would have my support, the support of the Opposition and, of course, of the community itself. The Minister said yesterday in reply to Mr Elliott:

There is no point in having Aboriginal community control but not allowing them to control their own destiny. For that reason, we have been very patient with the warring factions in Port Augusta and Davenport.

In reply to my question, he also said, and I repeat, 'Yes, it is an independent health service.' He went on to say that he was unaware of any changes to the constitution. It appears to me, on the surface at least, that the Minister misled the House. I wish to table a document of 21 November 1986, from Mr I.R. Dunn, Acting Executive Director, Western Sector, South Australian Health Commission, to Mr D. Vorst, Chief Executive Officer of the Pika Wiya health service.

Leave granted.

The Hon. M.B. CAMERON: I also seek leave to table a document from the South Australian Health Commission of 12 November, which approved changes in the constitution.

Leave granted.

The Hon. M.B. CAMERON: I now read out what the letter from Mr Dunn says:

Dear Mr Vorst,

I am pleased to advise you that at its meeting of 12 November 1986 the commission approved amendments to the constitution of the Pika Wiya health service, as set out in the attached copy of notice of amendment.

Yours sincerely, I.R. Dunn.

I have tabled the notice of amendment, which I will now read out:

Delete clauses 8.3 to 8.3.9 inclusive and substitute the following clause:

8.3 In the case of subsequent boards, there shall be eight community resident members appointed by the Minister, who, in his opinion, represent the interests of the community.

It goes on to indicate how they are advertised. The notice of amendment is sealed by the common seal of the Pika Wiya Health Service Incorporated. Members will note that the effect of this amendment passed by the non-elected (selected by the Minister) Pika Wiya Health Service Board (the new board elected on 12 November 1984) is to take away all rights of the Aboriginal community of Port Augusta to elect the new board; this was the originial intention of the constitution, which had been clearly spelt out by the Minister as the spirit of the move for the Aboriginal health service.

I am informed that this change to the constitution has been one of the major stumbling blocks in the amalgamation of the two health services. It would seem that the original board, in order to protect their positions and in order that they might not face elections, changed the constitution to take out community elections just one day before the end of their term—in fact, as I indicated, on 12

November, when 13 November was the end, before they would have to commence a move for new elections. That seems a most peculiar action and smacks of what I would describe as the 'Great White Father' syndrome: in other words, 'We do not trust the Aboriginal community to elect their own board.' That makes an absolute joke of the so-called independence and community control alluded to by the Minister. My questions are:

1. Yesterday, when I asked my question, was the Minister aware of this move to delete community elections from the constitution of the Pika Wiya health service?

2. Will he now take whatever steps he can to reverse this extraordinary action by withdrawing Health Commission approval of the changes which have demolished the community elections for the board and been a major factor in the refusal of the Aboriginal community to amalgamate WOMA with the Pika Wiya health service?

The Hon. J.R. CORNWALL: The Hon. Mr Cameron, in his usual brash and recklessly irresponsible way, just could not contain himself. Let me tell members the story of Mr Cameron's actions with regard to the Pika Wiya health service and WOMA. He has raised the matter, not me! He therefore is responsible for my comprehensive reply. Yesterday, in response to the 'trick' question that he asked whether I was aware of any recent changes, my answer was that I was not directly aware. I cannot recall my exact words.

The Hon. M.B. Cameron: I'll give them to you.

The Hon. J.R. CORNWALL: I have already seen them, but cannot recall them at the moment. I made clear then that I, as Minister, was not directly aware. I have in front of me a minute from the Acting Executive Director of the Western Sector of the Health Commission which states that in August 1986 the Pika Wiya Health Service Board requested that the constitution be amended to require that subsequent boards retain eight community resident members, but that they all be appointed by the Minister as representing the interests of the community.

That amendment required that nominations for such appointments be called for by advertisement in a prominent part of a newspaper having a circulation in the district of the City of Port Augusta. Such an amendment was approved by the Health Commission at its meeting of 12 November 1986. A review of Health Commission files does not indicate that this matter was referred to the Minister, as the original constitution specifies that any amendment to the constitution is a matter between the board and the commission.

I am consistently accused by the Hon. Mr Cameron of being out there with my fingers in everything: 'Keep out, keep back!' he says, 'Leave these boards to get on with their own business.' Now, here we have an independent board of an Aboriginal community—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —controlled health organisation dealing directly and appropriately with the South Australian Health Commission and asking for its constitution to be changed. That matter was considered by the commission. It never came near me: I was quite unaware of it (and that does not cause me any distress at all, as I am not in touch with the day to day requests that come from the 200 or thereabouts incorporated health units under the Health Commission Act). The board of Pika Wiya asked for, and was given, the amendment that it required to its constitution by the South Australian Health Commission sitting as a commission.

On 17 December 1986, in accordance with that constitution, the Pika Wiya Health Service Incorporated advertised vacancies on the Board of Directors in the local newspaper, the *Transcontinental*. In the event that there are more than eight nominees (and there could be 28) people become involved with broad and wide ranging consultation and the eight people who are considered most appropriate are chosen from the nominees.

The Hon. M.J. Elliott: By whom?

The Hon. J.R. CORNWALL: By the Minister: I appoint them, at the end of the day. The same applies with every board of every hospital in New South Wales, and that has been the situation for many years. There is nothing exceptional about that. It is done after broad community consultation. Does Mr Cameron seriously suggest that with my two portfolio areas I have the time to scurry about manipulating the board of the Pika Wiya Aboriginal Community Health Service.? It is a nonsense; it is a nonsensical proposition; it is quite stupid.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order! Order! Mr Cameron, you have asked your question.

The Hon. J.R. CORNWALL: If the board wished to have its constitution varied to that extent, as an independent Aboriginal community controlled health service, it is perfectly in order for it to request that that should happen, and it is perfectly in order for the Health Commission to vary the constitution as requested. Let us look at the recent history in Port Augusta and Davenport. Let us look at the Pika Wiya Health Service, WOMA and the role that Mr Cameron and his colleagues played recently. I will tell the Council about that because it is very interesting. As I said yesterday, Pika Wiya, an Aboriginal community controlled health service with an annual budget from both Federal and State Governments of about $1.1 million, has been developed by the local Aboriginal communities. Anyone who suggests that there is only one Aboriginal community in Port Augusta and Davenport does not know the situation. There is a very diverse number of groupings of Aborigines in Port Augusta, and that has been the situation for a very long time. It is literally a place to which and from which Aborigines come from all over the State and beyond.

As I said yesterday, Pika Wiya, which did not exist prior to 1984, is now one of the bigger and better Aboriginal community controlled health services in the country. We also have at Port Augusta Aboriginal liaison officers in the hospital. They did not exist before 1984, prior to my becoming Health Minister and my being actively involved in supporting the development of Aboriginal community health centres. We did not have an Aboriginal controlled health service in the entire State when I became Minister, and we now have a number of them. Pika Wiya now employs, I think, three or four doctors. It conducts a dental service, and it has 16 or 18 Aboriginal community health workers. It conducts a comprehensive health service.

On the other hand, WOMA, until yesterday, was a federally funded sobriety, alcohol treatment and rehabilitation organsation, at least ostensibly. It was fully funded by the Federal Department of Aboriginal Affairs. There had been negotiations for some time for WOMA to amalgamate with Pika Wiya. It was felt by many people that that was the desirable way to go. At a meeting of local Aborigines to discuss this amalgamation, the overwhelming majority voted in favour of amalgamation. Close to 70 per cent of the poeple at the meeting voted in favour of amalgamation.

The amalgamation did not proceed, because the WOMA constitution provided that there had to be 75 per cent support for such a change. Mr Cameron talks about democracy. Here we have a situation with WOMA where about 70 per cent of all members of the Aboriginal communities

attending that meeting vote in favour of amalgamation, but it is not able to proceed because of a few bloody minded people.

As I said, Pika Wiya is one of the bigger and better Aboriginal community controlled health services in the country. For many years WOMA has been both ineffective and inefficient. By and large it has been a waste of taxpayers' money. I do not say that lightly: I say it with great sadness and regret, but there is no doubt that WOMA, which had a budget in excess of $300 000 a year until quite recently, has largely not only been ineffective and inefficient but has been a significant waste of taxpayers' money if you measure that against the number of Aborigines who have been successfully treated and rehabilitated through WOMA programs.

That just happens to be a fact. It is not contested by very many people apart from a small number of Aborigines in one of the groups in Port Augusta who see it as a power play. I was amazed this morning, for example, to see Mr Alec Wilson quoted as saying that WOMA was responsible for the support and treatment of up to 7 000 Aboriginal people a year. I point out that there are only 14 000 Aboriginal people in the whole of South Australia. If WOMA is responsible for the support and treatment of 7 000, presumably they all gather at Port Augusta at some stage of the year; and the inference is that 7 000 of them are alcoholics. That is the sort of absurd statement which unfortunately we have had to become accustomed to from Mr Alec Wilson, who is now championed by the Hon. Mr Cameron. Mr Cameron went to Port Augusta recently in some very strange company. He had with him Mr Graham Gunn, the member for Eyre.

The Hon. M.B. Cameron: Is that strange company?

The Hon. J.R. CORNWALL: It is not strange company at all. By and large, I respect Mr Gunn and, in fact, I have had dealings with him on electorate matters over the past 4½ years that I have been Minister. I have always found him to act in a fairly responsible sort of way. The Hon. Mr Cameron also had with him Mr Arnold (the member for Chaffey), and I am sure that most members would be blissfully unaware that he is the Opposition spokesman on aboriginal affairs—we are not sure why, but he is. The other member of the party was one John Bannon—not the Premier of South Australia, but a consultant.

The Hon. R.I. Lucas: He's more conservative.

The Hon. J.R. CORNWALL: I will tell you more about John Bannon, if you need to have your memory refreshed. He is a consultant to mining companies, by and large, and he is certainly no friend of the Aboriginal people on his past track record; and he is also a sometime parliamentary candidate for the National Party. This strange group of people arrived at Pika Wiya unannounced and began to ask all sorts of questions of the Chief Executive Officer. I am told that they then (and this report has come from the staff involved) proceeded to Davenport where they began a preemptory cross-examination of the doctor on duty.

During the course of that cross-examination they even intruded into a patient area where a patient was being treated. That was very strange behaviour, to say the least, by a rather disparate and strange group of people. I would hope that in this sad matter the Hon. Mr Cameron may now see the error of his ways and that he will recognise the serious difficulties that exist in developing Aboriginal community controlled health services. The Hon. Mr Cameron, and some of his non-racist colleagues, may now see that these are delicate matters, that the health of the Aboriginal people in this State and in this country is still deplorable. It is not easy to develop adequate services, or to support the Aboriginal people themselves in developing adequate services; nevertheless, over the past three years we have done a great deal to move down that track. We now have organisations like Nganampa organising its own health services for up to 2 500 people in the Pitjantjatjara lands.

We have services like Pika Wiya. We have services in Ceduna, Koonibba and Yalata, and they need all the support they can get. They need difficulties with other organisations such as WOMA to be aired in the arena of this place by recklessly irresponsible people such as the Hon. Martin Cameron like they need a hole in the head. It really is about time that the Hon. Martin Cameron, after 16 undistinguished years in this place, tried to get his act together and give to these people the support they so desperately need, not to try to score cheap political points on behalf of one or another of the warring groups between whom there have been difficulties in Port Augusta.

With regard to WOMA, I understand that the Regional Director of the DAA went to Port Augusta yesterday. She has been negotiating with them now for many months, and she informed WOMA that their funding would be withdrawn from the end of this financial year. She has brought her good advice and best offices to bear to try to achieve amalgamation between WOMA and the very functional Pika Wiya health service.

For its part, the Pika Wiya health service, with my concurrence, has not presented any names to me of people to appoint to a new board. Those vacancies have been left specifically so that, in the event that an amalgamation is negotiated, the various interests among the Aboriginal communities in Port Augusta and Davenport can be suitably represented on that board, so that it will be a fully representative board of Aboriginal people which, in turn, would be responsible for both the comprehensive health service and the alcohol treatment and rehabilitation programs. That is the goal towards which we are working. As I said yesterday, and I repeat, I will also be submitting as part of the 1987-88 budget a major proposal for a detoxification centre, probably under the auspices of the Port Augusta board.

So, if the Hon. Mr Cameron and some of his strange friends keep their noses out of business where they cannot achieve anything—and by their actions they can only be mischievous—and allow the Aboriginal people, with some support from those who are sympathetic towards their needs and have empathy with their cause to be responsible it is possible that we will have in Port Augusta not only a comprehensive Aboriginal community controlled health service but a genuine functional Aboriginal community controlled alcohol treatment and rehabilitation service, and a major detoxification centre at the Port Augusta Hospital as well.

PERSONAL EXPLANATION: PIKA WIYA

The Hon. M.B. CAMERON (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.B. CAMERON: The Minister is a strange and curious little man.

The PRESIDENT: That is not a personal explanation.

The Hon. M.B. CAMERON: It is a good start, though, because I will now give a personal explanation. I attended some meetings at Port Augusta at the request and invitation of the Aboriginal community—not at the request of anyone else. When I arrived at the Aboriginal community, I conducted my discussions with the Aboriginal community. While sitting, talking to the Aboriginal community—and that is

the WOMA group—they said to me, 'Would you like to meet the Pika Wiya Chief Executive Officer?'

The Hon. R.I. Lucas: They invited you?

The Hon. M.B. CAMERON: They invited me. I said, 'Do you think that is absolutely necessary?' and they said, 'I think that is a good idea.' So, then I went into the Pika Wiya Chief Executive Officer's office and, as the Minister knows because I told him yesterday, I really did not have any intention of going there so I put certain questions to him about the Pika Wiya health service to try to establish my knowledge of how it worked.

That man, the Chief Executive Officer, amongst other things, said that he thought that the Aboriginal health service would eventually come under the wing of the Port Augusta Hospital Board because a separate Aboriginal health service was a form of apartheid. I found that a bit strange. However, I did not say anything to him. I listened to what he said and established some knowledge of the Pika Wiya health service, and I was very grateful to him.

The next morning, I had a ring from a journalist in this town, Mr Barry Hailstone, who said, 'I understand that you were up at Pika Wiya yesterday.' Somebody was trying to cover some tracks somewhere because I had not made any announcement; I had not done anything. I was merely on an information-seeking mission. Subsequently, twice in the Parliament the Minister raised the issue with me across the floor and called me a diseased maggot at one stage in a *de sotto* voice about being up there. I found that a bit unacceptable, but I did not take exception to it at the time.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: I then went out to the Aboriginal community at Davenport and spoke to the person who is the adviser there, and it was a very interesting conversation. Amongst other things, he asked me to find some football jerseys for the local team. I hope that we can do that—anything to assist the local Aboriginal community. As I left the discussion with him, he said to me, 'Would you like to go into the Pika Wiya health service?' I said, 'If you want me to, yes, I would like to have a look at it.' I went to the reception area and the doctor came out and talked to me. It was a very interesting conversation. He said, 'Would you like to see the treatment area?' I said, 'Yes, that would be—'

The Hon. R.I. Lucas: The doctor asked you?

The Hon. M.B. CAMERON: The doctor asked me to have a look at the treatment area—

Members interjecting:

The PRESIDENT: Order! It is customary for a personal explanation to be heard in complete silence. I ask members to maintain that tradition.

The Hon. J.R. Cornwall: What was Bannon doing?

The Hon. M.B. CAMERON: I have no idea what Mr Bannon was doing. I do not understand his role. That is something the Minister should ask Mr Bannon. I have no interest in Mr Bannon whatsoever.

The Hon. J.R. Cornwall: He was travelling with you?

The Hon. M.B. CAMERON: No, he did not travel with us; he appeared on the scene. What part he plays in the show, the honourable member should ask him. I have no idea. I was only interested in the Aboriginal people. When I went into the treatment area, it was obvious that somebody was being treated behind some half closed curtains. I was as embarrassed as anybody. I was prepared to leave immediately, but the doctor did not ask me to leave. They closed the curtains. This great bursting in on patients and all of this nonsense of the Minister—I tell him what he needs to do—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: What the Minister needs to do is to look closely at the people who are running the health service.

The Hon. C.J. SUMNER: I raise a point of order.

Members interjecting:

The PRESIDENT: Order! A point of order is being raised.

The Hon. C.J. SUMNER: Leave was granted for the member to make a personal explanation, which has to be just that. What the honourable member was doing, certainly at the beginning and towards the end of his statement, went far beyond a personal explanation.

The Hon. M.B. Cameron: I have said what I wanted to say, anyway.

Members interjecting:

The PRESIDENT: Order! There is no point of order. It was an explanation of—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. Cornwall: They did complain about your behaviour.

The PRESIDENT: Order!

The Hon. J.R. Cornwall: They formally complained about your behaviour.

Members interjecting:

The PRESIDENT: Order!

STATUTORY AUTHORITIES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking a question of the Attorney-General on the subject of statutory authorities.

Leave granted.

