LEGISLATIVE COUNCIL

Tuesday 10 April 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:
Aboriginal Lands Trust Act Amendment,
Rates and Land Tax Remission Act Amendment,
Warehouse Liens.

REPLIES TO QUESTIONS

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 8, 15 and 16.

UNREGISTERED MOTOR VEHICLES

8. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister of Local Government: What figures or estimates, if any, does the Registrar of Motor Vehicles have on the number and/or proportion of motor vehicles that are unregistered in South Australia?

The Hon. ANNE LEVY: The Registrar of Motor Vehicles keeps a register of vehicles that are driven on public roads. The details of all categories of motor vehicles are retained on current motor registration computer records for a period of three years from the date of last expiry or cancellation. There are no figures available for the number of vehicles that are used exclusively on private property and therefore not required to be registered.

The register of motor vehicles shows the following information as at 1 January 1990;

Class	Currently Registered	Incomplete	Expired	Total
Vehicles	848 689	1 808	205 686	1 056 183
Cycles	31 256	66	24 380	55 702
Trailers	205 789	179	57 585	263 553

From these figures the following percentages of recorded vehicles were unregistered at this date. However, these figures do not mean that the vehicles are on our roads unregistered. They simply imply that the vehicles were registered at one time, and for some reason have not been reregistered.

—motor vehicles 20 per cent (approximately)
—motor cycles 44 per cent (approximately)
—trailers 22 per cent (approximately).

MARITIME MUSEUM

15. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister for the Arts:

1. Does the Minister recognise that historical artefacts in the possession of the South Australian Maritime Museum are at risk of decay—due to rust, borer attack, temperature and humidity change—because of poor storage conditions?

2. If so, what action does the Government propose to take to commence the repair work necessary to improve storage conditions and so preserve our maritime heritage?

The Hon. ANNE LEVY: The replies are as follows:

1. The Minister for the Arts is aware of storage difficulties faced by the South Australian Maritime Museum.

2. The Government, through the Port Adelaide Centre Project, provided the South Australian Maritime Museum with a storage building, which is known as the Koch store, in 1984 during the development phase of the museum. The Koch building provided the Maritime Museum with three levels of storage space totalling 2 000 square metres. The basement and ground floors maintain acceptable temperature levels except on days of extreme heat. The first floor suffers temperature and humidity changes and as a consequence is only used as storage for equipment and objects not affected by heat. This building, like the majority of existing buildings in the immediate vicinity of the Maritime Museum, is very old and as a consequence suffers from dust and vermin problems.

The Government is currently examining ways of securing a long-term adequate storage facility for the Maritime Museum. If the long-term redevelopment plans for Port Adelaide do not permit the museum to remain in the Koch building then a suitable alternative will be obtained. Good storage is integral to the success of any museum and the Government will ensure that the South Australian Maritime Museum secures a good home for its collections.

ARTS DEPARTMENT DIRECTOR

16. **The Hon. DIANA LAIDLAW** (on notice) asked the Minister for the Arts:

1. Can the Minister confirm or deny the accuracy of speculation that the Director of the Department for the Arts, Mr Len Amadio, is contemplating taking long service leave—amounting to about one year—in the near future?

2. If this is the case, what arrangements are proposed to appoint an Acting Director?

The Hon. ANNE LEVY: The replies are as follows:

1. The Director, Department for the Arts, has an accrued long service leave entitlement of 283 days, and is considering taking a period of leave in mid-1991. The duration of such leave would be the subject of discussion with the Minister for the Arts.

2. It is usual, when the Director is absent for an extended period, for an Acting Director to be appointed.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—
Supreme Court Act 1935—Rules of Court—Facsimile Transmissions.

By the Minister of Corporate Affairs (Hon. C.J. Sumner)—
Credit Unions Act 1989—General Regulations.

By the Minister of Tourism (Hon. Barbara Wiese)—
S.A. Council on Reproductive Technology—Report for year ended 31 March 1990.
State Clothing Corporation—Report, 1989-89.

By the Minister of Local Government (Hon. Anne Levy)—
Rates and Land Tax Remission Act 1986—Regulations—Entitlement to Remission.
Road Traffic Act 1961—Regulations—Diesel Engines.

QUESTIONS

NATIONAL CRIME AUTHORITY

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

Leave granted.

The Hon. K.T. GRIFFIN: I refer to further revelations today relating to the resignation of the former Chairman of the NCA, Mr Faris. Reports on ABC radio news services this morning and the *World Today* program reveal the following sequence of events: on 19 September last year, Mr Faris, dressed in a black T-shirt, dark jeans and sneakers, and holding about $170 in his hand, was questioned by plain clothes police officers near three brothels in Dudley Street, West Melbourne. He told the police officers he was on official business.

When speculations surfaced five months later about the behaviour of Mr Faris, the NCA investigated if this in any way affected current NCA operations. The then Federal Attorney-General, Mr Bowen, gave the NCA permission to hold this inquiry, despite the fact that NCA investigators, Mr Greg Cusack and Mr Julian Leckie, immediately declared an interest in the matter.

The NCA investigation produced an 11-page report which found that Mr Faris had lied to police officers when he said he had been on official business and that his written statement of the event was inconsistent with an earlier explanation. The authority concluded that the brothel incident did not involve any criminal behaviour but had the potential to cause Mr Faris extreme personal embarrassment. A police running sheet, the only official record of the brothel incident, has disappeared.

The NCA intergovernmental committee, of which the Attorney is a member, received the report on this investigation three weeks ago. Further to the above, the Attorney-General, on 13 February, quoted to the Legislative Council a statement by the Federal Minister for Justice, Senator Tate. That statement referred to the resignation the previous day of Mr Faris and stated that the only grounds were ill health. In the light of what has been revealed on those programs, I ask the Attorney-General:

1. Will he confirm, following the report given to the intergovernmental committee, that the public explanation of the resignation of Mr Faris given by Senator Tate was incomplete and that the South Australian Government and the public have been misled by this explanation?

2. Is the South Australian Government satisfied with the investigation conducted by the NCA of the conduct of Mr Faris, or does the Government believe it would have been more prudent to have this matter investigated by a body independent of the NCA?

3. What action has the South Australian Government taken to determine whether the behaviour of Mr Faris in any way influenced or compromised decisions he took about the conduct of NCA investigations in South Australia?

4. Can the Attorney-General give an assurance that the South Australian work of the NCA has not been affected in any way by the circumstances surrounding the resignation of Mr Faris?

5. Is the South Australian Government concerned that the handling of this matter by the Federal Government and the NCA will undermine public confidence in the authority?

The Hon. C.J. SUMNER: The honourable member has asked six questions, I think, in fairly—

The Hon. K.T. Griffin: Five questions.

The Hon. C.J. SUMNER: Six—in fairly rapid succession. All I can say is that the intergovernmental committee received a report on this incident when we met, I think it was, three weeks ago. The report outlined some of the circumstances leading up to the allegations which may have related to Mr Faris's resignation. The conclusion in the report was that there was nothing in this particular incident which had compromised the operations of the NCA. That conclusion was reached by the investigators and those who supervised the investigation into this incident.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: As one of the members of the intergovernmental committee, I received the report and some explanations relating to the report at the intergovernmental committee meeting. The investigators were satisfied that there was nothing in the incident which compromised the activities of the NCA. I do not think I can take the matter any further than that without carrying out a separate investigation myself. On the information that I was provided with there did not seem to be a basis for that.

Regarding the press release made by Senator Tate on a previous occasion which I quoted in this Chamber, that is a matter which Senator Tate will have to answer for, presumably in the forum of the Federal Parliament. I do not think I can take the matter much further except to repeat that the conclusions of the report were that there had been nothing in this incident which had compromised the activities of the NCA.

SMALL BUSINESSES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Small Business a question about small business.

Leave granted.

The Hon. R.I. LUCAS: Last Wednesday the Minister was asked questions about a series of media reports forecasting tough times ahead for small business in this State and nationwide, and significant increases in unemployment due, in no small part, to policies of the Hawke and Bannon Governments. The Minister attempted to dismiss the wide range of media reports offered by the Opposition as evidence of an economy on the skids as mere generalisation. She accused the Liberal Party of 'continually undermining the South Australian economy'. Later that afternoon the Minister used a report published by the National Institute of Labour Studies at Flinders University to prop up her argument that things, at least in this State, were not as bad as everyone was trying to make out.

Today, there are further warnings that the Australian economy, and therefore the South Australian economy, is facing very hard times. In an *Advertiser* front page article headed 'Warnings of huge job losses', four leading business and economic research groups predict recession, massive job losses and a decline in investor confidence as a result of the Hawke Government's tough monetary measures.

Members interjecting:

The Hon. R.I. LUCAS: Let us look at the report of the National Institute of Labour Studies. One of the groups forecasting tough times ahead and rising unemployment is none other than the Adelaide-based National Institute of Labour Studies, the very same body which the Minister last week used as credentials for portraying this State as being somehow immune to a national downturn in the national economy. Today's *Advertiser* article states:

The National Institute of Labour Studies, in its quarterly survey of the labour market released yesterday, says Australia's 'relatively poor' level of industrial production has placed it in 'the second

half of the pack' in international competitiveness. It predicts a 'soft landing' for the Australian economy 'but with some blood on the floor' as the impact is spread unevenly across the different sectors of the economy . . . The report sees a .5 to .7 per cent rise in unemployment this year.

The latter comment by the institute about a significant increase in unemployment in Australia and South Australia is frightening, from the viewpoint of the South Australian economy. Many economists have argued that the increase in South Australian unemployment will be significantly greater than this national figure of .5 to .7 per cent. In fact during February jobless numbers in this State rose by .7 per cent compared to only .4 per cent nationally. If the institute's predictions are correct—and the Minister seems to place great store on its past efforts—an increase of .7 per cent in unemployment in this State would add another 4 100 to the jobless queues, based on the February figures provided. My questions to the Minister are:

1. Does she agree with the prediction by the institute that unemployment could rise by up to .7 per cent this year, as a result of Labor's economic policies and, if so, what steps is the Government taking to counter an expected rise of 4 100 in South Australia's unemployed?

2. Does the Minister agree with the comments attributed to the institute that there will be 'some blood on the floor' and some industries will be hit hard as a result of the effects of high interest rates?

The Hon. BARBARA WIESE: Obviously, the Hon. Mr Lucas does not have a very wide repertoire of topics or questions that he feels he can ask in this Chamber because it seems to me that all he has done in the last three questions that he has asked me is repeat the same question using slightly different phraseology. I am really not sure exactly what he is expecting me to say.

I have acknowledged in this place in replies to previous questions that economic times are difficult and that we can expect an economic downturn in Australia. I have pointed to the research work that has been done by various noted economists and institutes that would indicate that South Australia is now much better placed than it has ever been before, and better placed than some other States to be able to—

Members interjecting:

The PRESIDENT: Order! The Minister has the floor.

The Hon. BARBARA WIESE: —weather these storms. The diversification in our economy and the fact that we have moved into particular market niches within our economy during this past decade will mean that the effects of the economic downturn in South Australia will be different in various sectors, as the institute has pointed out and, in some sectors, the situation will probably be better than it is in other parts of Australia. It is interesting that the Hon. Mr Lucas quotes figures that suit his argument but does not also take into account the fact that, during the same period, the inflation rate in South Australia was lower than it was in other parts of the country. However, as is very typical of the Hon. Mr Lucas and members of his Party, he is not the least interested in identifying the positive aspects of economic activitity in this State. He, like most of the other doomsdayers in this State, want to talk down the economy and to make sure that the effects of the current economic downturn in Australia are as bad as they possibly can be in South Australia.

That is not the approach taken by the South Australian Government, which is doing many things to try to assist businesses, not only to survive but also to thrive. Rather than waste the time of the Council, I refer the honourable member once again to the replies I have previously given to this same question and also to the speech that I delivered in this place last week, which will give him and anyone else interested in the matter some indication of what the State Government is doing to assist small businesses that would otherwise find this period in our history very difficult to survive.

The Hon. R.I. LUCAS: As a supplementary question, is the Minister saying that, in coming months, the increase in unemployment in South Australia will be lower than that for all other States and lower than the national average?

The Hon. BARBARA WIESE: I am not an economist and I do not propose to make the sort of predictions that the Institute of Labour Studies or others will make but, certainly, I am interested in the views of such organisations and others who might want to comment. In my reply to this same question last week, I indicated that probably some businesses in this State will fail in the coming period, and that this is likely to lead to some unemployment, but I expect that in the coming months South Australia will fare as well as or better than other parts of Australia.

It is virtually impossible for the Hon. Mr Lucas or anybody else in this place to make firm predictions about what will happen. There are many variables and many inputs can be made by Governments and by people who are available to assist businesses in making business judgments and improving business management skills. Those and a whole range of other things will have some impact on whether or not business is successful in Australia. One thing is for certain: with people such as the Hon. Mr Lucas and others constantly trying to gain media attention for their very negative views, we are certain to find that business confidence will be lost and activity that otherwise might have been engaged in will not occur. The Hon. Mr Lucas and his colleagues should show rather more concern for the State and take a very different approach to the way in which they make their judgments and contributions in this Parliament.

DRIVER TRAINING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government, representing the Minister of Transport, a question about driver training.

Leave granted.

The Hon. DIANA LAIDLAW: Research released at the weekend by Monash University's Accident Research Centre highlights that the ratio of first year drivers involved in car accidents is three times greater than for any other road user category. Also, I note that recent research conducted by the Road Safety Division of the Minister's own Department of Road Transport reveals that in South Australia persons aged 17 to 25 years comprise only 16 per cent of our population but account for 35 per cent of all persons killed, maimed or injured in road accidents in this State. These figures are alarming, not only because of the disproportionate number of young people (particularly boys) involved in car accidents but also because of the personal and financial trauma for their families and the impact of our health budget.

The figures also reinforce the push by road safety authorities throughout Australia, and licensed driving instructors in South Australia, for the introduction of a far more comprehensive training and testing program in the State for people who wish to advance beyond learners' plates to a full driving licence. Yet, in this State most of our young people simply receive instruction in driving a motor car from their parents, with most never having any formal training or retraining in learning how to handle a vehicle

in the city, on the open roads or in poor weather conditions. Therefore, I ask the Minister:

1. Does he consider that training by a licensed driving instructor should be a precondition to a person obtaining a full driver's licence? If not, why not?

2. Does he consider that drivers who have lost their licence under the points demerit system should be required to participate in driver training courses before their licence is reissued? If not, why not?

3. If the Minister agrees with one or both of these propositions, what plans, if any, does the Government have to implement such initiatives?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply. In doing so, I can state that I share the concern expressed by the honourable member regarding the death toll, particularly amongst males of the age group she mentioned.

COOPER AND EROMANGA BASINS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Mines and Energy, a question about the Cooper Basin environmental survey.

Leave granted.

The Hon. M.J. ELLIOTT: In June last year the Minister announced an environmental impact survey in the Cooper and Eromanga Basins in South Australia to measure the effectiveness of the codes of practice developed by the oil and gas producers.

In a report in the *Advertiser* on 27 June 1989, the Minister of Mines and Energy (Mr Klunder) is quoted as saying that, while the Cooper Basin partners had risen to the challenge of minimising the environmental impact of petroleum exploration and development, neither they nor the Government could rest on their laurels. The report says that the survey would start in July 1989. I ask the Minister: what stage has this survey reached and, if it has been completed, will details be publicly released, and when?

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

RIB LOC GROUP LIMITED

The Hon. T. CROTHERS: I understand that the Minister of Tourism has an answer to a question that I asked recently in this Council about Rib Loc.

The Hon. BARBARA WIESE: There are many successful businesses in South Australia such as Rib Loc that demonstrate their faith by continuing their operations in this State. Enterprise Investments Ltd, which is owned by the South Australian Government, is a shareholder in Rib Loc and believes that Rib Loc is well placed to substantially increase its penetration of international markets.

The Department of Industry, Trade and Technology administers the South Australian Development Fund which provides a range of financial incentives to encourage new industry and help existing South Australian based enterprises expand. Incentives under the fund aim primarily at encouraging investment in this State, which will lead to increased international competitiveness and the creation of increased long-term employment. The programs are flexible and tailored to individual circumstances.

The incentives apply to manufacturing projects and the traded services sector, particularly in technology-based services. Tourism projects are eligible. Conventional primary production, retail and property development are not included. Investors interested in the primary production area should contact the Department of Agriculture, which operates programs specifically geared to this sector.

Specific programs within the South Australian Development Fund include:

- Industry Development Payments Program—offers financial incentives to encourage investment that will help improve a firm's competitiveness and create long-term employment.
- Technology and Innovation Program—designed to foster innovative developments within manufacturing industry and help organisations apply new technology in their operations.
- Regional Industry Program—recognising the special needs and competitive strengths of regional areas, this program offers additional assistance to industry located outside Adelaide where the activity is viable in the long term.
- Industrial Land and Premises Program—provides land and building finance packages to eligible firms planning significant expansions or relocations to South Australia.
- Government Guarantee Program—offers guarantees of loans for projects considered of significance to the State and commercially viable.
- Export Bridging Finance Scheme—offers interest-free loans to exporters awaiting Commonwealth Export Market Development grants.

There are also a number of related agencies which can assist small business including the South Australian Centre for Manufacturing, the Technology Development Corporation, the Software Export Centre, the Small Business Corporation, and the Industrial Supplies Office.

STIRLING COUNCIL

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

Leave granted.

The Hon. J.C. IRWIN: I refer to the Minister's statement last week regarding the appointment of an investigator for Stirling council and to some events leading up to that appointment. In order to avoid the possibility of a very messy situation arising, not unlike the widespread community unrest that dogged the Mitcham saga, a truly independent investigator or arbiter should have been appointed to look at Stirling council. Notwithstanding the appointed investigator's undoubted ability and integrity, the credibility of the appointment is being questioned and could have been avoided.

We now have one council's Chief Executive Officer investigating another council. The investigator and his council are embroiled in a council amalgamation and many other matters of local government politics. His worship, the Mayor of Woodville, has publicly supported the Government's $4 million offer. He could have only done this fairly following a solid briefing and understanding of all the aspects of the Stirling council and the Government's proposal.

The Local Government Association was surprised by the Mayor's comments, which he made at a meeting with the Premier as one of its representatives in the capacity of vice-president, and which he made publicly on radio and in other areas of the media. My questions to the Minister are:

1. Were Mayor Dyer and Mr Whitbread fully briefed by her department prior to the meeting with the Premier?

2. Will the Minister encourage the Local Government Association to play a mediating role in any ongoing negotiations?

3. Is the $4 million settlement figure that was offered by the Government still available? I understand that that includes one unsettled claim in addition to the $4 million.

4. What arrangements have been made for Stirling council to pay any immediate loan commitments of the $14.5 million outstanding?

The Hon. ANNE LEVY: To answer the honourable member's last question first, no arrangements have been made at the moment. Stirling council owes the Government $14.3 million as of 31 March, has made no payment and has made no arrangement to pay that sum. The offer by the Government to pick up the $10.3 million of the $14.3 million still stands and, if Stirling council wishes to accept it at this stage, I would be absolutely delighted. The Government has made clear to Stirling council that the one claim that is still not settled will not be added to the $4 million that the council is expected to pay.

As honourable members know, the council had the facility to draw on $14.5 million for the 119 or so claims that it had. It drew on $14.3 million, so there was $200 000 left not drawn down. However, if the one settlement remaining came to more than that sum there would be no question of its being added to the $4 million that Stirling council would be expected to pay. That has been made very clear to the council.

Regarding the Local Government Association acting as a mediator, I can say that I have had discussions with the President and the Secretary-General of the Local Government Association, and certainly I am prepared to have further discussions with them. I understand that the President, in particular, has had discussions with the Chair of Stirling council—or so he reported to me—and any good offices that the Local Government Association is able to provide to enable Stirling to see the generosity of the Government's offer I would be very delighted to accept.

I think that the honourable member's comments about Mr Whitbread are quite uncalled for. Mr Whitbread has a very high reputation in local government circles. He is an extremely able chief executive officer for his council and he has the great advantage, it seems to me, of coming from the local government community. There is nothing in the Act to say that an investigator whom I appoint has to come from the local government community and, indeed, there may well be cases when such a background would not necessarily be appropriate. There may be cases where an investigator should be a trained accountant, an expert in personal management or whatever.

However, it seems to me, in this particular situation, to avoid any suggestion of bias on the part of the Government, that I could not do better than look to the local government community itself for an investigator. While I was under no obligation to do that, I was very grateful indeed when Mr Whitbread agreed to undertake this onerous task. As he comes from the local government community, I felt he would have the complete confidence of that community: it would not feel that someone from outside its particular area of interest had been appointed to do an investigation into what is obviously a fairly delicate local government matter. Certainly, I have received no adverse comments whatsoever about the appointment of Mr Whitbread, other than the comments made by the honourable member opposite. I do not understand on what basis he makes those comments.

Finally, in relation to the question about Mayor Dyer and Mr Whitbread being briefed before the meeting with the Premier, the answer is, 'No, not to my knowledge'. Mr Whitbread was not present at the meeting with the Premier, Mayor Dyer was there in his role as Vice-President of the Local Government Association, along with Jim Hullick, the Secretary-General of the Local Government Association. Mayor Dyer was there because the President was unable to be present, having had to go away from Adelaide for a period of, I believe, three days. Certainly, the President would have been present had he been in Adelaide. However, on the day before the meeting, he rang the Premier, spoke to him and asked whether it would be all right for one of his vice-presidents to represent him at that meeting, given that he was unable to be there. Of course, the Premier acceded to that request.

Therefore, the presence of Mayor Dyer at that meeting was arranged less than 24 hours before the meeting occurred. There had certainly been no briefings from any Government officers. Whether there had been briefings from the Local Government Association or Stirling council itself, I am unable to say. I suggest that the honourable member would have to make inquiries elsewhere to satisfy himself on that point. However, there have not been any briefings by Government officials of Mayor Dyer prior to that meeting. The two people from the Local Government Association—

Members interjecting:

The PRESIDENT: Order! The honourable Minister has the floor.

The Hon. ANNE LEVY: Thank you, Mr President. If people will listen, I will fill them in on these facts. Mayor Dyer and Jim Hullick were present at the meeting and heard the discussions that occurred on both sides of the table. It was a lengthy meeting—certainly not something that took five minutes—and there was a very detailed discussion, the issues on both sides being put very clearly. I was very impressed that Mayor Dyer grasped the issues very readily from hearing them discussed and was prepared to state his opinion on leaving the meeting. It was an honest opinion, which he derived from having listened to the discussion. I am sure that there is a vast number of people in South Australia who, if they had also heard those discussions, would agree wholeheartedly with Mayor Dyer that the Government was making a very generous offer indeed to Stirling, which it should have the good sense to accept.

The Hon. J.C. Irwin interjecting:

The Hon. ANNE LEVY: Because they have not paid!

NATIONAL COMPANIES LEGISLATION

The Hon. CAROLYN PICKLES: I seek to leave to make a brief explanation before asking the Minister of Corporate Affairs a question about national companies legislation.

Leave granted.

The Hon. CAROLYN PICKLES: I am sure that all members are aware that the States have currently put forward a detailed compromise proposal for consideration by the Federal Government. I understand that this proposal has the backing of all States, except Victoria, and I also understand that recently the Australian Society of Accountants issued a statement urging the new Federal Attorney-General to renew efforts to create a national scheme that was acceptable to the States as a matter of the greatest importance, because this is obviously of importance to Australia's financial standing. Can the Minister indicate the extent of progress, if any, in the ongoing discussions between the Federal and State Governments regarding proposed national companies legislation?

The Hon. C.J. SUMNER: I noticed the news release from the Australian Society of Accountants to which the honourable member referred.

The Hon. K.T. Griffin: The AMP said the same thing this morning.

The Hon. C.J. SUMNER: The Hon. Mr Griffin interjects that the AMP said the same thing. The Australian Society of Accountants has asked the Federal Government's new Attorney-General to renew the effort to create a national scheme acceptable to the States as a matter of the greatest importance to Australia's financial standing. That is an interesting remark, because the Commonwealth has tended to try to say that the business community in Australia supports the Commonwealth's proposals for a takeover of companies and securities legislation and administration. That clearly is not the case. Some of the larger peak organisations, such as the Business Council of Australia, have given support to the Commonwealth Government's position, and the business communities—

The Hon. K.T. Griffin: It is not the only one.

The Hon. C.J. SUMNER: There are others. The business communities in Sydney and Melbourne tend to be supportive of the Commonwealth Government's position. However, in South Australia, Western Australia, Queensland and, I suspect, Tasmania and the Northern Territory, there is virtually unanimous business opposition to the Commonwealth proposals.

In South Australia a working group was formed at the time that these Commonwealth proposals first surfaced, and that working group has been liaising with me on the Commonwealth proposals. That group comprises the Law Society, the Australian Society of Accountants and also, and importantly, bodies such as the Chamber of Commerce and Trade in South Australia. This indicates that there is virtually universal opposition in South Australia to the Commonwealth takeovers and support for the States' stance. In particular, the working party, which represents South Australian business and professional organisations, has supported the compromise proposal which I floated initially 18 months or two years ago. At that time, I proposed that the Commonwealth should be given legislative powers over takeovers, fundraising, the futures industry and the stock exchanges, and that the ministerial council remain in place for other legislation, and that the Corporate Affairs Commission remain in place, but, in effect, acting as agents of a national body.

Unfortunately, at the time that that compromise proposal was put forward, while it was supported by Victoria, South Australia, Tasmania and the Northern Territory, it was opposed by New South Wales, Queensland and Western Australia. As a result of that, the Commonwealth was not prepared to accept the proposal that I put forward, because the States were divided on it.

In more recent times, the States have met and revived the proposal that I outlined 18 months ago. All States, except Victoria and with some qualifications from Tasmania, have now accepted the compromise proposal that I put forward. In broad terms, it is as I have outlined. Although there have been some minor refinements to the proposal, it gives the Commonwealth authority in this area both legislatively and administratively and, I believe, meets the legitimate criticisms which have been made of the cooperative scheme.

