LEGISLATIVE COUNCIL

Wednesday 11 April 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

In Committee.

Clauses 1 to 6 passed.

Clause 7—'Insertion of new Part IV.'

The Hon. R.I. LUCAS: Before moving suggested amendments, I have one or two questions to put to the Minister. A number of questions have been raised with me about one or two definitions under this clause. The first question relates to the definition of land use entitlement. The view that has been put to the Liberal Party is that under that definition land use entitlement could possibly include any arrangement within the definition of 'unit trust scheme' giving even a short-term right to occupation without any interest in the underlying property or even covenants of such like issued by a number of schemes; for the growing of timber, for example. I would be interested in the Attorney's response as to whether officers have considered whether there are any problems in relation to the land use entitlement definition. At this stage, all I am doing is seeking information from the Attorney, and the Liberal Party does not yet have any amendments on file in relation to this matter.

The Hon. C.J. SUMNER: I am advised by the Commissioner of Stamps that this particular definition has been the subject of extensive discussion. The issues raised by the Tax Institute have been considered in depth by the Government after discussion with not only the Tax Institute but also the Law Society, the Australian Society of Accountants and the Institute of Chartered Accountants. All we can say is that there is still a difference of opinion as to the effect of the definition of land use entitlement. The Government believes that there are not the problems which those bodies, particularly the Tax Institute, have outlined and which the honourable member has communicated to the Committee today.

The Hon. R.I. LUCAS: I take it from the Attorney's response that, whilst there is a difference of opinion, the Government remains of the view that the sorts of concerns raised by some of those people and organisations would not be covered by the Government's understanding of the definition of 'land use entitlement'. Is that the Government's view?

The Hon. C.J. SUMNER: That is correct. The Government's point is that we do not believe that the definition will lead to the problems that have been outlined by the Tax Institute and others but, in any event, there is a precaution, as the ability exists to exempt land use entitlements by regulation. If any problems arise, we believe they can be coped with in that way. In the long term, if there are problems, the matter can be re-examined by Parliament. The ability to exempt land use entitlements by regulation ought to be a sufficient safeguard.

The Hon. R.I. LUCAS: My next question about definitions relates to new section 91 (2) and the definition of 'related persons'. The view presented to the Liberal Party, the Government and its officers is as follows:

> The extremely wide definition of persons who are related in section 91 (2) may give rise to problems and in some circumstances parties will simply be unaware of the 'relationship'—

to use one of the words in the definition—

> in particular section 91 (2) *(c)* which provides that trustees are related persons if any person is a beneficiary common to the trusts of which they are trustees.

That provision could be a problem and the suggestion also is that section 91 (2) *(e)* and *(f)* could cause some problems in relation to the definition of 'related persons'. Again, as I understand it, this matter has been raised with the Government, and I seek the Government's response to the concerns that I have raised.

The Hon. C.J. SUMNER: I suppose in this technical area it comes down to a matter of opinion. All I can say is that the advice the Government has from the Commissioner of Stamps is that the definitions or specifications of persons referred to by the honourable member will not give rise to any practical problems, given the overall nature and type of companies that have been caught by the provisions. In any event, there is again a fail-safe provision in new section 91 (3), which provides:

> . . . persons are not related persons in relation to the acquisition of an interest in a private company or scheme if the Commissioner is satisfied that the persons were not acting together to achieve a common purpose.

Obviously, that can be used to modify the rigours of the provision where it is clear that on the facts presented the persons were not acting together to achieve a common purpose.

The Hon. R.I. LUCAS: As the Attorney has indicated in those first two matters, and I guess in this one as well, there remains a difference of opinion between Government, its advisers and those who have been consulted in relation to possible interpretation of the definition clause. I think it is useful to place on record during this debate what the concerns are and the Government's response to those and what the future course of action might be, depending on which set of advisers or bodies happen to be correct in their interpretation of the definition clause. One further matter that I want to raise is in relation to the definition of 'real property', in section 91 (1). The submission that the Liberal Party—and, again, I guess the Government—has had is as follows:

> Following the decisions in *Costa & Duppe Properties Pty Ltd v Duppe* (1986) VR 90 and *Softcorp v Commissioner of Stamp Duties* 87 ATC 4 737 in some cases the holders of units in a unit trust will have an estate or interest in real estate.
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> The scheme of the legislation is, as evidenced by section 92 (1) *(a)* (ii), to only render one liable for *ad valorem* duty where there is an entitlement to greater than 50 per cent of an interest in the company or unit trust in question. Such lesser interests should be excluded.
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> It is possible under the Bill for a company holding, say, $2 million worth of units in a property unit trust or trust to be a land-owning company notwithstanding that it merely holds, say, a couple of per cent in a particular property trust or a very minor interest in a number of property trusts. This is unsatisfactory and should clearly be excluded.

Again, I would seek the Attorney's response to that view in relation to the definition of 'real property'.

The Hon. C.J. SUMNER: The Leader of the Opposition is correct in his assumption that the response on this matter is likely to be the same as it was on the two previous issues that he raised. However, I concede the legitimacy of the honourable member putting the concerns, and the Government response, on the record so that if problems arise in the future there is at least some reference point to the differences of opinion and, in the future, any people considering the legislation can refer back to the questions and answers and use those to determine whether or not the problems envisaged and outlined at this time have in fact come to fruition and, accordingly, whether there should be any changes in the future.

Without going through the details, I am advised again by the Commissioner of Stamps that it is an area where the

Government or the Commissioner will have to agree to disagree with those with whom we have consulted and who have been in touch with the Opposition. However, basically we do not believe that the points made by the honourable member will give rise to any practical problems.

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

Page 3, after line 33—Insert new definition as follows:
'primary production land' means land used wholly or mainly for primary production:

In speaking to this first amendment, again, in the interests of what we hope will be the last sitting day of this session of Parliament, we hope to expiate the proceedings of the Parliament generally and also the debate of the Stamp Duties Act Amendment Bill (No. 3). I indicate that I would treat that as a test case for a series of amendments standing in my name in relation to primary producers. If successful, we will continue to move the rest of the amendments and we can debate the adequacy of those as we go. If unsuccessful, and if I am unable to convince my friend and colleague the Hon. Mr Gilfillan and the Australian Democrats, then I will not proceed with the subsequent amendments.

The first point I want to make in relation to the amendments which I intend to move and which I have moved is that this legislation is not an attempt to establish a precedent in South Australia that is not common in other legislation throughout Australia. I think one has to be honest in saying up front that we are trying to provide relief to primary producers; this provision is an attempt to provide a concession to primary producers. We must be honest and say that we are looking to treat primary producers in a different fashion from the way in which we treat the rest of the community. We are arguing, and will argue, that there is no evidence of rorting of the system or of the use of deliberate avoidance mechanisms by primary producers in relation to their major asset—the family farm. Primary producers want to pass on that asset from generation to generation, from father to son or from father to daughter. The Government and, certainly, the Liberal Party have wanted to encourage the continuation of family farms. I do not want to get into a debate with the Hon. Mr Gilfillan and others about agriculture policy or big corporations, for example, buying huge chunks of South Australia and operating agricultural enterprises as opposed to family farms. However, I am sure the Hon. Mr Gilfillan and other members will be familiar with that debate. The Hon. Mr Gilfillan will know that we do have a bias, which we happily concede, in wanting to see the continued existence of family farms and family farmers. We would seek to provide positive incentives to farmers to enable their continued existence. Therefore, let us be honest up front and indicate that we are looking at this as a special case of relief and concession. As I further explain the amendments I hope that the Hon. Mr Gilfillan and other members will bear in mind that we do see this as a different case, we will treat it differently and we hope that a majority of members in this Council will be prepared to see the validity of the amendments that we intend to move.

At present in South Australia many family farms are held by farmers through their private companies. Their private companies own the substantial asset, which is the real property of the farm upon which they base their very existence: it is their business, their livelihood and their life. For a variety of reasons that we do not have to go into—and perhaps a number of members in this Council will be familiar with the situation—the farmers choose to have their private company hold the real property or asset—the farm. Many members will be aware that given the value of agricultural land at present many properties throughout South Australia would be valued in excess of $1 million. That does not necessarily mean that those farmers are making a big quid from those properties. However, the value of their real estate—their farm—is significant. They may be asset rich but, in many cases, perhaps they are cash flow poor.