The Hon. L.H. DAVIS: On 8 August 1984, I asked the Attorney-General whether the State Government would consider consolidating and publishing information relating to statutory authorities in South Australia, including the names of members of committees or boards, the duration of their appointments, the remuneration paid, the number of meetings held and the date of publication of the annual reports. I made the point that there was no one source for basic information relating to statutory authorities. It was a farce that there were 270 statutory authorities and no consolidation of that information. On 18 September 1984, the Attorney-General replied, stating, 'The Government is giving consideration to establishing a system which can provide such consolidated information.' That was 2½ years ago. On 21 August last year, I asked the Attorney-General to indicate which statutory authorities had not yet presented annual reports for the past two financial periods. I did not receive a reply to this quite straightforward question until 18 November—nearly three months later. I became aware that my question triggered off a scramble by departments to call in outstanding annual reports. In one instance, a statutory authority was criticised by a department for failing to provide the annual report. The department was more than red faced when it was discovered that it had been provided with a copy six months earlier and had promptly lost it. My questions to the Minister are as follows:

1. Has the Government established a system which can provide consolidated information on statutory authorities which is available for perusal and which will be published?

2. If so, what information is available?

3. If no such system has been established, why has this not occurred, given the Government's stated commitment

to making information about the public sector and public sector finances more accessible?

The Hon. C.J. SUMNER: The information is available. Whether or not I can go down to the Premier's Department and push a button and have the information spewed out of the computer in one long list, I am not sure. The information that the honourable member seeks is publicly available either through the budget papers that are presented in this Chamber or through the reports of the statutory authorities, which are tabled in this House from time to time. Of course, when members feel particularly concerned, they can do what they have done in the past on many occasions, that is, ask questions about the—

The Hon. L.H. Davis: You haven't consolidated it.

The Hon. C.J. SUMNER: The information is publicly available.

The Hon. L.H. Davis: Not in one consolidated list.

The PRESIDENT: Order! The honourable member has asked his question.

The Hon. C.J. SUMNER: The honourable member seems to think that what he wants is for Governments somehow, sometime—he does not say when or in what form—

The Hon. L.H. Davis: You said 2½ years ago that you were looking at it.

The Hon. C.J. SUMNER: I have said that the information is publicly available—the sort of information that the honourable member seeks. Whether it is all on one computerised system in the Premier's Department or somewhere else, I do not know. If the honourable member wishes me to refer the matter to the Premier, I will. All I can say (and I do not think that the answer will be any different) is that the information that the honourable member has asked about is publicly available.

INDUSTRIAL TORTS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing a question to the Attorney-General, as Leader of the Government, on the subject of industrial torts legislation.

Leave granted.

The Hon. K.T. GRIFFIN: In South Australia the Industrial Conciliation and Arbitration Act was amended in 1984 by the Bannon Government with the support of the Australian Democrats effectively to prevent action being taken in the Supreme Court for injunctions and other orders in cases where there is industrial disruption and blackmail. That amendment effectively means that the sorts of injunctions and orders made by the Supreme Court in the Woolley case, which involved the black banning of Kangaroo Island wool, the Seven Stars Hotel case, the Adriatic Terrazzo case and others are no longer available to desperate employers faced with no reasonable prospect of resolving industrial disputes where they are held to ransom by militant trade unions. The law in this State now is that the Industrial Commission has the power to resolve industrial disputes but that power is limited in relation to enforcement of orders and is not the wide jurisdiction which the Supreme Court had prior to the 1984 amendment.

This week in NSW, the Labor Government's controversial industrial torts legislation was withdrawn because of the widespread public opposition to it. That New South Wales legislation sought to do the same as in South Australia, namely, to insulate unions in industrial disputes from the wider powers of the Supreme Court of NSW—effectively to put unions and unionists in a different position from other citizens when it came to breaking the law. The argument there was that when it comes to breaking the civil law or to compelling compliance with the law it should not matter whether it is an industrial dispute or not: all should be treated equally before the law. My question to the Attorney-General is: in the light of the New South Wales Government's decision will the Government review the constraint placed on the Supreme Court by the 1984 amendment and repeal it?

The Hon. C.J. SUMNER: There are a number of misconceptions in the honourable member's question. First, that legislation is not something that was passed by the Bannon Government: the honourable member knows full well that the Bannon Government cannot pass legislation. It has to be passed—

The Hon. K.T. Griffin: You have the numbers.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It has to be passed by Parliament. So, the law of the land, as the honourable member would know from Constitutional Law I, which he did at the university, is made by Parliament. So, the legislation which is in place—

The Hon. K.T. Griffin interjecting:

The Hon. C. J. SUMNER: It is not with the Government. I can assure the honourable member of that, as he would know, in any event, from sitting in this Chamber for many years. We are the Government because we have a majority in the Lower House; we do not have a majority in this House. The legislation referred to was passed by the Parliament as a whole.

The Hon. K.T. Griffin: It wasn't passed as a whole. The majorities in both Houses passed it.

The Hon. C.J. SUMNER: The honourable member has misunderstood what I said. I was referring to Parliament as a collectivity.

The Hon. K.T. Griffin: You're trying to slip out of it.

The Hon. C.J. SUMNER: Parliament as a collectivity has passed the law; it is now the law of the land. It involved participation of more than just the Bannon Government. It now being the law of the land it is not a matter for the Government exclusively to consider. The honourable member indicated another misconception in his question: that this in some way or other deprived people of their right to go to court. The honourable member was in this place when the legislation was passed. The legislation did not do that, as I am sure the Hon. Mr Gilfillan will attest. It indicates that where an industrial dispute is involved the matter ought to be considered first by the Industrial Commission, with the rights to the courts of the land still then being available. All it said was that in an industrial situation the matter ought first be examined by the Industrial Commission, as in this country, for better or worse, under Liberal and Labor Governments, that has been the method whereby industrial disputes are conciliated and resolved.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The honourable member is trying to draw a clear distinction between industrial matters and civil matters. The reality is that in those sorts of cases there were clear industrial implications. Basically, they were industrial disputes. The legislation that was passed was to give a specialist tribunal, the Industrial Commission, which has been established for the purpose of conciliating and attempting to resolve and adjudicate on industrial disputes, a first crack at the issue involved. It did not take away the rights of the parties to go to the civil courts. That was the second misconception of the honourable member. As far as I am aware that legislation has worked satisfactorily in this State, and there is no cause for it to be re-examined, having been passed, as it was, by the Parliament.

ABORIGINAL HEALTH SERVICES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about Aboriginal health services at Port Augusta.

Leave granted.

The Hon. M.J. ELLIOTT: I shall provide a little further background to what I said yesterday concerning the two organisations at Port Augusta. WOMA was started and operated by Aborigines and is incorporated under the Associations Incorporation Act. Under its constitution members can call general meetings. They elect the management committee, and that comittee has limited powers. So, very definitely it is a community organisation. Yesterday the Minister talked about Aborigines controlling their own destiny. The Department of Aboriginal Affairs has been its major source of funds, but not the only source, as the Minister claimed yesterday, because, in fact, SAP provides funds for a halfway house. Further, Aboriginal Hostels provides funding for night shelters. So, there are other sources besides DAA. For the past eight years, the DAA has been attempting to offload health responsibilities. The Federal Health Ministry has not been interested—

The Hon. J.R. Cornwall: That is not true. It took over some of the health role from Aboriginal health.

The Hon. M.J. ELLIOTT: Reluctantly. What it has been trying to do as much as possible is to push it into the State area. That has happened to some extent, following the Foley review, and we saw the setting up of the Pika Wiya Health Service. Yesterday, the Minister described the WOMA group in a couple of ways. He said, 'It is said of WOMA that all it is doing with its $360 000 is providing employment for six people and providing cut lunches.' I spoke with the people at WOMA, and they said, 'We don't do cut lunches but Pika Wiya does.'

Members interjecting:

The Hon. J.R. Cornwall: Aborigines are dying like flies, and the Hon. Mr Lucas finds it funny.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The point is that WOMA does not provide cut lunches but that Pika Wiya does. In fact it provides hot meals but the people have to pay something for it. I have also been led to believe that the WOMA group does a number of other things. For instance, the Department of Community Welfare often refers people to WOMA.

The Hon. R.I. Lucas: The Minister's department?

The Hon. M.J. ELLIOTT: Yes, the Department for Community Welfare (which is a little overloaded at the moment) does refer people to WOMA, not to Pika Wiya, because WOMA really acts not just as an alcohol rehabilitation service but more as a health and welfare organisation. It helps the police in matters of domestic violence, and when transients come in, particularly from traditional communities, it helps with crisis accommodation. It liaises with the Department of Social Security and is often the first point of call for a lot of Aborigines who are not sure where to go. Even the banks use it when they need identification of people. Further, WOMA helps with counselling for funerals and a number of other things.

The Minister also said yesterday, 'The efficiency and effectiveness of WOMA has generally been called into question on a number of occasions.' That certainly was not indicated in the feedback that I received from phone calls made today. While I was talking to WOMA people and with others it was suggested to me that WOMA had been offered late last year, when negotiations were going very well, an allocation of $115 000. The matter of the dry areas legislation came up and it was said to me that it was told, 'Don't rock the boat or you won't get the money.' Apparently it stayed relatively neutral, but that got it into trouble. The Hon. Mr Cameron raised the question as to the requirement under the constitution that people on the board should be local residents. I have been informed that the Chairman of the board of Pika Wiya spends most of her time in Mimili mining opals and not a great deal of time in Port Augusta. I make one last correction in relation to what the Minister said yesterday: he said that Pika Wiya means 'our health service', but in fact it means 'sickness all gone'. I ask the Minister the following questions:

Does the Minister not think it is a little strange, and possibly a display of vested interest that an appointed board, albeit it temporary, should ask that a further board should also be appointed and not elected?

Does he see that as a community controlling its own destiny—the term that he used yesterday—when he claims that WOMA has been inefficient for many years? Is it also true that the two administrative heads of Pika Wiya were formerly with WOMA during those many years? If there was an elected board, WOMA would find that acceptable: why indeed does the Minister not find an elected board acceptable? Had the Minister or the Health Commission requested WOMA to support the dry areas legislation?

The Hon. J.R. CORNWALL: Let us put this dry areas subject to rest again, because Mr Elliott apparently is having some difficulty using his limited intellectual capacity to grasp it.

The Hon. M.B. CAMERON: I rise on a point of order. It is always difficult for members of a small group to take points of order about statements made against them.

The PRESIDENT: What is the honourable member's point of order?

The Hon. M.B. CAMERON: I ask that the statement made by the Minister, which he is inclined to make about most members, that the Hon. Mr Elliott has limited intellectual capacity, be withdrawn.

The Hon. J.R. CORNWALL: Is there a point of order?

The PRESIDENT: A request has been made for the Minister to withdraw his remark. Would he care to do so?

The Hon. J.R. CORNWALL: If it is the remark that Mr Elliott has limited intellectual capacity, yes. It was not intended in that sense at all. I was saying that he has great difficulty in understanding what I am saying. Therefore, I will go through it again and speak slowly so he can absorb what I am saying. Of course I withdraw the remark. The Hon. Mr Elliott did not take exception to my remark; it was the Hon. Mr Cameron who described himself quite accurately earlier today and who took exception to it. I withdraw and apologise. I will speak slowly for the Hon. Mr Elliott's benefit. He asked again about the dry areas. He ought to know, because he has been here long enough now, that the licensing legislation is committed to my colleague the Minister for Consumer Affairs.

The Hon. M.J. Elliott: You said this yesterday.

The Hon. J.R. CORNWALL: That is right, and it did not get through to the honourable member. The so-called 'dry areas legislation' provides the ability or power that the Minister responsible for the Licensing Act has if he receives a request from a local council to go through the appropriate procedures to declare a particular public area as one in which alcohol may not be consumed, either during limited hours or totally. I went through this yesterday: applications had been received from Noarlunga council and the Tea Tree Gully council, and so on, quite a number of requests. None of this has anything to do with discrimination against

whites, blacks or any other ethnic group, so do not let us put this dry areas matter up as a sort of red herring.

I will tell members the story of the so-called dry areas in Port Augusta. There was a meeting at which all sorts of people were represented, including the member for Port Augusta, the Attorney-General, the State Minister for Aboriginal Affairs, Port Augusta council, local Aboriginal community groups from Port Augusta, and me: just about every player won a prize to the meeting. We tried to put together a package which would give something to all of the various interests. At that time the Port Augusta council wanted the Attorney-General to declare certain areas of Port Augusta, particularly the square and surrounding areas, as ones in which alcohol could not be consumed publicly. I tried to negotiate a package which would ensure that part of that additional funding would be given for a detoxification unit.

The Hon. M.B. Cameron: To WOMA?

The Hon. J.R. CORNWALL: No, never; there was never any suggestion that WOMA should be responsible for the detoxification unit. WOMA is an inefficient and ineffective organisation. I have always made it clear to WOMA that I would not deal with that organisation unless and until it became amalgamated with the Pika Wiya health service: that puts aside the matter of dry areas. The Hon. Mr Elliott asked if I find it strange that an appointed board would do something, but I quite lost the track of that question.

The Hon. M.J. Elliott: It was a temporary appointment and they asked that there be no elections and that they continue to be appointed: that does smack of vested interest.

The Hon. J.R. CORNWALL: What the board did or did not do did not concern me directly: it was a board of Aboriginal people who were controlling their own affairs and who asked for a change in the constitution. To try to make out that that is in some way sinister or Machiavellian, or that I played any role in it, is quite stupid, puerile and is the standard of behaviour and debate to which we have become accustomed from the other side of this Chamber. It contributes absolutely nothing.

Finally, I point out that I received a telex some time ago which I will be pleased to table when we resume after next week, from Mrs Audrey Kinnear to Mr Cameron specifically asking him not to raise any of these matters in this place and saying that she thought on reflection, having invited him there in the first place with his strange gaggle of companions—

Members interjecting:

The Hon. J.R. CORNWALL: She is from WOMA. The Hon. Mr Cameron was never invited to the Pika Wiya service, either at Port Augusta or at Davenport. He made no arrangements in advance and did not have the manners to notify people that he was coming. They have complained formally to the Western Sector of the Health Commission about Mr Cameron's behaviour. Let me also make clear that Mrs Audrey Kinnear, a member of the WOMA board who was one of those responsible for Mr Cameron being in Port Augusta, specifically sent him a telex the very next day when she had a change of heart, of course, asking him specifically—

Members interjecting:

The Hon. J.R. CORNWALL: She specifically got in touch with him and sent a telex informing people in the commission that she had been in touch with him and asking that he should not raise these matters publicly as she thought it would be prejudicial to the delicate situation existing in Port Augusta. However, he was not able to restrain himself.

QUESTIONS ON NOTICE

SOCIAL WORKERS

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Community Welfare: In respect of each departmental region, how many social workers are employed currently and how many were employed at the end of the past four financial years?

The Hon. J.R. CORNWALL: The answer to this question is long and comprehensive and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

The information requested is set out on the attached table. It should be noted that the current situation is not directly comparable to the past four financial years due to a redistribution and amalgamation of regions in 1986 which resulted in a reduction from four to three metropolitan regions. It should also be noted that the significant reduction from June 1985 to June 1986 relates to the transfer of family day care staff from DCW to the Children's Services Office.

Social Workers in Regions—DCW
Current Situation

Region	February 1987
Northern Metropolitan	75.1
Southern Metropolitan	59.3
Central Metropolitan	85.7
Northern Country	71.9
Southern Country	78.0
Total	370.0

Last Four Financial Years

Region	June 1983	June 1984	June 1985	June 1986
Central Northern	86.2	89.3	93.2	72.7
Central Southern	59.0	67.5	83.3	55.4
Central Eastern	51.7	55.4	51.1	39.4
Central Western	67.4	65.6	74.1	66.7
Northern Country	64.3	70.0	72.6	71.7
Southern Country	59.1	58.2	58.4	73.5
Total	387.7	406.0	432.7	379.4

'Social Workers' includes community welfare workers and senior community welfare workers; Aboriginal community workers; family day care coordinators; crisis care workers and supervisors; neighbourhood youth workers; district officers; and supervisors, consultants and advisers in the social work classification.

Note: The significant reduction from June 1985 to June 1986 relates to the transfer of family day care staff from DCW to Children's Services Office.

COMMUNITY WELFARE GRANTS

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Community Welfare:

1. How many organisations approved for Community Welfare grants funding in 1983-84, 1984-85, 1985-86 did not take up their grant?

2. What was the name of each of these organisations?

3. In each instance what was the specific reason for the organisation not taking up the grant?

The Hon. J.R. CORNWALL: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

1. 1984—all organisations had taken up their grant as at 31 January 1984.

2. 1985—the only group not to have taken up its grant by 31 January 1985 was the Pooraka Aged and Invalid Pensioners Association. The group did not take up the grant of $270 because it folded.

3. 1986—the following groups did not take up their grants by 31 January 1986.

Name of Group	Amount of Grant $	Reason
Northern Area Unemployed	4 000	Group folded
Aparawatatja Community—young offenders	2 500	Did not claim
Kangaroo Inn Youth Club	350	Did not claim
Point Pearce Comm's Council	2 000	Did not claim
Taperoo Neighbourhood Youth Centre	17 000	Group folded
Southern Fleurieu Community Transport Committee	600	Group folded

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Community Welfare:

1. Which organisations in receipt of Community Welfare grants receive triennial funding and what is the amount in each instance?

2. What proportion of the 1986-87 allocation for Community Welfare grants is represented by moneys provided to organisations receiving triennial funding?