That compromise proposal was agreed to last Monday by the States, with the exception of Victoria and to some extent Tasmania. I have now formally put that proposal before Mr Duffy, the new Commonwealth Attorney-General. By letter of 9 April, I have written to him outlining the States' proposals, including a detailed submission on a Federal scheme for the regulation of companies and securities in Australia. I suggest that the Commonwealth has no choice but to compromise in this area if we are to have business and constitutional certainty around the regulation of companies and securities in Australia. I suspect that a referral of powers by the States to the Commonwealth is not a practical proposition. It is unlikely that all Governments would agree to do that. Even if all Governments did agree to it, there are hostile Upper Houses in Victoria and in Western Australia certainly, and possibly here as well, which might oppose any referral of powers.

So, I start from the proposition that a referral of powers is not a likely political solution. That being the case, the only other option to ensure constitutional certainty is to use the legislative device which underpins the cooperative scheme. The alternative is for the Commonwealth to proceed unilaterally. If it proceeds unilaterally, there will undoubtedly be further challenges to the Commonwealth legislation covering the areas which have not already been challenged, and those challenges, whether by the States or by individual litigants, will create a period of uncertainty for the business community and Governments in Australia.

I come back to the proposition that the only way that we can get certainty to ensure that the constitutional gaps that might exist with Commonwealth legislation are filled is by the use of the legislative device of the cooperative scheme. That is why I say that, if certainty both constitutionally and for the business community is required, the Commonwealth will have to compromise, and I suggest that the compromise that I have put forward will meet the legitimate national and international needs of the Commonwealth.

I also noted last week that there was publicity of a compromise proposal floated by the Business Council of Australia and referred to by Mr Hartnell, the new Chairman of the Australian Securities Commission. I do not know whether that proposal has the support of the Commonwealth Government. It is somewhat different from the one which was put forward by the States and which, as I said, I have now referred to Mr Duffy. If the Commonwealth is interested in negotiating, it seems to me that it should consider not only my proposal but also the proposal put forward by the Business Council of Australia and by Mr Hartnell and to respond to the States with its view on both those proposals. If it is prepared to compromise in some way or another, the States stand ready to enter into negotiations as a matter of urgency to try to resolve the impasse.

That impasse ought to be resolved, if possible, within the next month or so, so that the necessary legislative changes can be made and the formal agreement entered into. The States have now done all they can. They have put before the Federal Attorney the compromise proposal. It is now a matter for the Federal Attorney to consider that compromise proposal and any other proposals that might be in the public arena and respond to the States as soon as possible.

STAFF AND RESOURCES FOR LIBERAL LEGISLATIVE COUNCILLORS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about staff and resources for Liberal Party Legislative Councillors.

Leave granted.

The Hon. L.H. DAVIS: I direct the Attorney-General, as Leader of the Government, to the inexcusable and long-standing lack of staff and resources for Liberal Legislative Councillors. Before I begin my explanation it is worth noting that the 13 Ministers of the Bannon Government have approximately 140 staff between them—a 40 per cent

increase in the 7½ years since the Bannon Government won office.

The Hon. C.J. Sumner: That's rubbish!

The Hon. L.H. DAVIS: Check the Program Estimates: they are wrong, are they? The Liberal Party Legislative Council team of 10 members has three full-time staff paid by the Government. The Leader, the Hon. Robert Lucas, has a research officer, and the 10 members share two secretaries. The Government provides two typewriters, a shredder, and two photocopiers. One of the photocopiers is on its last legs and was provided to the Liberal Party Legislative Council team on the understanding that we would maintain it. A $600 bill for maintenance is about to be paid by the 10 members.

Various Liberal Party members have paid for a folding machine, a fax machine and two word processors, one quite sophisticated with programs for desk top publishing and addressing mail. It is hard to imagine executives in the private sector doing that. Several Liberal Party members personally employ part-time staff to assist with research and filing. Whereas the Liberal Party has only three staff for 10 members, the Australian Democrats have three staff for two members. Indeed, the Australian Democrats have recently employed a research assistant on a salary of, I understand, at least $41 000, which is many thousands of dollars more than the Legislative Council Liberal Party research officer receives. Is that equitable, Mr Attorney?

Any fair-minded person is entitled to speculate on why the Government so readily acceded and provided the Australian Democrats with the same number of staff, namely three, for only two members, as compared with 10 Liberal members, and are able to pay much more for their research staff. My questions to the Attorney-General are:

1. Can he explain why the Australian Democrats can so easily and readily obtain additional and more highly paid staff, and why has the Government so blatantly discriminated against the long-standing and reasonable demands of the Liberal Party Legislative Councillors?

Members interjecting:

The Hon. L.H. DAVIS: Following interjections from the backbench of the Labor Party, can I also include them in this argument, because I understand that the six Labor backbenchers have only two staff between them, so they, too, are far worse off than the Australian Democrats.

2. Can the Attorney-General name any company in the private sector where executives supply a folding machine, a fax machine and word processors, and have to pay for the maintenance of photocopiers?

3. Does he accept that the Liberal Party Legislative Councillors are disadvantaged as compared with the Australian Democrats and, if not, why not? Will he use his good offices to immediately rectify this intolerable situation?

The Hon. C.J. SUMNER: The question of comparison with the private sector is not relevant. Members are not in the private sector and if, they want to be in the private sector, they should resign and return to the private sector, if that is where any of them came from. The reason why the Democrats have additional support is that it was necessary to provide them with support.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It was necessary because there are only two Democrats, whereas the Liberal Party Opposition consists of 10 members dealing with the same number of Bills as the Democrats have to deal with. I would have thought it was reasonable for the Democrats to get some additional support.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Unfortunately, because the Liberal Opposition tends to oppose the Government on most matters introduced by the Government, we have to rely on the balance of power with the Australian Democrats: the balance of reason, as the Hon. Dr Cornwall used to say.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. Some members are interested in this reply.

The Hon. C.J. SUMNER: I do not know why the Hon. Mr Davis is getting so excited about the matter but, if he cannot tell the difference between 10 members and two, there is something wrong with him. There are 10 Liberal members opposite to deal with the same number of Bills as the Democrats have to deal with, which only consists of two members.

The Hon. L.H. Davis: What has that got to do with it?

The Hon. C.J. SUMNER: That has everything to do with it. The Democrats have the balance of power and they work very hard at their legislative duties. The Government felt that it was justified to provide the Democrats with some excellent research assistance—

The Hon. L.H. Davis interjecting:

The PRESIDENT: The Hon. Mr Davis has asked his question and will come to order while the question is being answered.

The Hon. C.J. SUMNER: —to enable them to consider the Bills introduced by the Government and to give them their proper consideration. The 10 Liberal members opposite may be more alert, more intelligent, and more on top of the issues than the Democrats and there are certainly many more members opposite to deal with the issues. Members opposite can spread the issues around as the Bills are dealt with. I do not consider that there is any discrimination.

I remind members that, when I became Leader of the Opposition in the Legislative Council in 1979, I requested the then Government to allow me not to have a research officer or anything else, but just to allow me to employ the stenographer of my choice. The reply I received from the Tonkin Government, through Mr Griffin, was that I could not even employ the stenographer of my choice; I had to employ a stenographer from within the Government. I had my choice within Government but I could not go outside the Government to employ.

The Hon. L.H. Davis: Nothing has changed.

The Hon. C.J. SUMNER: It has. The Leader of the Opposition has a stenographer of his own choice and a research officer of his own choice.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. C.J. SUMNER: If he chooses to make the stenographer available to the rest of the members that is his problem. The Leader of the Opposition has someone to do his typing and a research officer. I had a stenographer.

The Hon. R.I. Lucas: No, I haven't.

The Hon. C.J. SUMNER: The honourable member has a research officer and someone to do—

The Hon. R.I. Lucas: He types.

The Hon. C.J. SUMNER: Well, okay, you've got a very good research officer.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. Some members are interested in this reply. The honourable Attorney-General has the floor.

The Hon. C.J. SUMNER: In any event all I was entitled to was one stenographer. I did all my own research; I wrote all my own speeches on Bills; and I wrote all the speeches

I delivered to various functions around town. All I can say is that the quality of members today must be lower than it was 10 years ago. There were no problems with doing the work, and now members opposite want more and more resources. Frankly, I cannot understand that. If they are not up to the job perhaps they should go back to the private sector or wherever they came from. If members want to pursue this they should put it in the budget debate.

MARINE ENVIRONMENT PROTECTION BILL

The Hon. ANNE LEVY (Minister of Local Government): I have to report that the managers have been to the conference on the Marine Environment Protection Bill, which was managed on behalf of the House of Assembly by the Hon. Minister for Environment and Planning, the Hon. D.C. Wotton and Messrs Brindal, M.J. Evans and Ferguson; and they there received the Bill from the managers on behalf of the House of Assembly and the following resolution adopted by that House, namely, that the disagreements to the amendments and suggested amendment of the Legislative Council be insisted upon; and thereupon the managers of the two Houses conferred together but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve not to further insist on its amendments or lay the Bill aside.

The Hon. ANNE LEVY: I move:

That the Council do not further insist on its amendments and suggested amendment.

I do so for the sake of preserving what is undoubtedly a very important piece of legislation for this State, and to set it aside would surely be to the detriment of all sections of our community. I may say that there was a great deal of discussion at the conference on the 50 or so amendments that had been made. These broke into a number of categories and there was some degree of compromise evident on both sides. The Opposition was prepared to compromise on the definition of a 'pollutant' and to adopt the Government's position of having 'prescribed matter' inserted into the legislation. Apart from that, I think that all the compromises were made on the Government's side.

The Government was happy to compromise on the penalties proposed by way of amendments moved by the Legislative Council and was prepared to adopt the penalties as moved in this Chamber. It was also prepared to adopt the proposal that certain criteria and standards be put into regulation (as opposed to proclamation) so that there would be parliamentary oversight, rather than just having them proclaimed as the Government had initially proposed. This was another major concession on the part of the Government. There were others—

The Hon. Peter Dunn interjecting:

The Hon. ANNE LEVY: No, it is the other way around. We had it as proclamation, but this Chamber wanted regulation, and the Government was prepared to accede to that and make that compromise: that it be done by regulation instead of by proclamation. The Government was prepared to give way on that amendment and there were other amendments on which the Government was quite prepared to give way. However, other than on the definition of a 'pollutant' the Opposition did not seem willing to make concessions and it insisted upon everything.

The Government conceded on many matters, which basically fell into the various categories that I have discussed: on the penalties; on the question of a 'pollutant'; and on the procedural matters such as regulations as opposed to proclamations. There was virtually nothing at all on which the Opposition was prepared to concede. So, the Government conceded on a vast number of these questions of difference, but there were two matters on which the Government expected the Opposition at least to compromise and not stick rigidly to the positions it had taken. One of these concerns the Marine Environment Protection Council, where the Opposition remained adamant that there had to be a separate council.

The Hon. R.I. Lucas: A committee.

The Hon. ANNE LEVY: No, the committee was suggested and you turned it down.

The Hon. R.I. Lucas: You want to get your terms right.

The Hon. ANNE LEVY: The Bill talks about a Marine Environment Protection Council.

The Hon. R.I. Lucas: The Bill says, 'Environment Protection Council'.

The Hon. ANNE LEVY: I am sorry; the Marine Environment Protection Committee—a separate committee. Despite the Minister's offering compromises of such a committee being a subcommittee of the Environment Protection Council, the membership being of the type proposed by the Opposition amendment, the Opposition was totally inflexible and would not budge from its position one iota. This is one of the main reasons why the conference was unable to reach any satisfactory resolution.

The other matter referred to the dates which were indicated for the achievement of certain goals in the legislation and which were inserted as an Opposition amendment. While the Opposition was prepared to consider changing the dates, it refused to take the Government's position that no dates should be mentioned in legislation. Dates are appropriate in transitional arrangements—transitional sections of legislation—which appear in schedules to the Bill (and, obviously, transitions have deadlines), but the Government took the view that a date of this type, applying to one agency only—not to all agencies but singling out one agency—was inappropriate and that it was inappropriate to have a specific date mentioned in the legislation. The Opposition refused to budge one inch on these two matters, despite the fact that the Government had given way on the vast majority of the amendments and was prepared to accept them.

There were some 53 amendments which had been moved in this place and the Government was prepared to accept 51 of those amendments. But, the Opposition was not prepared to concede, even in a compromised manner, on the two remaining. It is for this reason that I move the motion that in order to save this worthwhile legislation, the Council do not further insist on its amendments and suggested amendment.

The Hon. M.J. ELLIOTT: It is with some regret that I oppose the motion—and I say regret because we have been waiting for something like 12 years, perhaps longer, for such legislation in South Australia. It has been a matter of great procrastination. I believe that it is misleading for the Minister to say that we are looking at compromise on the part of the Government on 51 of 53 matters—on at least two counts. First, a number of those compromises were not from the Government but were from the Legislative Council grouping. Secondly, a large number of the amendments are consequential. For instance, there is a large number of amendments simply on the size of the penalties. That compromise reached once recurred on quite a few occasions.

Despite even that, I do not believe that one can make a decision in the conference by counting how many concessions each person has made. In the ultimate analysis, one makes a decision on the basis of each thing which has to be determined. I believe that the two matters that it finally came down to, upon which the Legislative Council is going to insist, are absolutely crucial to this Bill.

The Hon. Anne Levy: On which major things did you give way?

The Hon. M.J. ELLIOTT: I think the major things are the two matters we are about to discuss. I believe that most of the others, in various ways, are consequential. It was made clear at the very beginning that the advisory committee and its functioning was absolutely crucial. That was made clear at the beginning of the conference and in fact during the early stages of debate in this place. I personally will not give way just for the sake of compromise. I will give way if a reasonable result is achieved. I do not believe what was asked for was reasonable. I will centre on those two matters.

The first is the question of the advisory committee. Initially, we went into the conference with two positions. The one from this Council was that there be a marine environment protection committee, a separate committee of experts. When I say 'experts', I mean those with expertise relevant particularly to the marine environment, not generalist environmental experts. The Government's position, the position of the House of Assembly, was that the work should be done by the Environment Protection Council. The Minister moved some way and then talked about forming a subcommittee of the Environment Protection Council but still predominantly made up of members of the Environment Protection Council. Without casting any doubts on the individuals (because in fact I hold many of those individuals in the council in high regard), I do not believe that very many of those people could claim to have particular expertise in the matters which are relevant to this matter.

The Council representatives offered a compromise. We believe the important role of the advisory committee was going to be in the early years while the various criteria and standards were being set. This will be an enormous job, and one which will take a lot of time, I insist that it does need expertise. We do not want people being advised by experts; it is better for the experts to be doing the work to start off. However, apparently this was not acceptable.

We offered the compromise that the committee have a short life. We offered a sunset clause of three years after which the matter would be reconsidered. That apparently was not acceptable. There was some further exploration of having a committee of experts but which may in some way report via the Environment Protection Council. However, that was eventually cut short, although certainly not from my position. I saw that as being absolutely crucial to the way this legislation was going to work. We were moving to a very promising position where the Minister could only grant the licences if they were consistent with the regulations. The regulations which had the standards and criteria were to be set following the advice of the advisory committee.

That is all well and good, but if the advisory committee is not up to the job then the whole Bill is not really worth anything at all. If they make the wrong decisions, the effect of the Bill would be cut back severely. That is why I insisted that a committee of experts is necessary. I do not believe that there is any reasonable compromise on that. It was suggested that it could cost us as much as $43 000 a year. Without even exploring the figure, I suggest that $43 000 a year for three years, even if that is the correct figure, is absolute peanuts when you are talking about protection of the marine environment—and it is an insult to bring that sort of figure into the equation.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: It does not matter; if that is the figure, I would have accepted that quite happily. But I would question that greatly. I believe that the resources used could be shared by other groups. However, let us leave that to one side.

The second matter concerned the E&WS Department. To the best of my knowledge, it is the only Government department that is polluting the marine environment in any significant sense, anyway. It is probably the second or third worst polluter in this State. It would be having a competition with BHAS and probably the paper mill in the South-East. They would be in the top three. We could argue about ranking them. Nevertheless, the E&WS Department is a significant polluter, and what an absolute disgrace that a Government department should be one of the most serious polluters in the State.

The Minister said that she could not accept having a deadline. The legislation was going to have a deadline, anyway. It was going to have a deadline of eight years, and that was supposed to bind the Crown. There was going to be a deadline. During the lead-up to the last election, the Minister gave an undertaking to the people of South Australia that the pumping of sludge into the gulf would cease by December 1993. The original amendment which was before this Council looked at the Port Adelaide Sewage Works ceasing the pumping of sludge into the gulf by June. It could have rediverted the sludge up to Bolivar. The option was available to do that. Further, the pumping of other sludge into the sea was to cease by the end of 1993.

When we went to the conference I believe that a significant compromise was offered. Instead of by the end of 1993, which the Government had promised, we had suggested that we go to June 1995. I believe that was a significant compromise. The Government was looking at eight years; originally we were looking at less than four; and we went fairly close to half way. I believe that the Government does not have a leg to stand on in relation to that argument, either. Quite simply, I am not willing to compromise on important issues like these, on probably what are the two most important points in the whole Bill. We can get into all the number games we like, but I believe they are essential.

A compromise was being offered by this Council to both those two issues, but, in the final analysis, the Government decided it would not accept it. It was its decision in the end. I do not believe that those two provisions would in any way hinder the Bill. In fact, I argued very strongly that the second one was just a necessary requirement of Government. The first one was absolutely essential to the working of the Bill, and the Government should be condemned for not being willing to accept what I believe are reasonable compromises on both those matters.

The Hon. DIANA LAIDLAW: On behalf of the Liberal Party, I indicate that it is our intention to insist on the amendments. Ever since the introduction of the Marine Environment Protection Bill last February in the other place, the Liberal Party, and indeed the Australian Democrats, have argued that it is a very important piece of legislation, and we remain of that view to this day.

We have also consistently argued that we wish to see the legislation as strong and as effective as possible on a number of issues. We were keen that the Bill be a positive and educative tool in our community to raise awareness about

the issues of marine pollution and increase levels of intolerance to present pollution practices, which are causing immeasurable and intolerable damage to our seabed, seagrasses and, of course, to the strength of our fishing industry in the long term.

We were also very keen that standards and criteria be defined in the Bill and that they be applied to licences. Further, we argued for tough penalties for breaches of licence provisions. In addition, we sought, and have done so since February, to limit the Minister's discretionary powers in these and other areas by providing for a specialist Marine Environment Protection Committee to oversee the implementation of the legislation.

Our concerns in this regard have been consistent with the Liberal Party's moving amendments in the other place, and again in this place late last month, with the Democrats passing such measures which we believe did enhance the effectiveness of this Bill. Therefore, like the Hon. Mr Elliott, it is with considerable sadness and frustration that I acknowledge that the conference did not reach unanimous agreement or a compromise that was satisfactory to all parties. I believe that it was possible to reach such a conclusion if members of the House of Assembly, particularly the Government members, had not been so intransigent on two issues, to the degree that they were prepared to see this Bill defeated and, therefore, deprive South Australia—and I remind members that South Australia will now be the only State without such legislation—of such legislation for at least another six if not 12 months. That is all the Government has done by not compromising on two amendments that would have been positive additions—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: —to this Bill. Effectively, by dropping the Bill, the Minister has delayed the introduction of important legislation. She will have to bring something back or at least someone in this Parliament will have to bring something back in six or 12 months. I cannot believe that the Legislative Council will change its mind on these important issues in that time. So, the conclusion of the conference is a most unsatisfactory result in that respect. Compromise, as the Minister opposite interjected, was reached on a majority of provisions and I believe that members in both places—this and the other place—agreed to move from their positions in quite a large number of respects.

The Hon. Anne Levy: What did you move on?

The Hon. DIANA LAIDLAW: If the Minister had been there on Friday, she would have seen the positions on which we gave ground and, also, where we were prepared to compromise on the amendments that this place had passed earlier. For instance, two areas have proved to be sticking points, but I would like to outline how the Council gave ground on these points, because I believe it is important to this debate.

In relation to the issue of the discharge, emission or deposit of sludge produced by the E&WS treatment works, members may recall that the Hon. Martin Cameron moved an amendment to insert paragraphs to require that discharge, emission or deposit of sludge produced from treatment of sewage at the sewage treatment works at Port Adelaide no longer be tolerated from 1 June this year and, secondly, that the discharge, emission or deposit of sludge produced from the treatment of sewage at any other sewage treatment works forming part of the undertaking under the Sewerage Act 1929 be no longer tolerated after 1 January 1993.

In relation to that amendment, I place on record how the Legislative Council was prepared to compromise. We did agree that we could delete paragraph (A) in respect of the sludge from the treatment works at Port Adelaide, and that we would be prepared to alter our position regarding the date of 1 January 1993 for discharge of sludge from other treatment works operated by the E&WS. We moved from January 1993, to December 1993, to December 1994 and, finally, to June 1995. At the most recent election, the Government gave to the South Australian public a commitment that it would act to insist that there were no further discharges of sludge produced from the treatment of sewage at treatment works operated by the E&WS. I believe that in this respect the Legislative Council was flexible—in fact, some would argue far too flexible—in seeking to reach a compromise on this matter.

In respect of the E&WS responsibilities and, essentially, Government responsibilities, dates are already included in this legislation. I know that the Minister initially wanted transition clauses of 15 years and that this place moved that back to seven years. A compromise reached in the committee, which the Minister saw fit not to refer to, was eight years, so there are dates set by the Government itself on these matters. Therefore, the argument that it would be unusual for the Legislative Council to insist that dates be included in a Bill is a most shallow one when the Government, in its initial Bill and by amendment, has sought to include dates in the first schedule of the Bill.

The Hon. Anne Levy: I said 'in the transition'; it is different.

The Hon. DIANA LAIDLAW: Why should transition provisions be different, because we voted on schedule 1 just as we voted on any other clause in this Bill?

The Hon. Anne Levy: Transition provisions are often different; you know that.

The Hon. DIANA LAIDLAW: We voted on this matter like any other clause in this Bill and I do not see the difference in that sense. Members on this side, and I think the Hon. Mr Lucas was one, argued that they should be included in this Bill and, now that I hear the Minister opposite interjecting in this respect, I am sorry that I did not support him more strongly in that argument. The Liberal Party in this place would argue very strongly that the Government should set an example to other corporate bodies and the community at large in respect of the pollution of our marine environment from land sources. Enormous penalties are now provided in this Bill—up to $1 million for a body corporate. Therefore, I think that if the Parliament is prepared to pass such penalties—and the Minister agreed to such penalties in the conference—then the Government should also set an example in respect of its own practices.

I believe that is the very least that the E&WS Department, as the worst offender in this State, could be doing. In addition, the Minister, during the final stages of the conference, in answer to a question from a member of this place, indicated that the Government had made budgetary provision to meet the December 1993 deadline. I am not one to challenge the Minister's word because, in fact, I would applaud it if it were so. However, if it is the case and the Government has made such budgetary provision, one questions why the Minister would be so upset about including this date in the Bill which, in fact, is 18 months after she announced, at the conference, the Government's budgetary commitment. So, something just does not add up.

In addition, the ultimate difficulty with the Bill is in respect of the specialist committee. I had earlier moved in this Council that we establish a marine environment protection committee on the basis that the Bill required an

enormous amount of detailed work to be undertaken in a very short time on very complex matters. Those circumstances require specialised knowledge and, as the Hon. Mr Elliott explained earlier, all licensees will be required to honour standards and criteria that have been established by regulations which that committee has been involved in drawing up. Therefore, specialised knowledge is required. The Minister insisted throughout that the committee should be under the ambit of the Environment Protection Council (EPC).

As I said before, in essence, the Liberal Party has no major worry with the EPC as set out in the provisions of the Act. However, we do have concerns about the operations of the committee over the past few years, and we accept the statement by the Minister in another place that she wants the committee to be more effective in the future. The Liberal Party will support the Minister in realising that goal. However, we do not believe that the EPC—which has a great deal to do to establish its credibility in this field and in other environmental issues—is the appropriate body to take on such specialised concerns.

Further, I found it most extraordinary that the Minister, for her part in seeking to compromise, suggested that the membership, the functions and the disclosure provisions as provided for in this place by amendment, would all be appropriate matters to be dealt with by a subcommittee of the EPC. I have never seen such a situation where we in this Parliament could agree that a subcommittee of a council should report straight to the Minister with no reference to the umbrella council. I find it quite extraordinary that the Minister would believe that that would appease members in this place. Essentially, it is an unworkable situation. I think that all members in this House of Review would not want to be party to such an unworkable situation. It is my view that it is a sign of no confidence in the Environment Protection Council, notwithstanding the apparent willingness of its Chairman to accommodate the Ministers' wishes to have such a subcommittee with the terms of reference that were earlier insisted upon.

It was this Council's view that there should be a sunset clause in relation to our proposed marine environment protection committee. Initially, we proposed a four year sunset clause and that was brought back to three years. We believe very strongly that that would provide time for the Minister to look at and seek to rationalise all the environmental committees that have been established in this State and to look at the powers, the membership, the functions, the disclosure provisions and the like, and to see how we can achieve not only rationalisation but also some consistency between all these committees and, hopefully, bring them under one umbrella.

We believed, as members of this place, that three years would be sufficient to undertake all that work. We also believed that with a sunset clause on the marine environment protection committee there would probably be time for the committee to be wound up and brought under the ambit of a new umbrella committee. Further, I found the Minister quite irrational towards the end of the conference. The suggestion that she would not support a marine environment protection committee because it would take some six months to set up is bizarre when one considers that she is now prepared to see this whole Bill fail on such a flimsy argument. The sadness is that it will take much longer than six months to see any sort of committee now established in this State.

The Hon. Anne Levy: You're prepared to see it fail.

The Hon. DIANA LAIDLAW: No, we have argued the whole time that for the importance of this committee—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I am not going to accept, as a Legislative Councillor, a most unreasonable—

The Hon. Anne Levy: You would rather have no Bill at all.

The Hon. DIANA LAIDLAW: No, the Minister said—

The PRESIDENT: Order! The Hon. Miss Laidlaw will address the Chair.