That has been the case over the past 18 months or so on the West Coast and in the Murray-Mallee where there have been bad seasons. It must be recognised that the value of the real property of many farmers comprises greater than 80 per cent of all their assets.

These three essential criteria will activate this legislation: first, that a person has a majority interest in a private company, as many farmers would; secondly, that the value of the real property is greater than $1 million, and again many farmers would be in that position; and, thirdly, that the value of their real property is greater than 80 per cent of the value of all their assets, and many farmers would be in that position, as well. They might have a few other assets but the vast bulk of their assets is in the value of their real property.

Many farmers coming to the end of their farming life, for whatever reason, hand over control of the property and the private company to the next generation—their sons or daughters. Under the current arrangements, they pay their fair share of stamp duty—they do not do it for nothing. As I understand, they pay 60c in every $100 in stamp duty and, on a large property, that is not an insignificant sum. With this piece of legislation, the Government seeks a greater collection of stamp duty from farmers nearing retirement who want to hand over the private company and the farm to their sons or daughters. So, instead of paying 60c in every $100, they will pay up to $4 in every $100 in stamp duty. That is a significant extra impost for farmers in that position.

The point I make again to members is that we are not dealing with sharp operators or big business people who want to avoid due rates of duty in a handover. I simply refer to families—farmers—throughout South Australia who want to hand on their property and their company to their sons or daughters, paying a reasonable rate of stamp duty. With this first amendment, which is a test case (the other amendments are the substantive part of the Liberal Party's package of amendents), the Opposition is seeking to treat farmers and farming communities differently, to leave in the system a positive incentive to enable the handing down of farms from generation to generation. The Liberal Party is happy to concede a bias towards farming communities and wants to encourage the continued existence and importance of family farms in South Australia.

Although I have outlined all the major points, I have not explained how the other amendments in this package seek to continue to provide that assistance. The Committee needs to agree or disagree on this question of providing incentive to farmers to pass on their farms to their sons and daughters. If we accept that, we can go on to debate the adequacy of the mechanism of doing that. If the majority in this Council rejects that, we can, I guess, save a lot of further debate in relation to the adequacy of the way in which we intend trying to meet that objective.

The Hon. C.J. SUMNER: The Government opposes the amendment which, as the honourable member explained, is designed to exclude primary production land in certain circumstances from property which has to be included in a statement lodged under this Part of the Act, and therefore have duty paid on it. The Government believes that to provide an exemption for primary production land would be inconsistent for two reasons. First, a conventional transfer of primary production land from, say, a father to his son is, at the present time, liable to *ad valorem* conveyance

duty—that is, if it is done in the normal way of transfer of real property. So, why should a transfer of land done by way of shares be exempt?

The Hon. K.T. Griffin: A father might be passing his company over to his son.

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

The Hon. K.T. Griffin: That has been allowed for the past 100 years.

The Hon. C.J. SUMNER: But, if he has not got a company and he is transferring the land in the normal way, he must pay duty. We are saying that one should not be able to use, in effect, a company—

The Hon. K. T. Griffin: He is not using it; it has been the normal method of doing it.

The Hon. C.J. SUMNER: The honourable member says that it has been the normal method of trading. We say that people who are transferring land, whether by way of a company or by way of a direct transfer of land, should be treated on an equal footing and distinctions ought not to be drawn. It is for that reason that we say that at present a transfer or conveyance of real property from father to son is subject to duty. If that transfer from father to son occurs by way of a company, a company perhaps created for the purpose—

The Hon. K.T. Griffin: Even if they did—

The Hon. C.J. SUMNER: Well, the option is there.

The Hon. K.T. Griffin: They'd pay *ad valorem* duty on the transfer from father to company. They would pay it. Why go through that hassle?

The Hon. C.J. SUMNER: They pay the duty on the share transfer which is a much lower rate of duty than if it is an actual transfer of real property in the normal way.