3. What are the guidelines for determining eligibility for triennial funding?

The Hon. J.R. CORNWALL: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

1. There are 43 groups in receipt of Community Wefare grants who are triennially funded; they are:

Name of Organisation	Amount $
5MMM Progressive Music Broadcasting Association Inc.	11 700
Adolescent Girls Support Services	11 700
Aldinga Neighbourhood House Inc.	17 550
Australian Birthright Movement	23 400
Australians Aiding Children Adoption Agency Inc.	19 500
Bowden Brompton Community Group Inc.	38 220
Cambodian Australian Association Inc.	18 200
Camden Community Centre Inc.—Aged Project	13 312
Camden Community Centre Inc.	26 520
Christian Life Movement	12 900
Clarence Park Community Centre Inc.	15 600
Community & Neighbourhood Houses & Centres Association Inc.	30 420
FILEF	23 400
Goodwood Community Services Inc.	19 864
Grange Community Centre Inc.	24 400
Greek Welfare Centre Inc.	30 160
Hindley Street Youth Project Inc.	23 400
Hindmarsh Youth Service	23 400
Indo-Chinese Australian Women's Association	24 960
Ingle Farm Youth Project Inc.	33 800
Midway Community House Inc.	18 550
Mt Barker South Family House	17 550
Mt Gambier Community House Inc.	17 550
Noarlunga Family Services Board Inc.	15 600
Noarlunga Volunteer Services Inc.	12 400
North East Community Project for Needy Families Inc.	18 200
Over 60's Radio Association Inc.	13 000
Port Unemployed Self Help Inc.	28 400
S.A. Council on the Ageing Inc.	50 000
SACOSS—General	96 990
SACOSS—Management Project	25 740
Seaton Youth Project	28 600
Single Pregnancy and After Resource Centre	73 040
Spanish Latin American Mothers Association	9 776
St Peters Women's Community Centre Inc.	23 400
TOYS (Together Offering Your Skills) Inc. S.A.	5 800
Volunteer Centre of S.A. Inc.	29 120
West Neighbourhood Centre Inc.	18 100
Whyalla Counselling Service Inc.	33 280
Workmate Inc.	20 800
Wynn Vale Community House	17 550
Youth Activity Centre in the North East Inc.	33 800
YWCA of Adelaide—Big Sister	28 080

2. 44 per cent of the 1986-87 allocation for Community Welfare grants is represented by moneys provided to organisations receiving triennial funding.

3. Groups have to meet the general criteria which applies to all grants, i.e. the group meets service contract obligations, is well established, has sound management and administrative practices and good levels of programming. The group must also be willing to enter into an agreement on contract in relation to providing appropriate programs and acceptable level of attendance by users. Triennial funding is generally only offered to groups which already receive a Community Welfare grant of $15 000 or over per annum. The Community Welfare Grants Advisory Committee recommends to the Minister the amount of inflationary income to be passed on annually to triennially funded groups. Triennial funding has only been operating since 1983.

LIFTS AND CRANES ACT AMENDMENT BILL

In Committee.

(Continued from 17 March. Page 3413.)

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I oppose the clause. It is part of the series of amendments that relate to the codes of practice. This clause contains a definition of 'approved code of practice', as follows:

> means a code of practice approved by the Minister pursuant to section 17a:.

If we go a little further ahead one finds that that new section is in clause 8. It provides:

> (1) The Minister may, by notice published in *Gazette*—
> *(a)* approve a document, or a number of related documents, as a code of practice for the purposes of this Act;.

The effect of that is that the code of practice is not subject to review by the Joint Standing Committee on Subordinate Legislation. It is not subject to a motion for disallowance in either House of Parliament. In fact, although it does have implications for the community at large which may result in the use of those codes of practice in establishing a proper standard of care for the purpose of a prosecution, the codes of practice never come before Parliament in any form at all.

So, what I am proposing in my series of amendments is that the code of practice be contained in a regulation so that it is subject to review by the Subordinate Legislation Committee and is subject to a notice of disallowance. A later amendment will deal with the procedure by which such a code of practice may be incorporated in a regulation.

As part of my preferred scheme to have codes of practice embodied in regulations it is necessary to oppose this clause because I do not believe that it is appropriate merely for the Minister to approve codes of practice and thereby give

them the force of law through notice in the *Government Gazette.*

A regulation is preferable and I think it ought to be the format in which we do incorporate codes of practice. Certainly, I am not opposed to codes of practice at all but I think that, if we are going to have them and if they are going to play a part in establishing what is a proper standard of care, they ought to be subject to some form of parliamentary scrutiny and not be merely a form of Executive act.

I remind the Committee that in the occupational health and safety legislation we did deal with codes of practice being prescribed by regulation, and I think it ought to be in this legislation as well. As I say, that is why I am opposing clause 3, which of course is related to other amendments which are on file.

The Hon. I. GILFILLAN: We are sympathetic to this argument. In the second reading explanation the Government has recognised that the Standards Association of Australia's standards are to be called up in regulations to provide detailed requirements for lift and crane design use, etc., and we accept the arguments of the Hon. Mr Griffin that it is important that Parliament has the opportunity to scrutinise and have a say in the acceptance or otherwise of these codes of practice.

The Hon. C.J. Sumner: You are supporting the amendment?

The Hon. I. GILFILLAN: That is correct.

The Hon. C.J. SUMNER: Madam Chair, it seems as though I have been done. The Government opposes the amendment. Obviously, codes of practice are desirable, and I would have thought that members opposite would have been in favour of codes of practice in industry generally.

The Hon. K.T. Griffin: I said that we supported the code of practice.

The Hon. C.J. SUMNER: I see. Honourable members opposite want to see it done by regulation. The only possible compromise that I can offer to them would be to place a provision in the clause dealing with how the procedure for the promulgation or for the making of a code of practice should apply, that that should occur after consultation with interested organisations and unions. I take it that it would still remain with the Minister but it would have a section of the Act which would oblige consultation with the relevant interested industry organisations and unions.

It is interesting to note the honourable member's amendment where he says a regulation prescribing a code of practice should be taken after consultation with certain people and he refers only to employer organisations. He does not believe that consultation with employee organisations is something that ought to be countenanced. I am only making a point. I suppose the matter will now go to another place where it can be examined. Suffice it to say, the Government supports the clause, but we do not have the numbers without the support of the Democrats.

Clause negatived.

Clause 4—'Duty in relation to the safe operation, etc., of a crane, hoist or lift.'

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

Page 2, line 9—Leave out 'an approved' and insert 'a prescribed'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8—'Approved codes of practice.'

The Hon. K.T. GRIFFIN: I indicate opposition to this clause, which is consequential upon the defeat of clause 3. At present clause 8 sets out the procedure whereby the Minister may approve a code of practice. That is no longer relevant because it is proposed that it will be done by regulation. Therefore, the clause is no longer necessary and I oppose it.

The Hon. C.J. SUMNER: The honourable member says that he is in favour of codes of practice, but my interpretation of what he intends to do here is to delete the power for a code of practice to be made. Therefore, while he will no doubt say that he is picking that up under clause 9, I do not know that he is. There is no principal power in the legislation to make a code of practice whether by notice in the *Gazette*, by proclamation or by prescribing by regulation. I would think that it needs examination, if the honourable member persists with his view that any code of practice should be made by regulation.

The Hon. K.T. GRIFFIN: With respect, I do not agree with that. New section 12 (inserted by clause 4) relates to a prescribed code of practice; and it makes specific reference to non-compliance with a provision of a prescribed code of practice. That indicates that there will be a prescribed code of practice. My amendment to clause 9 provides for a regulation prescribing or incorporating a code of practice. I think it is okay, but it may be something that the Attorney-General will wish to take up with his advisers as the Bill makes its way back to the other place. However, I think it is adequate and I do not think the Bill needs a clause similar to clause 8.

The Hon. C.J. Sumner: You should have amended clause 3 instead of deleting it.

The Hon. K.T. GRIFFIN: No.

The Hon. C.J. Sumner: A code of practice means a code of practice prescribed by regulation pursuant to the section.

The Hon. K.T. GRIFFIN: I do not think that is correct. We should establish what the majority of the Committee agrees on and, if there is a problem, it can be looked at again. I really do not see that there is a problem.

The Hon. I. GILFILLAN: This may be unfair, but I assume that the Parliamentary Counsel who drafted the Bill also drafted the amendment. If the Hon. Trevor Griffin has been properly advised, there must be scope in his amendment to establish a code of practice; either that or it is an oversight by Parliamentary Counsel which, one would hope, can be tidied up between the two Houses.

The Hon. C.J. SUMNER: The other point is that it is a consequential amendment to provide that a code of practice is to be prescribed by regulation. So, in a sense, the first vote we took resolved this issue in principle; but even in this form the provision that the honourable member proposes to insert is unacceptable if for no other reason than he apparently ignores consultation with employee organisations.

Clause negatived.

Clause 9—'Regulations.'

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

Page 3—
Line 12—Leave out 'and'.
After line 16—Insert the following:
and
(c) by inserting after subsection (3) the following subsection:
(4) A regulation prescribing or incorporating a code of practice in relation to the erection, construction, modification, maintenance or operation of cranes, hoists or lifts will not be made except on the recommendation of the Minister after consultation with the Chief Inspector and a representative from the Lift Manufacturers Association of Australia and the Master Builders Association of South Australia Incorporated.

These amendments relate to the regulation making power in the principal Act. I seek to achieve a power to make a regulation which prescribes or incorporates a code of prac-

tice in relation to the erection, construction, modification, maintenance or operation of cranes, hoists or lifts. I believe that that is sufficient, coupled with the provision in clause 4 relating to the way in which a prescribed code of practice will be applied.

The Attorney-General made a point about consultation with the Chief Inspector and representatives from the Lift Manufacturers Association and the Master Builders Association; and he made the point that I am not concerned about consultation with employees. There is no question about whether there should be consultation with employers or employees. The bodies referred to are not there because they may be regarded as employer bodies. I do not think that the Lift Manufacturers Association of Australia could be regarded as an employer in an industrial sense. It is an industry body which has an interest in maintaining standards and in representing lift manufacturers in so far as they may be affected by building regulations, building codes and standards in their discussions with the Standards Association of Australia, and so on.

The same thing applies equally to the Master Builders Association: it is not there because it is an employer body. Of course, that is an important aspect of its work but, more importantly, it is concerned with construction standards in the building industry. There is no employment aspect related to that; it is a question of standards. Those two bodies are there for that reason. If the Attorney-General wants to incorporate reference to employer and employee bodies, I am happy to consider it. However, I have included these two associations in good faith only because of their involvement in areas related to physical standards and not to terms and conditions of employment or conditions in the workplace.

That is the way in which I believe they will play their role in dealing with a code of practice. If there is some good reason why others should be included, I have no difficulty. It is the principle which I believe ought to be incorporated, that there ought to be consultation. The Minister makes a recommendation for regulation but, before that, there ought to be consultation. We are not even binding the Minister to accept the advice which is tendered by these organisations. It is merely a statutory requirement for consultation. It is in that context that I move those amendments.

The Hon. I. GILFILLAN: I support the amendments, but I feel that it would be appropriate to widen the scope of consultation somewhat. It appears that it is an oversight in the original Bill. There does not appear to be any obligation on the Minister to consult. Bearing in mind that Ministers may change from Party to Party from time to time, it may well be that the Government sees fit to embrace some consultation aspect in this. I think there is good reason to include the union or representatives from the employees involved, not so much on an employer-employee representation, because I do not see disputes in that, but I think there may very well be a good, commonsense, practical contribution that can be made.

As the employees are those who would certainly, one would assume, be at the rough end of any deficiencies in these codes of practice, I believe it is important that they are included, so I indicate that I will support the amendments but would be happy to see some employee representation included in the consultation, if the Government would care to suggest it.

The Hon. C.J. SUMNER: The issue of principle has been resolved by the House against the Government's position. I note that the Hon. Mr Gilfillan and the Hon. Mr Griffin have named two bodies, at least, which are not included in this list for consultation. Representatives of employees through, say, the United Trades and Labor Council, and crane and hoist manufacturers are not mentioned, and there may be other interested parties. As the matter will obviously have to be addressed by the Minister of Labour in another place, I can only draw his attention to the comments made by honourable members, given that the issue of principle has been resolved and, if the matter proceeds and becomes the subject of a conference, it can be resolved at that time.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

PUBLIC FINANCE AND AUDIT BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3418.)

The Hon. L.H. DAVIS: When I last addressed this Bill I was commenting on the background which led to the fusing of legislation which had provided for public financial administration and the auditing of public sector finances; that the Public Finance and Audit Bill represents a merging of two pieces of legislation, together with numerous amendments over several decades. It therefore represents a very positive step forward. The Bill includes the major principles of financial administration and auditing in the public sector.

I note that there is provision for regulations and, according to the second reading explanation, there will be, pleasingly, rather fewer regulations in number than exist in the current audit regulations. I also note that some matters of procedural detail will be covered by a new prescription which is styled 'Treasurer's instructions' and I indicate to the Attorney-General that I would be interested to have more detail of the exact meaning of 'Treasurer's instructions' when we reach the Committee stage of the debate. The Barnes committee, whose exhaustive 12 volume report forms the backdrop for this major consolidation of legislation in the financial and auditing area, recommended that all Commonwealth funds should be funnelled through the Consolidated Account. That, of course, is not presently the case.

I am pleased to see, in clause 5 *(b)*, that in future all Commonwealth funds will appear in the Consolidated Account and so can be fully examined and scrutinised by the Parliament and by any members of the community who may have an interest in a particular matter.

The quite lengthy definition clause contains some matters for comment. Clause 4 (1) provides:

> 'Annual Appropriation Act': means an Act (not being a Supply Act) that appropriates money from the Consolidated Account in respect of a particular financial year.

Of course, the feature of an Appropriation Act is that moneys must be used in the financial year for which the appropriation has been made. The Supply Bill, which is currently on the Notice Paper, overcomes the limitation of the Appropriation Act because it provides for expenditure across the end of the financial year and into the new financial year. It is worth noting that 30 June, which is the end of the financial year for the purposes of State finances, is an artificial point which cuts off a continuous flow of financial transactions. It requires necessary adjustments and requires that moneys which have been authorised by an Appropriation Act must have either been expended within that financial year or must be repaid.

Although the Bill does not address this point, it is a matter of comment that Governments of all political persuasions have had difficulty in coming to grips with: that is, there has been a tendency continuously in departments and sta-

tutory authorities to make sure that money remaining unspent near the end of a financial year is spent. There is the great fear that if that money is not expended it will be lost in the next year's budget. There is not enough credit given for good housekeeping, and I deplore the examples which I still hear of and which quite clearly show that departments, statutory authorities and other agencies of Government tend to spend up big in June, looking for an excuse to buy goods and services, to make sure that their allocation is spent by the end of the financial year. I hope that the Government continues to find a way of overcoming this problem which, I am quite sure, sees a wastage of public funds and of the taxpayer's money. Clause 4 defines the annual Appropriation Act, and clause 6 provides:

Money must not be issued or applied from the Consolidated Account except under the authority of—
(a) this Act . . .

namely, the Public Finance and Audit Act. In other words, this new Act itself will give authority for the issue of money or the application of money for a particular purpose. In addition, money must not be issued or applied from the Consolidated Account except under the authority of the annual Appropriation Act, which we have already discussed, the Supply Act or some other Act of Parliament.

Of course, those other Acts of Parliament may relate to statutory authorities. The definitions clause defines 'public authority' to include:

(a) a government department;
(b) a Minister;
(c) a statutory authority—
(i) that is an instrumentality of the Crown;
or
(ii) the accounts of which the Auditor-General is required by law to audit;
(d) such other authority as is prescribed,
but does not include a statutory authority where the Act by or under which the authority is appointed or established provides for the auditing of the accounts of the authority by a person other than the Auditor-General:

I remain puzzled about what *(d)* stands for—'such other authority as is prescribed'—and I would hope in Committee that we could have some clarification of that point.

Another definition which requires some comment is 'publicly funded body', which means:

(a) a municipal council or a district council;
(b) any other body corporate that carries out functions that are of public benefit and that has received public money by way of grant or loan:

There is an important point to be established here. It is not clear from the legislation as it now stands as to how far the Auditor-General can chase a grant or funds which have been given to a publicly funded body. My reading of the legislation suggests that the Auditor-General has the power to go into a community or charitable group that may have received a grant of only $100 or $200 and examine the whole books of account. Any other body corporate carrying out functions of public benefit that has received public money by way of grant or loan is trapped under that definition clause and is subject to the audit requirement of this legislation.

I am highly nervous and rather doubtful of the merit of that proposition. I would like to think that we can find a better way by which public funds, either grants or loan, can be scrutinised by the Auditor-General rather than providing the Auditor-General with the power to examine the books of account of a community or charitable organisation. For example, a power could be provided specifically to the Auditor-General to examine the particular grant or loan. It may be incumbent on the community group or charity to establish a separate book to account for the grant or loan which it has received.

The Hon. Diana Laidlaw: They are already required to provide justification for grants.