The Hon. DIANA LAIDLAW: Thank you, Mr President. I did not need your protection but I appreciate it. I would just argue that this Council made an offer and, at the end, it was the other place and, in particular the Minister, who did not accept our offer. I do not know how the Minister can suggest that it is we who are dropping this Bill. Perhaps the Government is searching for any argument at this stage to legitimise its position. We would argue that six months to set up a committee is a very sad reflection on the lack of action that we have seen from this Government on a lot of environmental issues, in particular, in relation to marine environment legislation. We have been waiting in this State for well over a decade for such legislation.

To think that such a specialist committee would take another six months to set up is totally unacceptable. We would have thought that six weeks was the maximum. However, we now find that we do not have such legislation. That is the Minister's and this Government's decision, and they will have to live with the consequences. The trouble is that the consequences for our marine environment are very sad indeed when one looks at the rate of damage to our marine environment at the present time. This Council was simply seeking strong, effective legislation, and I believe that we are exonerated in doing so.

The Hon. M.B. CAMERON: I wish to say a few words on this matter, because it is one of the most important matters to have come before this Council in this session of Parliament. It is clear that the Government has been tested and found wanting. If ever members needed evidence of what commitment the Government had to the clean-up of the marine environment, they need only look at its own documents, of which it has attempted to deprive the Opposition and the community, to know that it has had warnings going back to 1982 about the effect which it was having on the marine environment and which it has successfully hidden from the public and failed to take action on. It has even attempted to hide further evidence this afternoon. I can imagine somewhere in the department that there is a Sir Humphrey saying to the Minister, 'It would be a very brave act indeed, Minister, to let this Bill drop, and then we will work out how to make sure the Opposition is blamed for it.'

What does the Government do? It comes here today and, contrary to all normal procedures, puts Question Time ahead of the decisions of the conference. The Minister also organises a press conference for 3.30 p.m. to ensure that she does not have to debate the matter in the House in front of the media but can put her little case to the media away from the Parliament. That is exactly what happened today. The Government brought the matter into the House after the time when there is the normal supervision of Parliament. That is another attempt to hide from the public exactly what the Government is doing, that is, its failure to have a commitment to the marine environment. The Government has said, 'We will not put dates in this Bill because it would not be proper.' But, during the election, as I have said before, the Government was happy to have its Minister get up and say in front of the public, 'What is the Opposition talking about, saying that it is going to stop all discharges

of effluent into the marine environment by the year 2000? We are going to do it by 1993.'

An honourable member: Sludge.

The Hon. M.B. CAMERON: That is right. That is where the Minister was misleading to the public. She did not say 'sludge' at that time on radio or on television. She said it to the newspapers, but not to the other media. Therefore, she deliberately set out to mislead the public. She knew that it was impossible to do it by the year 2000 with all effluent. However, in the newspapers—and it is there for all eyes to see—she said that by 1993 this will all be finished.

What has the Opposition done? It has taken the terrible step of putting into the Marine Environment Protection Bill the date that the Minister set. Nobody has done this other than the Minister. As I understand it, from what the Hon. Ms Laidlaw said, the Opposition managers of the conference went a step further and gave the Minister 18 months further than her own deadline—something that I have some qualms about. However, I understand the spirit of compromise that the Opposition has attempted to show.

What has the Minister done? She is prepared, and the Government is prepared, to drop the Bill rather than accept that more than reasonable compromise. That indicates the total lack of commitment by this Government to the marine environment. It is not just now; that lack of commitment has been present for the past eight to 10 years. The Government has sat on reports which indicate that 1 900 hectares of seagrass have been lost at Port Adelaide. It has allowed that damage to continue to the point where now it is said that it is probably not going to extend any further, except that, because the bottom is now absolutely bare, sand will probably start to drift over the entire area of Port Adelaide. What is the impact of that? In the report it is said that it will probably cause further degradation of seagrass because of the sand shifting across the seabed. Does the Government give a damn? No. It has shown that by not being prepared to accept the date for the ending of the discharge of sludge at Port Adelaide.

All the arguments put forward so far in opposition to that are spurious, because the Minister has said in this Chamber that sludge had been pumped to Bolivar for up to three months. If it can be pumped for three months, why stop? Why did it stop? Why was it turned back out to sea? It was done for no other reason than that somebody in the department said, 'That is enough. We have finished with that little experiment. Let us put it back to sea.'

When it went to Bolivar, I understand the argument was that the sludge was too salty. That is absolute bunkum. The amount of sludge that goes back will have no discernible effect on the salt content of the effluent at Bolivar, and it was shown that that was so. If it did have an effect, why was it continued for three months? It happened because the market gardeners, who use 8 per cent to 10 per cent of the effluent at Bolivar, would be going berserk as all their vegetables would be dying in that three-month period. It is just so much nonsense. The Government is absolutely bedazzled by the engineers in the E&WS Department. Because of that, it has no understanding of the need to study the environment in the sea as well as on land. Through its willingness to drop this Bill, the Government has shown that it has no commitment to the marine environment.

It is a damn shame that we have reached the stage where a Bill, which was invaluable, is to be dropped because the Government of the day is comprised of a bunch of hypocrites. The Government of the day knows that it has a very poor record, and it was not prepared to go out and say to the public, 'We are sorry that we have been so tardy, and we are very pleased that the Opposition has finally put some discipline into this Bill.' How can we force the Government to carry out its promise if we do not put it into the Bill? The Minister of the day will issue licences, and the licences will be issued to the Government. We have no way of checking that. Therefore, the way to ensure that the Government has some discipline in these two worst examples—and there are many others which are bad—is to put the discipline into the Bill. The Bill is far too wide as far as the Crown is concerned and it gives far too much leeway to the Minister to make decisions for the Government and not to be subject to the same rigorous promises that it made for itself at the election.

We have attempted to keep the Government honest, and the Government has not been prepared to accept that. No group in this community other than the Government itself is to blame for the dropping of this Bill. The Government has decided not to accept dates for completion of effluent or sludge outfalls to the gulf. The Government has decided that this Bill must be dropped. For the Minister, who claims to be an intelligent person, to stand up in this place and say, 'But we have accepted 51 of the 53 amendments' is just so much nonsense. I have never before heard such an argument put forward by a senior person in this Parliament. It is absolute nonsense to say that. The Government can accept countless numbers of amendments but, if it refuses the two nitty gritties, the whole opposition to the Bill becomes meaningless.

The Hon. J.C. Burdett: That is the merit of each amendment.

The Hon. M.B. CAMERON: That is right. That is the weakest argument I have ever heard.

The Hon. Diana Laidlaw: It is a desperate argument.

The Hon. M.B. CAMERON: Yes; and the Government's desperation was shown by the fact that it deliberately brought this matter on after the normal Question Time; that is the tricky dicky people who work for this Government in relation to the media, but they will not get away with it. The environmental lobby is aware of what the Government is doing. It has had a bit put over it during the years by this Government—and all through Australia this will start to occur—but, when it sees what the Government has done on this matter, it will begin to look at the Government more closely. It will be aware that the Opposition at the last election put forward a very genuine proposal on the stopping of pollution in the marine environment and said that all sludge outfalls from Port Adelaide would be stopped the day after the election. Why did the Opposition say that? Because we knew that it could happen.

The Opposition would use the sea only as an emergency for sludge outfall. It said that it would start to resurrect the marine environment by stopping all effluent outfalls into the marine environment by the year 2000. The Government has accepted nothing. The Government is trying to protect its own *laissez-faire* attitude towards the marine environment, but it will not get away with it. It will end up being hoist on its own petard. I trust that when the Bill comes back, as it will—it will have to come back because the outrage in the environmental community will be very strong indeed—the Government will see that it is in some difficulty.

Let me again describe the sludge disposal system that is available at Port Adelaide because it is very important that we understand that there is an alternative available. I have already tabled a map showing where this outfall, this line, goes to Bolivar. The document states:

> Digested sludge is currently disposed of by pumping to sea via a 200 mm asbestos cement pipe, which follows the route as outlined in Figure 5.7.1. The main was commissioned in 1978 and several mechanical failures occurred as it passed through the wave

zone to its disposal location some [distance] offshore. As a consequence, a 1 km section across the beach and through the wave zone was replaced in 1981 with polyethylene coated steel, which is protected by an impressed current cathodic protection system . . . If failure does occur along the digested sludge to sea line an alternate emergency main is available to transfer sludge from the Port Adelaide Sewage Treatment Works to the Bolivar Sewage Treatment Works. This mechanism is as follows:

It has a plan which I tabled in the Council previously. The report continues:

The digested sludge is pumped into a 100 mm AC pipe from the existing disposal pumps to the eastern side of the works, a distance of 357 m.

At this point the 100 mm AC pipe joins into a 300 mm cast iron pipeline which runs to the Queensbury Pumping Station—this main is a former rising main.

As the Minister, I think, pointed out, it is 50 years old, and the average life of a sewer main is 80 years, so it has 30 years left in it at least. The Hon. Mr Weatherill knows all about that as I understand he is an expert in such matters. The report continues:

The rising main was disconnected from the Queensbury pumping station in 1978 and a 2 321 m section of 200 mm asbestos cement main was laid from its end point at the Queensbury pumping station to a pumping station adjacent to the Cheltenham Racecourse. The pumps in the pumping station relay the sludge to the trunk sewer and hence to the Bolivar Sewage Treatment Works.

This mechanism of sludge disposal has been used intermittently since its availability in 1978.

That is how long the Government has been aware that there is an alternative—since 1978. As I said, 1982 was when it was first warned of the serious damage occurring. Yet, in that time frame absolutely no attempt has been made to upgrade this line if it has a problem. That in itself is scandalous and shows a lack of commitment to the marine environment, throughout this entire period. The report then refers to the ability of this main to carry the amount of sludge that has to be pumped, and makes clear that it is quite within its capabilities. It further states:

Because of its age and previous history, inspection of this main is recommended. The main should be maintained in good repair for use when necessary.

The report does not state anything about whether or not it is in good repair; it just states that it should be maintained in good repair. The report continues:

When the main was last used in 1986, odours generated from sulphide release from the sludge necessitated the installation of temporary chlorination facilities prior to the Cheltenham pumping station. This facility will be necessary even when pumping digested sludge and if this method of disposal is to be used permanently, consideration should be given to the installation of a permanent facility.

5.7.1 Alternative Sludge Disposal Systems

A number of options could be considered for alternate sludge disposal from the Port Adelaide Sewage Treatment Works, if pressure is applied to cease discharging to sea.

This is not a new report; this is at least three years old, and yet even at this stage there is very clear evidence that the Government was warned of the pressure that would be applied to cease discharging to sea. What steps were taken? None! The report further states:

The present method is by far the cheapest and most efficient as far as the Engineering and Water Supply Department is concerned. The options that may be considered include the following:

Upgrade the existing standby main and use it permanently.

Construct a dedicated main to carry sludge from the Port Adelaide Sewage Treatment Works to the Adelaide Trunk Sewer and thence to the Bolivar Sewage Treatment Works or alternatively direct to the lagoons at Bolivar themselves.

Mechanically dewater the sludge onsite.

Extend the existing outfall a further 5 km to discharge in excess of 20 m of water.

The Sewage Treatment Unit should be asked to economically compare these options in anticipation of ceasing to discharge digested sludge to sea.

The Hon. C.J. SUMNER: On a point of order, the motion before the Council is whether the Council should further insist on its amendments. It is not an opportunity for a second reading debate to recanvass matters that have been previously debated. I would suggest that there are rules relating to relevance which should be adhered to by members. I suggest that the Hon. Mr Cameron is straying far and wide from the motion, which is whether or not the Council is to insist on its requirements. The honourable member should come back to what the requirements of the Council were and why the Council should insist on those requirements without recanvassing, in effect, the second reading debate.

The PRESIDENT: I do not see it as a point of order. In her response, the Minister went over what the conference had considered. The motion before the Chair is that the Council respond to why it should insist on the amendments. The Hon. Mr Cameron is talking about why we should insist. The debate was opened fairly generally by the Minister, who went into detail.

The Hon. C.J. Sumner: We shouldn't rehash all the second reading.

The PRESIDENT: I agree. Ministers and members should be aware that once they start opening the debate it goes that way, and the Minister reported on all the amendments. The Hon. Miss Laidlaw went through the amendments as well. It is fairly wide ranging.

The Hon. C.J. Sumner: But he's going off on a whole range of topics.

The PRESIDENT: I cannot take the Attorney-General's point of order at this time.

The Hon. M.B. CAMERON: I can well understand the Leader of the Opposition's embarrassment on this matter—he is leader of the Government but he should be the Leader of the Opposition because he got only 48 per cent of the vote. The Government does not even represent the majority of the State any more. The honourable member is leader of a minority Government.

The PRESIDENT: Order! The honourable member is speaking on an irrelevant topic now. The Hon. Mr Cameron must address the motion.

The Hon. M.B. CAMERON: It may be irrelevant but, if one talks about who has the support of the community in relation to these amendments that we want the Government to accept, we represent the majority. On this side of the Chamber we are the representatives of the majority of the population in this State. Therefore, we have every right to put forward a point of view, and the Leader of the Government should just settle back and listen a little. Perhaps he might learn something and regain some of the support.

The PRESIDENT: Order! The point the honourable member makes is not relevant to this motion. I ask him to confine himself to the motion before the Chair.

The Hon. M.B. CAMERON: Again, Mr President, I do not wish to disagree with you because I know that you are a very wise and learned gentleman in the Chair, but the facts are that the amendments to this Bill were put forward by the Opposition at the election campaign. They gained the majority support of the community, and therefore should be supported by the Government. This Bill should certainly not be dropped because the community has also expressed an opinion.

How often have I heard in this Chamber that the Government has a mandate to do certain things because it has the support of the majority of the population? In this case, the Opposition has a mandate from the people on these amendments. The Government should be listening very

carefully to what we have to say because we are, as I said, representatives of the majority.

Let me go back to what I was talking about and look at the Glenelg sludge outfall which would have been affected also by this amendment. What is the Government doing by refusing this amendment? I think the compromise offered by representatives of this Council was more than fair in allowing an extra 18 months. I will point out what the Government is doing. In a restricted report entitled 'Glenelg sewage treatment works asset management plan' reference is made to risks and the consequences of the failure of key assets. On page xv, the document states:

> The risk of failure of the sludge outfall is considered to be high because the 3.9 km long steel outfall pipe is corroding from the inside due to the effects of sulphate reducing bacteria growing in fissures in the pipe wall. There are already holes in the pipe wall, but the full extent and severity of the corrosion is presently unknown. The consequences of a major failure of the sludge outfall pipe are very significant as it is the only permanent means of disposing of the 600-650 kL of digested sludge that is produced at the works each day, with only very limited standby capacity provided by an emergency sludge storage lagoon. A major failure of the outfall would also have significant consequences in terms of damage to the marine environment and visual pollution, particularly if the failure occurred close to the metropolitan foreshore.

Where is this outfall pipe? It is right off the coast of Glenelg within cooee of the Glenelg beach, yet the Government refuses to accept the deadline that we are trying to put on it to fix this problem. It is prepared to risk damaging the Glenelg beach, perhaps permanently, rather than accepting any legislation in this Chamber.

An honourable member interjecting:

The Hon. M.B. CAMERON: That is exactly what you are doing. Everyone in Glenelg and that southern area is being put in danger of their environment being polluted because of the actions of the Government in this Council today. The Government is dropping the Bill; we are not dropping it. That is a shameful position for this Government to take. The Government is a marine environment vandal of the worst order and its decision today will haunt it for the next six months until it is forced to bring this matter back, to stop listening to the engineers and to start listening to the environmentalists of this State.

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Cameron made a number of allegations about the timing of the conference *vis-a-vis* Question Time that are utterly and completely untrue. I had no discussions with any Minister or colleague about bringing on the report of this conference. I assumed—apparently wrongly—that members opposite would want to have Question Time at the normal time of 2.15 as is customary in this Council. I moved the suspension of Standing Orders to enable Question Time to be dealt with initially and to be followed then by the report on this conference. It was my decision entirely, and I had no discussions whatsoever with my colleagues on the front bench and especially with the Minister for Environment and Planning.

The Hon. R.I. LUCAS (Leader of the Opposition): I would like to place on record my congratulations to the Legislative Council managers who attended this conference on behalf of the Council and, in particular, to the Hon. Diana Laidlaw and the Hon. Mike Elliott who led the debate in the conference on behalf of this Chamber to try to reach agreement.

It is fair to say that the Legislative Council bent over backwards to try to reach an honourable compromise between the two Houses. I am not referring just to a position where one adds up amendments here and there, but where one comes out of the conference with marine environment protection legislation which could be defended and respected by all members who have entered into the spirit of this debate over the past couple of weeks. The Legislative Council managers did not go into this conference with a view of adding up the numbers of compromises on both sides and ending up with a nice little sum by saying, 'We gave way on this and you gave way on that.' They tried to come to an agreed decision while at the same time arriving at legislation of which we could all be proud, and legislation which would improve the situation in relation to the marine environment of South Australia.

I am very disappointed with the attitude of the Minister for Environment and Planning. In her carriage of the Marine Environment Protection Bill, her behaviour and handling of the legislation has done her very little credit. It is quite clear, not just from the proceedings of the conference but from her public comments, that she, as the Minister responsible for this Bill, does not understand the fine detail of her own legislation. Her understanding of amendments moved on behalf of the Government in this Chamber prior to the conference was sadly lacking. She did not appreciate the difference between standards and criteria and conditions attached to licences and relied on other members to explain the details. Speaking as one of the managers, this made reaching agreement somewhat difficult.

As the Hon. Diana Laidlaw directly, and the Hon. Anne Levy perhaps indirectly, have implied, some of the claims made by the Minister were indeed bizarre. The Hon. Diana Laidlaw referred to what in the end was one of the two major points of discussion between the Houses, that is, in relation to the establishment of an independent specialist marine environment protection committee.

The Hon. C.J. Sumner: I thought you were opposed to statutory authorities.

The Hon. R.I. LUCAS: If the Attorney wishes to extend the debate I will gladly talk about that matter. The extraordinary claim was made by the Minister on behalf of the Government that to appoint six persons to an advisory committee and to get it up and running would take six months. If that claim is true, that is a sad reflection on the competence of the Minister in charge of this Bill and on the procedures of this Government.

Some of the managers of this conference were former Ministers who were able to highlight the fact that more substantive bodies, such as the Planning Commission—although I may stand corrected on that—were established by that Minister and others and were up and running in as little time as six weeks to two months. This claim is even more bizarre when one considers that, instead of having an independent specialist committee, the Government chose to have the same six people appointed to a subcommittee of the Environment Protection Council. So, the Government would have had to appoint up to six persons to this proposed subcommittee.

The Minister argued that perhaps they might have to appoint only four persons to the subcommittee. There is no justification at all for the Minister's claim that she could get her subcommittee up and going 'almost immediately', to use her term, and yet the Government would take six months to establish an independent specialist marine environment protection committee. We also heard extraordinary claims about the potential cost of the independent specialist committee and, when questions were put about the cost of the supposedly similar subcommittee of the Environment Protection Council, the Minister was unable to provide that information.

In considering the motion before us and in looking at the disagreement between the two Houses, as we are required

to do on the motion, one can see quite clearly that this Minister and this Government have been dragged kicking and screaming all the way in relation to toughening up the marine environment protection legislation. As the Hon. Mr Elliott and others have indicated, it was a toothless tiger when first introduced by the Minister in the House of Assembly. It has been considerably toughened by the amendments that were passed by a majority of members in this Chamber. These were the subject of further debate and, in some cases, potential compromise in the conference. We have seen the Government move back from its position of a 15 year transitional period to the period proposed of seven or eight years. Indeed, originally the Democrats were looking for a period of five years. As the Hon. Ms Laidlaw indicated, the Council was prepared to move back from its preferred option of seven years to meet the Government's requirement of eight years. As I said, the Democrats had a view that it should be only five years.

The Legislative Council made considerable compromises in relation to a critical part of the legislation, that is, the time within which industry and Government would have to comply with the terms and conditions of the legislation. The Council was prepared to compromise on its fundamental position, established after long debate in this Chamber. The Council—the Democrats and the Liberal Party in particular—had to drag the Minister and the Government kicking and screaming to accept the fact that they could no longer have this cosy little exemption clause that the Minister was keen to have in the original Bill.

In relation to standards and criteria, significant changes have been achieved by the inclusion in the Bill of definition clauses. Again, these were matters that the Minister originally was not prepared to concede. The confidentiality provisions, the penalty provisions and the Marine Environment Protection Fund were all areas where the Bill had to be toughened up. Teeth had to be put into the toothless tiger that the Council had before it, and the Legislative Council managers were not prepared to continue to compromise and to water down beyond a certain position.

In relation to the final two positions of dispute between the Houses, as the Hon. Diana Laidlaw eloquently indicated, the Legislative Council did not go into that conference with the position that 'the Government must accept what we say', even though, as the Hon. Mr Cameron indicated and we all support, that would have been our preferred position. We would have liked to see those tough provisions included further in this Bill, which had been toughened up by the Liberal Party and by the Democrats, against the opposition of the Minister for Environment and Planning in many respects.

As the Hon. Ms Laidlaw has indicated, in relation to the E&WS, we did move back from the deadline of January 1993, December 1993 and to the beginning of 1994. Finally we said, 'Enough is enough; June 1995, an 18 month extension on your promise of 1993, is as far as the Legislative Council is prepared to go.' As the Hon. Mr Cameron has indicated, the Government gained the kudos from its election promise to rid the marine environment of sludge by 1993, so the simple proposition put by the Hon. Mr Cameron was, 'Let us just test the word and the position of the Minister and the Government.'

What sort of feeble excuses were trotted out by the Minister and the Government (and I am sure we will hear them over the coming days) about why we could not put that provision into the legislation? Let us bury one furphy right from the start: the Minister is on the record as saying that there is budgetary commitment to ensure that the Government's promise to stop sludge from all sewage treatment plants will be completed by 1993. Let us put that furphy to rest once and for all, because I am sure the Minister and others will try to trot that out again.

The Minister for Environment and Planning is on the record as saying that the Bannon Government has made a budgetary commitment to stop all sludge from sewage treatment plants by 1993. There is no problem in relation to the funding commitment. That is the Minister for Environment and Planning's position—and we see raised eyebrows from Ministers in this Chamber, but that is the position taken by the Minister in charge of the Bill. That is the position of the Minister responsible for the promise made during the election campaign, so where is the hypocrisy now, when the Minister says, 'We have the money and we are committed but we are not prepared to put it into the Bill'? Not only is the Government not prepared to put 1993 in the Bill, it is not even prepared to put in an 18 month extension to June 1995.

As the Hon. Mr Cameron has clearly pointed out, that position is indefensible. That is a position that the Minister for Environment and Planning and others in the Bannon Government will not be able to defend in the public arena. If they were to argue: 'We made a promise; we told a little porky pie; we wanted to win a few extra votes (a bit like the Homesure thing) but now we have checked the state of the budget and we do not have any money left; it is all the fault of the Tonkin Government, from 1982, that we have run out of money; we do not have enough money; the Federal Government is cutting back funds, etc.,' at least one could give them half a mark for honesty and frankness. But that is not the position of the Minister for Environment and Planning. She is on the record as saying that there is a budgetary commitment for that promise to be kept by 1993. If that is the case, why go to the wall on this matter as well as the other matter addressed by other members?

I do not intend to go over the other matter in any detail. The Hon. Ms Laidlaw and the Hon. Mr Elliott clearly indicated the position of the Legislative Council managers in relation to the difference of opinion regarding the committee. Again, simply, the Council did not go in there with a fixed position and refuse to move. It explored a whole series of options with conference managers from the House of Assembly and, in the end, together with the other matter of the date of the phase out of sludge from the sewage treatment works, the two Houses were unable to reach agreement. As other members have indicated, that is a disappointment, but the decision rests, and rests alone, on the head of the Minister for Environment and Planning, and I am sure she will suffer much criticism, both personally and as a representative of the Bannon Government, in relation to her abysmal handling of the Marine Environment Protection Bill through both Houses, and now in the conference.

The Hon. R.R. ROBERTS: My contribution in this debate will be very brief, because I agree with most of the arguments that have been put forward about the necessity to have legislation of this kind. The Hon. Mr Cameron had canvassed many of the problems and questioned the Government's commitment to the marine environment. That does not stand scrutiny, but it will be futile to go back over those matters. I am asking the Council to support the proposition put by the Minister because it boils down to two suggested amendments. We have talked about the fact that this legislation came to this place in a fairly weak form (as it was put to me, a toothless tiger), and now we have put all the teeth back into it.

I think I may have been at a different conference from other members, because great play has been put on the Minister's commitment to have sludge out of the gulf within three years. Members opposite have tried to create the impression that the Government is not committed to getting the sludge out of there within three years. The point of that part of the discussion at the conference was that the Minister had said quite clearly that the Legislative Council did not have the power to talk about budgetary things and to pass money matters. In fact, that is the responsibility of the Lower House.

By putting these amendents into the legislation, it becomes very clear that the Legislative Council sets commitments on a particular Party that will fall under this legislation. It differentiates between private and Government industry. One can argue that point, but the point of the argument was not whether or not the Government should be treated differently; rather, it was that no Government will take a situation where it will be directed by the Legislative Council in areas of budgetary consideration. That is the simple proposition that we are talking about. If the members opposite were in Government they would not want to accept that situation.

At the conference, which I attended, the Minister reiterated her commitment to have the sludge out of the gulf within three years. The Hon. Mr Cameron has fought so vehemently to have his aims forced through his Caucus to the point that we are going to the wall over the thing because the honourable member has insisted on it. It appears that the Hon. Mr Cameron still wields the whip over members opposite. It is a very simple thing.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: That point should not hold up the passage of this legislation. It has got nothing to do with marine legislation.

The other point we go back to is the EPC. The Liberal Party and the Democrats are saying that the members of the EPC do not hold the confidence of the community—in fact, that was actually stated in parts of the conference. However, I do not subscribe to that theory. I believe that members of the EPC are eminently qualified in their fields and have a great commitment to the jobs that they have done. They have been subjected to unfair criticism in the past and perhaps there may have been some reason for that, because they have never actually had something to really get their teeth into.