The second reason the Government opposes this amendment is that the purpose of the legislation is to close what we believe to be a tax avoidance loophole. We raised the question simply why primary production land should be exempt from the provisions while all other types of land, commercial, industrial, residential developments, etc., are caught? I thought the Liberal Party was as enthusiastic about private sector development in those areas as it was in the area of primary production. We can see no basis for drawing a distinction.

The Hon. I. GILFILLAN: I think it is appropriate for me to declare a vested interest in the matter. I am a shareholder in a private company which owns a farm on Kangaroo Island, although I would like to assure the Committee that it has a value considerably less than $1 million. That company was formed close to 30 years ago for a measure of convenience of management under the advice that was available to farming families. It was a specific choice that I took. Many of my farming colleagues on Kangaroo Island and elsewhere did not follow that path, so there is no absolute uniformity; but I should make it plain that I have a vested interest in this issue.

I also have a strong devotion to the principle of the perpetuation and encouragement of family farms as being the optimum way to go for communities, care of the land and the continuation of reliable safe farming practices. As to the reflection by the Hon. Mr Lucas on agrobusiness and large conglomerates moving in, it is not specifically a contest between family farms as such and big business; it is the relatively small unit which is called a family farm, because it can probably be managed and owned by one family. That does not necessarily mean that the ownership of family farms will not change from generation to generation and as different circumstances apply to different families. The continuation of family farms as a major ingredient of our rural activity does not necessarily depend on an unbroken lineal descent of ownership down one family line.

I am persuaded that, to a large extent, similar arguments can apply to small business and that there is danger in picking a particular area of the economy or structure of the State and giving it, as the Hon. Mr Lucas unashamedly declared, discriminatory favourable treatment. The philosophy of discrimination in favour of one sector needs to be taken on board by the philosophy of the Party in government. I assume—maybe inaccurately—that this amendment by the Liberals indicates that in government they would see fit to introduce legislation to ensure that, not only in this way but in other ways, the so-called family farm philosophy was put into effect. In those circumstances, the Democrats, holding the balance of power, would be in a position to review it. However, it is a substantial variation on the intention of the legislation. It would be a precedent of discrimination in favour of one sector in prejudice to others. In various forms it may be argued that the same sort of argument could apply as that put forward by the Leader of the Opposition in regard to discriminating in favour of family farms.

Many farmers do not have their farm structure on a company basis. The move came primarily because it appeared to be a convenient way of saving probate in the first instance and reducing tax, both of which measures have been effective. However, many single family owners have not moved into a company structure, so, as the Attorney pointed out, they would not benefit from this amendment. As the Hon. Mr Lucas looked for an indication, and as this is a test case, I indicate clearly that the Democrats will oppose the amendment.

The Hon. K.T. GRIFFIN: I will make a couple of observations on what the Hon. Mr Gilfillan has said. He has sought to put the primary producer, the farmer, in respect of a company holding family land used for the farming business into a similar category as other small businesses. With respect, I do not believe that that is a valid comparison because the farmer has always had to use the land for the purposes of the business and derives production from that land for the purpose of making a living, whereas in other small business areas if a company holds the assets of the small business, they are usually assets of a personal nature—that is, personal chattels or goods—rather than land. Of course, some own the premises from which they carry on the business, but many more rent premises.

In those circumstances, they are not likely to be caught by the Bill anyway, because they would not be the so-called land rich companies to which this Bill is directed. I do not believe it is a valid comparison to suggest that there should not be an exemption for primary production land because it would then draw an unusual distinction between that form of business and small business, since the situations are quite different.

The Hon. I. Gilfillan: Do you think the exemption should apply to land which is held privately, not in a private company?

The Hon. K.T. GRIFFIN: It does not.

The Hon. I. Gilfillan: Do you think it should? In the argument you are putting you talk of 'peculiar to farming land'. Should it cover all farming land or just that land held by private companies?

The Hon. K.T. GRIFFIN: The Bill applies only to private companies. It does not deal with the other area of law which has been in place for many years where, regardless of the nature of the use of the land, the *ad valorem* conveyance duty has been payable, so there is not the distinction.

The Hon. I. Gilfillan: Would the Liberals change that law so that primary function land would be exempt?