The Hon. L.H. DAVIS: That is right. We all accept the need for accountability; there is no question of that. What I indicate to the Attorney-General is that I believe that the power that is in this Act may well go too far and I am examining the possibility of moving an amendment that will seek to make it a more reasonable power but, nevertheless, still an effective one. There are other matters that I wish to address on this important piece of legislation, but, at this stage, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

UNCLAIMED GOODS BILL

Adjourned debate on second reading.
(Continued from 18 March. Page 3484.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin has raised a query on the values attached to the three scales fixed under the Bill. The steps—up to $100, between $100 and $500 and above $500—are admittedly, somewhat arbitrary, as would be any amount. But when the Bill was drafted those figures appeared to be consonant with what obtains in the relevant legislation of other jurisdictions. The consensus of those who commented on the draft Bill appeared to regard the level of the present scales as acceptable. However, if the scales prove unworkable or inconvenient or to have untoward consequences, the matter can be examined with a view to varying them. Their appropriateness is something that will only be determined by experience and, naturally, the Attorney-General's Department will monitor the new Act with that consideration in mind. In any event, the clear policy of the Bill is that bailees should not be able to simply sell or dispose of goods of another, without court authorisation or a public auction, that represent considerable value. The borderline of what is considerable was fixed, for present purposes, at $100. Obviously, people will have different views as to what those figures should be. The Government believed that those figures were appropriate and they were not commented upon adversely by those to whom the Bill was referred.

The second query raised by the Hon. Mr Griffin concerned the situation where the identity of a bailor is unknown (under clause 5 (2) *(d)* (ii)). The Bill presently refers only to the case where the whereabouts of a bailor is unknown. I agree this is a deficiency. I have placed on file an amendment to include 'identity'. That will make the law consistent with that of other jurisdictions, for example, section 20 *(a)* of the Western Australian Disposal of Uncollected Goods Act, 1970.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Unclaimed goods.'

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

Page 2, line 36—After 'if the' insert 'identity or'.

This amendment picks up the issue raised by the Hon. Mr Griffin about the identity of a bailor being unknown, and which I addressed in my second reading reply.

The Hon. K.T. GRIFFIN: I support the amendment and appreciate that that issue has been taken up and that the Bill is to be amended accordingly.

Amendment carried; clause as amended passed.

Clause 6—'Sale or disposal of unclaimed goods.'

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

Page 3, line 29—After 'if the' insert 'identity or'.

This is for the same reason as outlined for the previous amendment.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 11) and title passed.

Bill read a third time and passed.

STATE GOVERNMENT INSURANCE COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 3483.)

The Hon. K.T. GRIFFIN: The Opposition is not fussed whether this Bill passes or not. The Bill seeks to provide for the State Government Insurance Commission to act as agent of the Workers Rehabilitation and Compensation Corporation, established under the legislation that was passed at the end of last year to deal with a new workers compensation scheme in South Australia. Members would be well aware of the Opposition's attitude towards that legislation. We opposed it; we sought to amend it but the numbers were not with us. As a result there is now in place, but not operative, a scheme of workers compensation which provides for a Government monopoly operated by the Workers Rehabilitation and Compensation Corporation, to the exclusion of all insurers, and up to this time that would also have covered the SGIC.

When the workers compensation and rehabilitation legislation was passed by Parliament the indication from the Minister of Labour was that it could be up and running by the end of this financial year, that is, 30 June 1987. The second reading explanation of this Bill indicates that that is not possible and that the earliest that the Bill will come into effect is September—and only then with the State Government Insurance Commission acting as agent for the corporation and, in fact, undertaking many of the responsibilities which the legislation attributes to and requires of the Workers Rehabilitation and Compensation Corporation.

Under the legislation which established it, that corporation is not able to delegate to bodies such as the SGIC. The Government seeks to amend the State Government Insurance Commission Act to ensure that it can accept an agency from the Workers Rehabilitation and Compensation Corporation. So far as it goes I suppose that that is acceptable, but we would like to believe that this opportunity would also be available to the private insurance industry, which has had a lot of experience in the area of workers compensation. As it is, those in the private insurance industry will be left out in the cold. There is some difficulty with the bulk of the workers compensation insurance ending as at 30 June 1987, where that has been insured in the private sector. Some expressions of hope have been made by the Minister and by the Insurance Council of Australia that the private insurance sector will be able to take up insurance from 1 July 1987 to 30 September 1987, when the new corporation will take over. But, of course, the consequence of that will be higher *pro rata* premiums because of the shorter period of risk and thus the difficulties which a shorter period of risk invariably brings, whether in relation to workers compensation insurance or any other form of insurance. The premiums for short periods are always proportionately higher than premiums for longer periods.

During the course of the debate on the Workers Rehabilitation and Compensation Bill, the Minister of Labour gave an undertaking that the corporation could have this whole scheme up and running by the middle of this year, and he indicated that no other body was likely to be involved in the administration of the Act. The Minister has now gone back on that commitment publicly, and is involving the State Government Insurance Commission. As I have indicated, the Opposition will seek, by means of an amendment to be moved during the Committee stage, to ensure that the private sector can be involved or that at least there is an opportunity for the private sector to be involved as an agent of the corporation.

The other aspect is that we want some form of sunset clause on the operation of this Bill. The member for Mitcham (Mr Baker) said in the other place that he was inclined to make the sunset clause operative to 30 June 1988. I do not believe that that is a sufficiently long enough period. To make it viable for the State Government Insurance Commission a date such as 30 June 1989 should be satisfactory, as it is some two years down the track. I believe that that ought to be the time by which the corporation has its affairs in order, has recruited staff, and is able to take over the administration of this system. It also means, of course, that following that period if the matter does come up for review the public at large will know really what the effect of this new scheme is on South Australians and on South Australian business.

The Minister has suggested that some four years might be the time that he would envisage the State Government Insurance Commission operating as agent. So, he admits that there is to be some sort of sunset provision, but there is no express admission in the Bill. I think that four years is too long and that a period to 30 June 1989 is appropriate. By that time the corporation should be accountable for its administration of the legislation either as principal or through its agent, the SGIC. I think two years from now is not an unreasonable time, whereas four years is really spinning it out unnecessarily, in the light of commitments made by the Minister during the course of debate on the Workers Rehabilitation and Compensation Bill. He indicated that no-one else would be involved, that it was to be the corporation, but now he is backtracking on that, I suspect not just because he is under pressure to get the scheme up and running early but because there was a hidden agenda at the time when he brought this legislation into Parliament.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Well, there has always been a hidden agenda with it (perhaps not so hidden), and that is that a Government will gain control of the whole area of workers compensation, that it will gain access to very substantial premium income for investment purposes, to get rid of the private sector and to exercise monopoly control over workers compensation.

That has been the agenda for this all along. I have made no secret of my view about that agenda. As I said at the beginning, the Opposition is not fussed about whether or not this Bill passes: if it does, then we want to see some amendments carried by the Committee to ensure, first, that there is an adequate sunset clause and, secondly, that the private sector has an opportunity to participate.

The Hon. I. GILFILLAN: I support the Bill. I do not believe that it is a matter of great consequence, certainly not in relation to the massive legislation and the significance of the Workers Rehabilitation and Compensation Act. However, I think it is important that it is supported. It is of critical significance that, as the corporation assumes responsibility for workers compensation insurance, it is properly managed, and that there are adequate resources to do so. I do not share the concern and suspicion expressed by the Hon. Trevor Griffin. However, if events prove that those suspicions are well founded, then obviously we must look

at the matter again. It is a practically desirable goal to prevent a duplication of resources in the taking over by the corporation from the private sector and SGIC of workers compensation. It is also to everyone's advantage that it not be unduly and hastily pushed just to conform with some particular timetable.

The dilemma which appears to be uppermost, if it is a dilemma, in the Hon. Trevor Griffin's mind, is whether in fact SGIC will be an interim minder and controller of the area of insurance. I do not believe that it will be. I believe that the corporation will have unquestioned authority in the administration and that the SGIC will purely be at the extremity of the whole matter insofar as it is implementing decisions and instructions given by the corporation. The reason why I feel that we ought not pin down particular timetables is that, for reasons which I certainly have not been advised about, there seems to be some sort of delay in announcing the personnel for the corporation.

I hope that there is proper selection and discussion to get the very best people on to the corporation: it is absolutely critical that they are not dummies propped up as a reward for services rendered previously to an organisation, or people regarded as being belligerent advocates of certain sectional interests. It is absolutely critical that we get the right impartial objective people on that corporation, and if it takes longer to get that in place then I believe that that is a small price to pay. A time scale of four years has been mentioned. I will not say that this is a reasonable time scale because I consider that it is possible that some form of delegation or involvement of SGIC might still exist in a remnant form after four years, even if it is only for the use of certain offices in Ceduna or some areas of South Australia where there is absolutely no reason for duplication by the Workers Compensation Corporation necessitating its own entirely independent entity.

The Hon. Trevor Griffin says private insurance companies are particularly eager to be involved in this delegation. They certainly have not mentioned that to me. We would be prepared to look at an amendment and to hear any opinions from them. My impression is that the sooner they could get out of it the better. I cannot say I have had any indication that they have any enthusiasm for carrying on in a delegated form, in the form that I imagine they would be offered, which is virtually a servicing arm for the corporation.

Bearing that in mind, I do not believe that a sunset clause is appropriate. I think it is proper that the phasing out of the SGIC's delegation should be done in harmony with the proper and measured development of the corporation. I think it is a reasonable use of the State's resources and I consider that it is an important facilitating Bill to enable the Workers Rehabilitation and Compensation Act to come properly and effectively into place. I support the Bill.

The Hon. L.H. DAVIS secured the adjournment of the debate.

DANGEROUS SUBSTANCES ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Dangerous Substances Act provides for the safe keeping, handling, conveyance and use of toxic, corrosive or flammable substances and has been in operation since July 1981. The Act places a high duty of care on persons who keep or convey large quantities of dangerous substances and authorises the making of regulations which, in the main, adopt various standards of the Standards Association of Australia to provide detailed safety requirements.

This duty of care is commensurate with the very high potential for injury to persons and damage to property associated with the storage and transport of large quantities of dangerous substances. A serious accident does occur from time to time, which serves as a reminder of the necessity for the observance of the comprehensive measures that are required by the Act to ensure the greatest degree of safety to persons and property from uncontrolled dangerous substances.

The present maximum penalty for breaches of the Act and regulations is $1 000 and, while that level of penalty was considered appropriate when the Act was assented to in 1979, it is now considered to be totally inadequate as a penalty for offences which could result in death or serious injury and destruction or pollution of property.

The Bill amends the Dangerous Substances Act 1979, to increase the maximum penalty for the offence of failing to take proper precautions with respect to a dangerous substance in order to avoid endangering the safety of any person or property to $40 000 in the case of a body corporate and $8 000 or two years' imprisonment or both in the case of a natural person. The maximum penalty for keeping or conveying a dangerous substance without a licence is increased to $30 000 in the case of a body corporate and $4 000 or one year imprisonment in the case of a natural person.

It is the Government's view that the maximum penalty under the Act should reflect Parliament's resolve to ensure that all reasonable safety precautions are observed by those responsible for the control of dangerous substances. The introduction of imprisonment as a penalty will allow the courts to provide for cases where gross dereliction of duty is proven and serious injury or death results. The Bill increases the penalties in relation to other minor offences under the Act from $1 000 to $4 000.

Clause 1 is formal.

Clause 2 amends section 9 of the Act. The maximum penalty for the offences of hindering an inspector, failing to answer questions put by an inspector and failing to comply with a direction given by an inspector is increased from $1 000 to $4 000.

Clause 3 amends section 10 of the Act. The maximum penalty for the offence of divulging information obtained while engaged in the administration of the Act is increased from $1 000 to $4 000.

Clause 4 amends section 11 of the Act. The maximum penalty for the offence of falsely representing that one is engaged in the administration of the Act is increased from $1 000 to $4 000.

Clause 5 amends section 12 of the Act. The maximum penalty for the offence of failing to take care in relation to a dangerous substance is increased from $1 000 to $40 000 in the case of a body corporate and $8 000 or imprisonment for two years or both in any other case.

Clause 6 amends section 14 of the Act. The penalty for the offence of keeping a dangerous substance without a licence is increased from $1 000 to $30 000 in the case of a

body corporate and $4 000 or imprisonment for one year in any other case.

Clause 7 amends section 18 of the Act. The penalty for the offence of conveying a dangerous substance without a licence is increased from $1 000 to $30 000 in the case of a body corporate and $4 000 or imprisonment for one year in any other case.

Clause 8 amends section 26 of the Act which provides that, where a body corporate is guilty of an offence against the Act, the members of the governing body and the manager of the body corporate are also guilty of an offence. The amendment is consequential to the amendments to sections 12, 14 and 18 of the Act. It provides that the relevant penalty for such an offence is that applicable to the offence of which the body corporate is guilty when committed by a natural person.

Clause 9 amends section 30 of the Act. The maximum penalty that may be prescribed for an offence against a regulation is increased from $1 000 to $4 000.

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

POTATO INDUSTRY TRUST FUND COMMITTEE BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Potato Industry Trust Fund Committee Bill establishes a committee to advise the Minister on the administration and application of the Potato Industry Trust Fund established under section 26 of the Potato Marketing Act 1948. The committee is to be called the Potato Industry Trust Fund Committee.

The committee will consist of seven persons, of whom three will be growers chosen after applications have been called by the Minister for the grower positions on the committee. The other members of the committee will be: a senior Government officer with experience in financial management; an officer from the Department of Agriculture with experience in either research or marketing; a person with experience in management or administration; and a member representing broad community interests. All committee members will be appointed by the Minister, and one will be appointed to preside at meetings.

It is intended that members other than grower members will be appointed annually. All members will be eligible for reappointment. To maintain some continuity of membership on the committee, in the first instance two of the grower members will be appointed for two years; the third grower member will be appointed for one year. Thereafter, all grower members will be appointed to office for two years. The procedure of the committee will be such as is determined by the committee. There is provision for the Governor to make regulations under the Act. The costs of establishing and operating the committee will be met from the trust fund. I commend the Bill to the Council.

Clause 1 is formal.

Clause 2 provides definitions of terms used in the Bill.

Clause 3 establishes the Potato Industry Trust Fund Committee.

Clause 4 sets out the advisory function of the committee.

Clause 5 provides for the costs of establishing and operating the committee to be met from the fund.

Clause 6 is a regulation making power.

The Hon. PETER DUNN secured the adjournment of the debate.

PARKLANDS

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

That, in the opinion of the Parliament, in the management and development of parklands in council areas of South Australia—

(a) the parklands should be available for use by people;

(b) the public should have free and unrestricted access;

(c) the parklands should be reserved as a place for public recreation, leisure and enjoyment;

(d) every effort should be given to the restoration to public use of areas which have previously been removed from general use;

(e) the character of the parklands as a green belt dividing the City of Adelaide from the suburbs should be preserved;

(f) councils should endeavour to enhance the visual appearance of the parklands and integrate them into the planning design of the respective council area; and

(g) the Crown should be subject to the same development constraints and comply with the same obligations as councils,

and that this view be conveyed to all councils in the State.

ELECTRICAL WORKERS AND CONTRACTORS LICENSING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Electrical Workers and Contractors Licensing Act 1965 is administered by the Electricity Trust of South Australia, and is the statute which restricts electrical work (as defined) to those who hold a licence issued by ETSA. At present licensed electrical workers from other States or Territories have to obtain a South Australian licence before being able to carry on their trade in South Australia.

This Bill seeks to amend the Electrical Workers and Contractors Licensing Act so that appropriately licensed persons from other States or Territories may carry out electrical work as prescribed in the Act without the need to apply for and obtain a South Australian Electrical Worker's Licence.

Similar arrangements already prevail in New South Wales and by agreement moves are being made in all other States to allow this form of reciprocity. The advantage of this would be simply a saving in the unnecessary administrative process in providing a South Australian licence to those who are already appropriately qualified. It would also avoid the inconvenience to the interstate electrical worker of having to discover the present requirement and then comply with it.

Clauses 1 and 2 are formal.

Clause 3 inserts a new definition:

'External authority' means a licence, permit, certificate or other authority to carry out electrical work issued under a law of the Commonwealth, or of another State or Territory of the Commonwealth.

Clause 4 repeals section 6 of the Act.

Clause 5 amends section 7 by removing the requirement that a date be proclaimed from which the section is to operate.

Clause 6 repeals sections 8 and 9 of the Act and inserts a new section 8 which provides that the trust may, by notice in the *Gazette*, declare an external authority of a specified class to be equivalent to a licence of a specified class issued under the Act. Subclause (2) provides that restrictions may be imposed on the holder of an external authority in relation to the performance of electrical work in the State. Subclause (4) provides that the trust may withdraw the right of a holder of an external authority to carry out electrical work in this State if the holder contravenes or fails to comply with a provision of the Act, or a condition or restriction imposed on his or her right to perform electrical work in this State.

Clause 7 repeals section 14 and substitutes a new section which provides that a certificate stating that a particular person was or was not the holder of a specified class of licence, or did or did not have the right to carry out electrical work in this State pursuant to an external authority, on a particular date, will, in the absence of proof to the contrary, be accepted as proof of the matter certified.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

SUBORDINATE LEGISLATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Subordinate Legislation Act 1978. Read a first time.

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

That this Bill be now read a second time.

The Bill proposes that regulations will have a maximum life of seven years. At the end of the seven-year period, regulations will be automatically revoked. Prior to the date of expiration, all regulations will be reviewed in consultation with relevant parties to determine whether a replacement regulation is necessary. It will allow for consolidation, rationalisation, and simplification of regulations which have become outdated. In the context of this Bill, 'regulation' means any regulation, rule or by-law.

Victoria included a regulation revocation program in its Subordinate Legislation Act. The first stage of the program was that all subordinate regulations made prior to 1 January 1962 lapsed as from 1 July 1985, unless action was taken to retain the regulation. Approximately 1 000 sets of regulations lapsed and have not been replaced.