I think it ought to be pointed out at this stage that the Minister has given an undertaking that the casual vacancy on the EPC ought to be filled by someone with marine qualifications and that she will do what is necessary, within the schedules, to put another marine expert on that committee. Bar the President and perhaps two others (not just people whom we have dragged off the street but experts in their own fields), that would give the committee the relevant credentials, and those members would add quality to the deliberations. Members opposite are saying that it has a vote of no confidence in the EPC, and they are asking us to reinforce their vote of no confidence. I do not think that is warranted or necessary, and this legislation should not be held up because we cannot appoint another committee.

It ought to be remembered that only last year letters were received from the then Leader of the Opposition (Mr John Olsen) pointing out that there were 438 committees in this State. We now find the Opposition wanting to set up a duplicate committee at a cost of something like $43 000 per year recurring. If you use the Opposition's mickey mouse theory of the sunset clause, we will still be up for $129 000 of taxpayers' money to do the job, when we already have an appropriate committee in place and with a commitment to expand it in order to take in the concerns of marine qualifications.

Members opposite are prepared to let this legislation, which it has defended stoutly, go. We have talked about its importance and how vital it is to the State but, for those two minor points of a political nature, the Opposition is willing to let the Bill go. One matter is designed to appease the Hon. Mr Cameron, and the other one is a matter of pedantic messing about to satisfy the concerns of the Democrats in this place. I think it will be an absolute tragedy if this Legislative Council insists on its amendments and denies the passage of what is essentially the best piece of marine legislation, which has been put before the Parliament on two occasions.

My final point is that the Minister has been accused of lack of commitment. She has brought this legislation to the Parliament on two occasions and has done everything possible to meet the requirements of members opposite. On this occasion it will be foiled by two political things. I urge the Council not to insist on its amendments but allow the legislation through and let the Minister direct her officers to get on with the job of cleaning up marine pollution in South Australia.

The Council divided on the motion:

Ayes (9)—The Hons T. Crothers, M.S. Feleppa, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Noes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw (teller), R.I. Lucas, R.J. Ritson and J.F. Stefani.

Majority of 3 for the Noes.

Motion thus negatived.

Bill laid aside.

STAMP DUTIES ACT AMENDMENT BILL (No. 2)

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Computation of duty where instruments are interrelated.'

The Hon. R.I. LUCAS: I move:

Page 2, after line 27—Insert new paragraph as follows:

(ab) a conveyance that is part of a series of transactions involving separate parcels of property being conveyed by different persons where the Commissioner is satisfied that no arrangement or understanding exists between the persons conveying the property otherwise than to act separately and independently from each other;.

In speaking to this and other amendments during the Committee stage, just to expedite matters and for the benefit of the Minister, I indicate that I spoke at length during the second reading contribution when I outlined the reasons behind the amendments that will be moved later. I will again cover the broad reasons when we speak to the particular clause, but I do not intend to go over all the detail again. The Liberal Party received a number of submissions in relation to this legislation, one of which was from a person experienced in the area of stamp duty legislation. This amendment relates to an important matter raised by that person in their submission.

As I indicated during the second reading debate, there is a question about the way that the current legislation is interpreted in relation to the sale of land. Of course, this Bill extends the legislation into questions of sale of businesses in particular. The particular example which has been

raised with us and which I want to put briefly to the Committee relates to a situation where a person purchases a business, for example, on a particular street and proceeds to purchase the adjoining businesses on either side of that business.

If those transactions have been separate and independent transactions, the three vendors not having being associated in any way and no arrangement having been entered into by the owners of those businesses, but the person chose to purchase those three businesses with the intention perhaps of bringing them together into one business, the argument is put that, based on the precedent of the *Old Reynella Village Pty Ltd v Commissioner of Stamps*, the Commissioner of Stamps could aggregate the stamp duty payable. In that case, the person who purchases those three businesses would have to pay stamp duty at a rate considerably higher than the person would otherwise have had to do if this legislation was not passed.

My amendment seeks to provide an out in relation to this example. The operative words are 'the persons conveying the property otherwise than to act separately and independently from each other'. If the Commissioner of Stamp Duties were to make a judgment that those three people who were selling their businesses were in some way associated, this amendment would not allow for duty to be levied at the current rate and at the lower rate. I am advised by legal counsel that the Commissioner of Stamp Duties, I think in the case of *Jeffrey v Commissioner of Stamps* in 1980, made a judgment in relation to people selling who were in some way associated. I think in that case they were father and son, mother and son.

So, the amendment is drafted to highlight the fact that it should be separate and independent. It attempts to ensure that the genuine transactions that are conducted in the business environment, without any intention of trying to avoid stamp duty payable or the intention of the legislation, are not inadvertently caught up in the change that we are looking at in this legislation. With that brief explanation, I urge members to support the amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment, which seeks to exempt some of the very types of transactions that the legislation catches. Section 67 and its predecessor, section 66ab, operate only where conveyances have arisen from one transaction or a series of transactions. The fact is that to accept this amendment is to risk creating a significant loophole.

The Hon. K.T. Griffin: Rubbish.

The Hon. C.J. SUMNER: Clearly it is. Members will recall—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Which, of course, can be challenged, and the honourable member ought to know that. The Commissioner of Stamps' decision can be challenged, so it is quite wrong to suggest that it does not create the potential for a loophole.

Honourable members will recall that the Parliament had to act in this area previously, when vendors were dealing with real property and using large numbers of transfers to transfer one property. In fact, the Liberal Party itself was engaged in such a procedure a number of years ago as the vendor of a property on North Terrace. I think it used 28 different transfers to convey the one property. The transfers were separately stamped, of course, at a lower rate than one would normally expect—

The Hon. K.T. Griffin: Perfectly legal.

The Hon. C.J. SUMNER: Perfectly legal, but, nevertheless, a tax avoidance scheme.

Members interjecting:

The Hon. C.J. SUMNER: Not an evasion scheme. I was not saying that it was illegal evasion of tax, but it was a tax avoidance device. That is the fact of the matter. What the Government is to do here is attack similar tax avoidance devices in relation to businesses. Indeed, it is interesting to note that an application for the opinion of the Commissioner of Stamps has been lodged today in relation to a business. It states:

> Attached are 100 separate agreements, each relating to the transfer of a one hundredth undivided share in the business known as . . .

They submit that '. . . each agreement be assessed separately pursuant to section 68 (1) of the Act. No stock is involved. Duty avoided, $28 830.' That is what the Government is trying to stop, and I would have thought that most people in the community would accept that it is reasonable to stop that sort of tax avoidance, just as it was reasonable for the Parliament to stop the avoidance that was involved in the transfer of one block of land by the use of a multiple number of transfers separately stamped.

The Hon. R.I. Lucas: We're not arguing against that.

The Hon. C.J. SUMNER: I am just putting the rationale for the legislation.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, we did not have a clause such as that which the honourable member now wants to put in relation to the land transfer. The legislation in that respect has operated satisfactorily. In other words, we closed the loophole dealing with land transfers. We now simply want to close the loophole that has been developed to deal with transfer of businesses. The Government believes that the amendment moved by honourable members opposite could lead to a loophole appearing in the legislation again and, even though honourable members are relying on the discretion of the Commissioner of Stamps—the Bill talks about 'where the Commissioner is satisfied'—the reality is that that can be the subject of challenge and the decision of the Commissioner reviewed. The Government does not believe that any problems occurred without a clause similar to this when the loophole was closed in relation to propery transfers and it does not believe that it is necessary in this case, either.

The Hon. R.I. LUCAS: First, there is no dispute between the Government and the Liberal Party in relation to the sort of example that the Attorney has just indicated; that is, that someone comes along, is selling a business, divides it up into hundred bits and pays a lesser amount of stamp duty as a result. That is not in dispute in relation to the amendment we have before us at the moment. The Bill seeks to cut out that particular minimisation, and that is not in dispute.

The Attorney rests his case on the basis that this already exists as it does in relation to transfers of real property and he argues that there has been no problem under the existing legislation. That is not correct because the submission that members of the Liberal Party, and I guess others, have received in relation to this is that there has been a problem. There might not be a problem from the Government's viewpoint because, as I indicated in my second reading speech, the decision of the Stamp Duties Commissioner in relation to Old Reynella Village Pty Ltd was such that the Stamp Duties Commissioner and, therefore, the Government levied stamp duty and collected it at a greater rate than I believe it ought to have.

In the case of Old Reynella Village, three people, or whatever the number, sold property separately and independently to Old Reynella Village. There was no collusion or association between the persons selling the land to Old Reynella Village. They were acting separately and inde-

pendently. In such a case, if the Commissioner is satisfied that that is so—and there is the protection—why should not the stamp duty be assessed on separate and independent transactions? What has happened with that case is that the Stamp Duty Commissioner has said that, because the company bought those bits of land from separate and independent people, it should be aggregated and, therefore, stamp duty levied at the higher rate. So, a greater amount of stamp duty had to be paid in relation to what was now an aggregated transaction as opposed to independent transactions. Of course, that is not a problem from the Government's point of view, because it means the Government and the Treasury is clawing back more stamp duty. Given the fact that, I think, the Government is down about $65 million or something on its budget estimates at the moment I have no doubt it would like to see—

The Hon. C.J. Sumner: I am just trying to stop rorts, that's all.

The Hon. R.I. LUCAS: If the Attorney wants this debate to descend to this level of—

Members interjecting:

The Hon. R.I. LUCAS: I hope that we can have this debate on the Stamp Duties Act Amendment Bill at a sensible level and not get into the politicking of the issue. From the Government's point of view. it is not a problem because it is getting more stamp duty coming into the coffers. We are arguing and what this submission that various members have received is arguing is that the stamp duties legislation ought to be fair. The Opposition and the Government agree that the other example, where there are perhaps avoidance or minimisation schemes, ought to be cut out, but that in doing that, we ought not to catch up some genuine transactions which do go on in the community and which continue to go on. If we do not put in a provision like this, all that will happen is that the Stamp Duties Commissioner and the Government will continue to aggregate these particular transactions and will claw back more money from the taxpayers of South Australia into the Government coffers.

The Hon. I. GILFILLAN: My interpretation of clause 6 is that there is a very clear injunction that the Commissioner has to be satisfied that there is no collusion of use and that parcels of property, having been purchased, will then virtually have to remain separate and independent from each other to remain exempt from the aggregation and the higher rate of tax. The wording in the amendment appears to me to allow for the aggregation of the parcel of land eventually in the hands of the one owner but that the Commissioner must be satisfied that there has been no collusion between the several vendors and the purchaser so as to look as though there are many separate transactions of purchase of the land.

My understanding of the amendment is that it seems to be a reasonable statement of the Government's intention. However, I ask the Attorney to give me an opinion or a reply to a question that I have. My understanding of the amendment is that, where a purchaser has quite genuinely purchased parcels of land from completely separate vendors and, where eventually those separate parcels of land have been brought together for some particular commercial enterprise in which they form part of a whole, it is the Government's intention that, under those circumstance, those transactions should be aggregated and the stamp duty levied at the higher rate.

The Hon. C.J. SUMNER: If they are completely separate, no; but, if they were done with a view to avoiding stamp duty in the initial transaction, they would be covered, and the Government's intention would be that the legislation should pick them up. However, if they are completely separate transactions and there is no collusion about the sale of the respective properties, the stamp duty would be paid on the separate transactions and not aggregated.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I am not. I am saying that the amendment is not necessary. but it provides the potential. If it is a genuinely separate transaction, there is no problem. We are trying to catch the collusively separate transactions which are designed to avoid tax. I believe that members opposite have misrepresented the effect of the *Old Reynella Village Pty Limited v. the Commissioner of Stamps.* The gist of their argument is that, if a person in good faith buys adjoining properties which are under separate ownership, they could be treated as one transaction even though they are completely different transactions. The Government is saying that that is not the case. It is only where the contracts arise from an underlying transaction, or transactions, that the Stamps Office will aggregate. The proposed section 67 will treat these dealings in the same manner as the present section 66ab, which is what I said previously. We have had this section dealing with the transfer of real property in the legislation now for some time and no problems envisaged by members opposite have occurred.

The Hon. R.I. Lucas: Old Reynella Village.

The Hon. C.J. SUMNER: They did not. On my advice, in the recent South Australian Supreme Court decision in *Old Reynella Village Pty Ltd v. Commissioner of Stamps* there was an example of different vendors but the same purchaser. The court held—and this is important—that the contracts were connected because 'the relationship between the transactions is an integral and not a fortuitous one depending merely on such circumstances as contiguity in time or place'. Clearly, the situation is that honourable members—

The Hon. R.I. Lucas: They were next door to each other.

The Hon. C.J. SUMNER: They were connected, yes.

The Hon. R.I. Lucas: They were next door to each other: that's all that is saying.

The Hon. C.J. SUMNER: No; it was saying that it was an integral transaction, not just a fortuitous one. If it is fortuitous—

Members interjecting:

The Hon. C.J. SUMNER: On the facts of this case, the amendment which the Opposition seeks to insert would not have helped that transaction to overcome the problems outlined by members opposite. That transaction would still have been caught despite the amendment, because the court, I understand—I have not studied the judgment in detail—found that the so-called separate transactions were integral to each other, were part of the same transaction, and were not fortuitously separate transactions. That is what we are trying to cover. We are trying to cover avoidance by separate transactions. As I understand that decision, that is what the court held. The fact is that this amendment would not have helped the purchasers in that case to reduce their stamp duty.

The Hon. I. GILFILLAN: The wording in the Bill is:

> where the Commissioner is satisfied that no arrangement or understanding exists between the persons under which the parcels of property conveyed are to be used otherwise than separately and independently from each other.

Unless there are other qualifying factors, I interpret that as saying pretty clearly that if someone purchased from completely separate and independent sellers parcels of land, which were then brought together to be parts of a farm or of some other single enterprise, they would not be covered by the wording of the clause. Therefore, that property would be aggregated and stamp duty would apply at the higher

rate. That is as I read the English and understand it in this provision. If some other provision reverses that, I shall be interested to hear it.

I have full sympathy with the Government's intention, and I think that I understand the Attorney-General clearly. All three of us seem to be of the same intention: that a *bona fide* independent purchaser of properties, which then become part of a single entity commercial enterprise down the track but in which there is no collusion, should not be covered by this aggregation factor. If I am correct in that assumption, I believe that the Liberal amendment is necessary, because the wording in the Bill, as I read it, is quite specific. It does not matter how soon it may be down the track; there is no time specification.

There could be a retrospective reason to say that someone bought this and now it has all been brought together in a caravan park or in some other development and, bingo, he is charged the higher rate of an aggregation. I am not persuaded by the wording in the Bill. What the Attorney-General says is one thing, but the wording in the Bill is specific: that one can buy bits of land from whoever it is, and they might not have seen each other before, let alone colluded or talked, but if one dares to put those bits together to form a commercial enterprise, one gets hit with the aggregation at the higher rate.

The CHAIRMAN: Are there any further speakers?

The Hon. I. GILFILLAN: Is it true or false? I have made what I consider to be a reasonable analysis of the situation and the Attorney-General sits there mute. Is it right or wrong?

The Hon. C.J. SUMNER: Will you repeat the question?

The Hon. I. GILFILLAN: Do you believe that the wording in the Bill will catch a purchaser of land from several absolutely independent sellers who then puts that land together to form, say, a caravan park?

The Hon. C.J. SUMNER: I have already answered that question. The answer is 'No'.

The Hon. I. GILFILLAN: It is a very strange understanding of English. It says that they have to be used 'otherwise than separately and independently from each other'. If one has three separate bits of land and one is running a caravan park, how can they be run independently and separately? It just will not work. If it is to be run as one entity, unless the Attorney-General corrects me—

The Hon. C.J. Sumner: To which provision are you referring?

The Hon. I. GILFILLAN: I am referring to clause 6. The Opposition is attempting to reword new section 67 (2) *(a)*. It is the specific one that we should have been considering. The Attorney-General has perhaps not had it put before him. It might be a good idea if he reads it.

The Hon. C.J. SUMNER: I am not sure what the honourable member is talking about. Clause 6, which puts in a new section 67 in place of sections 66a and 66ab, deals with an exception to the basic rule. It provides that, where property is being conveyed in separate parcels to different persons by separate conveyances, the duty is levied on the separate parcels, not on the aggregation. That is the answer that the honourable member wanted, as I understand it.

The Hon. I. GILFILLAN: I am prepared to admit that I probably misread the wording of this new subsection. There is an example set previously in this place which is somewhat infectious. I acknowledge that the actual wording relates to a conveyance to different people and I assumed it was a purchase from different people; I stand corrected. The question which I asked and which the Attorney-General claims to have answered is that there is protection elsewhere in the Act in cases that the Opposition and I seek to protect.

I recognise that the Opposition has raised a point with which I have sympathy. If the Attorney-General can persuade me that there is protection for that sort of activity elsewhere in the Act then I will not see the need for the amendment.

The Hon. R.I. LUCAS: In response to the question from our viewpoint, the Liberal Party is not seeking to remove paragraph *(a)* but to insert a similar provision *(ab)* which is in our amendment. The Government provides under paragraph *(a)* that in general terms if a person transfers a business and it is split up in 100 to avoid duty and it then does not go to separate and independent people, then that person will be levied at the aggregated rate; that person will be caught. That is the intention of the legislation. However, if the Commissioner then decides that, if a business is sold and divided in half a dozen portions and then goes somewhere else, and the business is sold to six others not for the purposes of avoiding stamp duty, there is a provision under the Bill to allow that transaction to go ahead. So one does not get caught with aggregation.

If a business is split up in a hundred or a thousand bits to avoid stamp duty then that person will be levied at the aggregated rate. That is the intention of the Bill. This Bill makes an allowance for the Commissioner to satisfy himself that, if there are separate and independent transactions (that is, one has a business and sells it to separate and independent people), then that person does not get caught with aggregation. All we are saying is that there ought to be a reverse example where one buys three separate businesses. All we are saying is that, in exactly the same way there is a discretionary provision under paragraph *(a)*, if one one buys three adjoining blocks of land for a development or three businesses for a super-deli or something, and they are separate and independent (there has been no collusion or association from the vendors in this particular case), then one should not be caught with aggregation and the higher rate of duty. In that case the lower level of duty for three separate transactions should be paid.

The Hon. I. GILFILLAN: Can the Attorney-General assure me that there is protection for that type of transaction in this legislation?

The Hon. C.J. SUMNER: I do not quite understand what the debate is about because if they are genuinely separate transactions the legislation does not apply. In that case stamp duty is not paid. However, if they are connected transactions then stamp duty ought to be paid at the aggregated rate.

The Hon. I. GILFILLAN: Does not that same comment apply to that provision that I misinterpreted? What is good for one is good for the other.

The Hon. C.J. SUMNER: The Commissioner of Stamps instructs me that this provision was put in the Bill to deal with particular situations. In a special situation where there were two purchasers and one vendor, the transaction could not go ahead because they were inter-related purchasers in rural properties, for instance. There were two purchasers of the one property because they wanted to buy properties to aggregate with the farms that they already had in the vicinity. The provision was put in as an exception to assist rural purchasers in those circumstances so that they did not have to pay the aggregated stamp duty.

It was just to accommodate their particular problems by inserting the proposed section 67 (2) *(a)*. The Government does not believe that it ought to go beyond that circumstance. We get back to the situation that if they are genuinely separate transactions then there is no problem.

The Hon. I. GILFILLAN: I feel that it is inappropriate for me to support the amendment, purely because I believe

that the Attorney-General has now articulated the situation into *Hansard*.

The Hon. L.H. Davis: Incorrectly.

The Hon. I. GILFILLAN: I am not sure that it was incorrect. I think his last interpretation was right, and there is the assurance from the Government that it is not its intention to catch this sort of transaction. Our position is that the Government has had a chance to digest the implications of this amendment. If there are examples of this aberration of the legislation, I believe we could move successfully to amend it then, if need be. I very much hope that the Attorney-General's assurance is adequate to ensure that it does not apply where it is obviously not intended to apply. Our intention is to oppose the amendment. I make plain that I support the intention of the amendment and accept the assurance of the Attorney-General that the current Act and the intention of the Government is in line with the intention of the amendment.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 2, line 33—After 'sale' insert 'relating to property situated in the State'.

As I indicated in the second reading debate, we have received a submission in relation to this aspect of the legislation. The submission states that if a business that has been sold, for example, that might have property and plant in South Australia and in Victoria and there might be two contracts for the sale of that business, one in South Australia and the other in Victoria, under the terms of the Bill, if the amendment goes through, the Commissioner of Stamps may be able to argue that he will assess duty on the instrument in South Australia for the whole value of the transfer of the business in both South Australia and Victoria.

As I indicated in the second reading debate, as I understand it the Commissioner of Stamps may well argue that this is not the current practice in South Australia. We take the view that, whilst it might not be the current practice in South Australia (and we would seek confirmation of that from the Attorney-General), we believe that that does not in any way bind future commissioners and their interpretation of the legislation. We believe that for fair tax and duty legislation it ought to be clear in the legislation what is intended with respect to circumstances such as the one I have outlined.

The Hon. C.J. SUMNER: The Government opposes the amendment. The scheme of the Stamp Duties Act historically has not been to put into place any specific territorial nexus. The current Bill is drawn in a manner consistent with the existing provision and it would seem to me that to start inserting a provision for a specific territorial nexus just in relation to this particular issue would be undesirable. If it is desired to do that in relation to the whole of this sort of legislation, it ought to be done comprehensively and be properly considered. I do not think there is any basis for changing at the moment, in an amending Act such as this, the policy that has existed in relation to stamps legislation in South Australia previously.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

The Hon. R.I. LUCAS: Is the Attorney-General giving an indication that at some time in the not too distant future the Government will look at this question of territorial nexus?

The Hon. C.J. SUMNER: No.

The Hon. R.I. LUCAS: In that case, will the Government look at the question of territorial nexus in relation to the sort of question we have raised for this amending Bill and others?

The Hon. C.J. SUMNER: If there were to be a review of the Act the matter could be examined, but such a review is not anticipated at the present time.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 3, lines 4 and 5—Leave out ', or is otherwise engaged or concerned in the preparation or certification of,'.

Proposed section 67 (5) provides:

A person who executes, or is otherwise engaged or concerned in the preparation of certification of an instrument chargeable with duty under subsection (3) and who, upon submission of the instrument to the Commissioner for stamping, fails to disclose the total consideration (if any) given and the whole of the property included in the transaction or series of transactions in connection with which the instrument is executed, is guilty of an offence. Penalty: $5 000.

Again, as I indicated during the second reading (and I will not delay the proceedings of the Committee too much) the Liberal Party's view is that it is fair enough that the person who executes an instrument ought to be covered by this provision and, therefore, potentially subject to that penalty I have indicated but, because of some of the problems in relation to this legislation, we believe that it would be unfair to extend it beyond the person who executes the instrument to someone who is otherwise engaged or concerned in preparation or certification. In certain circumstances it may well be that the adviser or consultant to the person who executes the instrument is not in a position to know all that he or she ought to know and, therefore, it would be unfair in our view for that person to be caught up under this provision and be guilty of an offence with a potential penalty of $5 000.

The Hon. C.J. SUMNER: The Government opposes this amendment. The effect of the Leader of the Opposition's amendment is to remove liability from agents acting for the parties—agents such as lawyers—who may be seeking to avoid duty. The fact is that at seminars on stamp duties, speakers caution professional advisers to make sure they do not breach the provision. It is an effective deterrent and, I believe, an important one. Lawyers or other agents involved in the preparation of documents should not be involved in actions which can have the effect of avoiding stamp duty and, if they do, they ought to be liable for it.

One only has to look at the use that was made by lawyers in the notorious 'bottom of the harbour' schemes and other tax avoidance schemes that have been prepared in the past. I do not think we should be exempting from liability the persons who are involved intimately in the transaction and preparation of the documentation, I should say that the proposed subsection in the Government's Bill inserts an offence provision which is of the same wording as the present offence provision. So, if the honourable member's amendment is accepted, there would be a retreat from the liability provisions which are already in the legislation.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 3, line 12—Leave out 'and could not reasonably have been expected to know'.

This amendment provides for a simpler test for the defence; that is, that the defendant did not know. If the defendent did not know that will thus be a defence against the penalty.

The Hon. C.J. SUMNER: The Government opposes this amendment. It would significantly reduce the effect of the provisions by ensuring that an agent who deliberately stuck his or her head in the sand so that he or she did not know what was happening, could avoid liability. The present subsection in the Government's Bill inserts the defence which

has the same wording as the present provision, that is, the provision that is in the law at the present time.

I think it is reasonable to expect agents to have taken steps, and to be diligent enough, to know what the transaction is all about. Their defence applies if they could not reasonably have been expected to know the matters that give rise to the defence. I do not agree with the honourable member's suggestion, namely, that the words 'could not reasonably have been expected to know' should be deleted, as it would provide a defence where the defendant did not know, that is, the agent did not know, no matter how conscientious or reckless or negligent he had been.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 3, after line 16—Insert new subsection as follows:

(9) This section applies in relation to instruments executed after its commencement.

This is a simple amendment, relating to what we see as ensuring that there is no retrospectivity to the Bill before us. The amendment is similar to a provision in the Stamp Duties Act Amendment Bill (No. 3) and is certainly similar to various other amendment Bills that this Chamber has debated over recent years. I will not bore the Chamber with details of the respective sections of the Act as those matters are not in dispute. The Opposition is simply saying that this new provision ought not to have even an element of retrospectivity in it and it ought to apply only to instruments that are executed after the commencement of the Act.

The Hon. C.J. SUMNER: There is a problem with this amendment. It is not that the Government wants retrospectivity. Apparently, however, the ever alert avoiders of stamp duty, if they are faced with a provision such as this, backdate their instruments. The Commissioner of Stamps advises me that he wants it to apply from the date of the production of the documents to him. We accept there ought not be any retrospectivity, but the problem is, apparently, that people backdate their documents, and that may not be illegal (it might be fraud in certain circumstances) but how do you catch them? That is the problem.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. I assume, from what the Attorney just said, that this section applies in relation to instruments lodged after its commencement.

The Hon. C.J. SUMNER: Yes.

Amendment negatived; clause passed.

Clause 7 passed.

Clause 8—'Repeal of section 69.'

The Hon. R.I. LUCAS: I move:

Page 3, line 20—Leave out 'repealed' and substitute 'amended by striking out "Subject to sections 66a and 66ab," and substituting "Subject to section 67,".'