The Hon. K.T. GRIFFIN: We have not even thought about that. I do not see that that is relevant to the debate.

The Hon. I. Gilfillan: It is a matter of principle, surely.

The Hon. K.T. GRIFFIN: No, it is not. I have not finished developing the position that I want to put on the record. When I interjected, the Attorney-General said that they had been in companies for a long time. He did say he wanted to stop people forming companies and avoiding the *ad valorem* duty by transferring land to the companies, and he related that specifically to primary producers, because that is what my interjection related to. From a practical point of view, most companies in the primary production area have been formed for many years. As the Hon. Mr Gilfillan indicated, they were formed many years ago when we had succession duties and Federal estate duties with a view to minimising the very heavy imposts of death duty on primary production assets, so when father died and passed it to the children, and those children subsequently passed it to their children, there was not quite the substantial burden which the State and Federal Governments then placed upon deceased estates by way of death and succession duties—they could be minimised.

There have been some income tax advantages in forming a company to hold land, but mostly it was related to Federal death duties and State succession duties. Many of the primary producers who have these companies are now stuck with them. In many instances, they are not gaining any real advantage. Their land is held there. It has been held for many years. If they wanted to pass the benefits of the land to their children they merely transferred the shares. That has happened on many occasions. The law has always permitted them to do that at a stamp duty of 60c rather than the $4 in the $100 consideration. There has been no element of stamp duty avoidance in the consideration of primary producers putting land into a company. What we now have as a result of this legislation is a situation where suddenly, for those families carrying on their business who want to pass the land onto children, instead of paying what has been the rate for the past 30, 40 or 50 years—I am not sure how long, but for a very long period—they will be confronted with $4 instead of 60c; seven times the duty will be payable, without any hint or suggestion that that has been the land in the company for stamp duty minimisation purposes.

That is what I think is unjust about the proposition which the Government is putting and why some consideration ought to be given to those family companies holding primary production land where it is part of the family unit. They will not rush out and form a company to hold their land in order to avoid stamp duty, because the fact of life is that if they were to form a company and transfer the land to that company, they would be paying the *ad valorem* duty up to $4 per $100 consideration. That has to be recognised. Primary producers will not rush off to form a company and transfer their land to it on the basis that they will pay the *ad valorem* duty. The company becomes superfluous, so there is no suggestion that it is a loophole. Because the law has provided for this distinction in the rates of duty between transfers of shares and transfers of land, it does not seem to me that anyone can logically and reasonably argue that that is a tax avoidance loophole which must now be closed. It is a ludicrous proposition.

What I said in my second reading speech is really the position. What the Government is doing is certainly bringing South Australia partially in line with other States—in some respects going much further than the law in other States—but it is another revenue raising exercise; it is a new head of duty. It is changing the law not to get over what they are calling a loophole—

The Hon. C.J. Sumner: It is.

The Hon. K.T. GRIFFIN: It is not a loophole; you know it is not a loophole. A loophole is something quite different from this.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You know that is not correct.

The Hon. C.J. Sumner: I might have some sympathy for the primary producers. If people had not found the loophole or this device with respect to all the other transactions we would not have a problem. However, we now find in the whole range of transactions people are using companies to transfer land and, therefore, avoiding the duty that would otherwise have been payable.

The Hon. K.T. GRIFFIN: But to get the land in the company in the first place you have paid *ad valorem* duty. The Attorney-General says that he has some sympathy for primary producers. Will he persuade that sympathy into some real recognition of the sympathy which he has expressed?

The Hon. R.I. LUCAS: I will not prolong this matter; it appears everyone has fixed positions. I want to expand on one point that the Hon. Mr Griffin put and that is in relation to the argument proffered by the Hon. Mr Gilfillan that in certain respects we ought to treat farms in the same way as small businesses. Before the Hon. Mr Gilfillan finally votes on this matter he should just perhaps think again about the 80 per cent rule. We are talking about land rich private companies; we are talking about companies which have over 80 per cent of their total assets in the form of real property. That is what we are talking about. The point made by the Hon. Mr Griffin is that very few small businesses such as delis are land rich companies.