Queensland passed a Regulatory Reform Act 1986 and the first stage of the revocation program is that all subordinate legislation made on or before 30 June 1962 shall expire on 30 June 1987.

The Bill will ensure that regulations which impact on business and the community at large will have to be rejustified every seven years. Where a replacement regulation is necessary it will be designed to be the least restrictive on business and the community consistent with the public interest.

This Bill is part of a package of deregulation initiatives announced earlier this month by me. These initiatives were detailed in a paper 'South Australian Deregulation Initiatives' tabled in the Legislative Council on Tuesday 10 March 1987. As well as the automatic revocation system for all regulations, the package includes: a 'prior assessment process' to ensure the benefits of regulation clearly outweigh the costs; 'Regulatory Impact Statements' to obtain public comment where the impact of the regulation is likely to impose an appreciable burden, cost or disadvantage upon any sector of the public; and, sunset clauses in legislation where Cabinet considers it appropriate.

Under the package the development of new or amended legislation will need to undergo a stringent prior assessment process to ensure that the benefits of regulation clearly outweigh the costs. Where an Act or regulation will have a significant economic impact, or where it is likely to impose significant costs or disadvantages on any sector of the public, a regulatory impact statement (RIS) will be prepared. The RIS will be made available for public comment if the State Government believes it is necessary. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 is a consequential amendment.

Clause 3 amends the definition of 'regulation' to make it quite clear that this Act only applies to regulations, rules and by-laws made under an Act.

Clause 4 inserts a new Part in the Act to provide for the expiry of certain regulations.

Clause 5 provides that all regulations will expire except for the following:

- regulations that are not subject to disallowance because of an express exclusion in the Act under which they are made;
- regulations that only relate to the internal affairs or administration of a statutory corporation and its property and so only have a restricted application;
- regulations that actually amend an Act (e.g. regulations made under the Fees Regulation Act);
- regulations made pursuant to an agreement for uniform legislation;
- rules of court;
- prescribed regulations, thus enabling the exemption from this Part of other kinds of regulations should the need arise.

New section 16b provides for the gradual expiry each year from 1989 to 1993 of all existing regulations. All new regulations (e.g. made after 1 January 1986) will expire on their seventh anniversary. It is provided that a regulation is made on the day on which it is published in the *Gazette*.

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

WRONGS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Wrongs Act 1936. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to reform the law of the State in relation to occupiers liability, a topic that has received considerable academic, judicial and legislative attention in recent years,

both in Australia and overseas. It was the subject of the twenty-fourth and forty-eighth reports of the Law Reform Committee of South Australia. Most recently, it has found legislative expression in Victoria in its Occupiers Liability Act, which was assented to on 13 December 1983.

At the judicial level, it has been the subject of criticism and close scrutiny by the High Court in such cases as *Hackshaw v Shaw* (1984) 59 ALJR 156, *Papatanokis v Telecom* (1985) 59 ALJR 201 and the New South Wales Supreme Court in *Gorman v Williams* (1985) 2 NSWLR 662.

Without exception, the general thrust of legal developments at all levels and in most jurisdictions has been towards subsuming the duties of occupiers to the various categories of entrants upon their lands under the general law of negligence. To understand the context of these developments, I wish briefly to canvass the existing relevant common law rules. As the Law Reform Committee's twenty-fourth report succinctly states (pages 8 to 9):

> The common law has drawn a broad distinction between two kinds of persons who enter on land with the consent of the occupier: between a person who enters the land in pursuance of a common material interest—usually financial—with the occupier and an entrant who does not share such an interest with him. The former is known to the law as an invitee and the latter as a licensee; and the occupier has greater responsibilities in ensuring the safety of the invitee than in ensuring that of the licensee. This distinction has been the object of very considerable criticism and it is perhaps the principal feature of all the reforms and proposed reforms of the law of occupier's liability. . . .
>
> There have been essentially two main grounds of criticism of the present distinction. The first is that it has unnecessarily added an unacceptable degree of complexity to the law, not only by requiring an intitial process of classifying an entrant in any case of occupier's liability but because it has led to the production of other and consequential distinctions and refinements of law; and secondly, that the criterion of material interest is in itself an inappropriate one against which to assess the extent of the duty owed to the entrant.

The classic statement of the duty owed to an invitee is in *Indermaur v Dames,* an 1866 English decision:

> He (the invitee) using reasonable care on his part for his own safety is entitled to expect that the occupier shall on his part use reasonable care to prevent damage from unusual danger which he knows or ought to know; and that where there is evidence of neglect, the question whether such reasonable care has been taken by notice, lighting, guiding or otherwise, and whether there was contributory negligence in the sufferer, must be determined by the jury as a matter of fact.

The duty owed to a licensee is stated in one judgment in the 1932 High Court decision of *Lipman v Clendinnen:*

> The result of the authorities appears to be that the obligation of an occupier towards a licensee is to take reasonable care to prevent harm to him from a state or condition of the premises known to the occupier but unknown to the visitor which the use of reasonable care on his part would not disclose and which considering the nature of the premises, the occasion of the lease and licence and the circumstances generally, a reasonable man would be misled into failing to anticipate or suspect.

In relation to trespassers, courts had long ago espoused the rule that an occupier owed no duty of care save to refrain from intentional or reckless (that is, deliberate) harm.

However, the common law has, by and large, attempted to evolve rules, or exceptions to general rules, which would ameliorate the harshness of applying the leading authorities to cases where notions of simple justice dictated a different result. For example, fictions such as implied licences were imputed in cases of children entering land as trespassers.

In *British Railways Board v Herrington* [1972] AC 877 the House of Lords laid down a number of guiding principles regarding an occupier's duty to trespassers:

(1) There must be actual knowledge of the presence of the trespasser or knowledge of facts which make it likely that he will come on the land and actual knowledge of conditions on the land likely to injure a trespasser unaware of the danger.

(2) If a reasonable man, possessed of the actual knowledge of those facts would recognise the likelihood of the trespasser's presence and the risk, the occupier's failure to appreciate them does not absolve him.

(3) The duty is limited to taking reasonable steps to enable the trespasser to avoid the danger.

(4) The relevant likelihood to be considered is of the trespasser's presence at the actual time and place of danger to him, such likelihood as would impel a man of ordinary humane feelings to take steps to mitigate the risk of injury to which the particular danger exposes the trespasser:

This gives rise to the so-called 'duty of common humanity' test.

This Bill, by adopting the general principles of the law of negligence, has the major advantage that the law the courts are to administer, and upon which practitioners must advise clients, will be given a clear foundation on principles with which both are thoroughly familiar and accustomed to deal. Moreover, the general principles of negligence ought to be capable of taking into account such matters as the unpredictability of the movements of entrants on land and to balance the interest and convenience of the occupier and the security of the entrant from unreasonable dangers.

In many respects, therefore, what is sought by this Bill is quite closely analogous to what was sought and achieved by the Wrongs Act Amendment Bill 1983 dealing with liability for animals. The comments in the October 1983 report of the Legislative Council select committee on that particular Bill are apposite to this reform:

> Your committee has closely examined this issue and is of the view that the principles of negligence are sufficiently flexible to take account of differing situations and to be able to cope with the problems . . . as they arise.' (p.7)

The following aspects of this Bill should be especially noted:

(1) The definition of 'premises' to which it applies is sufficiently wide to encompass unalienated Crown land as well as all forms of private tenure;

(2) The mere failure by an occupier to warn against a danger arising from the unsafe state or condition of premises will not of itself establish a failure to exercise a reasonable standard of care. This type of provision is to be directly compared with section 17a (7) of the Wrongs Act the material part of which provides:

> . . . the fact that in a particular case no measures were taken . . . to warn against any vicious, dangerous or mischievous propensity that [an animal] might exhibit, does not necessarily show that a reasonable standard of care was not exercised.

(3) In relation to trespassers, no duty of care is owed unless the common duty of humanity is breached; a duty which is significantly narrower than that which is to be owed to all other categories of entrants;

(4) The Bill will have an entirely prospective operation: that is, it will only apply to causes of action that arise after it comes into effect;

(5) There will still be freedom for the parties to modify their obligations pursuant to contract; and

(6) The nature and extent of premises are to be taken into account before liability can be established. The Government is concerned to ensure that the actual size of land-holdings is not overlooked as a relevant factor. Clearly, all other things being equal, a breach of duty would be less likely to be inferred when the event occurs in a remote part of a large land-holding (for example, an outback pastoral lease) than when the same event occurs in the corner of a suburban backyard.

Proposed section 17d deals with the limitation of liability of a landlord of premises to entrants on those premises. Its rationale is best explained in the Law Reform Committee's 24th Report (p.25):

> Where premises are leased to a tenant, the right of exclusive occupation of them goes to the tenant as the necessary incident of his tenancy. Consequently, if a visitor to the demised premises is injured while on them his action lies against the tenant as occupier rather than against the landlord. Yet, especially in the case of short-term tenancies, the duty of keeping the property in repair belongs in considerable measure to the landlord. Since the decision in *Cavalier v Pope* (1906) A.C. 428 it has been clear that this duty is owed to the tenant in virtue of the contract between landlord and tenant and does not extend to other persons lawfully on the premises, so that an injured entrant has no direct redress against the landlord but must bring his action against the tenant who, in turn, must try to recover over against the landlord. In order to prevent this circuity of action the English Law Reform Committee recommended that where a visitor to premises has been injured because of the failure of the landlord to fulfil his duty of repair the visitor should have a several right to sue the landlord direct.

Finally, there are two things I should like to make quite clear. As with any measure of such public importance, the Government has consulted very extensively and sought comments on the draft Bill. Moreover, the Government sought the advice of the General Manager of the State Government Insurance Commission on the likely or possible impact on premiums in respect of relevant insurance policies (e.g. public liability policies) were this reform to proceed. His response (of 27 August 1986) was as follows:

> In so far as the question dealing with occupier's liability is concerned and the premiums payable in respect of insurance policies (e.g. Public Liability Policies) we do not anticipate any significant movement in premiums.
>
> The proposed amendments may have some impact in relation to claims by the traditional category of persons classed as licensees, as wider scope could be afforded to the courts to import negligence into an occupier's activities or failure to eliminate a risk from the premises.
>
> We consider that the inflationary trends in court awards is more likely to impact premiums in the future as well as members of the public exercising their rights more readily than in the past.

This Bill is a sincere attempt by the Government to strike a balance between the rights and entitlements of owners and occupiers of premises and the reasonable expectations of those who come upon or traverse their premises. It is also a genuine attempt to take into account the differing considerations that apply in urban and rural settings respectively. It is, most importantly, a measure that will bring long overdue sense, uniformity and rationality to an area of the law that has proved obscure, difficult even for experts and replete with potential for injustice. I commend this Bill to members and seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 inserts new part IB into the principal Act. The new part concerns occupier's liability.

New section 17b contains definitions for the purposes of the new part. Of significance is the definition of—

'occupier'—a person in occupation or control of premises, including a landlord.

'premises' including land, building or vehicles.

New section 17c sets out the occupier's duty of care. The occupier's liability for injury, damage or loss attributable to the dangerous state or condition of the premises is to be determined in accordance with the law of negligence.

In determining the standard of care to be observed by an occupier, a court will consider—

(a) the nature and extent of the premises and the danger arising from their dangerous state;

(b) the circumstances in which the injured person became exposed to danger;

(c) the age of that person and the person's ability to appreciate the danger;

(d) the extent to which the occupier was, or should have been, aware of the danger and the entry of persons on the premises;

(e) the measures taken to eliminate, reduce or warn against the danger;

(f) the extent to which it would have been reasonable and practicable to take such measures;

(g) and other matters that the court thinks relevant.

The fact that, in a particular case, the occupier took no such measures does not necessarily show that a reasonable standard of care was not exercised.

The occupier's duty may be reduced or excluded by contract, but no such reduction or exclusion affects the rights of any stranger to the contract.

Where the occupier is by reason of any other Act or law subject to a higher duty of care, that higher duty will prevail. An occupier owes no duty to a trespasser unless—

(a) the presence of trespassers in the premises and their exposure to danger were reasonably forseeable; and

(b) the nature or extent of the danger was such that measures which were not in fact taken should have been taken for their protection.

Under new section 17d, the liability of a landlord is limited to injury arising from an act or omission to carry out the landlord's obligation to repair or maintain or a failure on the part of the landlord to carry out that obligation.

Under new section 17e the new part operates to the exclusion of the common law principles of occupier's liability. The part does not apply to an occupier who intends to cause injury loss or damage to another.

Clause 4 provides that this measure does not affect a cause of action that arose before its commencement and does not give rise to a cause of action in relation to events occurring before that commencement.

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

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 3267.)

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill affects the livelihoods of only a limited number of South Australians. However, that limited number produces for this State a very large income—and some of that is export. For that reason, I think it is a very serious matter we have to consider, and something on which we need to move very carefully. It has been a very troubled fishery. My knowledge of the fishery is, like anyone else's, looking from the outside over a number of years and observing difficulties which have arisen. In the late 1960s I was very heavily involved in the beginning of fisheries management.

It was as a result of a wellknown election—in 1968—which I managed to lose by one vote, that the fisheries of the South-East received more attention than they had received in the history of the country. The only advantage

I had over my opponent was that he got seasick and could not go to sea: I do not suffer from that affliction. From then, the whole concept of fisheries management and limitations on effort in fisheries started, and that was an area that had my absolute and full support.

In its troubled history this fishery has suffered a couple of incidents that have not helped it at all. The first and most serious was the decision that certain waters of South Australia belonged to the Commonwealth even though they appeared to every normal thinking person to be part of South Australian waters and I refer to Investigator Strait. As a result of that, a tremendous amount of fishing effort was built up. In fact, the Commonwealth authorised eight boats to go into what was a pretty small part of the fishery. This caused a major concern in this State and is something for which I condemned, and I still condemn, the Federal Government. That was a rather foolish move, one that has led to some extent to the present difficulties. Of course, the end result of the eight boats being allowed to fish in those waters was that the catch in that so-called Commonwealth fishery quickly depreciated, and a number of people went out because of sheer lack of fish with others going out because the Commonwealth reduced the number of available permits—in the end, there were two.

When the Commonwealth people finally came to their senses and handed over that fishery to State management, those two fishermen were granted what were called experimental licences, I understand. At that time it was indicated that at some time they would be transferred to full licences. The situation was exacerbated at that time because the State issued additional licences. There have been some changes in the way in which this fishery operates. Fishermen have changed to double and treble rigs, I understand, and boat power has been increased.

Finally, a committee of inquiry on the fishery was set up under Professor Parzival Copes. Professor Copes undertook one inquiry and made certain recommendations on the fishery and now there has been this second inquiry. One of the things that concerns me greatly—and I am talking about fair play—is the situation that now pertains to the two people who operated under licence in Investigator Strait. It seems to me that they have suffered some pretty rough treatment, and I will outline briefly what I regard as rough treatment.

It was made clear to them in a letter from the Minister of Fisheries on 3 December 1986 that Cabinet had previously determined that the two Investigator Strait experimental prawn fishing licence holders should be recognised as having the same rights and obligations as Gulf St Vincent fishermen on the basis of their well established commitment to the fishery, their positive cooperation with research surveys and overall management and the fact that they previously held Commonwealth licences to fish the Investigator Strait area immediately prior to the change to State jurisdiction.

At the same time Cabinet determined that the future of the two Investigator Strait licence holders in the amalgamated fishery must be considered in conjunction with Copes's recommendations relating to vessel reduction. That Cabinet document clearly outlined that these two licences were to be considered equal to and having the same rights and obligations as the licences of people who fish in Investigator Strait.

The importance of the matter is that those two licence holders cooperated fully for the whole time they held those licences, which is longer than almost everybody in Gulf St Vincent. I know that people in Gulf St Vincent will understand what I am saying because that same cooperation was not always available to the Department of Fisheries from the Gulf St Vincent fishermen. So the two people who really cooperated have been taken out of the system without any choice and with a payout of $450 000. I will ask the Minister to outline just how he arrived at that figure when, as I understand it, a figure of $600 000 or greater has been or is being discussed with other fishermen.

I intended to attempt to resurrect the position of these two fishermen but, before doing so, I made a point of requesting that they ask me to move amendments that would do so. The difficulty that I have is that they no longer have licences and there is the potential for them to end up with nothing if I make any such move. That particular request was not forthcoming from all the fishermen involved. One family involved with one of the licences has a fairly large debt load and they were very nervous about the prospect of not obtaining the money that will fall due to them, so I will not proceed with those amendments. However, I appeal to the Minister to reconsider their position in relation to the amount allowed to them and to try to justify the amount that has been allocated to them under this Bill, compared with that allocated to other people. Some of them have been fishing for 30 years, and before this action of the Minister and before this Bill was introduced, one held a licence for crayfish and another for scalefish. Both of those licences have been cancelled. As well as that, they cannot even return to their former fishery. In spite of assurances to the contrary, they have been thrown out of their industry and their compensation has been decided for them.

They offered evidence to Professor Copes that conversion had been promised by political authorities on a number of occasions but have been postponed repeatedly because of ongoing controversy affecting their position. They have been the subject of a lot of bad vibes from the fishermen in Gulf St Vincent. Professor Copes said that it had been pointed out to him that, in the small economy of Kangaroo Island, where the Investigator Strait vessels are based, the presence or absence of two operating prawn trawlers does have a perceptible impact. The same cannot be said of a difference of two prawn trawlers in the Adelaide area. He goes on to say:

> By all accounts the two Investigator Strait operators have been most cooperative in their relationship with the DOF [Department of Fisheries] and its survey work. But they obviously meet great hostility from the Gulf St Vincent fishermen.