This amendment seeks to repeal section 69 of the Stamp Duties Act. The Opposition will oppose the clause, and the practical effect of that will be to retain section 69. As the members involved in this debate will be aware, I read from a submission in the second reading debate arguing what I contend to be a persuasive case for the amendment that we have before us. In simple terms it argues that there are a number of cases where confidentiality of commercial information is a requirement and, if section 69 is retained in legislation, it can allow for that confidentiality of commercial information. For these reasons the Liberal Party moves the amendment.

The Hon. C.J. SUMNER: This amendment is opposed. Section 67 of the Bill already provides that the Commissioner may apportion duty between the various instruments. Unfortunately, attempts are made by some members of the legal profession to use section 69 and its apportioning provision to defeat *ad valorem* duty payable under the Act. When apportioning duty, in considering which instrument to place duty upon, the Commissioner will consider any submissions from the taxpayer. Existing section 69 is therefore not necessary and may be removed.

The Hon. I. GILFILLAN: I am somewhat daunted to put this in *Hansard*, but I have not the faintest idea what issue we are currently determining.

The Hon. C.J. Sumner: Don't worry about that.

The Hon. I. GILFILLAN: We will see that in *Hansard*. The Hon. Rob Lucas claimed that this amendment is related to confidentiality, and it means that one will have to refer back to the Act, and I confess to not having been able to do that. The Attorney is assuring me that the amendment would allow a continuing rort. I indicate that it is the Government's Bill and, if the Attorney is content that this is the right course of action, I will be led by his judgment on this one occasion.

The Hon. C.J. SUMNER: The position that has been put to me by the Commissioner of Stamps is that when a series of documents, such as a contract and a transfer, have to be stamped, they have had a case where lawyers have come along and said, 'You stamp the contract.' The Commissioner of Stamps stamps the contract and then the lawyers who requested the stamping of the contract object to it and say, 'You should have stamped the transfer.' Apparently, a case on that is heading into the courts. As I said, we would be a lot better off if there was a lot fewer lawyers trying to rort the system under stamp duties legislation. But, they continue to do it. While we have lawyers advising people how they can get around stamp duty legislation or other tax legislation, we will continue to have these problems.

The Hon. K.T. Griffin: We will never get rid of all those.

The Hon. C.J. SUMNER: We may not, but some lawyers ought to adopt a little more of a social conscience in respect of these matters.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Nothing. I am not quite sure what the honourable member's proposition is. From our point of view, that is the problem which we are trying to resolve by repealing section 69.

Amendment negatived; clause passed.

Clause 9 and title passed.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 3 April. Page 1065.)

The Hon. R.I. LUCAS (Leader of the Opposition): Whilst the Liberal Party supports the second reading of this Bill, we will move a number of amendments during the Committee stage. The Bill seeks to counter what the Government describes as a blatant tax avoidance scheme, although many people in the community might argue that what the Government is doing in this legislation is seeking to protect its taxation base. Whilst the Liberal Party supports the general intention of the Bill, as we argued in relation to the Stamp Duties Act Amendment Bill (No. 2), we believe that there may be some unintended consequences of the legislation that need to be considered closely before approval by the Parliament.

Under the current Act, when company shares are transferred stamp duty is charged at the rate of 60c per $100, whilst on conveyances of land the *ad valorem* rate of duty is charged at the progressive rate of up to $4 per $100. This variation in the rate of duty payable provides an incentive for people to ensure that transactions consist of transfer of company shares rather than parcels of land. Evidently, there has been a number of examples where land has been placed in company ownership and prospective purchasers have been offered a transfer of the company shares rather than the land directly. I am advised that there is a second advantage to this scheme in that, in valuing the shares, the net value of the fund of the company is used, involving a significant reduction in value of the duty that is payable.

The second reading explanation of the Minister notes that three recent cases, where the rate differential has been so exploited, have resulted in a revenue loss to Treasury of $1.3 million. The Government also argued that there has been an increasing use of such schemes by landowning companies or unit trusts to facilitate the transfer of real property. This Bill provides that certain of these transactions involving transfer of real property by way of shares in an unlisted company or units in a non-listed unit trust will be taxed at land conveyance rates rather than, for example, the lower rates assessed on transfer of company shares.

A range of criteria is included in the Bill to try to ensure that it only stops schemes and does not impact on the average property transaction. The Bill also contains a number of exemptions to ensure that it does not impact on a range of well established transactions, such as liquidations. I note that this Bill, unlike the Stamp Duties Act Amendment Bill (No. 2), ensures that there is no element of retrospectivity in its application. The Bill will not apply to any acquisitions occurring before the commencement of the new provisions or even any acquisitions arising out of an agreement entered into before the commencement of the new provisions. New paragraphs *(a)* and *(b)* of new section 93 cover this aspect of the legislation.

One other matter worth noting is that the Bill is modelled on similar legislation in other States and I am advised that all other States and Territories have enacted similar legislation to prevent similar schemes. As with most stamp duty legislation, the Liberal Party has received a comprehensive submission from one particular person who has wide experience in the field. As a result of this submission and others, we intend to move a range of amendments during the Committee stage.

There are five principal areas to be covered in these amendments—and given that we will debate the Committee stage of the debate, I presume tonight (perhaps after the dinner break), I do not intend going over them in too much detail during the second reading stage. We will use the submission that we have received to argue the case in Committee. The first principal area is that an exemption should be provided to primary producers along the lines of similar provisions in Victorian and Northern Territory legislation. The second area is that under new section 94 (5) relevant property that has been held by the company for a period of not less than 12 months should be excluded from the computations.

The third area is that, as a result of a recent court decision that I will outline during the Committee stage, new section 94 should also be amended to ensure that 'property' is defined to include any asset. The fourth general area is that new section 101 should be amended to include a measure of reasonableness in the provision of penalty where duty has not been paid. Fifthly, paragraph *(a)* of new section 105 should be redrafted to protect the position of people who inadvertently become liable to lodge a statement having been deemed to have acquired a relevant acquisition in a land-holding company.

As I indicated at the outset, this Bill will be principally a Committee Bill so, using the submission that we have received, I will expand on the arguments for these amendments during the Committee stage of this Bill. I support the second reading of the Bill.

The Hon. K.T. GRIFFIN: Like my colleague, the Hon. Robert Lucas, I indicate support for the Bill. Whilst I do not want to deal with the substance of it, I want to make the observation that the second reading explanation by the Minister is quite false; that the legislation is brought in on a false premise; and that it is categorised as legislation to counter a blatant tax avoidance scheme. The fact is that it is not meant to do that—it is, in effect, and in fact, to introduce a new head of duty.

I would have thought that the Government would have the honesty to admit that that is what it is doing. It is dealing with a situation where the arrangements for transfer of company shares, where the companies have substantial land-holdings, have been permitted under the law for many, many years, if not ever since stamp duty has been around, and that this legislation has been introduced to bring in line the South Australian law with that in other States and is designed to increase revenue collections. That is where it rests: it is not designed to deal with what the Government has categorised, quite falsely, as a blatant tax avoidance scheme.

The fact is that, where companies own land, since stamp duties have been around individuals who own shares have been entitled to transfer those shares. A different rate of duty has been applicable to those shares. Regardless of the assets that the company holds, that rate of duty has been very much less than the *ad valorem* duty on a conveyance of land. I see that the transfer of shares in a company rather than transferring its assets is a quite proper and legitimate course to follow. If the law makes a distinction between the rates of duty on transfers of shares as opposed to transfers of land, then that is an area of the law that has to be addressed.

The fact that also has to be acknowledged is that, for a company to acquire land, it has had to pay *ad valorem* duty on the conveyance to it of land. In the sale of the company, generally the whole of its assets and not just part of them are sold and, if part of the assets are not sold, they then have to be transferred out of the company as assets at an *ad valorem* rate of duty. As I say, this has been the position for many, many years.

I want to put that on the record, because one cannot avoid the impression that one gets from the second reading explanation that there is something of a smokescreen by the Government and that the better assessment of the object of this legislation is really to introduce a new head of duty.

So, there are other aspects of the Bill which my colleague has already addressed and which will be dealt with in Committee. There are a number of amendments that seek to improve the provisions and to ensure greater equity in the way in which they are applied. It is a matter of policy for the Government as to those areas of duty which it will seek to increase or reduce and those transactions which it will seek to tax. Therefore, I do not make any specific reference to that; it has to stand and fall on its merits and the Government takes responsibility for that. However, in terms of the way it is sold, I think there ought to be some openness in the way in which it is dealt with and I would claim that

in respect of this legislation that has not been the case. I support the second reading.

Bill read a second time.

[*Sitting suspended from 5.57 to 7.45 p.m.*]

POLICE SUPERANNUATION BILL

Adjourned debate on second reading.

(Continued from 3 April. Page 1070.)

The Hon. L.H. DAVIS: The Opposition supports this Bill, which seeks to introduce a new superannuation scheme for police in South Australia. The introduction of this Bill follows on from the recommendations of the Agars committee into South Australian public sector superannuation. This report was made public in April 1986. Already this Council has seen the passage of the South Australian Superannuation Scheme, which governs superannuation for public servants in South Australia. This Police Superannuation Bill seeks to cover very much the same ground that has already been traversed in the South Australian Superannuation Scheme. There are very many similar provisions.

Put in its broadest form, this Bill introduces a lump sum scheme rather than the existing pension scheme. There is a bias towards the lump sum, with a maximum pension on retirement after 30 years of service of seven times salary. After adjusting for a 10 per cent loading for shift work, that is effectively translated to 7.7 times the maximum benefit at age 60. The Act recognises the extraordinary cost of the police pension scheme, which matter was dealt with in the second reading explanation and was covered in some detail by the Agars committee.

It is pleasing to note that there has been a significant reduction in the cost to the Government and, therefore, to the taxpayer in this scheme. Rather than the 21 per cent of member's salary, which is presently involved in funding the police pension scheme on a pay-as-you-go basis, the cost under this new scheme will come back to 12 per cent of member's salary. That is not dissimilar to the provisions of the recently enacted South Australian superannuation scheme. I believe that the conditions of entry into this superannuation scheme are attractive for the members. Someone 20 years or under will pay 5 per cent of salary, and that rises to a maximum of 6 per cent of salary for those over the age of 25 years entering the police force.

Before dealing with the scheme, I wish to reflect briefly on some of the comments which were made by the Agars committee. It is history now, but it is worth bearing in mind that this inquiry into the South Australian public sector superannuation scheme came about directly as a result of pressure from the Opposition, which introduced a motion to have a select committee or a public inquiry into the public sector superannuation scheme, given the extraordinary costs to the taxpayer. I made a statement at the time—I am talking of 1984-85—that the South Australian superannuation scheme could be said to be the most generous public sector superannuation scheme in the world. The Government recognised the merit of that argument and it has grasped the nettle. It is pleasing to see that the South Australian superannuation scheme, at least now, is much better costed and is more in line with private sector schemes.

The key recommendations of the Agars committee were that the Police Pensions Fund, along with the South Australian Superannuation Fund, should immediately be closed to new entrants for the purpose of containing the Government's costs in that scheme, which it admitted was significantly better than most schemes in the private sector; that new schemes should be set up for both the South Australian Superannuation Fund and the Police Pensions Fund; that the new scheme should be for a pure lump sum scheme with the promised benefit of seven times salary at age 60 based on 35 years' contributory service; that that should apply for the Police Pensions Fund and the ETSA superannuation scheme; that the three pension schemes—the State public sector scheme, the Electricity Trust scheme and the police scheme—should introduce an option of commuting up to 100 per cent of pension for retiring contributors as soon as possible but no later than 1 January 1991 and an option of commuting up to 50 per cent of pension for retiring contributors as soon as possible but no later than 1 January 1987.

There was discussion regarding retirement age in the Electricity Trust and the South Australian superannuation scheme. Retirement after age 60 is not possible in the police pensions scheme under police regulations. In both the ETSA and the State superannuation schemes, the benefit increased by one-ninth of 1 per cent for each month over age 60, so that the age 65 maximum benefit is 73.3 per cent of final salary. Once a person reaches age 60, or has 30 years contributory service, employee contributions to the funds cease. I raise the matter of retirement age because quite recently we passed legislation with respect to age discrimination. This Government, against arguments which were put quite forcefully on this side, has opted for a measure which will see standard retirement ages abolished within two years. Clearly, this has a consequence for conditions of employment in South Australia and, indeed, for the costing of superannuation funds.

What does it mean? Whilst experience in North America and Canada is clear, namely, that the abolition of standard retirement age has done very little to alter the pattern of employment and retirement in those two countries, one cannot necessarily say that with confidence in Australia given that there might be differing social and economic conditions. Therefore, it is pertinent to ask—at least in the Committee stage of this debate—whether the Government has taken into account this measure, which has recently been introduced with respect to age discrimination, in the costing of the superannuation scheme, but, more particularly, in the provisions for the retirement of policemen.

Another matter which was addressed in this very thorough public sector inquiry into superannuation, which was tabled in April 1986, was commutation—the conversion of all or part of a pension into a lump sum. The percentage of pension which can be commuted—and that is a matter that we will deal with in the Committee stage—is prescribed in legislation with conversion factors prescribed either in the legislation or established by the actuary for the funds. Traditionally in public sector schemes in South Australia the maximum commutation rate had been 30 per cent. As the Agars committee argues on page 66 of its report, the ethos of this is that 30 per cent roughly approximates to that portion of the benefit attributable to the employee's contributions. The committee goes on to say that one of the major factors in the high cost of the public sector pension schemes is the ongoing cost of updating contributor and spouse pensions in accordance with CPI movements over an increasing life expectancy. In relation to police pensions, a little known provision of the existing scheme was that the CPI adjustment on pensions was not at 100 per cent of the movement in the Consumer Price Index; it was in fact 133 per cent of the CPI. This straight away meant that the cost to the Government of maintaining the pension was much higher in the case of the police pension

than in the other two major public sector schemes, the South Australian superannuation scheme and the Electricity Trust scheme. There were arguments against 100 per cent commutation, and the Agars committee referred to them. One is that some people prefer pensions and another is the initial cost in terms of cash outflow by the Government.

Another problem to which the Agars committee alluded on page 67 of its report was the effect of the Federal Government's tax on lump sum payments. Whilst it was minimal at the time of the tabling of this report in 1986, quite clearly by the time this legislation comes into effect, and increasingly during the '90s, the impact of Federal Government taxation measures on lump sum will be much greater, something which has to be taken into account. The Agars committee observed a provision of 100 per cent commutation as a solution to containing Government costs only if lump sum remains attractive.

The Agars committee actually took some figures out to show that, in the case of an employee retiring on $30 000 with the South Australian Superannuation Fund, the Electricity Trust or the Police Pensions Fund, if they had a comparable level of service, assuming maximum benefits and given that police pensions had an increase of 133 per cent of the rate of the CPI in each year, at the end of year two the retired police employee would have a fortnightly pension of $623.07 against the Electricity Trust employee of $570.76, and the South Australian Superannuation Fund employee, $584.61.

In other words, that was a real demonstration of the cost of indexation to the public purse and ultimately to the taxpayer of South Australia. This was obviously a very persuasive argument which led to the Agars committee recommending against pensions.

In other words, because of the extraordinary costs of indexation and the ongoing cost of indexation, the lump sum scheme actuarially is far more attractive to Governments of whatever persuasion. Quite clearly, though, there is the counter argument that a rash of retirements with large lump sum payouts could put some pressures on Treasury. Certainly, that was accepted by the Agars committee.

It also discussed disability. It made the point that in the Police Pensions Fund a lump sum and a reduced pension, with commutation providing the opportunity for some lump sum, was available for people retiring with disability/invalidity although this was not the case in the Electricity Trust or the State Superannuation Fund. The committee made comment about the high level of disability in the Police Force. It recognised that disability retirement in the Police Force would understandably be higher than perhaps other parts of the private sector.

On page 93 of the report, it stated that some inducement was necessary in the age 50 retirement benefit to avoid the situation where employees at age 50 endeavour to be retired on the grounds of ill-health rather than age. It believed there was a tendency in the Police Force for that to occur. It went on to say that the saving of having a police officer retire on account of age at age 50 as opposed to ill-health retirement is such as to warrant a small increase in the age 50 retirement benefit. Therefore, it recommended the introduction of an age 50 retirement benefit into the Police Pensions Fund which should only be available in a lump sum form for retirement after age 50 and before age 55.

I have picked out a few of those points of the Agars committee because I am pleased to see that many of the recommendations of the committee have been adopted in the Bill before us. As someone who on more than one occasion has criticised the inadequacy of the explanation of a Bill contained in the Minister's second reading, I must say it is a pleasure to read such a thorough and detailed description of the proposed new police superannuation scheme. It is one of the more thorough explanations that we have had in this Chamber during this session. There can be little doubt about that.

However, I must make the following criticism. In looking at the Police Pensions Fund, which is a large fund, we have been disadvantaged as an Opposition in not having the full details of that fund for the 1988-89 year. I find this a scandalous situation. It is a matter which the Attorney-General knows I have complained of for a period of many years. The Government Management Act requires statutory authorities, agencies of Government, to report within a three-month period after the end of the financial year. Yet, we are into April, 9½ months after the end of the financial year, without the annual report of the Police Pensions Fund. Certainly the matter is addressed to some extent in the report of the Auditor-General for the past financial year. I accept that, but it is not the same as having the detail of the investments the fund currently holds and other relevant information. I am most critical of that. It is a slack and arrogant attitude of the Government to this very important matter. If public companies in the private sector are expected to observe standards—as indeed they are—in reporting publicly within a certain time, that should also be true of the public sector. Indeed, there is legislation requiring it to do just that.

If we look at the Auditor-General's Report for the past fiscal year we see that the Police Pensions Fund is a large fund. As at 30 June 1989 it has net assets of some $75 million. It is perhaps somewhat curious that nearly $31 million of those net assets, or a figure over 40 per cent is held in cash, in deposits, in bank bills and in term deposits. I find that slightly curious, but without fuller details it is hard to make much more of that point.

It is also difficult to comment on the nature of the investments and the performance of the fund. For many years it was a fund which badly underperformed because it was so conservatively managed. Its finances were invariably directed into fixed deposits and there was very little provision for capital growth investments. Over recent years it is true that there has been a steady movement towards capital linked investments with an element of capital growth.

The former Public Actuary had a penchant for indexed linked investments, perhaps alone of all major investment groups in Australia. I do not think I am doing Mr Ian Weiss a disservice in saying that he had a particular penchant for indexed linked investments. It can be said that the Police Pensions Fund reflects the South Australian Superannuation Fund in its mix of investments with indexed linked investments, Government securities, public authorities securities, a heavy dose of indexed linked land and buildings, and a small number of shares and convertible notes.

As I have mentioned already, there is a very large amount of money at call or on term deposit or in bank bills. So, we are not talking small amounts here.

This is an important Bill and it is useful to note that at 30 June 1989 there were 3 417 police officers contributing to the fund. I seek leave to have inserted in *Hansard* a table which I assure the Council is of purely statistical nature.

Leave granted.

POLICE PENSIONS FUND RECIPIENTS

	June 30 1989	June 30 1988
Pensioners:		
Normal	378	352
Invalidity	243	236
Spouses	244	243
Allowances: Children	49	49
	914	880

The Hon. L.H. DAVIS: This table sets out the number of ex-police officers, spouses and children in receipt of pensions, as at 30 June 1988 and 30 June 1989. At 30 June 1989 there were 914 pensioners or children receiving allowances under the Police Pensions Fund. That is not a large number compared with the South Australian Superannuation Scheme but, nevertheless, it does involve a significant outlay of funds on an annual basis. What is of particular interest to me is that this table that I have just inserted in *Hansard* indicates there are 378 normal pensioners, 243 invalid pensioners, 244 spouses and 49 allowances to children.

It is interesting to note that in the three years 1985-86, 1986-87 and 1987-88, more police have retired on the grounds of invalidity than on the grounds of age. In those three financial years (and I do not have the last financial year), 1985-86 to 1987-88 inclusive, 96 police retired on the grounds of invalidity, compared with only 83 retiring on the grounds of age. That is an interesting statistic. I think it reflects to some extent the inflexibility of the existing pension scheme. I would hope that it reflects no more than that, but it is a matter perhaps worthy of comment and of further discussion at the Committee stage.

In examining the thrust of this Bill, one can see that the essential element is to close down the existing pension scheme and to establish a new scheme for new entrants. The cost to the Government, as I have indicated, will be 12 per cent, as against the 21 per cent of members' salaries on a pay as you go basis. The Agars committee feared that if the existing scheme had been allowed to continue, the cost to the Government would increase to 22 per cent by 1996 and that by the year 2026 it would have ballooned out to 40 per cent of the police payroll, which is clearly unacceptable. Because this scheme was even more expensive than the other two major public schemes which I have mentioned, this new pension scheme has been introduced.

The existing scheme had had such a significant shortfall that it had not been able even to meet the cost of pension indexation provisions. Of course, that is a very significant amount, given that the indexation provision was 133 per cent, not 100 per cent, and given also that in the past few years, certainly up until the October 1987 crash, there had been very high earning rates on most superannuation funds throughout Australia.

On the information that I have so far provided, one could be forgiven for thinking that this Government scheme was extraordinarily generous. To be fair, however, one should recognise that, although it did have significant advantage to the retired police employees, there was a distinct lack of flexibility in the pension scheme. The member did not have much choice in the retirement benefits and, to overcome the severe shortfall in the scheme, the Government would have been forced to increase the contribution rates by as much as 100 per cent, so that a contributor to the Police Pensions Fund, instead of paying 5 per cent or 6 per cent of his salary to the scheme, would have been forced to pay between 8 per cent and 12 per cent of his or her salary. Quite clearly, that was unacceptable and was another reason why the existing scheme had to be closed down.

So, I note that this new scheme does provide for flexibility. Police officers will now have the opportunity to have a higher pension for life, with no lump sum if they wish, or they can have a higher lump sum with a smaller pension. There is a transitional period of five years, which will enable members on the old scheme to have a choice between the existing provisions and new provisions, and the new retiring members will have their pensions based not on the existing arrangement, which was 133 per cent of CPI, but on a flat 100 per cent of CPI, and that, of course, will result in a significantly reduced cost to the Government and to the taxpayer.

Another matter of interest is that the Government has indicated in the second reading explanation that new retirees will have the option of retiring under the existing provisions or under the new provisions. The Government has indicated that it would expect most people to opt for the new flexible provisions. The question has to be asked: 'What is the demographic profile of the Police Force at the moment?' That information is not available, unfortunately, because we do not have a 1988-89 report, and that is relevant. Will these new provisions bring on a rash of retirees and, as I have already indicated, will the abolition of a standard retirement age, as foreshadowed by the Government to occur within two years, have any impact on retirements in the Police Force, or people's inclination to stay on in the Police Force?

If a person achieves the retirement age of 60 years and has had 30 years membership of the scheme, the benefit payable under pension will be two-thirds of the retiring salary. Alternatively, pensioners will have a right to commute up to 50 per cent of the pension to a lump sum, and that is more generous than the existing scheme, which provides, as I understand it, for up to 25 per cent of the pension to be payable as a lump sum of 1.5 times salary.

When one takes into account that 10 per cent loading, which recognises the shift work undertaken by the Police Force over a period of years—and I understand that has been calculated after quite thorough investigation—one realises that the age 60 benefit will gross up not to 66.7 per cent of superannuation of the final salary but to 73 per cent of salary. I submit that is an attractive benefit and is comparable to the benefit that is paid in the New South Wales force.

I note that the proposed scheme has substantial improvement in the age 55 to 59 pension benefits. I believe that was in line with the Agars committee recommendations. There is also an improvement for the benefits payable to police officers who wish to retire between 50 and 54 years of age. That is in line with Agars' recommendation.

I accept that police work is stressful and that there is a lot of pressure in the Police Force. I accept also there can be an argument mounted that the Police Force is underpaid, perhaps in comparison with some other professions not only in the public sector but also in the private sector. In society we have to recognise that we should not just look at salaries in determining whether someone is overpaid or underpaid. Rather, we should look at packages. I believe that the superannuation provision is an increasingly important part of the package which has to be taken into account in determining the overall benefits which accrue to employees. I note here that, because it has introduced this improved benefit for retirees between the age of 50 and 54 and there is obviously some anxiety about the number of people who may seek to take advantage of this, the Government is initially seeking to limit to 50 people in any one year the number of police officers who can retire in this age group.

I should say that these figures, along with most of the provisions that we are now debating, either follow the recommendations of the Agars committee or have come about as a result of consensus following discussion by the Police Association, the Police Commissioner and the Government. The maximum benefit payable at 50, after 30 years service, will be equivalent to six times base salary.

Another provision which is also addressed here and which again follows along the lines of the State superannuation scheme, although with some modification, is in respect of invalidity retirement. I have already had incorporated in *Hansard* statistics which show the high number of police retiring in recent years because of invalidity. I understand that a large number of those police who have retired on the grounds of invalidity have other jobs, and it raises a question which I think has to be addressed squarely by society. Indeed, it will be debated in another matter in this place later this evening (that is, in relation to workers compensation). If society is to provide a benefit to people on the grounds of invalidity or disability in the workplace there should also be checks to ensure that society has given money only to those people who have earnt that benefit.

There have been examples in the workers compensation area, and I suspect increasingly both in the private and public sectors, where people have taken advantage of generous provisions to obtain very generous invalidity or disablement benefits. This form of double dipping has a cost ultimately to all of us as taxpayers. It is a matter that we have to talk about if we are serious as legislators in South Australia. I believe, from the anecdotal evidence available, that there are some police who felt some difficulty in continuing in the force. However, because of the inflexibility of the current scheme, the only way that they could retire from the force was perhaps through the disability provision. I put it no more strongly than that. It is a supposition I have made. I suspect that it is an argument which could be sustained in many areas of society. However, it is a matter with which we have to come to terms. It is a serious matter which must be addressed.

I do not want representatives of the Police Force to take offence at my remarks, because I have a great respect for the Police Force in South Australia. Notwithstanding the sporadic headlines of recent times, I believe that this Police Force is by far the best force in Australia. It has served the community of South Australia with distinction and honour—there can be no question of that.