The Hon. I. Gilfillan: The land comprises the value of the improvements as well. So, if someone owns a small deli, it would be 80 per cent.

The Hon. R.I. LUCAS: We are talking about land rich companies. We are advised that in most cases the small businesses that we—and, I suspect, the Hon. Mr Gilfillan—are discussing will not be caught by this provision. Land rich companies, such as those which have 80 per cent of their total assets or 'all their property'—to use the words in the Bill—in the form of real property will be caught by this provision.

In the case of a small business such as a family farm, because of the fact (as indicated by the Hon. Mr Griffin) that that very business is the land, it will be caught up. We are saying that, in an unfortunate way, such businesses will be caught up by this provision and that we ought to retain some sort of positive incentive or at least not add a further disincentive.

The final point I make is that we are not talking about allowing a private company, such as a family farm, to be sold willy nilly to anybody and for this incentive to remain; we are talking about providing this exemption only, for example, when the farmer is nearing retirement and wants to hand on his property to the lineal descendant (his son or daughter) who intends to continue the farming business.

So, we are not being outrageous in our claim. We could have argued the case that the family farmer should be able to sell his property to anyone, whether it be the next-door neighbour or a big business operation. What we do say, however, is that we should allow an exemption in limited circumstances such as when the property is passed on to a son or daughter to allow the lineal descendant to continue operating the business.

We did not divide on any issue in relation to the Stamp Duties Act Amendment Bill (No. 2), and probably in relation to this Bill I will not waste the time of the Council by calling for a division once the position has been established. However, the Opposition feels so strongly about this amendment that if necessary we will be calling for a division.

The Committee divided on the suggested amendment:

Ayes (8)—The Hons J.C. Burdett, L.H. Davis, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas (teller), R.J. Ritson and J.F. Stefani.

Noes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pairs—Ayes—The Hons M.B. Cameron and Peter Dunn. Noes—The Hons T.G. Roberts and Barbara Wiese.

Majority of 1 for the Noes.

Suggested amendment thus negatived.

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

Page 10, lines 21 and 22—Leave out all words in these lines.

This amendment is a test case for a package of amendments I intend to move. It relates to the 80 per cent rule, if I can call it that, that is, that real property over all property and assets has to be at a level greater than 80 per cent as one of the criteria to, in effect, qualify private companies to be caught up in this legislation. The effect of new section 94 (5) is to exclude certain assets from the calculation of all property for the 80 per cent rule. As I said, the calculation of 80 per cent is real property over all property and new section 94 (5) includes, for the purposes of the computation for all property, a whole range of assets, in particular, cash, money on deposit, negotiable instruments, loans, and so on. The effect of excluding those particular assets is to increase the chances of a number of companies to be caught up in the legislation.

By excluding under the definition of 'all property' a whole range of assets a company might hold, the chances of the private company's coming into play with the greater than 80 per cent rule are markedly increased. I can see the partial logic in what the Government intends to do. The Government does not want a situation in which a private company can cash itself up, in effect, in the short term by, perhaps, having a rich relative who is prepared to deposit $500 000 in that company so that the calculation of real property over all property then comes below the 80 per cent level. That $500 000 in cash is not really the private company's asset and has perhaps only been put there to avoid the appropriate level of stamp duty payable.

The same situation applies to a short-term loan for six or 12 months, where a private company borrows a significant amount of money. It would have to do its sums to determine whether or not it was worthwhile but, if it borrowed the money from a related person (such as a cousin) and cashed the company up so that it went below the 80 per cent level and, therefore, this piece of legislation would not catch the company, it could then transfer its real property without being caught up in the higher rates of duty intended by the legislation. That is the intention of the Government's proposal.

I do not have any strong objection to that intention. However, the Liberal Party is arguing that that has some inadvertent consequences for some private companies, and we want to suggest to the Committee that members consider a compromise position. Let us agree with the Government's intention to stop the deliberate rorting (the cashing up of the company in the short term to put it below 80 per cent), but let us not exclude, for inadequate reasons, the proper and valid assets of a private company that ought to be included in this computation.