He goes on with some other words about these two vessels. He finally said:

> The fate of the two vessels from the strait is primarily a matter of equity considerations that require a political decision.

I have the suspicion that that is what has occurred, that the two fishermen perhaps not in an electorate that bothers the present Government have been removed. I find that unacceptable, but that is up to the Government and the Minister involved to reconsider. If the Minister does not reconsider their position, he must certainly reconsider the amount of money paid to them.

There is not one person on this side of the Chamber who does not recognise the need for something to happen. Anybody who has had anything to do with the fishery and has listened to the complaints over the years would be well aware of its problems. I certainly would expect the Council, in one form or another, to make certain that a Bill passes allowing for the reduction in the fishing effort in Gulf St Vincent, at least in the short term, and nobody will argue with that. Perhaps there is an argument about the level that that reduction needs to take. I have had considerable discussion with a number of people and I have appreciated the fact that Department of Fisheries officers have been

made available, as I appreciate the efforts of fishermen who have come to discuss the matter with me and other members of the Opposition.

There is no doubt from what I have heard that everybody associated with this measure has one thing in mind, and that is the resurrection and refurbishing of this industry through proper and sensible management. That has been something of a problem, because the Department of Fisheries—and Professor Copes made this point quite strongly—has something to answer for with this problem. He said also (and I make this point very strongly):

> The establishment of cordial working relations between Gulf St Vincent fishermen and the Department of Fisheries should be promoted by all groups and individuals with an interest in the welfare of the South Australian fishing industry. All should avoid refighting old battles and rekindling old animosities.

That is a terribly important statement on the part of Professor Copes. Unless that occurs, and unless there is full cooperation within the industry, we will see a continuation potentially of the difficulties that have arisen. That gets right down to the meetings that obviously have to occur within a managed fishery which must have limited times for fishing to discussions on the days that will be fished right through to every part of the industry. It is absolutely essential that from now on there is absolute and full cooperation between all people affected by this Bill. The people who will be left in this fishery must, for the good of the fishery, cooperate.

I do see some difficulties associated with the amount of money that has to be paid by the fishermen. It is a very large sum and, unless the fishery revives, I think it will create some very difficult problems. That is something that is in the lap of the gods—but I hope that is not the case. I hope that all the forecasts are correct and I trust that, within the arrangements to be made, the Government, through advice from its officers, will back their judgment and ensure that repayments from fishermen are scaled according to the revival in the fishery. There would be nothing worse to find that the fishery which, as I understand it, was operating at about 260 tonnes, does not go up but, as some people have forecast, goes down.

Some consideration must be given to the amount to be paid. I accept the assurances of people who are expert in the industry that it will certainly not go down but go up, but we must keep in mind that the other can happen. It would be quite unfair for the fishermen involved to be stuck with a level of repayment that would be impossible for them to maintain. At the same time, if the fishery does revive I am quite certain that there would not be any fishermen who would not be happy to get out of the debt that they are in with the Government as soon as possible. I am not saying that the Government would be the worst person to have one's debts with, but I certainly would not want those debts to last any longer than was necessary.

I will be moving an amendment to attempt to have the Government take 50 per cent responsibility for the amount of the buy-back scheme, because it is felt that it is not the fishermen who have necessarily caused this problem. It is to some extent the fact that there were *(a)* more fishermen allowed into the industry, and that was not a decision of the fishermen, and *(b)* the extra effort that was allowed through different rigging, and that was agreed to. Professor Copes was quite critical of the fact that there was not sufficient discipline brought into the industry by the Department of Fisheries in the form of making certain that the effort was reduced in direct relation to the increase in effort brought about by different rigging and a greater number of vessels.

That area from now on must be strictly adhered to, but in the process the fishermen are being asked to buy out all the boats and take full responsibility for what has occurred. To my mind that creates some difficulty. However, that matter will be debated in this House and finally voted upon.

The second area is transferability. I have a very firm belief in transferability of licences. That is not something new but something that I, as a resident of a fishing port, understand. People and families who live in fishing ports also understand it. I make the point very strongly that, if the fishermen are now being asked to buy back these boats and so revive the industry, on the other hand when the industry revives they must be able to take the benefit of that. If they are not going to take the benefit of it by being allowed, if the fishery revives, the extra price that they will get for their licences, then let the Government pay everything. If they have no capital gain due to them, surely to goodness we cannot expect them to pay for the revival of the industry. They will be simply fishermen until they are finished.

I know that some fishermen have licences in companies, and I do not understand how they are transferred. I suppose that somebody buys the shares and the licences go on. I have been told that only four fishermen are involved on a personal level, but that is half the fishermen in Gulf St. Vincent, so it is not an argument, and those people should not be forced to take up companies in order to get transferability.

Secondly, it has been said that transfers will be allowed within families. That is fine if one has a family. If one has a wife and no children and one falls overboard, the boat sinks, or whatever (I assure members that it does occur—I have seen it plenty of times in my lifetime as a resident of a fishing port), then what has a widow got? We are told that she can put a skipper on the boat and keep the licence. That is fine, but anybody who has dealt with fishing boats knows the potential difficulties of having a skipper on a boat. It is hard to keep track of them sometimes—although I do not reflect on anyone in particular. The widow may think she has the best fellow in the world, but that may not be the case. She or any other person left with a licence may not want to go on with the boat—there may be too much hassle involved. She might want to do something else, but she might not be able to.

The Hon. Diana Laidlaw: They may have other commitments.

The Hon. M.B. CAMERON: Yes, they could have a commitment on the boat itself. If they cannot realise the asset they cannot pay off the commitment. They have to keep the boat working to pay off a commitment that can be quite large. It could be of a recent nature. We have to be clear-cut about the issue. Transferability should take place. If transferability does take place the obligation to the Government must go with the licence. That is absolutely essential from the viewpoint of the Government, otherwise there will be difficulties in providing funds necessary to bring this buy-back scheme into operation. I hope I have made that point clear to members, as I believe it is very important.

Many things could be said about the industry, but most of them would be historical. I do not believe that much purpose is to be served by raking too much over the coals and ashes of the past. I am disappointed, and express that quite sincerely, at what has happened to the two cooperative and decent fishermen on Kangaroo Island who have done everything right.

That is a matter for the Government to now rectify if it sees fit. I have carefully considered the first on first off

system, the last on last off system, and the ballot system in relation to licences or boats. I have come down on the side of the ballot system, because I believe that that in the end is the fairest way. If the Minister remains firm on his decision to keep out the two Kangaroo Island fishermen, I understand, at least in the initial stages, that potentially a ballot will not have to occur in the first place—that, in fact, the Minister would be prepared to leave 11 boats in the industry at this stage to see what happens.

I appreciate his attitude in doing that, but I ask him to very carefully consider my amendments to ensure that transferability can occur and that, if fishermen are taken out of the industry, they receive an amount of money equal to that which they would have received had their boats remained in the industry; in other words, that a fisherman is paid the full price for his boat and licence, and that the boat itself does not stay in the hands of the fisherman, as there is nothing more useless than a fishing boat without a licence. I have seen a few of them around in my time, and they generally end up washed up on the shore because no-one wants them or loves them. A number of boats in this condition can be seen in the boatyard at my home town of Beachport—they are not much use, and they just sit there and rot. With those few words, I indicate the Opposition's support for the Bill, with the provisos that I have indicated in relation to amendments.

The Hon. PETER DUNN: I support the Bill, and the reasons for doing so are fairly simple. It is definitely necessary for some restriction on the amount of fishing undertaken in Gulf St Vincent. There is no doubt that too many prawns are being taken from the area and that a brake needs to be put on that. If I were a fishermen, I would not feel very happy about what is happening. I suppose one must refer to a little history to determine what has happened. There is no doubt that this is a very lucrative industry. It has brought a lot of money into the economy, and it has been a marvellous industry for those people who have been in it—or it was until such time as catches started to drop off. The situation pertaining to Gulf St Vincent is now being parallelled in the Spencer Gulf area, where the same effect was noted some years ago, in about 1978.

The fishermen agreed that some united action needed to be taken between the fishermen themselves and the Department of Fisheries to try to retain the stocks, the size of a catch, and viability within the industry. In their wisdom, they agreed amongst themselves to do that. However, there has been some disagreement in relation to Gulf St Vincent, and I can understand that. Being a farmer, I understand that one fights very hard to make a living today—and the farmer and the fishermen are not very far apart.

Actually, they are price takers not price makers, and because of that they are at the whim and the behest of the market. They rely on their product being attractive to the market in order to obtain a good price. That creates some difficulty, namely, that one usually has to work pretty hard as one is working for oneself and does not have a second income. Farmers and fishermen usually have considerable commitments and they have to find large sums of money to buy, for example in the case of fishermen, these very big and sophisticated boats, and they have continued to do that over the years. Fishermen have increased their efficiency, in very much the same way as has occurred in the farming industry, and one notes the state that rural industry is in today, particularly the wheat industry or the grain growing industry, because they have been efficient.

They have bought big machinery and bigger parcels of land and have become very efficient. Where four or five men were once employed on a property there is now only one person, who is able to sow and reap perhaps 3 000 acres alone. When I started farming a person who could handle 300 acres was doing very well. The same thing has happened in the fishing industry. God forbid that we ever stop that improvement, that change from smaller to larger, or any move to be more efficient and progressive, as that is a most necessary part of the industry. Because of that, there is now a situation in Gulf St Vincent where efficiency has caused the stock to be fished out and where there is not enough profitability in the industry; as a result some fishermen will somehow have to get out.

I place some blame for this on the Department of Fisheries, which should have seen this happening earlier: it saw the fishermen changing to double and then triple rigging boats, installing sophisticated radar and depth sounding equipment and buying bigger and better boat engines. I believe that it could have corrected this problem earlier, but it did not. Therefore, the Department must take some blame, along with the fishermen, for not being able to agree about restricting the pressures on the prawn stock in Gulf St Vincent. Gulf St Vincent is different from Spencer Gulf, as the waters are colder (because they are more southerly), it is a smaller area and the growth and recovery rates of the fish stock are slower. Because of this, fishermen know that it takes longer for prawns to spawn and to grow to their full size than it does in, say, the warmer waters of the Gulf of Carpentaria. There therefore needs to be careful and calculated controls on this very important industry in Gulf St Vincent. I appreciate the difficulties that fishermen are in now because not enough control has been exercised by the Department of Fisheries.

Fishermen need to get out of this industry without a big impost on them and with dignity. They have provided a considerable income for this State and have helped to increase the standard of living of its people by providing fish and the money derived from their industry.

A problem arose a couple of years ago when agreements between fishermen and the department could not be reached and it was agreed that Parzival Copes would conduct a study of this area and report on it. I have not read all of his report. It is an interesting one, which has a bob each way. There is no doubt that Parzival Copes was going home pleasing both sides. Unfortunately, he has not pleased either side to the degree that he should have. A report was issued by Peat Marwick in which they reached some significant conclusions. I refer, first, to what will happen if we cut the fishing industry from 16 boats to 10 boats, as suggested by Professor Copes and what effect that will have on the remaining boats.

I think it is critical that we know exactly what will happen to the remaining 10 fishermen. It serves no purpose to remove six of those fishermen if the 10 who remain will be in the same position in one year's time. The Peat Marwick report very clearly demonstrates that there are some queries about that aspect. Page 8 of that report states:

> Appendix 2, which measures the effect of varying prices for prawns—

and I will read some of that appendix—

> at current and target catch levels, illustrates the returns which may be earned (or with a combination of low price per kg and low catch rate—losses which may be incurred) in the event that the maximum level of compensation is paid to retire six boats from the fishery. It is axiomatic that the higher the level of compensation paid, the more difficult it will be for the remaining licensees in the fishery to achieve a satisfactory return from their investment and, indeed, from their efforts.
>
> It must be stressed that these examples represent the 'average' return which may be expected in given circumstances. Obviously, some fishermen, because of their greater experience, lower entry costs to the fishery and higher degrees of skill, will achieve returns

greater than average. Conversely, there will be fishermen with below average returns.

Appendix 2 of the report by Richard England refers to the effect and it states that there was a catch total of 262 tonnes. If last year 262 tonnes was taken, let us look at that 262 tonnes and the different prices that may occur. I referred to fishermen being price takers and not price makers and therefore they are at the mercy of the auctioneer, if you like. If we take 262 tonnes for the remaining boats, at $9 per kilogram, there is an average return per boat of $7 255; at $11 per kilogram, the average return per boat is $27 853; and at $13 per kilogram, each boat will receive pre tax $62 961. That demonstrates the vagaries that the fishermen have to suffer at the auction.

It is very difficult to say that, by removing six boats, the remaining 10 fishermen will be able to operate viably because, if there is a drop in the price per kilogram of those prawns, then it is reasonable to assume that the fishermen may not be much better off. If those fishermen were able to increase their catch to 400 tonnes (and that is what Professor Copes suggests), at $9 per kilogram the average return per boat pre tax would be $75 959; at $11 per kilogram, $129 559; and at $13 per kilogram, $183 159. The rise is so dramatic, because all fishermen have to bear fixed costs which are there whether they go out for one day or for 100 days. That is why, when the price of fish rises, it is so dramatic. I hope that the product stays at that high price, because I have argued long and hard in this Chamber that Australians do not pay enough for food. There is no doubt that we have the cheapest fed families in the world.

We have beautiful food in Australia and we pay very little for it. That can be demonstrated if we look around the world at what people in other countries pay as a percentage of their salary for the food that they consume. We are by far and away the lowest in that respect. People paying $13 a kilogram for prawns are not paying a high price for such a delicacy. The report goes on:

> Given the high level of risk and uncertainty of return associated with the business of prawn fishing, a significant margin above a safe and secure investment would be expected.

I agree with that. The report continues:

> We stress that a required level of 25 per cent is the minimum requirement and, given the vagaries of the industry, a higher rate of return would be sought by many investors.

Whether it is 25 per cent or whether it is higher or lower than that I am not qualified to judge but, like any primary producer, one is left to the vagaries of the weather and such conditions and there is no doubt that it is absolutely necessary that there be a higher return than would be expected from a reseller or retailer of a product with a known mark-up price.

I believe strongly that, if people have to put up with those changes that are not of their making—the weather, etc.—and, on top of that, if the price changes occur through the auction system—through supply and demand—it is most necessary that there be a slightly larger profit margin built into the return so that they are able to withstand those periods that are less favourable for either fishing or the farming community.

In conclusion, I believe that the transferability of the licence is most essential. If that provision is not in the Bill, it is tantamount to saying that, if the Minister purchases his own home and lives in it and even makes it into business premises and then sells it within three years—if we apply the principle of this Bill to that argument—there is no way that the house can increase in value or that he can get anything for it.

The licence itself is possibly looked on by the fishermen as their future superannuation. Certainly, many farmers hold that view about their property. They have to go into great debt to purchase it. No-one at the age of 25 or 35 has $250 000 or $500 000 lying around idly. That is just not on. One has to borrow the money to get into the industry. The same applies to the fishing industry, which is a sophisticated and expensive method of earning a living.

Therefore, at the end of their career they expect to have paid off that capital expenditure and to have serviced the interest on the debt that they have incurred. They then hope to sell the boat, the licence and the goodwill built up in that licence. That would become the source of their superannuation. Generally one does not have enough money to buy sophisticated superannuation schemes. I know people in the rural community work on that system. At the moment, when values have rapidly dropped, we have farmers in desperate need. The fishing industry will be exactly the same if we do not allow fishermen to transfer their licence and their goodwill. If they handle their industry properly, they should be able to transfer what should be built up stocks. Certainly, there is an old saying applying to primary producers that you have done a good job if you leave the land in better condition than it was when you came on to it.

I hope that the fishermen will adopt that foresight in Gulf St Vincent. If we control and regulate the fishery properly there will always be fish there. It is a renewable resource. Where better for Adelaide to be supplied with fresh prawns than right at the front door.

The Government now has a regulation in place to provide that West Coast prawn fishermen cannot transfer their licences, and I bitterly oppose that. It is cruel and hard on the three prawn fishermen who have built up this very profitable industry. Why should they not be able to transfer their licences? The department has everything at its fingertips to restrict that. It can restrict the number of days allowed for fishing or the number of boats. Why not allow these fishermen to transfer the licence and get the goodwill, as is done in nearly every other industry in the State?

I have just outlined what I think are some of the fundamental points in the Bill. I admit that I am a farmer and not a fisherman. However, I love fish. I know that the problems of fishermen run parallel to mine—

The Hon. T.G. Roberts: You don't get seasick on the tractor though, do you?

The Hon. PETER DUNN: No, I don't get seasick, airsick or travel sick. I love fish—

An honourable member interjecting:

The Hon. PETER DUNN: Whiting is my long suit, and I have a little place on Spencer Gulf where I go out in a tinny. I usually get wet, drown the bait and do not catch too many fish. However, I feel for these fishermen and know they have a problem, as has the department. However, we have to face up to it and the sooner we resolve it sensibly, the better it will be for Adelaide to have nice fresh prawns at its back door. If we do not renew the stock we could lose the industry and we would have to get nice fresh prawns from the eastern seaboard, the Gulf of Carpentaria or somewhere else, and I do not think that that is acceptable. I support the Bill.