I am pleased to see that the new provisions for invalidity set down two levels of invalidity. I think the second reading almost hints at what I am saying, because half-way through the second reading explanation the following point was made:

> The relative young ages of many of the invalid applicants was also of major concern.

There is a hint of the argument I am putting, so the invalidity or disability provision has been restructured, and two categories have been introduced. One category involves people who are so physically or mentally incapacitated for police work but who, in the opinion of medical advisers and after due consideration by the Police Superannuation Board, are capable in engaging employment outside of the Police Force. That benefit will be referred to as a partial disablement benefit. Lump sum benefits will be based on service to the date of leaving the Police Force, and benefits for expected future service with some other employer will, in future, not be paid by the Government under the police superannuation scheme. So, there will be a thorough period of assessment for possible invalidity retirement.

It is important that provision is thoroughly addressed and administered. It is one thing to have it in legislation, but it is another thing to implement it and to ensure that it works. I hope that the annual report of the Police Pensions Fund will actually set out the two categories of disablement so that this matter can be monitored by the Parliament and the community.

There are other matters which I will not traverse, except to say that the benefit on invalidity retirement under the new scheme will be not a permanent pension entitlement but a lump sum. I think it is inevitable that in this debate, albeit briefly, about Australia's unique position in respect of superannuation should be discussed. We continue to pay lump sums in the public sector and in the private sector—alone perhaps of all countries in the world.

Indeed, not only will a lump sum rather than the permanent pension entitlement be provided for invalidity retirement but also, as the second reading flags, the Government intends to allow existing pensioners to convert a greater proportion to a lump sum. These offers will be phased in as under the State scheme, and the timing of the offers will depend on the availability of funds in the budget. I again raise my concern that we have a scheme where there is a greater preferment of the lump sum rather than the pension. This is quite clearly being done under budgetary grounds, as the Agars committee has indicated. It is cheaper actuarially for the Government to pay a lump sum rather than a fully indexed pension.

However, it does enable people who have the benefit of a lump sum to come back later in their lives and double dip the system by seeking an age pension. We should recognise that people are now retiring earlier and living longer. Whereas in 1966, 80 per cent of males in the 60 to 64 age group were still working (so on average they would have had a decade to live after retirement) now, in 1990, some 25 years later, less than 50 per cent of that 60 to 64 age group are still working, and their life expectancy has blown out by one or two years. So, the average male is living two decades in retirement and, of course, it is even more true for females.

So, this matter has to be addressed, and it may well be that the Federal Government will address it through legislation by forcing people into schemes which require them to take a pension or pension-related arrangement, such as an annuity. But it is a matter that should be recognised as a problem, because the cost to society in the long term may be far greater than in the short term through saving the State Government a few dollars, as we are attempting to do with this Bill.

The last two points that I wish to make about the legislation relate to the restructuring of administrative arrangements. A Police Superannuation Board will be established to be responsible for administering the Act, and the Police Association will have an opportunity, through two nominated members, to participate in the board's deliberations. The other matter which I think is a reflection of the way in which society is recognising the importance of superannuation relates to the preservation of benefits for police officers who resign from the Police Force before the age of 55 years. Again, that will encourage some flexibility. It will not allow police to feel locked into a system. I think it will be conducive to good morale in the Police Force.

If people know that they can retire from the Police Force, having worked in it for 20 or 25 years, and that they can preserve those superannuation benefits rather than lose them, such flexibility in the scheme is sensible. I think, in today's society, we must have more flexibility. As people's lifestyles change, why should not a policeman, like someone in the

private sector, be able to retire at the age of 50, having served the force and his community well, and move on and open a business, or move into the private sector under a new superannuation scheme? The preservation of his or her superannuation benefits will allow those accumulated benefits to be retained, and I think that is very pleasing.

I foreshadow just one amendment relating to a matter which my colleague, the Hon. John Burdett, and I have raised from time to time, that is, the importance of members of a public sector superannuation scheme receiving regular information about the status of the fund, the level of their contribution to the fund, and the amount that they have put into the fund in that year. It has been disappointing to me that over the past 12 months the Hon. John Burdett has been forced to ask more than one question about this matter because, for one reason or another, the South Australian Superannuation Fund has been slow to pick up this very important point.

So, although there is consensus on this Bill, the importance of it should not be underestimated, because the Police Force deserves a good superannuation scheme which is flexible and which recognises the increasing mobility in the work force, be it in the public or the private sector. It also should be noted that the taxpayers deserve a more effective and efficient scheme which will cost them less. So, I have some pleasure in supporting this new Bill for police superannuation, which comes as a result of concern being expressed for many years from this side of the Chamber about these matters.

The Hon. C.J. SUMNER (Attorney-General): Members raised some questions and the answers are as follow: costings have been done without particular regard to the legislation outlawing age discrimination. However, costings do take account of the expected increased number of police officers retiring before the age of 60. There will probably be an initial large number of police officers retiring between 50 and 54 years 11 months. As has occurred in Victoria, we expect the number retiring before the age of 55 to settle down to a small number after the first couple of years.

The honourable member raised questions about the annual report of the Police Pensions Fund as at 30 June 1989. I will have the matter investigated and advise him further as to when the report can be expected. I am advised that the delay could be related to the fact that there has been no board of administrators directly responsible for producing the report. The Bill corrects this by setting up a board with responsibility to provide a report to the responsible Minister, for tabling in Parliament.

The third question related to the age profile of police officers near retirement age. As at April 1990 it is as follows: 155 between the ages of 50 and 54 years and 11 months, and 90 between the ages of 55 and 60 years.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10—'The fund.'

The Hon. L.H. DAVIS: Does the Attorney have any indication as to the administrative cost of the new scheme? Does he anticipate that there will be a significant increase in the administrative cost of the scheme or will it be about the same?

The Hon. C.J. SUMNER: There will be some increase in administrative cost in the first year because of the need for a new computer system but subsequent to that there should not be any major increase in administrative cost.

The Hon. L.H. DAVIS: Clause 10 sets down the nature of the fund. The fund will be broken into two divisions. One can be styled the 'old scheme' under clause 10 (6) *(a)* and the other will be styled the 'new scheme' under clause 10 (6) *(b)*. My understanding is that Commonwealth legislation will change with respect to 'reasonable benefits' as from 1 July 1990. The formula for 'reasonable benefits' changes after that date and, therefore, there is an argument that there would be an advantage in having the new scheme up and running in this current financial year. Is that the Government's intention?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clauses 11 and 12 passed.

Clause 13—'Contributor's accounts.'

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

Page 8, after line 4—Insert subclause as follows:

(7) The board must, within six months after the end of each financial year, provide each contributor with a written statement of the amount standing to the credit of the contributor's contribution account at the end of the financial year and the amount by which the balance of the account has been increased pursuant to subsection (3) in respect of that financial year.

The Hon. C.J. SUMNER: I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 14 to 16 passed.

Clause 17—'Contribution rates.'

The Hon. L.H. DAVIS: I appreciated the Attorney-General's response to my question about the abolition of the standard retirement age possibly in two years time. Can he give a more considered reply to that matter given that it could have some consequence for the fund? I am happy to have a written response to that.

The Hon. C.J. SUMNER: I am not sure that any additional information can be provided on that matter. All South Australian legislation which has an age criteria in it will have to be reviewed within two years from the proclamation of the Equal Opportunity Act Amendment Bill dealing with age. During that time decisions will have to be made on whether or not the age criteria will be kept. I think it is premature at this stage to comment on the honourable member's question because, obviously, the question of the retiring age in respect of police officers, public servants and others will have to be examined.

Clause passed.

Clauses 18 to 23 passed.

Clause 24—'Disability pension.'

The Hon. L.H. DAVIS: I accept the intent behind this clause relating to disability pension and the two-tiered nature of disability and the attempt to ensure that there would be a proper assessment as to whether someone is permanently or temporarily disabled. But, what sort of structure does the Government anticipate will be put in place to ensure that this provision operates effectively?

The Hon. C.J. SUMNER: There will be a superannuation board that will work with the Police Commissioner and his officers to deal with the question of rehabilitation of officers, to try to ensure that officers who may be suffering some disability can, where practicable, be returned to the work force.

The Hon. L.H. DAVIS: The Agars committee and indeed, I think, the second reading explanation referred to the need to avoid double dipping by police officers who seek not only a disability pension but also some benefit through WorkCover. Have any examples of double dipping been revealed?

The Hon. C.J. SUMNER: There were some examples of double dipping, but I am advised that amendments to the Police Pensions Act some 18 months ago eliminated that possibility.

Clause passed.

Clauses 25 to 27 passed.

Clause 28—'Retirement.'

The Hon. L.H. DAVIS: Part V and this clause cover superannuation benefits applying to old scheme contributors. The second reading explanation indicated that the Government was going to allow existing pensioners to convert a greater proportion of their pension to a lump sum and that these offers will be phased in as under the State scheme and the timing of the offers will be dependent on the availability of funds in the budget. Will the Attorney explain whether there have been any problems associated with the phasing in under the State scheme and how this provision is expected to operate under the police pension scheme?

The Hon. C.J. SUMNER: Under the State scheme, the phasing in by offers of lump sums to the participants in the existing scheme is going reasonably well. There are no major problems at present. We would envisage commencing that with respect to the Police Pensions Fund in 1991-92.

Clause passed.

Clauses 29 to 46 passed.

Clause 47—'Annuities.'

The Hon. L.H. DAVIS: This clause authorises the board to provide annuities, with the Minister's approval. Is this provision designed to anticipate the way in which the Federal Government's superannuation legislation has moved in recent years and appears to be moving? Is it something that the Police Pensions Fund already does; is it a new provision; and, if so, in what circumstances would the Minister expect it to operate?

The Hon. C.J. SUMNER: It is not expected that this provision will be used for some time, but I am advised that it may become appropriate further down the track—probably in 10 years or so.

Clause passed.

Clause 48—'Power to obtain information.'

The Hon. L.H. DAVIS: I am impressed with clause 48. I understand that, in particular, subsection (2) does not appear in the South Australian Superannuation Fund legislation. That provides:

> The board may require a contributor or pensioner to verify information supplied under this section by statutory declaration or by the production of income tax assessments or such other evidence as the board specifies.

Obviously that provision is designed to keep contributors and pensioners honest, and it is a useful provision. Can the Attorney-General advise the Committee whether this provision exists in other public sector schemes? Although it is not strictly within the Committee's province to canvass this matter, I suggest that, if it does not exist, it may be a useful provision to incorporate in the South Australian Superannuation Fund legislation if amendments are foreshadowed in the near future.

The Hon. C.J. SUMNER: I think the answer is 'Yes'.

The Hon. L.H. Davis: It is incorporated elsewhere?

The Hon. C.J. SUMNER: Yes, in some public sector superannuation schemes, and the Government sees no objection to incorporating it in the South Australian scheme.

The Hon. L.H. Davis: So you will have a look at that?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Remaining clauses (49 to 52) and schedule 1 passed.

Schedule 2—'Contribution rates.'

The Hon. L.H. DAVIS: This schedule sets out the contribution rates which are to be paid by contributors to the fund. A point that I did not make during the second reading debate was that there are no optional rates as exist in the South Australian superannuation scheme, such rates ranging between 1.5 per cent and 9 per cent. Indeed, this scheme, for the first time, covers police cadets who previously were not under the superannuation umbrella. I accept that is a useful measure. I also accept that the Police Association did not want flexible contribution rates. It believed that it was important for its members to be properly covered for superannuation—and, of course, this is a compulsory superannuation scheme.

Is the Attorney-General fully satisfied that this scheme, with these rates, will properly cover the benefits as anticipated? In the second reading debate we were told that there was a significant shortfall with the existing scheme. What assurance do we have from the Public Actuary, or were private actuaries consulted with respect to the new scheme? Clearly, when we are dealing with such complicated matters, we are relying very much on the skill, judgment and advice that we receive from the Government. Could the Attorney-General advise us on that matter?

The Hon. C.J. SUMNER: The answer is that private consultants were involved in assessing the viability of the scheme.

Schedule passed.

Remaining schedules (3 and 4) and title passed.

Bill read a third time and passed.

REMUNERATION BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1155.)

The Hon. R.I. LUCAS: On behalf of the Liberal Party, I support the second reading of this Bill, which provides for the establishment of a new Remuneration Tribunal to determine salaries, etc., payable to the judiciary and certain other offices which involve the exercise of powers of statutory independence. The new tribunal will replace the old tribunal which was established under the Remuneration Act 1985 and which will be repealed by the Statutes Repeal and Amendment to (Remuneration) Bill.

This Bill proposes remuneration of not only the judiciary, as I indicated, but certain other offices and in particular we are talking about the State Coroner, Deputy State Coroners, Commissioners of the Industrial Commission, and full-time Commissioners of the Planning Appeal Tribunal. They are all lumped together in this Bill to be covered by the new Remuneration Tribunal.

The Liberal Party supports the Government's argument that, whilst those offices are not of a judicial nature, their functions require them to exercise powers independently of the Government of the day. Therefore, it is appropriate that they be lumped together with the members of the judiciary in relation to this new Remuneration Tribunal. Therefore, whilst there has been a bit of to-ing and fro-ing in relation to various Acts coming and going, to all intents and purposes the remuneration of members of the judiciary, will continue to be determined using the same procedures and processes. There will be an independent tribunal and it will be that tribunal's decision in relation to their remuneration.

This Remuneration Tribunal will retain the function of setting the electorate and other allowances payable to members of Parliament so, indeed, it will come under the continuing interest of members of Parliament in its operation. During the Committee stage I will seek some guidance from the Minister as to the planned sittings of the tribunal over the next 12 months and, indeed, what it has done over the past 12 months. I note that under the previous legislation the tribunal is required to sit once every 12 months and to report. That similar provision is carried over into the new

Remuneration Tribunal so I will seek some information as to the tribunal's activities over the past 12 months and what the intention is of the tribunal with respect to sittings and reporting over the next 12 months.

In relation to members of Parliament, clause 14 (1) of the Bill is important and provides:

Additional jurisdiction as conferred by other Acts or by proclamation

14. (1) The tribunal has, in addition, jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of any office (other than those previously referred to in this Part) if such jurisdiction is conferred on the tribunal—

(a) by any other Act;

Members will be aware that in recent days the Parliamentary Remuneration Act has passed through State Parliament. That Act confers on the Remuneration Tribunal established by this Bill the power to set electorate and other allowances for members of Parliament.

As I indicated, there might be just one or two short questions during the Committee stage, but I indicate that the Liberal Party is pleased to support the second reading.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: Will the Attorney-General indicate whether the existing Remuneration Tribunal has met in the past 12 months, particularly in relation to electorate allowances of members of Parliament and associated matters, as is required by the current Act? If so, what has been the result of its work?

The Hon. C.J. SUMNER: It has been over 12 months since electorate allowances of members of parliament were determined. The tribunal called for submissions, I understand, in September but it did not deliberate on those submissions because one of the members of the tribunal resigned and was not replaced. That member was not replaced because the future of the tribunal and that of wage fixing for members of Parliament, chief executive officers and some other statutory office holders was being reviewed.

The Hon. R.I. LUCAS: When did the tribunal last meet for the purpose of determining remuneration under section 9 (2) of the current Act?

The Hon. C.J. SUMNER: I understand the tribunal last met early in November.

The Hon. R.I. LUCAS: Section 9 (2) of the Act provides that the tribunal sit at least once a year for the purpose of determining or reviewing previous determinations of remuneration under this Act? Did that meeting in November comply with subsection 9 (2) of the Act?

The Hon. C.J. SUMNER: I understand that the tribunal commenced sitting and called for submissions, but was unable to continue to sit because one of its members retired.

The Hon. R.I. LUCAS: That does not answer my question. When was the last meeting of the tribunal which complied with section 9 (2) of the Act, which provides that the tribunal shall meet for the purpose of determining or reviewing remuneration under the Act?

The Hon. C.J. SUMNER: I do not know that I can take the matter any further. The tribunal met early in November (it did not have a public sitting, but it met) and called for submissions, but could not complete any deliberations because one member resigned. The Crown Solicitor advised that the tribunal could not sit unless it had a quorum of three members. The honourable member will have to take his own advice on whether or not the Act was complied with. As I said, the appointment was not made to the tribunal because the whole question of the future method of dealing with parliamentary and other salaries was under review.

The Hon. R.I. LUCAS: The quorum of the tribunal is two and not three; therefore, the resignation of one person does not come into it. I note that the Attorney is nodding his agreement.

The Hon. C.J. SUMNER: The tribunal consists of three members.

The Hon. R.I. LUCAS: So, two members of the tribunal would constitute a quorum. When was the last occasion that the tribunal met and increased electorate or other allowances for members of Parliament?

The Hon. C.J. SUMNER: I do not know the exact date. I would have thought that the honourable member would be aware of the exact date on which his electorate allowance was increased. We can ascertain that information and provide it to the honourable member. The point that I made about the quorum was not correct. I am advised that, under section 5 (1), the tribunal shall consist of three members. Because there were not three members, the tribunal could not sit. In any circumstances where three members are actually appointed to the tribunal a quorum can be two.

The Hon. R.I. LUCAS: What is the intention of the Government in relation to the new tribunal? Will it sit in the near future for the purpose of making a determination one way or the other in relation to allowances?

The Hon. C.J. SUMNER: When the tribunal is appointed, it will sit. The legislation specifically provides for the consideration of judicial salaries. In addition, the allowances for other officers can be added to the tribunal's jurisdiction by proclamation. It is intended that the Government will add to the jurisdiction of the tribunal members of Parliament and Ministers with respect to their expense of office allowances—that is, their electorate allowance—or, in the case of Ministers, a ministerial allowance or, in the case of the Leader of the Opposition, a ministerial allowance. I assume that once the tribunal has been appointed it will proceed to deal with those matters and I would imagine that it would give priority to judicial salaries.

Clause passed.

Clause 2 passed.

Clause 3—'Interpretation.'

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

Page 1, lines 23 and 24—Leave out all words in these lines and insert—

(d) fees;

and

(e) any other benefit of a pecuniary nature:.

This amendment makes it clear that under the definition of 'remuneration' the words 'any other benefit of a pecuniary nature' that appear in the existing Act will also be carried over into the new Act, the reason being that the Government does not consider that what could have been determined under the old tribunal can be determined under the new tribunal. In other words, we do not want to restrict the definition of 'remuneration' in the new Act. We want to leave it effectively the same as it is in the current legislation.

The Hon. R.I. LUCAS: The Liberal Party supports the amendment. Our understanding is, as the Attorney has indicated, that this clause maintains the *status quo* in relation to the legislation.

Amendment carried; clause as amended passed.

Clauses 4 to 16 passed.

Clause 17—'Retroactive operation of determinations.'

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

Page 4, line 31—After 'determination' insert 'or the date of commencement of this Act'.

This amendment makes it clear that the new tribunal can make a determination that has retroactive effect. There is some concern that, because this Act will establish a new

tribunal, perhaps that new tribunal may not be able to make a determination that precedes the date of operation of the Act and the tribunal. This amendment makes it clear that the tribunal has full power to make a retroactive or retrospective determination.

The Hon. R.I. LUCAS: I am advised that this clause is introduced with an excess of caution to make things clearer, and the Liberal Party indicates its support.

Amendment carried; clause as amended passed.

Remaining clauses (18 to 20) and title passed.

Bill read a third time and passed.

STATUTES REPEAL AND AMENDMENT (REMUNERATION) BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1156.)

The Hon. R.I. LUCAS (Leader of the Opposition): This is a companion Bill to the Remuneration Bill which has just passed speedily through the Legislative Council. On behalf of the Liberal Party, I indicate our support for the second reading of this Bill. The purpose of the Bill is to repeal the Remuneration Act 1985 and to make consequential amendments to various Acts, to enable a changed approach in the fixation of the remuneration for members of Parliament, chief executive officers and certain statutory office holders. As you would know, Mr President, in the Parliamentary Remuneration Act, in relation to the remuneration of members of Parliament and, indeed, in the Remuneration Act which has just passed in relation to allowances, members of Parliament have had the processes for change to their remuneration catered for.

One other effect of this legislation is that certain chief executive officers and holders of the following statutory offices: the Auditor-General, the Electoral Commissioner, the Deputy Electoral Commissioner, the Chairman of the Health Commission, the Commissioner of Highways, the Chairman of the Industrial and Commercial Training Commission, the Chairman of the Metropolitan Milk Board, the Ombudsman, the Commissioner of Police, the Deputy Commissioner of Police and the Commissioner of Public Employment will now have their remuneration fixed, in effect, by Government, rather than by the Remuneration Tribunal. The Government argues that this will bring them into line with the fixing of remuneration for other executive officers in Government and it will indicate that it will enable individual contracts to be entered into, having regard to the experience, background, skills and special circumstances of such senior officers.

During the Committee stage of the debate I will be interested to know how far the Government decision-making has progressed in relation to any increase in the remuneration package of those statutory officers that I have listed. That is the only other matter that I intend pursuing during the Committee stage, so suffice to say that the Liberal Party supports the second reading of this Bill.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: Given the traditional independence of certain of those statutory officers, for example, the Auditor-General and the Electoral Commissioner (and that has been part of the reason for having their remuneration package established by a separate independent remuneration tribunal), and that as I indicated in the second reading, the Government now intends, in effect, to establish the remuneration of those officers, does the Attorney have any concern that this might reflect, even in a small way, upon the independence of those officers in that they have now become subject to a decision of Government about their remuneration package? This relates particularly to the Auditor-General and the Electoral Commissioner in that the Government now has some leverage, albeit indirect but nevertheless important to those persons, in relation to the size of their remuneration package and the size of any increase that might ensue.

The Hon. C.J. SUMNER: The situation is that these officers—the Electoral Commissioner, Auditor-General and Ombudsman—did have their salaries fixed by the Governor in Executive Council prior to the introduction of the present Remuneration Tribunal Act. So, by removing them from the jurisdiction of the current tribunal, we are returning to the situation prior to the introduction of the Remuneration Tribunal Act of 1985.

The Hon. R.I. Lucas: Do they regard that as desirable?

The Hon. C.J. SUMNER: I do not know whether they regard it as desirable or not. I do not think they had any view on it, frankly. The Judiciary certainly made representations about the establishment of a tribunal to determine their salaries, but I do not think these other officers made such representations. However, I think I can say that, if there is any concern about this matter, those officers can be proclaimed to come within the jurisdiction of the tribunal, just as members of Parliament can be, with respect to their electoral and other allowances.

The Hon. R.I. LUCAS: I would not expect an immediate answer from the Attorney, but would he be prepared on behalf of the Government to initiate discussions with these officers to ascertain their views in relation to this question? I accept what the Attorney has said; that at some time in the past this used to be the case and we moved to an independent remuneration tribunal. I presume that was done for some reason and I presume the reason was that, at least in part, they wanted to be seen to be independent from Government and therefore not reliant upon Government directly for the determination of their remuneration package. As I said, I do not expect a response from the Attorney this evening, but I wonder whether he would be prepared to take up that matter with Government to see whether contact could be initiated to ascertain the views of these officers and, in particular, the two or three that we have discussed?

The Hon. C.J. SUMNER: I understand the point the honourable member is making. The reason that they were included in the Remuneration Tribunal Act 1985 was that at that stage they were treated in the same manner as chief executive officers and were included in the legislation because chief executive officers were included in it. However, I have no objection to having the Commissioner for Public Employment discuss the issue with the statutory office holders concerned, and will do that, and provide a reply to the honourable member as to their attitude. Certainly, I have no objection to their being proclaimed to be part of the tribunal system, for the reasons the honourable member has outlined, but perhaps the first step is to initiate discussions on that point.

The Hon. R.I. LUCAS: I thank the Attorney for that and will not pursue that any further this evening. One last question in this area is: have there been any discussions with these officers in relation to increases in their remuneration package as a result of what might have been seen as the imminent passage of the legislation through the Parliament?

The Hon. C.J. SUMNER: No, there have not been discussions about the future remuneration of the office holders who are withdrawn from the jurisdiction of the tribunal. I should say that if at any point in time there is a dispute between the Government and one of its chief executive officers about an appropriate remuneration package we could, by proclamation, refer the matter to the tribunal.

The Hon. R.I. Lucas: As a one off.

The Hon. C.J. SUMNER: Yes.

Clause passed.

Remaining clauses (2 to 28) and title passed.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 1263.)

The Hon. J.F. STEFANI: The Opposition has great reservations about this legislation. The Bill, as introduced by the Government, has been strongly criticised by both employer and employee organisations and has received wide publicity since it was brought before Parliament only a few days ago. There has been indecent haste in the way in which the Government has introduced these amendments. The concern, which has been expressed by every employer, is focused on the proposed increase of the maximum levy, which is presently set at a maximum of 4.5 per cent, The Government is seeking to raise the level of the maximum levy to 7.5 per cent, representing an increase of 66 per cent. Generally, the Bill will allow WorkCover to increase all its levy rates.

Employers have every right to revolt against this decision. The Bannon Government, through its stubborness to set up WorkCover, has precipitated the WorkCover Board into making expensive and unwise decisions. WorkCover has written off $8.99 million in computing costs from 1 October 1987 to 30 June 1989. Additional costs, ranging from $2.5 million to $3 million, will be incurred by WorkCover to obtain computing services until the new $12 million computing equipment is installed by June 1991. This means that an amount of $11.9 million has been expended without any result, and employers are now also being asked to pay for another $12 million, through higher levies, for the new computing equipment which WorkCover should have purchased in the first instance with the $11.9 million that the Bannon Government forced the board to expend and write off.

The Bannon Government, by its proposal, will effectively add a 66 per cent increase to a 3 per cent superannuation deal which has been entered into by the Hawke Labor Government with the unions and together with the 3 per cent rise already in the pipeline for award restructuring, this will add further to South Australia's serious inflationary pressures, undermine our ability to compete in overseas markets and reduce our export opportunities.

It is important to note that at a WorkCover board meeting, held on 16 February 1990, actuarial reports were considered. Also, agenda item 42, amongst other matters, was considered, and other reports were tabled. The main conclusions and observations of actuaries and other reviewers, as contained in their reports from September through to December 1989, were also tabled. The corporation received detailed actuarial assessments from John Ford and Associates (known as the Cumpston assessment) and Robert Buchanan Consulting (known as the Buchanan Report). These reports were dated from September to October 1989. The actuaries used similar, but different, techniques to forecast the performance of the scheme over the next five years.

Both actuaries are in reasonable agreement about the claim liabilities of WorkCover. Buchanan reported that the average levy rate required for 1989-90, to support claims on the current standard of claim administration, was 3.35 per cent. He further calculated that a rate of 3.85 per cent from July 1990 was needed to bring the fund to a full funding position by 1992-93.

Similarly, Cumpston recommended a 27 per cent increase to 3.9 per cent from 1 July 1990 to achieve full funding by June 1994. Both actuaries made a number of comments on the scheme in their reports, and the main points raised were as follows. Mr Buchanan expressed concern about the procedures and standards of claim administration. He expressed further concern about the problem of recording days lost for claims, and suggested that the current level of claim handling expenses was too high at 21 per cent of the claim payments.

Cumpston also expressed concern with the level of the weekly benefits paid to longer term incapacitated people and emphasised the importance of the accurate recording of days lost. In November 1989, the corporation employed L. Brett from Palmer Gould Evans to review the Buchanan and Cumpston reports. He reported in December 1989. Brett's main conclusions were as follows:

> He was comfortable with a $275 million outstanding figure, but it is more likely to be higher than lower . . . It is not inappropriate to use the recent experience of WorkCare to assess the potential outcome of WorkCover . . . Despite the efforts of prevention and rehabilitation experts, the experience in Victoria was that no real long-term reduction in claim costs would be achieved without altering the benefit access system . . . Tightening of claims administration may not be sufficient to compensate for the effect of the generous benefits [paid].

Also, in 1989, the corporation engaged A. Fischer to analyse monthly payments in 1988-89 and review the actuary's forecast of outstanding claims. The conclusions by Mr Fischer were as follows:

> . . . that there has been some shift upwards in claim experience from about April 1989, but it is not clear if this is a one-off increase to a new level, or a gradual increase in claims which is continuing. Continuance rates on weekly benefit used by R. Buchanan appear to be insufficient to provide for his outstanding liability.

Over the last few months the corporation had also undertaken a number of studies to help explain the change in claims experience during 1989. In order to allow my colleague to introduce another matter, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ELECTRICAL WORKERS AND CONTRACTORS LICENSING (1987 AMENDMENT) 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.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Electrical Workers and Contractors Licensing Act Amendment Act 1987 (No. 10 of 87) provided for the

reciprocity of licences between other States and South Australia.

This legislation was in accord with a move nationally to enable qualified electrical workers to work interstate without further formality.

The Act was assented to on 9 April 1987, but was not proclaimed as some of the other States were not ready. In mid 1988 the other States had settled their respective positions and on 7 July 1988, ETSA caused to be published a notice in the *Gazette* announcing the arrangements for reciprocity. However, the Act had not been brought into operation.

The current legislation, therefore, does not provide for interstate electricians to practice without obtaining a South Australian licence.

ETSA and the Minister of Mines and Energy appear to be protected against any outcome of this current circumstance, but there may be a situation where, in the future, work done by an electrician while not licenced might fail, and an insurer may establish that the work was illegal and therefore attempt to avoid liability.

The proposed Bill, which will bring into operation the Electrical Workers and Contractors Licensing Act Amendment Act as from 7 July 1988, gives effect to the wishes of Parliament and is for no other purpose than to correct an administrative oversight.

Clause 1 is formal.

Clause 2 repeals section 2 of the 1987 amending Act (the commencement clause) and substitutes a new section 2 that provides that the 1987 amending Act came into operation on 7 July 1988.

The Hon. J.F. STEFANI secured the adjournment of the debate.

SUMMARY OFFENCES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to amendments Nos 2, 5 and 9, and had disagreed to amendments Nos 1, 3, 4, 6, 7, 8 and 10.

Consideration in Committee.

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

That the Council no longer insist on its amendments.

This matter seems to be destined for a conference so I will not hold up the Council with a detailed explanation of each of the amendments. However, I would ask the Committee to consider that the Government has accepted a number of amendments proposed by members opposite, and I would think that the amendments that were previously inserted by the Legislative Council could now be no longer insisted upon.

The Hon. K.T. GRIFFIN: I do not agree. I take the opposing point of view. Even though amendments have been accepted by the House of Assembly, the other matters are still matters of importance, and I therefore ask that this place insist upon those amendments.

The Hon. I. GILFILLAN: I indicate that the Democrats insist on the amendments.

Motion negatived.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1346).

The Hon. J.F. STEFANI: The conclusions continue:

Results of this research indicate growth in manufacturing employment and overtime has contributed significantly to the claim number experience deterioration.

Claims from the community service sector have increased markedly principally the health sector . . .

Sprain/strain claims have increased in significance as a proportion of claim expenditure . . .

A greater proportion of claims received in recent times has compensated days lost versus earlier in the scheme.

A greater proportion of days lost claims are exceeding one and three months on benefit in recent times . . .

Rehabilitation and physio/chiro expenditure per claim has increased markedly since the start of the scheme.

A detailed analysis of the time lag for a claim to reach rehabilitation from the date of injury has been experienced.

Another conclusion is as follows:

A review of costs used on case estimates is currently under way, but it would appear that a significant underestimate of weekly payments is one of the major causes.

The final conclusion is:

Corporation analysis of data will continue so as to obtain a better understanding of the reasons behind the worsening claims and payments situation. This will include comparisons between industries which are exempt, as the information becomes available.

The Liberal Party recognises that, included in last year's loss, is the payment of $18.994 million paid to various agencies, including SGIC, and $6.4 million, or 34 per cent of last year's loss, was due to bad decisions made by the Bannon Government when, through its indecent haste to set up WorkCover, it precipitated the expensive and temporary appointment of a claims and levy agency, which has now been sacked. However, the incompetence does not end there because WorkCover has lost $346 000 on the $38.533 million, which it invested in securities on overseas stock exchanges and which was held in foreign currency. More is to come because WorkCover has declared a contingent liability of $40 000 as a result of a possible sub underwriting commitment on investment, and a $10.4 million contingent claim from SGIC for the loss of profit over the termination of the agency agreement has been included in last year's profit and loss and financial statements.

Employers should not be asked to subsidise the mistakes and incompetence of WorkCover, as they have no other choice of insurance. Again, in last year's financial statements, note 10 confirms that the corporation has entered into agreements to lease office accommodation and equipment for terms in excess of one year. At 30 June 1989 the aggregate lease commitments, including computing equipment leases, exceeded $21.7 million. This sum will be payable over the next five years.

Obviously, the losses and expenses incurred by WorkCover through bad Government decisions and earlier management inefficiencies contributed to the scheme's losses, and any underfunding caused by those losses should not be recovered from employers by increasing their levies. The Government's policy to have a fully funded workers compensation scheme should not require employers to pay for the shortfall of funds caused by huge write offs, fancy lease agreements for buildings and computer equipment and the payment of abnormal charges and claims to sacked agencies. I am sure that every employer would be happy to pay for a fair share of levies to cover injured workers but, equally, employers will not and should not be expected to pay increases in levies to cover extravagant costs and charges incurred by WorkCover through incompetent management decisions.

It is important to recognise that the Bannon Government is making a decision to increase the average levy rate from 3 per cent to 3.8 per cent, which will effectively be funded

by employers who will be required to pay more than $60 million. That is an extraordinary decision that will undermine the fragile South Australian economy and will milk off more than $60 million into the coffers of WorkCover to pay for more and greater future inefficiencies and extravagance.

The proposed increases will do nothing to address the overall costs associated with WorkCover's rehabilitation programs which are running out of control and which have caused more than 1 700 people to remain trapped in a rehabilitation system that does not function. I will not elaborate on all the issues that my colleague the member for Bragg raised in another place during the second reading debate on this legislation. However, I strongly endorse all the concerns and issues that he raised dealing with the information and the submissions which have been received from various employer and employee organisations.

Since WorkCover commenced in October 1987, the scheme has operated within a maximum ceiling levy rate stipulated under the Act and set at 4.5 per cent of remuneration. This was achieved through low risk industries subsidising high risk industries. The Opposition recognises this fact. The Bill seeks to change the levy ceiling to 7.5 per cent to allow further reduction in the level of cross subsidy and it also removes the steps in the fixed percentage levy classifications below the maximum. This allows WorkCover more flexibility to set the structure of classification rates below the maximum to reflect more closely the actual claims experience of the various industry classes. The decision of the WorkCover Board to increase the average levy rate from 3 per cent to 3.8 per cent will enable WorkCover to recoup some of its unfunded liabilities, which are expected to be more than $70 million by the end of June 1990. It should be noted that the increase in the average levy rate is not decided by legislation but by the administration of the WorkCover Board.

The Minister, in his second reading explanation, noted the deterioration in claims experience which has caused a blow out in cost has been attributed to three causes: first, claim numbers have been considerably higher than expected on the basis of earlier trends; secondly, the average cost of each claim has increased as a result of rising medical, hospital and rehabilitation costs and the percentage of overall claims involving time lost from work has also increased; and, thirdly, the 25 per cent target reduction in the number of claimants remaining on benefits after one year has not been achieved. However, the Minister then went on to say that the fundamental cause of the cost pressures being experienced by WorkCover is the poor safety management practices and procedures of minor employers.

WorkCover statistics show that 7 per cent of employers contribute 34 per cent of the levy income, but account for 94 per cent of the total cost, and that .2 per cent of employers (approximately 150) account for 12 per cent of the cost. The Government argues that the cost of WorkCover as a corporation is acceptable.

The second reading explanation mentions a bonus/penalty scheme, which is also to be introduced administratively and which is not covered by the Bill. All employer groups believe that the amendments to this part of the Bill are typical of the Government's mentality of putting the cart before the horse. They argue in all their submissions to the Opposition that these amendments recognise only that WorkCover is in financial difficulties and is struggling to meet its requirements under the Act to be a fully funded scheme, and therefore, in attempting to solve its problems, it is forcing employers in South Australia to fund the shortfall without looking at all the causes which are creating the losses.

Questions which have not been dealt with properly relate to the administrative procedures to be implemented by WorkCover concerning changes to the average levy rate and the introduction of a bonus/penalty scheme, both of which can be introduced by regulation, whilst the maximum levy rate can be changed only by legislation. All these points are very important to the viability of the WorkCover package, are interconnected and are of significant public importance. I believe that they should be included in the legislation and debated by Parliament before changes can occur.

The effect of changing the average levy is as follows: a 3.1 per cent average levy rate will produce no extra increase in funds to WorkCover per year; a 3.4 per cent average levy rate will produce $24 million per year in extra revenue to WorkCover; and a 3.8 per cent average levy rate will produce $56 million in increased funds to WorkCover per year. I believe it is dangerous for the Government to set a precise figure. The Opposition intends to propose a select committee to investigate the funding, administration and benefits of WorkCover and to move some amendments dealing with the average levy rate and other issues.

The second major issue addressed in the Bill is the insertion of a new definition of 'disease' which has become necessary to overcome a Supreme Court decision in the case of Ascione. That case had the effect of allowing certain non-work-related diseases to be treated as compensable under the Act. In the Ascione case the worker had a congenital condition that resulted in a stroke while he was travelling to work. The work itself did not contribute to the stroke. The full Supreme Court held that the stroke was not a disease as defined under the Act, but was an injury, and therefore it was compensable as it had occurred in the course of employment as he was on his way to work. Under the previously repealed Workers Compensation Act, autogenous conditions, such as a stroke, were treated as diseases and, in order for them to be compensable, it was necessary to show that work was a contributing factor.

As a result of the Supreme Court's decision in cases such as Ascione's, involving a disease where there is an obvious approximate cause, it is now only necessary to show that the disability occurred in the course of employment. There is no longer a requirement to show that the work itself was a contributing factor. If, as a result of the Supreme Court's decision, the interpretation of 'disease' is allowed to stand, serious financial demands are likely to be made against the WorkCover fund.

When the WorkCover Rehabilitation and Compensation Act was drafted, there was no intention of changing the wide meaning of the definition of 'disease' that existed under the old Act. This Bill incorporates the definition contained in the old legislation, including the related provision on heart disease, to put beyond doubt that diseases are compensable only if they are work-related.

I support the second reading, but the Liberal Opposition intends to move that the Bill be referred to a select committee.

The Hon. I. GILFILLAN: The Democrats support the second reading of the Bill and recognise the need for the two measures which are included in it. I intend to discuss those matters only briefly.

The Hon. Mr Stefani has mentioned the reason for attending to the definition of 'disease' and, on behalf of the Opposition, he discussed the issue of the premiums from the point of view that setting a ceiling was not as effective

in keeping a rein on WorkCover's housekeeping finances and budgetary control as setting an average premium.

The issue of fixing an average premium is worthy of consideration in a longer term context. It has specific problems in just a blanket imposition of a fixed figure by amendment to an Act of Parliament, but I believe that that and many other matters would properly be the work of a select committee in looking at the overall operation of WorkCover. It is the Democrats' intention to move for a select committee to be established at the end of this year with broad general terms of reference to assess in their totality the workings of WorkCover, benefits, premiums, administration—in fact, virtually any aspect which is a cause of concern and interest after three full working years of WorkCover. There are distinct advantages in setting up a select committee at a stage when three full years have been completed with the data of those three years being made available to the committee. Although it may still be very early in the stages, at that stage there will have been some time of implementation of the bonus/penalty system.

The Democrats indicated that the only situation in which they would support the lifting of the ceiling would be if it were simultaneously accompanied with a bonus/penalty system. Although it is not mentioned in the legislation, I asked for and have received from the Chief Executive Officer of WorkCover a letter relating to the bonus/penalty system. It is addressed to me, and states:

In response to your request I write to assure you that the implementation of levy rates applicable under the 7.5 per cent maximum levy rate will be coincident with the commencement of the bonus/penalty scheme. Both will operate from 1 July 1990.

I am also able to advise you that the most likely alternative available to the corporation if the current levy rate ceiling of 4.5 per cent is not raised is to implement a set of rates to achieve an average levy collection of 3.6 per cent of remuneration paid to workers together with a penalty only scheme that will raise $20 million in 1990-91. That will impose a much heavier cross subsidy burden on low risk employers.

As only limited notice can be given to employers of their final levy rate for 1990-91, the board has agreed to stage the introduction of the bonus/penalty scheme over 1990-91 to 1991-92.

In the first period the maximum penalty will be 25 per cent and maximum bonus 15 per cent. From 1991-92, the maxima will be 50 per cent and 30 per cent respectively.

This staging assumes that the 7.5 per cent maximum rate applies. If the 4.5 per cent maximum applies, given the increased cross-subsidy impact on low-cost employers by an increasing average levy, the Corporation will have to introduce the 'full strength' penalties (that is, maximum 50 per cent) from 1 July 1990.

The main features of the bonus/penalty scheme as approved by the board at its last meeting are attached. The Corporation sees the fully-fledged scheme as a key element in its strategy to engage the commitment of employers in the early return to work of their injured employers. It will be as big a disappointment to us as it will be to the employing community if we are required, for the sake of the fund and viability of the scheme, to implement a penalty-only scheme.

Please call me or Garry McDonald if you have any queries on the above or the bonus/penalty scheme.

Yours sincerely (signed) Lewis Owens, Chief Executive Officer.

Attached to this there is some detail of the bonus penalty scheme. I will read this into *Hansard* so that honourable members will have it available for reference:

The Bonus/penalty Scheme Features—

Subject to the 7.5 per cent maximum levy.

1. The scheme will be cost neutral and therefore will not raise any additional revenue, the penalties raised will fund the bonuses and the cost of administering the bonus/penalty scheme.

2. Bonuses and penalties will be in stepped increments, that is:

Bonuses	Neutral	Penalties
%	%	%
30	0	10
20		20
10		30
		40
		50

3. An employer's performance will be judged by the amount of claims cost paid compared with remuneration paid to workers (to allow for size of employers) adjusted by the risk of injury for the industry (estimated by the relative levy rates).

4. Claims arising from journey accidents (to or from work or during a break) or secondary disabilities will not be included in an employer's experience.

5. Employers paying an annual levy of less than $200 (1989-90) will not be eligible for the scheme but otherwise all existing employers registered from 1 October 1987 will be in the scheme.

6. The scheme will only look at an employer's experience in a two year period which moves annually (a moving 'window'). This will enable any improvements to be rewarded promptly and will mean that long-term claims will cease to register after a period.

7. Based on preliminary figures, 80 per cent of employers will receive bonuses and 8 per cent will receive penalties.

That has satisfied me that there will be a reasonable bonus and penalty scheme brought in coincidentally with the rise to 7.5 per cent and therefore on that basis the Democrats are prepared to support it.

It is interesting that it reflects in the last point the disproportionate percentage of employers who are costing the scheme and, therefore, the State and indirectly through cost subsidisation many other employers, the major cost of injuries. Seven per cent is approximately responsible for 94 per cent of the cost of WorkCover. In the welter of debate of major criticisms, point-scoring and juggling figures it is important to recognise that we have an enormous potential of dramatic reduction in injury, and human suffering that results from that, from paying close attention to quite a relatively small number of employers in this State. The Democrats believe that that must be our number one priority.

In many ways the bonus penalties will be a quite useful tool in bringing to bear direct economic pressure. But we must go further than that, and I believe there are other measures which WorkCover has in mind, such as personal counselling and, if need be, even more stringent imposition on the offending employers. Such measures would have the Democrats' support. I do not believe we should tolerate workplaces which continue, through indifference and inefficient practices, to maim and injure workers. I do not believe any members in this place would tolerate that, on humane grounds, let alone the economic cost to the State.

The Hon. T. Crothers: Hear, hear!

The Hon. I. GILFILLAN: I would like to make plain that I would like to be on the select committee which, as I have indicated, the Democrats will move to establish. If need be, I would like to evolve the terms of reference and move the motion in Parliament in the next session. For that reason I will be opposing any Opposition move for a select committee in this session. I believe it is premature and would only serve at this stage as a forum for what I consider to be point-scoring and an opportunity, for those who want to, to snipe at the system and the scheme. They would thus have an opportunity to do so without adequate data to really make some constructive decisions. When it is eventually set up in the next session I hope it will have unanimous support of the Government, the Opposition and the Democrats so that it can be a constructive attempt to make WorkCover the best workers compensation system in Australia, if not in the world.

Again I emphasise what I mentioned earlier and that is that the question of fixed annual premiums, as being a pressure to tighten the fiscal efficiency of WorkCover, has attracted my interest and potential support. It is reasonable to say that there are big areas of deficiency in the performance of WorkCover to this date. It certainly deserves serious critical analysis of its performance and what has been quite a dramatic turn-around from an optimistic start to a situation which economically has looked comparatively gloomy

over the last few months, requiring this increase in average premiums to keep it fully funded.

The pressure on a structure such as WorkCover to keep its costs within bounds is an ongoing exercise and may be some form of global limit on the expenditure and should be presented to Parliament either by regulation if not in an Act. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

WATER RESOURCES BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

JAMES BROWN MEMORIAL TRUST INCORPORATION BILL

Returned from the House of Assembly without amendment.

SUMMARY OFFENCES ACT AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council committee room at 9.30 a.m. tomorrow, at which it would be represented by the Hons. I. Gilfillan, K.T. Griffin, Carolyn Pickles, R.J. Ritson and C.J. Sumner.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1349.)

The Hon. I. GILFILLAN: In reference to the select committee, there is a potential for looking at some form of parliamentary standing committee to keep an overview of WorkCover. I believe there is a precedent which is worthy of the attention of honourable members, which is the Maralinga Tjarutja Land Rights Act 1984, section 43, 'Parliamentary committee'. Although it does not stand as an identical example to follow, I think it is well worth considering and I would hope that this matter would be considered by the select committee. It has an advantage over the select committee in that it has an ongoing brief. It does not carry any particular sensationalism about it, it does not need any particular argument to be established and, if such a committee were in place, Parliament could rest relatively assured that there is a watching brief on the economic responsibility and the management performance of WorkCover, without taking up the time of the full Parliament on a time by time basis.

That is all that I want or to say in reference to the overall situation. It is my intention to move some amendments. The history of these amendments is somewhat interesting, in that they basically adapt the Act in relatively minor ways to its original intention. Nobody believed that the original Act would be in a final perfect form and that it would not be subject to some form of amendment, particularly minor amendment, where experience had shown the original workings were unsatisfactory. Considerable discussion and thinking have been done about several matters, some of which are still under consideration and will take more time to reach a final conclusion or to reach a stage where they should be presented as an amendment to the Act.

However, the ones which I intend to move and which are on notice are not in that category. I have had reassurance from employer representatives, both from the Chamber of Commerce and the Employers' Federation, in particular from the directors of both those bodies, Lindsay Thompson and Matthew O'Callaghan, that they have no objection to these amendments. In conversations I have had with the UTLC, the people involved also indicated to me that they had no objection to these amendments. I realise that possibly they have not gone through an exhaustive process of detailed analysis, by everybody who may in the fullness of time have shown an interest in them.

I am appalled that such simple, effective and useful amendments should be delayed when we have the opportunity to make them in this session. They are not contentious and they can be operating to improve the performance of WorkCover in a relatively short time. They will be dealing with the distinction of some of the areas where WorkCover is a little unclear as to whether it currently covers categories such as contractors, taxi drivers or ministers of religion. The amendments I intend to move would clarify that. The question of the title of the Chief Executive Officer, which I regard as a relatively minor matter, is really just conforming with current practice and terminology. There is an amendment to keep a watch on overcharging; an area which, strangely, we did not foresee in the original Act as requiring WorkCover to have a particular power.

Currently, WorkCover has the power to supervise and control treatment but not the charging for that treatment, which leaves it susceptible to overcharging without any form of redress. There is the requirement to restrict compensation to compensable disabilities only. The current Act does leave WorkCover liable to pay compensation to an injured worker who, although he may be cured of the original disability, carries on in an incapacitated state, and WorkCover, without this amendment, is liable to make continuing, ongoing payments to that injured worker. Another amendment reduces the amount of time required by the current Act between reviews of an injured worker's condition from six months to three months, a much desired process to make sure there is more frequent and more realistic appraisal of the physical condition of injured workers.

I will move an amendment to allow the consideration of claims. It is a technical problem, where exempt employers have been able to consider claims outside their restrictive time limit, but WorkCover itself, because of the foible in the Act, is restricted in its ability to review claims outside a set time limit. Another very simple amendment will be to alter the fixing of a penalty on an employer who fails to pay a levy; changing the wording to 'may', giving WorkCover the option, from the mandatory wording 'shall'.

Two amendments give technical assistance to the administration of WorkCover. One amendment will assist reviewing officers, who are often criticised now, as is WorkCover generally, for taking so much time to get to the heart of the problem without being held up by unnecessary legal argument. There is a tendency for these processes to be dominated by lawyers who draw out the processes and this is to no-one's advantage, particularly not to WorkCover and the efficiency with which it operates. Another amendment allows WorkCover to deal properly with what turned out to be arithmetical errors and fraud.

I am sure honourable members will agree that these are useful, simple and effective amendments and I hope that

in the Committee stage they will be passed and not be stalled through any political motives or any sense that the fact that they are being introduced in this Chamber by the Democrats should make them any less valuable as helpful amendments to the Act as it currently stands.

I have toyed with some other amendments, but apart from those over which we have had extensive discussions with the parties involved, others do require longer-term consideration and, in many cases, the benefit of the select committee. I would particularly refer to the benefits. It is premature to consider making any substantial change to the benefits unless it were by unanimous consent of all parties involved. There is a serious need to look at the overtime structure and in the way WorkCover is currently obliged to consider it, and had we had an indication of agreement all round, I would be very supportive of an amendment to the way overtime is calculated in benefits. However, it appears at this stage at least that that is not the case and it may have to wait. I am also looking to getting actuaries' reports eventually tabled in Parliament on a regular basis. At the time of the original Act, I had difficulty in satisfying myself that we could build into the Act something that would ensure that the scheme would be fully funded.

I somewhat naively believed that by insisting on two private sector auditors with this accounting, through the auditors reports, would be shown to be complying with the fully funded requirement. I do not believe that to be so. I believe that the actuaries reports are more accurate reflections of whether or not the scheme is being fully funded.

Finally, I repeat that I believe that for the scheme to be fully funded is probably the most important ingredient in the Act in relation to long-term viability. I will do everything in my power to ensure that the scheme is run on a fully funded basis. If one can say that there are faults in the way WorkCover is managed, that there are discrepancies, or that there are excessive benefits which should be looked at, that is one argument. However, it is not an argument which justifies keeping premiums artificially low, thereby building up a liability which succeeding generations of employers will eventually have to pay. With those remarks, I indicate that the Democrats support the second reading of this Bill.

The Hon. K.T. GRIFFIN: I refute the claim by the Hon. Mr Gilfillan that a select committee, which I will move for at the conclusion of this part of the debate, is premature. There is no more important time than the present when the Government is proposing to increase the maximum levy from 4.5 per cent to 7.5 per cent for us to consider what is actually happening to WorkCover. For the proposal to come before us now for such a dramatic increase from 4.5 per cent to 7.5 per cent is a sure indication that there are major problems in the operation of the WorkCover scheme. Of course, there will be an opportunity to debate that issue in more detail when we debate the question of a select committee to consider this Bill. I take the opportunity immediately to refute the claim of the Australian Democrats that now is not the time for that.

A rather disturbing aspect of this legislation is that it has come in without much warning. We are, of course, required to deal with the Bill at what is relatively short notice for a matter of such substance, and to push it through the Parliament in the closing days of the parliamentary session.

My colleague Mr Graham Ingerson—member for Bragg and the shadow Labour Minister in another place—has already extensively reviewed the operation of WorkCover and drawn attention to its considerable faults and the problems in its administration. I do not intend to repeat here what he said in the House of Assembly. However, what he did do was refer to the situation in the election period November 1989 when I made a statement, on information which had come to my knowledge, that there was an $18 million deficit in WorkCover for the 1988-89 year and that consideration was being given to increases in levies.

At that stage, the WorkCover administration did in fact have extensive actuarial reports which had been delivered to it in September. Their existence was denied during the election campaign. We were assured that all was well with WorkCover. Immediately after the election, however, the annual report confirmed what we had been saying during the course of the election campaign. So, we were misled and the community of South Australia was misled and lulled into a false sense of security.