The Hon. M.J. ELLIOTT: I support the general thrust of the Bill, although I will express reservations about some sections of it. I, too, have my roots in a fishing village. Port MacDonnell was my original home town and I had an uncle who owned two crayfish boats, although he no longer does. I have had a great feeling for the fishing industry for some time.

Returning to the Bill, there is no doubt that the number of boats needs to be reduced. Back in 1980 apparently

17 000 hours of fishing was occurring in the Gulf St Vincent, and that was by boats using single rigging. I am told that at that time the fishery was not in too much trouble and it appears that 17 000 hours of fishing might be a reasonable target for which to aim.

In the interim, we have seen triple rigging. Sixteen triple rigged boats fishing is equivalent to about 37 600 hours of single rigging fishing. In other words, the fishing effort in real terms has approximately doubled since 1980. If we wish to reduce the effort to what it was in about 1980 we have a couple of choices. Since we are now using triple rigged boats, I do not think that anyone would suggest that we leave it. We have 16 boats doing about 60 days of fishing a year; we could have 13 boats doing 73 days; 10 boats doing 96 days; or eight boats doing 120 days. It seems very inefficient to have a large fleet tied up for about five-sixths of the time, which is what we would be asking the fleet to do if we maintained 16 boats.

The Hon. M.B. Cameron: It gives them time to refuel.

The Hon. M.J. ELLIOTT: Plenty of time to refuel. It seems reasonable perhaps to set a target of about 10 boats (and that point clearly came out of the Copes inquiry). While I mention the Copes inquiry, I would like to raise a couple of other matters about it.

First, a complaint has been made to me on several occasions that the Department of Fisheries submission was not fully open. A number of people who wanted to see the submission have not been able to do so. I believe that it should have been a full public submission, and I think that all the fishermen should have had a chance to look at it. In fact, they could have made a great number of intelligent comments from their own experiences but, unfortunately, that was not to be. I request that, even at this late hour, the Government make the Department of Fisheries submission to the Copes inquiry a public document.

I am also concerned about what has happened to what were the two remaining fishing boats from Kangaroo Island. The Copes inquiry looked at the position concerning those two boats, and recommendation 7 of the Copes report states:

> The status of the two Investigator Strait permit holders in the amalgamated Gulf of St Vincent/Investigator Strait prawn fishery should be decided by the Government on the basis of equity considerations, a discussion of which appears in this report.

The Government has taken the first part—the words 'should be decided by the Government'—very literally. However, the report also says that it should be 'on the basis of equity'. I refer to the matter of equity and pages 148 to 150 of the Copes report, which talk about the merging of the two fisheries, as follows:

> An implication of this would likely be that the two vessels become part of a single Gulf St Vincent/Investigator Strait fleet subject to a uniform set of rules and conditions.

The report clearly saw those two vessels becoming part of a single fleet. Later, the report states:

> They have offered evidence that such a conversion—

that is, a conversion from experimental permits to full licences—

> had been promised by political authorities on a number of occasions but has been postponed repeatedly because of ongoing controversies affecting their position. The two operators from the strait have held their permits since 1977, the same year in which the last two additional licences were granted the Gulf St Vincent. Of course, the two strait operators have been in the prawn fishery longer than many of the current Gulf of St Vincent licence holders who have recently bought into the fishery.

In fact, when the Copes inquiry was announced a licence was transferred and, since then, another licence has been transferred. How the Government decided that it was equitable to remove those two people who had a longstanding involvement in the fishery and really had (I believe) as much right to be there as anyone else is totally beyond me. In fact, it really does smack of something which was politically easy—for a couple of reasons. First, the two fishermen had not bucked very much. They had cooperated well, and they have now paid a price for their cooperation. I think they were seen to be not organised and not likely to make too much noise.

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: They can do it with the licences. Secondly, they were buried in a safe Liberal seat which probably was of no consequence, and so from a political point of view—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: Except from us. He is certainly safe from the Labor Party. I make it quite clear that I do not believe that the Kangaroo Island prawn boat operators have been treated with equity. The information that I have received so far is that the two boats are being paid $450 000 to leave the fishery. The fishermen keep their boats, but one had to give up his southern rock lobster fishing licence, valued at about $150 000 I believe; and the other fisherman had to give up his scale fishery licence, but I believe he has since repurchased it for about $28 000 or $30 000. I believe that the Government has shown no equity towards those two fishermen at all.

I was of a similar mind to the Hon. Mr Cameron in that I thought about amending the Bill to try to solve this problem. However, I had a great fear that the Minister could have become bloody-minded and as a consequence the fishermen might have received no money at all because the Minister would have claimed permits could be revoked without any compensation. With that hanging over the heads of the fishermen, I was not willing to make such a move. It would be very easy for me to be brave on their behalf, but at least one of the fishermen was not willing to take that risk. An amendment to the Bill would not only have placed those two boats at risk but perhaps could have put the rest of the Bill at risk, causing problems to the other fishermen as well—which is something that I did not want to do.

I express some reservation about clause 4 (4), which allows for the removal of boats by ballot. As things are turning out, it looks as though there will be enough volunteers to get the fleet back to 11, and at most there may be one balloted. Even now, I believe the Minister might be willing to give a little and allow 12 months to see whether it is necessary to remove the last one.

I fail, however, to see the equity of the ballot situation. I believe that most of the fishermen were aware when they came in that there was a last-in first-out option. In fact, I had a copy of a letter sent to a fisherman when he first came in, making it quite clear that in the event of the fishery becoming overextended—and it was foreseen at that time—he needed to understand that the licences were given on a last-in first-out basis. I believe that a ballot is a nice soft option, because, when one says last-in first-out, some people feel the finger is pointing directly at them. Using a ballot, one says 'It is not my fault that you came out—the marble did it.' The Minister is taking the soft option, the easy way out, once again. He has done that in a few places in this Bill.

I have already touched on clause 5 to some extent, but I am concerned now that we are seeing three fishermen who look like being paid $600 000, $730 000 and $730 000 to voluntarily remove themselves from the fleet, whilst two people who have cooperated all along the line are being paid $450 000 to get out. I do not see the equity in that at all. Clause 5 has a number of problems which both the

Opposition and the Government have attempted to amend. I believe that in neither case have they really solved the problems, but I will leave that until the Committee stages, where I will be moving a further amendment to one of the amendments.

I have one particular concern with clause 6 (3), which provides that the Minister may sell any vessel and equipment acquired under this section and the proceeds of the sale must be paid into the fund. I ask why the word is 'may'? Is the implication that the Minister or the Department of Fisheries would like to perhaps keep some of this equipment for their own research purposes? Perhaps it is sloppy drafting. I suggest that the word 'may' be replaced by the word 'will'. In other words, the Minister must sell any equipment that is acquired under this buy-back scheme, so that as much money as possible goes back into the fund to lessen the burden on the remaining fishermen. There must be a very real risk that the Department of Fisheries would like to keep boats for their own research purposes rather than, as they do at the moment, use the existing fishing boats.

However, clause 7 has taken up the greatest amount of time. Already a report has been prepared for the Gulf St Vincent fishermen, as mentioned by the Hon. Mr Dunn, which suggested that there could be problems with the fishermen returning paying the surcharge. The initial arrangements were to be that the fund was to be paid back over 10 years, and there would be a set payment each year divided among the various boats.

That is well and good, except that at present the fishery is returning 260 tonnes per annum and we are trying to get it up to 400 tonnes per annum. It is absolutely ludicrous to try to get even payments every year, because we would be trying to get the same payment from a small total catch as, later, from a larger catch. Fishermen must be tempted to fish as many days as possible. That comes under the control of the Department of Fisheries, but the fishermen who have to pay back the surcharge would want to put on the pressure to catch as many prawns as possible. They would be tempted to catch smaller prawns, although I understand that they will try to police that among themselves. There is a chance, too, that the fishery will not recover in the way the Department of Fisheries has suggested.

For those reasons, I have negotiated with the Minister: we might hear something in the Minister's reply about the surcharge being linked directly to the value of the catch. The implication is that, while the catch is small and in the recovery phase, the fishermen pay back a small amount but when the fishery recovers they pay back a larger amount. It is only a matter of mathematics to come up with a formula to allow that. It seems to me that, if the fishery does not recover, the fund might not be paid out. But at page 186 of his report (option 5), Copes said:

> If vessel operators in the Gulf St Vincent/Investigator Strait prawn fishery are found to be in serious financial difficulties during a period preceding recovery of prawn stocks, the Government could temporarily suspend the collection of licence fees and recover them from rent earnings in the fishery at a later time.

Certainly, Copes has recognised that there might be problems with recovery and that this surcharge might have to be varied. That would occur under clause 7 *(b)*. The important point is whether the surcharge will be linked directly to the value of the catch and, if the Minister wants my support for clause 7 *(a)*, he will indicate in reply that that will occur.

I refer now to transferability. Government members have shown themselves to be very unclear thinkers in relation to this Bill, because they have required the remaining fishermen to buy out other fishermen. In other words, fishermen have to pay for a share of the fishery, yet the Minister is saying that at the end of it all, when the licence expires, that is it. There is a great contradiction in that. If the Government does not want to provide transferability, it should rethink the whole concept of licences. The Government would have to rely entirely on a resources tax. It can have one or the other—a high resources tax, no transferability and no licence fees or, alternatively, transferability, and lower resource taxes and licence fees.

While I am generally open-minded on the question of transferability and perhaps at a later stage I might enter into discussion about it, I believe that there is a great contradiction in the way in which it has been brought up in this Bill, and as such I cannot support it. I guess that one of the temptations put before the Government is the high licence transfer fee. The Government says that there is something wrong (and I agree) when licences transfer, at least on book value, for $750 000.

That needs to be looked at, but some of these transfers may be book transfers. Some might just be bad business but I am greatly concerned about a lot of our primary industry, not just fishing but farming as well.

When a person first goes into fishing or farming, so much of their money gets tied up in capital equipment and land or, in this case, in the licence. Holding a licence is really like owning land; it is a direct correlation. So much of their money is tied up in land or in the licence and they do not get it back until they sell it in the end and, as the Hon. Mr Dunn said, such people treat it as a form of superannuation. Because they have to borrow so much money to get into the business, a lot of the money they earn is spent paying interest to somebody else. The real winner is the banks. It would be much healthier for farming and fishing if the initial input was much less and so that when they are fishing or on the land making money they keep it instead of giving it to somebody else. It is not just interest rates: it is interest that cripples farmers, just as it cripples fishermen.

The Hon. M.B. Cameron: You are speaking from experience?

The Hon. M.J. ELLIOTT: I know a little about such things. The Government needs to take some action on licence values, but that should be taken at another time. It should not be done here by trying to remove transferability. I will leave the rest of my comments until the Committee stage.

The Hon. J.C. BURDETT: I support the second reading and the principle of the Bill. The subject to which I address myself briefly is that of transferability, which has been alluded to by the Hons Martin Cameron, Peter Dunn and Michael Elliott. In all other major limited entry industries, licences are transferable. This applies throughout Australia. The most obvious examples are liquor and taxi licences. Why is it that in this industry only, and in parts only of the prawn industry and at this time (in the past the department has supported transferability), it has been decided licences should not be transferable? Quite recently, the department has supported transferability. Some examples of full transferability—not just family transferability—are the southern bluefin tuna fishery, the South-East trawl fishery and the Lake George fishery. They are new management plans since 1984 when the department supported transferability.

As late as 18 November 1986, the department voted for inclusion of full transferability in the West Coast prawn fishery. That arose at a meeting held in Port Lincoln on that date, the minutes of which I shall read. Those present included Mr R. Lewis and Mr W. Jovanovic, of the Depart-

ment of Fisheries. I have been told by people who were present at that meeting that there was no argument when this resolution was raised by the officers of the department. A portion of the minutes states:

> After much discussion the committee resolved to write to the Minister to express their concern on unofficial reports that there was pressure from within the Government to not allow transferability of licences to the West Coast licence holders.
>
> The committee resolved to write to the Minister for a clear understanding of the letter of 10 September to the West Coast licence holders from the Director of Fisheries on the paragraph:
>
> (i) full fisheries licence status be extended to the existing operators in the fishery, including removal of the owner-operator provision.
>
> Industry interprets full licence status ability to include licence transferability.
>
> The committee expressed its strong support for inclusion of transferability in licences as part of the schemes of management, if alternative measures are taken to ensure that effort is controlled within the fishery.

So, as recently as 18 November 1986, the department was not complaining about transferability. It has been its previous policy and now, suddenly, it has taken this stand.

The only genuine argument that I have heard against transferability is that it is said that it may be necessary to control the resource. It is said that if licences are transferable, and fully transferable, the person who purchased the licence may pay too much for it and may have to overwork the resource in order to recover the money which they have paid. That is terribly speculative—it might or might not happen. I cannot see any justification in that regard but, in any event, the industry fully accepts the concept of a managed fishery. If there is any danger to the resource, there are other ways of controlling it.

The number of days or the amount of hours on which fishermen are allowed to fish can be controlled and they are controlled, and nobody objects to that. There can be restrictions on the gear used, and this matter was referred to by the Hon. Mr Elliott. There can, if necessary, be restrictions on the tackle used by the fishermen. So, if it is necessary to control the resource, the department has and already uses means to control the resource. It has nothing to do with transferability, and should not be confused with transferability. That can be done in other ways.

Enforcement is not a function of transferability at all. It has been suggested that saying that transferability is the problem is the same as saying that we should stop transferability of liquor licences because it puts too much pressure on publicans to open later and later and/or serve under-age drinkers. In practice, we accept that the Government sets opening and closing times and enforces minimum age drinking. The same applies with the fishing. The Government has the means to control the resource.

It has been suggested that the Government is prepared to look at family transferability. That may not be enough. It may not be practicable for the family to continue. Perhaps, as the Hon. Martin Cameron suggested, if the husband falls overboard there may not be any sons to carry on. The wife may not wish to carry on the business. It may be necessary for her to be able to sell outside the family. What is the value of a boat, particularly a prawn boat, without a licence? A prawn boat is a fairly industry specific vessel, to say the least of it. It is not much use if it cannot be used in the prawn industry, so a family that may have invested several hundred thousand dollars in its boat and tackle and other necessary expenditure can be left practically with nothing if licences are not fully transferable. The boat is not much use without a licence.

So, Madam President, it seems to me that the question of transferability is vital as a matter of fairness, a matter of equity, and a matter of consistency with other limited entry industries like, as I say, the taxi industry or the liquor industry. With regard to all of those things, it is necessary to see that transferability exists and it is not necessary to restrict that because of the preservation of the resource. As I have said, there are other ways of doing that. I strongly support the remarks made by the Hon. Martin Cameron, the Hon. Peter Dunn and the Hon. Michael Elliott with regard to transferability but, because I support the general principle of the Bill with regard to the Gulf St Vincent prawn fishery, I support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): These matters were all canvassed in some depth in the other House where the Bill was introduced by the Minister of Fisheries. I do not intend to rehash those arguments.

I think, however, as part of my second reading reply I ought to address the matter of transferability. If I say it once it will not be necessary for it to be recycled during the Committee stages. Up until the receipt of the Copes report towards the end of July 1986, in the scheme of management for the Gulf St Vincent prawn fishery, under the regulations that were promulgated in 1984, it was provided under regulation 24 that licences may be transferred. Following discussion and agreement with the then office holders of the Gulf St Vincent Prawn Boat Owners Association, the Government moved to revoke the transfer provisions contained in the regulations to terminate any further unwise speculation in licences in the fisheries. The Government did not do it because there was any ulterior motive: it did it in consultation with the Gulf St Vincent Prawn Boat Owners Association to enhance stability, particularly with debt financing and borrowing.

It would be particularly irresponsible to repeat past mistakes which were highlighted in the Copes report. I quote directly from Copes, as follows:

> Probably the most destructive influence on fishing discipline was the financial pressure experienced by many new vessel owners who had bought licensed vessels at prices including high licence values.

Both Treasury and the South Australian Government Financing Authority have sought assurances. Not only has the Gulf St Vincent Prawn Boat Owners Association sought this, and not only did Copes recommend it as highly desirable, saying that it would be a destructive influence to continue with transferability, but also both Treasury and the South Australian Government Financing Authority have sought assurances that the security necessary for the full repayment of the loan to be advanced by SAFA is encompassed in this legislation. So, we have the prawn fishermen themselves, Copes (who did the report), Treasury and SAFA all, in one way or another (and for different but very compelling reasons), recommending or seeking assurances that transferability will not—

The Hon. Peter Dunn: You are being ruled by someone down in the Treasury building.

The Hon. J.R. CORNWALL: I do not understand why the honourable member does not get seasick on a tractor, because (if I can mix my metaphors) he often gets out of his depth. The simple fact is that we have the fishermen, Copes, Treasury and the South Australian Government Financing Authority seeking assurances for financial stability on commercial grounds. Clear evidence exists that licence transfer prices paid in the past have resulted in increased financial pressure on fishermen meeting loan obligations. The Government does not wish to be in competition with other commercial institutions in ensuring that loan moneys to SAFA are repaid in full.

The Government is seeking security for the loan that it is making available to fishermen. It is as simple as that.