After the election, suggestions were made by the Government that the levy may have to increase. Early this year, employers woke up to the fact that WorkCover, by a majority decision—by no means unanimous—was proposing to increase the maximum levy to 7.5 per cent, under the guise of accommodating a bonus and penalty scheme, which was asserted to be revenue neutral.

In fact, on the actuarial reports and projections it was clear that there would have to be an increase in the average levy rate to accommodate a projected $70 million deficit which was forecast for WorkCover. So, the premiums were going to go up anyway and, although some may get some slight reduction in the implementation of the bonus and penalty scheme, there is no doubt that there will be an increase generally and that some employers will experience a quite dramatic increase.

The concern is that WorkCover is making no effort to tackle the major problems associated with the increasing deficit. One problem, of course, is the scheme of benefits which at the time of the introduction of the principal Act the Liberal Party drew attention to as being the most generous in Australia, but which, nevertheless the Government persisted with. Also, there is no doubt that there are problems with the administration and, of course, acceding to the 7.5 per cent maximum levy and allowing the average levy rate to be increased to something like 3.6 per cent to 3.8 per cent does not effectively provide an incentive for dramatic improvements in the administration of WorkCover.

So, the issues are not being adequately addressed, and the concern among employers and with the Liberal Party is that the soft option is being taken by WorkCover, as it is frequently taken by Government agencies, that is, just to increase the fees or charges and not come to grips with the real causes of any increases in costs.

The Hon. Mr Gilfillan did say that one of the advantages of the WorkCover scheme was that it was to be fully funded. I agree that that was one of the essential ingredients which we were able to get into the Bill at the time it was being considered in 1986, and it is still an important feature of the scheme. But, the fact that it is a monopoly operation, that it is not open to any competition, and that the benefits are extremely generous causes concern especially when one takes into consideration that suddenly the maximum levy is to be increased by something like 67 per cent.

Those are the reasons why we believe that it is important to consider the whole working of WorkCover rather than to defer it until a select committee might be established, with the good graces of the Democrats, in October or thereabouts this year. I make just several observations about WorkCover, one of which is directly addressed by the Bill, and that is the question of delays. I have been making some inquiries about the delays in the present system, which

members will recall was touted as being more expeditious than the previous system. The review officer system was going to improve the speed with which claims were dealt with, efficiency would be increased and the waiting time would be down. The information which I have is that some review officers, who review disputed claims, actually sit on a case and on a decision for something up to six months. Four to six months is not uncommon.

The conciliation can take up to four months. There is a three months lead time to the review hearing and, as I say, up to six months for a decision. SGIC, when it was acting as the agent for WorkCover, was meant to make a decision within 10 business days. Now, WorkCover is meant to make that decision on a claim within 10 business days, and it usually takes something like three weeks. So, all in all, there is a very significant period from the time when an accident occurs and a claim is made until the final resolution. It is something like 15 months, if it goes through the processes, and then, of course, there may be an appeal to the appeals tribunal.

That has a number of consequences because, where WorkCover or an employer is trying to stop payments to an employee, they cannot do so until the decision is actually taken by a review officer and, in the circumstances where a determination is against a worker and no payments are being made, then at the end of a period of what may be 12 or even 15 months, if the worker is successful, a lump sum is paid and then interest is awarded.

The advice which I have received is that hardship is created by the present system, which was meant to be governed by a principle of resolution of an issue within one month. What time is presently being taken is far in excess of that. Members may recall that under the old system where the matter went to a judge of the Industrial Court and that was usually the end of the matter, the accident to the hearing date was something like eight months, and a decision could generally be expected within two months, and frequently within one month.

The Hon. T.G. Roberts: Was that years or months?

The Hon. K.T. GRIFFIN: One month. Compared with the present system, the Industrial Court system was generally fairly quick. The other point members must realise is that, because the review officer's decision is not on every occasion accepted, there is most likely to be an appeal to an appeal tribunal, which adds further delay to the system. So, rather than it being a fast track system, it is contributing to significant delays.

There is another problem, which has just recently been drawn to my attention, and that is the case in the full Supreme Court, which was decided in October last year, *Francese v the Corporation of the City of Adelaide*, which broadened significantly the overtime factor of a person's remuneration at work that is to be taken into consideration in future in calculating average weekly earnings. My information is that that, too, has added significantly to the projected cost of WorkCover, because the average weekly earnings calculation will be increased quite significantly and virtually all overtime will have to be taken into consideration in that calculation.

My information also is that there is a great deal of concern about accidents which occur when one is travelling to or from work. Members will remember that, when the Bill was before us in 1986, the Liberal Party did raise a number of concerns about journey accidents and the way in which the liberal position of the principal Act would contribute to an explosion in costs to WorkCover, flowing through to employers and thus to the people of South Australia in the costs of providing goods and services.

I could address a number of other areas, but I think for the moment I shall leave my observations to the general points which I have made. My colleague, the Hon. Julian Stefani, has more than adequately covered particular issues, and at the appropriate time I will move to establish a select committee now rather than delaying that issue until October, because I believe that it is critical that this issue of WorkCover be given a thorough examination now before there are extensive increases in the costs of this scheme to employers. I therefore support the second reading of the Bill for that purpose.

The Hon. R.J. RITSON: I, too, support the second reading of this Bill in order that it may proceed to a select committee. I have a number of concerns with the matter and will deal with them sequentially. The first question is that of disease. The original concept was to make a distinction between accidents (physical trauma) on the one hand and naturally occurring disease on the other, and to deal with industrial diseases by addition and by schedule. However, the distinction has become blurred and we now find a definition of disease which can mean almost anything, including trauma.

The second reading explanation gives us the reasons for that. I understand that the case of Ascione referred to during the second reading explanation was an instance of a naturally occurring cerebral haemorrhage which occurred on the way to work and which was held to be a journey accident and, therefore, not requiring any evidence of causation related to work. If my understanding of that case is incomplete, I will happily accept the Attorney's explanation during the Committee stage.

My concern about the growth in artificial definitions of what was a naturally understood distinction is that we keep adding fuel to the fire so that words such as 'disease' and 'accident' no longer have a natural meaning as understood by the community in general or even by medical practitioners, but require some skills in statutory interpretation to discover a meaning which is amended from time to time by the courts. In the end, we have two different languages and there will be more confusion in the courts in future when the question of what is disease arises, medical witnesses' evidence will be coloured by their understanding and the courts will be guided by previous decisions and by Acts of Parliament and amendments.

So, this is a band-aid, but the matter will arise again. It is hard to know what to do about it, since the original intention of the legislation as it came into the Parliament in the early part of this century was essentially that workers should be compensated by way of insurance taken out on their behalf by their employer. The reason for that was that, although the ordinary common law gave remedy where there was negligence, it is the nature of industry that in some occupations there are dangers well known to the occupation generally, although in each instance of an accident there may not be evidence of negligence—merely to be a rigger or a coal miner, etc., exposes one to a danger of injury that is not necessarily inflicted through negligence.

That was the concept, but that concept has changed. It is almost as though we are using workers compensation and WorkCover as an outlet for social welfare. It is almost as though it were all right to use it to give financial benefits to people because we are sorry for them or because they need them. In fact, that argument was put to me by an economist I consulted when this Bill was last before the Council, when I was discussing the question of coronary artery disease with him. I said that the measure that is now before us again—the evidentiary provision in relation to

coronary artery disease—would open up a whole bank of new claims for naturally occurring work-unrelated disease. I said that this was like using WorkCover as a social service, and he said, 'Don't you think they deserve this? What is wrong with that?' I will tell you what is wrong with that. Social service is billed against taxpayers as a whole: workers compensation is a charge on the cost of production, and the cost of production is at the very root of our balance of payments problems and our economic ills. It is irrational to load up the national cost of production with paying for naturally occurring disease.

This Bill is a mixture of conflict within itself. It is brought before us to enable the WorkCover organisation to increase some of its charges, and under the amendments to section 31 to give greater access to the benefits for people with naturally occurring heart disease, yet the section that is amended by altering the definition of 'disease' is brought before us so that we do not admit as claimants without proof the class of persons such as Ascione. It is trying to keep out the Asciones and bring in the naturally occurring heart diseases. I am not sure what it wants to do, and time will tell what the courts will make in future unforeseen circumstances of the altered definition of 'disease'.

I want to comment now about the question of pre-existing coronary heart disease. We are told blandly in the second reading speech that this restores the matter to the 1971 situation. I have a distinct recollection of when we took it out, and I cannot recall the exact timing, whether it was by amendment to the Workers Compensation Act when we were in government or whether it was by amendment when this matter first came before us.

However, to provide that evidentiary position where for any aggravation of coronary artery disease it will be presumed, in the absence of proof to the contrary, that employment contributed to this disability has a number of unfortunate consequences. First, the cause of coronary artery disease and the cause of its progression and aggravation depend, first and foremost, on what sort of lucky dip one gets in the genetic pool.

Some people have family lines with premature cardiovascular disease and others do not. For one-third of the sufferers of cardiovascular disease, the first symptom is sudden death. For the others, it is progressive illness that may progress over months or a few years to death, or it may persist for 10 or 15 years as a chronic disability. I could understand the connection if someone with known coronary artery disease were to be asked to do a heavy physical task. If that person had and knew he had angina of effort and a past history of myocardial infarction, it would be a reasonable assumption to attribute a heart attack either at work or shortly after ceasing work to that work or to attribute a contribution at least to that work.

One thing is for sure—once you get the disease, it will aggravate and progress, and I just cannot see why the Government is putting this in the Bill. Coronary artery disease is not just coronary artery disease: it is cardiovascular disease. At the same time the process is going on in every other artery in the body. It is often a lottery whether myocardial infarction happens first or whether cerebral haemorrhage happens first. If your coronary artery gives the first symptom of this generalised arterial disease, then you have a presumption of work relationship put into the Bill here yet, if a cerebral artery happens to go first, as in Ascione's case, we are passing in the same bit of legislation an amendment to keep that out.

I am perplexed. I do not think that the people dealing with this actually understand the disease of atherosclerosis. Either one requires some demonstrated work-related relationship with all the manifestations of the arteriosclerotic diseases, or you presume it to be work-related without any question. It is simply idiotic in the one Bill to be admitting all the consequences of cardiovascular disease as manifest in the heart arteries to a presumption of causation and, at the same time trying, to shut out from such an evidentiary advantage the cerebral consequences of the same disease.

But, never mind, that is the way the Act has grown—like Topsy. I am not sure whether it will be $50 million or $500 million in the long run because I am sure the courts and the lawyers have not exhausted the possibility of the consequences of cardiovascular disease and its natural progression in relation to this amendment. Nevertheless, the Opposition supports the second reading in the hope that a select committee can look at these things.

We support the amendment to section 5 dealing with the levies because there is some urgency in dealing with the large unfunded deficit which this organisation has incurred and which we predicted a long time ago, as a deficit was predicted for the Victorian WorkCare scheme. Here again, the Liberal Party argues that the whole system is fundamentally flawed. The principle, if we start with the Melbourne example, was to begin with an idealogical concept, that one could get the lawyers out of the system, simplify it, save a lot of money and run it dictatorially as an organ of the State, and that everything would be cheaper. It started with an idealogical concept, rather than the hard actuarial calculations. From the idealogical concept in Melbourne, the Treasurer did a deal (and I have seen the telexes) with the Ford Motor Company and agreed that it would not pay more than 4 per cent of its wages bill in premiums. A similar sort of deal was done with the rural industry and, of course, those two groups immediately supported the Government when it revealed its Bill. It also promised that no-one would pay more than they had paid under the old scheme and it promised that the global cost would be kept below 3.5 per cent.

The Hon. T.G. Roberts: Was that the Ford Company?

The Hon. R.J. RITSON: Ford, yes, I have seen the telexes working it out. It was the Ford Motor Company—Henry Ford.

The Hon. T.G. Roberts: I will have to have a look at that.

The Hon. R.J. RITSON: I do not think they were forged. Here it was a little bit different. I have no evidence of a formal undertaking in the planning stages of WorkCover to those groups but, clearly, there was the expectation on the part of those groups that their levy premiums would be cut significantly. Indeed, that happened. However, I think we are finding here, as was found in Victoria, that one cannot keep all three promises. Here we did not try to keep all three promises. One promise we did not make—and one that we therefore can not be accused of breaking—was that no-one would pay more. My colleague the Hon. Mr Griffin demonstrated earlier, in discussing the history of the legislation, that when the original Bill was before the House, the long list of people who paid more—much more. The matter was explained fairly easily by the Government because the Government had not made the promise that it intended all along to have a rob Peter to pay Paul approach.

We have been told that this was a cross subsidy to help exports. I do not know that it was ever applied to those industries on the basis of evidence as to how much exporting versus domestic marketing they did, so it does not sound as though it was a terribly serious attempt to specifically help the export sector. The shape of it is more consistent with the medical model, that is, if the Government wants to bring in something like this, and there will be opposition,

it must buy off the opposition, the traditional Liberal Party supporters, namely, the rural sector and the captains of heavy industry, and let everyone else fend for themselves. That has happened here.

I am not sure why there is a deficit. We have been given stated reasons and we have read about them in the press. It has been suggested that certain injuries are concentrated in certain types of industry and this is an attempt to go halfway back to a true risk-based premium assessment. I have a suspicion that there are a number of other things wrong. For example, I suspect that the number of dubious claims has increased (and I say that from my own experience of seeing what comes across the consulting desk) although this needs to be clarified.

I have the impression that the increased number of referrals to rehabilitation agencies is somewhat of a mixed blessing which has not really been analysed according to suitable protocols. Some figures might have been done to tell people what they want to hear but I have the impression that cases that might have been dealt with at general practitioner level for a few weeks longer until people got better tend to be referred to a rehabilitation agency. In some cases just the mere process of referral and assessment can be an administrative delay to the return to work.

I have an anecdotal account from a specialist, whom I have every cause to believe, about a bank clerk who was off work with a WorkCover claim for a backache. He went to rehabilitation and was undergoing a program of assessment for re-education as a process worker. He kept all those appointments but, in the meantime, his back got better and he went back to work in the bank. He kept going to rehabilitation, putting pegs in holes and practising his dexterity to become a process worker, but the right hand and the left hand never met.

The Hon. T.G. Roberts: How many people do you treat who don't put in claims?

The Hon. R.J. RITSON: Hundreds. The Hon. Mr Roberts raised a very important question by pointing to patients who have a work-related accident but who do not put in claims because they are too proud or do not want to be discriminated against by future employers. The honourable member knows that, if a person has four weeks off work on a WorkCover claim for a backache and goes along for another job that requires a medical history, and if that person admits to that claim, someone else will be found to have better skills.

One of the tragedies is that schemes like this tend to put honest claimants who are rehabilitated back on the scrapheap of unemployment because of stigma. When I talk about shonky things, I talk not about the average claims or the good honest workers, who are the vast majority, but about those within the small percentage who create the big cost. I do not think we know the efficacy of the efforts to return them to the work force. I do not think we know, if we returned them physically to work, what amount of stigmatisation there would be. In cases where a psychological incentive is important, we hear statements, made by people with no knowledge of human behaviour, to the effect that if we get rid of the lump sum they will lose the incentive to claim.

One can equally say that a weekly payment is a continuing reward for not getting better. It is easy to say that there are all these things wrong, but no-one has a satisfactory protocol for assessing this stuff. Have we taken a cohort of 500 right-handed workers with tennis elbow and looked at the total period of disability now compared with before, with or without steroid injections, with or without rehabilitation? I do not think that this has been done. The figures bandied about in newspapers about comparisons with other countries are not nearly as detailed and controlled as would be necessary to assess the present system. We have introduced many unknowns with this legislation.

As regards savings, if we get rid of the lawyers, we shall have just as many difficult problems to resolve. We shall still have just as many fuzzy medical reports and just as many people who perhaps might not be truthful, and we shall still need people to judge them and to administer the process. The only difference between getting rid of the lawyers and the courts and replacing them with the internal administration under this legislation is that, whereas the dispute-resolving mechanisms before were a charge against the whole of society and the taxpayer, they are now all lumped against the cost of production, too.

Another problem which has concerned me is the increase in medical costs. I have a vague recollection from previous figures that it was 7 per cent and that now it has gone up a couple of per cent. I know this from my personal experience. I twice asked a question in this Chamber about the ready payment by Medicare of high fee structures. I asked it in relation to the public sector, because that is perhaps the highest. The public charges against Medicare for a simple examination and attendance at casualty are now $100. That exceeds considerably the highest private sector recommended charge. A constituent came to see me. He was quite angry because he had a cut finger and his employer sent him to the casualty department to see whether it needed a stitch. It did not need a stitch. After a wait of several hours he was supplied with a bandaid. When he saw the Bill for $90—it has now gone up to $100—he was quite shocked that the community, through WorkCover, should have to pay such fees.

In fact, I asked a question regarding hospital bed charges because the charges to Medicare are very much higher than the charges to an insured private patient in a public hospital, and substantially higher—but not as high as in the public hospital case—than the charges to insured non-compensable private patients. The Hon. Ms Wiese indicated in the Chamber today that she had an answer to my question, but I could not get the call due to a very long answer to a dorothy dixer from the other side. I believe it would be in order for the Minister to introduce that answer during the Committee stage debate.

In summary, there is a great inconsistency between two of the amendments in this Bill, both dealing with the inexorable consequences of atherosclerosis, depending which manifestation happens first. I am deeply disturbed by the evidentiary provision applied to the progression of coronary artery disease which is a naturally progressive and probably genetically conditioned disease. I accept the need to raise the premiums, simply because we are facing such a large deficit and the Commissioner urgently needs to collect some more money. However, I do not think it is sufficient to accept the explanations appearing in the paper recently as to how that need arose. The matters that I have raised as question marks, without perhaps giving the answers—matters of medical costs, claims history and the psychology surrounding claims—need to go to a select committee.

This is one of the biggest potential drains on the public purse in this State. It is potentially one of the biggest disasters to happen to the public purse or to industry in this State if it goes badly wrong. Every sign is that something is going badly wrong and we should not allow this Bill to leave this Parliament without saying it is our responsibility to hear all the evidence, not just what we read in the papers from time to time of what someone says about medical costs, claims patterns or premium levies. It is fundamentally

vulnerable if there are other factors operating to its detriment that we are not looking at.

I would ask for the support of the Democrats—if they were in the Chamber. Whether or not we will get it, I do not know. They have said publicly that they favour a select committee. Indeed, they could take the credit for this select committee. We could change the motion and let them move it—if that is the only way to get their support, if that is the way they operate. Obviously, the Government will not support that, so we await the decision of the Democrats. Until that time, I support the second reading.

The Hon. PETER DUNN: I rise to support the second reading, and, in particular, the establishment of a select committee. I will be relatively specific and brief. A select committee is the sensible way to determine the aims of this Bill, because there are broader issues at hand than those which the Bill addresses.

I suppose I could say, 'We told you so', and we would be right because a lot of the problems which have occurred and which the Government is now attempting to rectify were highlighted during the debate when WorkCover was first introduced in Parliament. The Government was told very clearly that the costs would blow out but it did not believe that. So we now have the legislation back in the Council and the Government is endeavouring to increase the rate with another formula to try to determine an equitable rate, I presume.

Let me say at the outset that I am all for having a method by which employees are well and truly looked after when they have genuine accidents. However, I am against malingerers and people who rort the system. As an employee for a number of years and as an employer, I have seen both sides of the argument and I guess I have physically worked as hard as anyone in this Chamber. I have done that in an outside job working in primary industry. That is how I wish to orientate my few words this evening.

There is a problem with primary industry because of the method by which we gain the product of our soil: the fact that there needs to be a lot of physical labour attached to it. The people who work in primary industry do not do repetitive work. There is not a system by which one can set up a safety angle. How can one set up absolute safety for horse riding? It is jolly near impossible.

The Hon. T. Crothers: What about shearing?

The Hon. PETER DUNN: Shearing has more accidents than anything else purely because sheep kick. One handles large animals that are stronger than oneself many times and nasty accidents can happen very quickly because one is handling very sharp instruments which are mechanically driven. Of course, that applies right across the agricultural field whether one is dealing with machinery such as headers with moving parts or mowers or whatever; they are dangerous implements.

We can adopt practices that are relatively safe but there is no 100 per cent safe method in that system. The mere fact that one is working in this field puts one at relatively high risk. A day in the life of a farmer is always risky. He can either cut himself or strain himself lifting or whatever. One could go on forever talking about what could happen. One has to remember that these people are providing a service and they are providing an enormous amount of wealth of this economy.

I believe they need some consideration. I must say that the former WorkCover Bill did introduce an alleviation in some fields in primary industry, particularly for shearers which are on a very high rate because it is an industry which has high claims. It is a very hard industry. It is probably the hardest work continuously done in this State. It is very necessary because we cannot get the wool unless we shear sheep because we have not as yet developed mechanical shearing to the stage when it would relieve the physical work involved. It is the hardest work without doubt on the farm today. Those people get injured.

There is another fact involved, too. It appears that people who shear—and there is a bit of a cult effect about it—like to be shearers and some like to stay on as shearers until they are perhaps my age or older. It then becomes very hard work. Probably starting in the mornings is the hardest. They seem to run into form later in the day but it is hard work each morning cranking up at half past seven; lining up to a pen full of woollies is not the easiest work in the world.

When they are injured they tend to hang about because they are not trained for anything else, and this can cause problems. So, there are a lot of prolonged injuries, such as back injuries. We now have mechanical assistance for shearers with bad backs. Although this industry has a history of a high number of claims I do not believe, as has been proposed, that that is a reason for raising the rate for primary industry across the board to 7.5 per cent, regardless of whether or not a discount is given for a low number of claims.

Under this Bill, all people in primary industry are cobbled together. Until the advent of WorkCover shareholders in a small private company were not covered: they were self-employed and covered themselves. I run a little company from my farm; it holds the land and owns most of the equipment on the property. Under this Bill I will have to cover any income that I receive from this company. For the last few years there has not been a lot of income because of unseasonal conditions, but conditions have turned around and last year was better. So, I expect to pay a fairly high bill for WorkCover for myself while I am working here in Parliament. Because I do some work on my property and receive an income from it, I will be caught up by the provisions of this Bill.

I now employ a full-time person on my property, so I will have to cover him under WorkCover. Although he is my son, he is a share owner of the property and I will have to cover him at the recommended rate.

An honourable member: It is ludicrous.

The Hon. PETER DUNN: It is ludicrous. We have gone from covering casual labour or a small percentage of permanent labour to including everybody in this industry. So, overall we will pay a lot more for WorkCover despite the fact that we were told that rates would come down. I can vouch for this fact because I have the figures. Primary industry is a very important part of this nation. An article in today's *Australian* headed 'Farm debt a growing concern' states:

> Despite a 10 per cent increase in average farm incomes last year, farmers still managed to increase their debt more than they were able to increase their incomes. Figures released by the Bureau of Statistics show average farm incomes rose 10.5 per cent to $180 900, but average debt rose 14 per cent from $94 000 to $113 900.

If we continue down this track, soon we will not have a primary industry. I believe that the legislation as proposed will increase the average rate and higher risk industries will be penalised. Perhaps we will have to accept that some higher risk industries need to be subjected to a higher rate. They will not go away; we cannot live without them. When I work in an office there is an extremely low risk compared with the things that I do when I go home. For instance, on the weekend I was helping to build a shed and a piece of metal cut my hand. On this occasion I did not need stitches.

However, not terribly long ago while I was slaughtering a sheep I again cut my hand. On the way to the beach with my family after this incident I called into the hospital to get a tetanus injection. I could not convince the matron to give me a tetanus injection without her looking at my hand. I knew if she looked at it that she would want to put stitches in it, and that is exactly what happened. This then started a debate about whether I was working, whether the sheep was to be eaten by my employees (my son), whether it was for my own personal use or whether I slaughtered the sheep for pleasure before going to the beach.

The whole question can become pretty complex, and that is what has happened with this legislation. In the end I told the nurse that the chops were for me; that I had cut my hand killing the sheep; and that she should stitch it up and let me get on my way. This legislation can get in the way of a bit of genuine work and the effort that is put in to make this country run.

I think a few matters need to be addressed and a select committee is the best way of doing that. I think that to remove overtime from weekly pay would be of benefit. I do not think it is necessary because, if 100 per cent is the starting point, that will cover the overtime wage. We all know that when people are not at work their capacity to spend money falls away very rapidly. When pensioners turn 65 and retire they want as much money as they can get, and they probably need it. However, in 10 years time their power to spend is a lot less. The same applies if people are out of work or cannot work because of injury: they do not have to travel to and from work, so they spend less. I therefore believe that the benefits should decrease more quickly, and that this matter should be looked at.

Journey accidents are fundamentally a city-based or modern-day phenomenon. Years ago people lived on the job. I live on my own property, I get out of bed and I am at work. If I have an accident I cannot claim for it. However, if I employ a casual labourer and he has to travel some distance I am liable for whatever accident he has coming to work in the morning. We have to live in the world and work. Why must we be covered for journey accidents? I think the present situation in common law is wrong. We should eliminate payments when injured workers are overseas, unless there is a legitimate reason for not doing so.

A number of other matters need to be dealt with by the select committee. The Hon. Dr Ritson talked about a number of the medical issues. I think the Hon. Julian Stefani covered the matter fairly well as the Liberal Party sees it. However, I am putting the perspective of primary industry. I know that that industry will be hit by a big rise—I guess its premium will go to the maximum.

I think that WorkCover should look very carefully before it implements that rise, because primary industry is an essential part of our economy. It is the biggest income earner for this State. If it is made less profitable than it is now, there will not be a primary industry of any consequence and it will not employ labour because employing labour today in that industry is very expensive.

Instead, people will mechanise, and ultimately that adds to the cost of producing the product. The city will therefore eventually have to pay more for it. I suggest that we look very carefully before we increase the rates and ensure that the rate increases are reasonable and sensible. We should bear in mind that primary industry is an essential industry that earns a big export dollar for this State. I recommend that this Bill go to a select committee.

The Hon. L.H. DAVIS: This is 'I told you so' night. The workers compensation legislation was introduced in 1986. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 11.36 p.m. the Council adjourned until Wednesday 11 April at 11 a.m.