Most importantly, the Government is concerned at the resource management implications of reintroducing transfer provisions in the fishery, particularly during the time that the fishery is being rehabilitated. New entrants, without a detailed knowledge of the industry, will pay excessive amounts to enter. On past evidence (and there is a good deal of it), this will result in these operators having to fish harder and longer to meet their repayment obligations.

Although the department will implement restricted closures and fishing periods to contain the total time available to fishing, past experience has shown that some fishermen will seek to compensate by indiscriminate fishing on small prawns and reproducing prawns, and in some instances resort to illegal fishing practices in closed areas. Again, past experience has clearly demonstrated that, despite the best intentions of self-discipline by the fishermen, industry cannot respond quickly enough to prevent these practices. However, the Government has since approved the introduction of regulations that will allow transfer of licences in the family situation or in the event of the death of a licence holder.

These provisions will be incorporated into the scheme of management in the Gulf St Vincent prawn fishery regulations 1984, under the Fisheries Act of 1982. In addition, once the fishery is stabilised and the major component of the loan money repaid, the Government is prepared to review the situation regarding the transfer of licences in accordance with the overall management of the fishery.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

New clause 3a—'Transfer of licences.'

The Hon. M.B. CAMERON: I move:

Page 2, after line 20—Insert new clause as follows:

3a. (1) Notwithstanding anything in the Fisheries Act 1982 a licence shall be transferred on the request of the licensee.

(2) On the transfer of a licence pursuant to this section, any liability of the transferor under section 7 becomes the liability of the transferee.

I do not wish to go through all the argument that was presented during the second reading debate, as I believe that the matter was amply canvassed then. The effect of this new clause would be to ensure that licences can be transferred on the request of the licensee, provided that the new licensee takes on the liability of the transferor. It is a very simple amendment and relates to a view that I hold very strongly.

The Hon. C.M. Hill: I think we all do. Any fair minded person would.

The Hon. M.B. CAMERON: I imagine so. As I said during the second reading debate, if the fishermen are being asked to finance the recovery of the fishery—and that is exactly what is happening—then they should be able to participate in the benefits that arise in terms of gain. If this amendment is refused, I believe it would be incumbent on the Government to take over the whole cost of the buy-back scheme. It is a very simple point of view. My thinking on this matter is very straightforward, and I trust that the Committee will accept the amendment.

The Hon. M.J. ELLIOTT: As I indicated during the second reading debate, I support the amendment.

The Committee divided on the new clause:

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

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

Pairs—Ayes—The Hons J.C. Burdett and R.I. Lucas. Noes—The Hons C.J. Sumner and Barbara Wiese.

Majority of 3 for the Ayes.

New clause thus inserted.

Clause 4—'Cancellation of licences.'

The Hon. M.B. CAMERON: I move:

Page 2, line 21—After 'at' insert 'the third anniversary of'.

This amendment is associated with a view we hold that perhaps all the licensees should not be taken out of the State. It might become slightly redundant, if the situation still continues where five licences are already to be either surrendered or voluntarily withdrawn, or withdrawn compulsorily as two of them have been.

The Hon. J.R. CORNWALL: I oppose the amendment.

Amendment negatived; clause passed.

Clause 5—'Compensation.'

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

Page 2, lines 41 and 42—Leave out paragraph *(b)* and insert:

(b) (i) if the licence was cancelled under this Act—the amount or value or the consideration paid or given by the licensee for transfer of the licence;

(ii) in any other case—an amount agreed between the former licensee and the Minister,.

This amendment is necessary to provide the Minister of Fisheries with flexibility in paying compensation. New clause 5 *(b)* (i) is similar to present clause 5 *(b)* except that the value of the consideration paid or given by the licensee for transfer of the licence applies only to licences cancelled in accordance with this legislation. New clause 5 *(b)* (ii) provides that the Minister and licence holder may negotiate a compensation payment. This amendment is being pursued to enable the Minister of Fisheries to negotiate two offers which have presently been submitted in writing to the Government for voluntary surrender of licences.

The Hon. M.J. ELLIOTT: I seek advice of the Chair. I have a proposed amendment to this amendment: do we vote on the amendment, or do I move my amendment now?

The CHAIRPERSON: The honourable member should move his amendment, which will be voted on before the substantive amendment.

The Hon. M.J. ELLIOTT: I move:

After 'licence' at the end of paragraph *(b)* (i) insert '(augmented in proportion to increases in the Consumer Price Index (all groups index for Adelaide) since the date of the transfer)'.

I see some difficulty with the provision which stands under the Minister's name without this addition. Three years ago a person may have had to pay a certain amount for a licence and, if inflation ran at 10 per cent over three years, that person could be paid 30 per cent less than the real value that they paid then. I think that that is—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: What is the real value? At the moment it says that, whatever they paid, they get and there are problems with that. I suggest that this whole clause is a mess and I have tried to make the best of that mess. The foreshadowed amendment from the Opposition is even worse. For the time being I have tried to compensate for the fact that there has been no allowance for CPI increases since the licence transfer time. I really think this whole clause needs reconsideration.

The Hon. M.B. CAMERON: I indicated that I had an amendment on file, but I do not intend to proceed with it at this stage, because the Hon. Mr Elliott has made it clear that he considers my amendment unacceptable. My amendment would have meant that the value of the cancelled licence would have been that figure which the licensee would have expected to receive had he sold his licence without the impact of this Act; that is, the compulsory

acquisition of a licence. I have some difficulty with the amendment moved by the Hon. Mr Elliott. If a licensee paid $800 000 for his licence and that was subject to the consumer price index, he would get $800 000 plus (this year) 8 per cent. If he paid $600 000 the year before, he would get $600 000 plus 10 per cent.

Of course, licences have been transferred without any cost, so in terms of increase in value, they get nothing, because one cannot add the CPI to something that costs nothing when it was transferred some time ago. I think that this is one of the areas on which I would expect this Bill to go to a conference. For that reason, I support the amendment of the Minister in its amended form for the sole purpose of taking the matter to a conference where it can be further discussed with a view to resolving what is a difficulty, because I understand also the difficulty with my amendment. How does one arrive at a price for a licence, because some licences have changed hands within families at prices and for reasons best known to the families? As I understand it, some of those prices have been above what would be considered normal market value. It is their decision to do that, but it creates difficulties with my amendment.

We have to try to find some formula where the licensees, who have their licences taken away, can receive fair, equitable and just value for their licences based on current prices at the time of the cancellation of the licence. We have to find a way of doing that. I am sure that it is not beyond the wit of officers of the Fisheries Department or, if they cannot resolve the matter, of members of Parliament and Parliamentary Counsel combined to arrive at a formula which will give a fair, just and reasonable value for the cancelled licence. It could well be that the Minister of Fisheries of the day decides to pay a little more. That concerns some of the fishermen who will be left in the industry, because the way that this Bill is structured it will force them to pay the odds. I think one of the problems with this Bill at the moment is that they feel a little left out of that area: they feel that some of the decisions that are being made are being made on their behalf but without their consent. It is something upon which the Minister and the Government have decided. At this stage we support the amended amendment and I indicate that, at the conference, we will reconsider the matter because of the difficulties to which I have alluded.

The Hon. J.R. CORNWALL: I do not intend to divide because clearly the Government has not the numbers on the amendment that I have moved. It seems to me that there is general consensus that we are dealing with a controlled fishery, which is self-evident, and that everyone agrees that it ought to be controlled. The point at which we part company with the conservative Parties—the Democrats and the Liberal Party—is on the basis that this is a resource that belongs to all South Australians.

One cannot make any comparisons with the hotel belonging to a publican or with licences that can be transferred on a resource that is individually owned. One cannot make any valid comparisons with Peter Dunn's farm. Peter Dunn and his colleagues operate in a free enterprise marketplace. I am sure Mr Dunn would be delighted to be in a position of advantage and work within a system where a significant number of other farmers were being kept out and where he was being guaranteed through a controlled situation ready access to a market.

But Mr Dunn does not operate in that situation. Mr Dunn, Mr Cameron and Mr Irwin—to name but three—operate in a free market economy. They buy and sell properties according to what the market will bear.

The Hon. M.B. Cameron: Like your vet practice?

The Hon. J.R. CORNWALL: Yes, of course. In that I sold a very large component of goodwill because of the skill and goodwill that I had built up by sheer force of personality, never mind the professional competence. It is crazy to suggest that there is any element of goodwill in a prawn licence.

The Hon. M.B. Cameron: There is a lot of skill—

The Hon. J.R. CORNWALL: There may be a lot of skill but there is no element of goodwill. The going rate is fixed by the fact that it is a closed industry and not because the fisherman knows how or where to find prawns. I need to have that on the record. It seems to me that unless there is an acceptance that this is a community resource that belongs to all South Australians—I would have thought that Mr Elliott could accept that (I can understand the conservatives not accepting it)—that is the point where we part company. That is the flaw in the Opposition's argument. The matter will have to be resolved at a conference of managers.

The Hon. M.J. ELLIOTT: Clearly, the Minister was not listening during the second reading stage when I made comments about transferability, to which this also relates. The Bill has a number of intellectual conflicts within it that the Minister is clearly incapable of grasping.

The Hon. J.R. Cornwall interjecting:

The Hon. M.J. ELLIOTT: I did not say that. There are internal conflicts within this Bill and I do agree with much of what the Minister said, but one cannot expect the fishermen to have to buy the other fishermen out and undertake all the other forms of payment expected of them, in addition to doing some of the other things that the Government wants them to do.

In the second reading stage I said that I thought the whole question needs to be discussed at more depth, but we have this Bill before us and I do not believe that the Minister's amendment copes at all well with the situation. I do not think it is treating the fishermen equitably, and I also realise that even as amended, as I propose, there are still problems, particularly for those fishermen who pay too much for their licences in the first instance. For that reason the whole clause needs reconsideration. I do not know how such a botch-up got this far.

The Hon. PETER DUNN: I cannot understand the Minister's logic, because the measure is very bureaucratic and socialist in its control. Why is transferability still applicable in relation to the abalone industry? Why do Spencer Gulf fishermen and others have transferability? The Minister cannot work that out. In relation to the argument that they have to pay more, there are already controls as to how many days they can fish. There is absolute control over the industry. However, free market forces indicate what they get for their product, and the Minister forgets that—probably deliberately. The Minister should not forget that there are controls in other parts of the industry, and that it is controlled quite severely in relation to the amount of fishing it can do.

The industry will die if it is not allowed to progress to better equipment, and if this is restricted the industry will not be able to get anything for its capital gain afterwards. Be it on the Minister's head. It is clear to me that there has to be transferability. The Minister brought this up although it does not really relate to the amendment.

The Hon. M.J. Elliott's amendment carried.

The Hon. J.R. Cornwall's amendment, as amended, carried.

The Hon. M.B. CAMERON: I intended to move an amendment to page 3, lines 1 to 4, but as it is consequential I will not be moving it.

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

Page 3, line 5—
Leave out 'The' and substitute 'Where a licence is cancelled under this Act, the'.
Leave out 'a former licensee' and substitute 'the former licensee'.

This amendment is consequential and self-explanatory.

Amendment carried; clause as amended passed.

Clause 6—'Acquisition of vessel and equipment.'

The Hon. M.J. ELLIOTT: I do not have an amendment on file, but during the second reading stage I was giving clause 6 some surveillance, and I would now like to move an amendment. I move:

Page 3, line 15—Leave out 'may' and insert 'shall'.

The clause provides that the Minister may sell any vessel and equipment acquired under this provision and that the moneys gained from that sale go into the fund. What if the Minister decides not to sell? One possible reason could be that a fisherman decides to give the equipment to the Department of Fisheries. The actual intention was that the boats be bought, sold, and then the money go into the fund. The clause, as it stands, gives the Minister an option as to whether or not the vessel and equipment are sold, and I cannot see why the Minister needs the option which 'may' implies.

The Hon. J.R. CORNWALL: This is an empowering provision rather than a mandatory one. On balance, the advice I have from both senior officers and Parliamentary Counsel is that 'may' is the preferred word. It is most unlikely that the Department of Fisheries would be anxious to keep any boats and have them rusting at their moorings or sitting down at Beachport among those others to which the Hon. Mr Cameron referred earlier. It is better legislation to have the empowering provision rather than a mandatory one. I do not support the amendment.

The Hon. M.B. CAMERON: I must plead guilty to not listening to that part of the Hon. Mr Elliott's speech during the second reading debate because at that stage there was no amendment before me. However, it has been suddenly placed before me. I believe in safety first, particularly if the matter is going to a conference. At this stage I indicate that I support the amendment with a view to looking at the matter at a conference.

Amendment carried; clause as amended passed.

Clause 7—'Money expended for the purposes of this Act to be recouped from remaining licensees.'

The Hon. M.B. CAMERON: I move:

Page 3, after line 27—Insert new subclause as follows:
(3a) A licensee may apply to the Land and Valuation Court for a review of the amount of the surcharge imposed under subsection (1) or of a direction under subsection (3), and the Court may vary the amount of the surcharge or vary the direction.

This amendment gives a licensee the power to apply to the Land and Valuation Court for a review of the amount of the surcharge imposed under clause 7 (1), and the court may vary the amount of the surcharge or the direction. This is an area where the Minister could indicate what will occur in relation to a press release by the Minister (which I had before me until I gave *Hansard* my copy of the Copes report). I think the press release indicated that the Minister was considering a scaling of the amount paid for the purposes of this fund where there is a change in either the tonnage produced or the price. Perhaps the Minister can indicate the Government's thinking in relation to this matter because it may well save me moving an amendment.

The Hon. J.R. CORNWALL: First, I will deal with what I believe the amendment will do and why it is unacceptable, and then I will comment on the other matters raised. The honourable member's indicated amendment would introduce a concept which is without precedent. Economic capacity to pay has never been made a ground for reduction in a licence fee. Licensees under the Licensing Act cannot have their licence fees reduced because they cannot afford to pay the full amount. Road transport operators cannot have the registration fees on their vehicles reduced because of economic hardship. The charges are met equally by all. That is a well-established precedent right across the licensing area. It is particularly important in this case where a particular sum is to be recovered from 10 licensees only. The amendment would place an impossible burden upon the court. It is the role of the courts to apply legal principles to the case at hand. I have a lot of other material which rebuts the amendment, but I do not think that I need say much more. With regard to flexibility in the surcharge payment—and this is an undertaking—the Minister of Fisheries is willing to recommend to Cabinet flexibility in the repayment of the surcharge based on production levels and the price obtained.

It should be noted that in providing flexibility a greater number of variables need to be considered and, therefore, no precise repayment schedule can be determined. However, an indicative scheme can be determined based on the expected recovery rate, the price received and agreed upon percentage of the gross value of production to be allocated towards repayment. Such an arrangement will enable generation of repayment schedules based on any combination of the variables, such as years to regenerate to long-term average, the prices obtained per kilogram, the percentage of gross income to be allocated to payment for the rationalisation scheme, and the numbers of vessels in the fishery.

The result is that the industry will be subject to continually variable annual repayments, and the period of payment dependent on the value of the production level in the fishery. Of course, this is quite different from the situation with most commercial loans where both these components are fixed. Acceptance in principle of this commercial arrangement has been obtained from the South Australian Financing Authority (SAFA). It is considered that such an arrangement is equitable to the industry and acknowledges the recognition of both the Government and the department of the variability in the fishery.

The Hon. M.B. CAMERON: That is certainly a big step forward from where we were when the Bill first came before Parliament. I guess there is still a lack of certainty about the amounts that will not necessarily completely satisfy those people who will be subject to these repayments. However, I think it is fair to say that (as I understand it) there have been some discussions about this matter. One area that concerns me is where we go if the level of return falls below the cost of production.

That is a matter of some concern. This is where the Minister of Fisheries should put his money where his mouth is. He should give some indication as to what will occur if the level of production continues to fall. One of the ways in which that could be cured is to take more people out of the industry but, at the same time, during that period of uncertainty there could be some difficulties for fishermen who have been set an amount to pay, which amount is more than they are able to make after their production costs are taken out. If production reached the bottom line, and fishermen got to the point of non-profitability, what would be the attitude of the Government in that situation?

The Hon. J.R. CORNWALL: The payment schedule is obviously based on the value of production within the fishery. Clearly, if there is no production there is no repayment at that time.

The Hon. M.J. ELLIOTT: I am very pleased to see that a Democrat initiative has been picked up here. It has been negotiated outside this Chamber, but it makes more sense than the flat charge which was initially being promoted, because that would have caused very real problems. I do not support the amendment.

Amendment negatived.

The Hon. M.B. CAMERON: I have an amendment on file associated with the situation where, if we get to the conference, there is no provision for transferability. I think then it would be incumbent on the Government to accept some, if not all, of the amount of the buy-back scheme. It is not a matter I wish to press at this moment, because I think we have reached the point with transferability where fishermen are perhaps in a better position than they were at the beginning of this consideration. However, if we get to a conference and there are difficulties, I will be looking at 50 per cent or even greater as a fall-back position. For that reason, I will not be proceeding with the two amendments dealing with 50 per cent at this stage.

Clause passed.

Clauses 8 and 9 passed.

Schedule passed.

Preamble.

The Hon. M.B. CAMERON: I will not be proceeding with my amendment, because I believe that is already covered in clause 4 where it clearly indicates that the Minister is not compelled but may cancel down to 10 licences. I understand that the Minister is already considering cancelling only five at this stage, so I will not be proceeding.

Preamble passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 6.26 p.m. the Council adjourned until Tuesday 31 March at 2.15 p.m.