For example, if a company is holding significant amounts of cash or money on deposit with a financial institution (it could be a negotiable instrument such as a bill of exchange, but we will look at cash or money on deposit), that is an asset of the private company and we can see no valid reason why, if that is a long-term genuine asset of a private company, we ought for the purposes of this legislation to define out of the definition of 'all property' genuine assets such as cash and money on deposit with any financial institution.

If the 80 per cent rule is to be valid and is to hold, we will look at the value of the real property and at the value of all property and, if it is greater than 80 per cent, the company will be caught up. If not, it will not be. It seems unfair under new section 94 (5) to exclude from the definition of an asset of a company a whole range of assets such as cash or money on deposit with a financial institution which, under all other legislation and any common understanding, are assets of a private company, in order to catch more companies in the net of this provision.

The Liberal Party shares the intention of trying to stop short-term cashing up of private companies to create another loophole after the passage of this legislation but, through these amendments, let us cater for those private companies which are not trying to cash themselves up in the short term deliberately to avoid duty but which hold assets in the form of cash or money on deposit and all those other examples under new section 94 (5) that I am sure the Hon. Mr Gilfillan has in front of him.

The Hon. C.J. SUMNER: The Government opposes this amendment and those consequential on it. We believe that, if these amendments were to be agreed to, there would be a significantly increased ability for a person to defeat the legislation, and thereby create a further capacity for avoidance. The provisions in the Bill are considered to be adequate and, in response to the honourable member's comments, I believe there is sufficient scope to exclude property, where the Commissioner is satisfied that it was not accumulated and put into this form solely for the purpose of defeating the legislation. So, if the Commissioner can be satisfied to that effect, to a large part, the problem disappears for the person who may be liable to pay the tax. However, I am advised that the experience in other States where there is similar legislation is that, unless a clause such as this stops the loading up of assets to reduce the 80 per cent artificially, that is what will happen: another avenue for avoidance will be introduced.

The Hon. I. GILFILLAN: The mover of the amendment is otherwise engaged. I would prefer him to be listening to what I have to say. I listened with some interest to the argument for the amendment moved by the Opposition. I am concerned that there may well be *bona fide* assets of a company held in money on deposit in particular, in negotiable instruments. I apologise for my inability to follow the nuances of it. I am unclear as to the effect of the amendment and I would ask the mover to explain to me what I see as the deletion of lines 21 and 22. Is he moving just that particular amendment at this stage?

The Hon. R.I. LUCAS: I am, at this stage. The fact is that the first one is in effect a test case for the two consequential amendments, which are part of the package. The intention of the amendments will be, in effect, to delete lines 21 and 22 and insert new paragraphs *(f)* and *(g)*. The practical effect of the amendments is, first, that if property is held for longer than 12 months, it can be included as a valid asset of the company. If cash or money is held on deposit for 12 months, it can be included as a genuine asset for the sake of this 80 per cent calculation. We have stipulated 12 months; we are saying that, if it is longer than 12

months, it is a long-term asset of the company and it cannot be construed in any way as a short-term cashing up of the private company to try to avoid the appropriate duty. We tried to meet the intention of the Government to avoid a short-term cashing up where, say, $500 000 is borrowed from a next-door neighbour just to cash up for the short term (less than 12 months) but, if that money is on deposit somewhere or under the bed, it is a genuine asset of the private company and, if it has been held for over 12 months, that is a genuine asset of the company. Secondly, in relation to all the property (cash, money on deposit and loans), new paragraph *(g)*, will provide the Commissioner with discretion, in effect. There should be a satisfaction that the acquisition of the relevant property has not occurred for the purpose of defeating the object of this Part.

I just want to respond to the Attorney's comment. He said that there already exists a sufficient discretion for the Commissioner. I believe the Attorney's response is not correct. It does not provide the Commissioner's discretion for cash and for money on deposit. The Attorney is referring to new section 94 (5) *(d)* and *(e)*. Paragraph *(e)* provides:

> ... any prescribed property, other than property where it is shown to the Commissioner's satisfaction that a reason for the company or scheme's ownership of the property is not for the purpose of defeating the object of this Part.

In paragraph *(d)* there is the Commissioner's satisfaction that the loan 'is not for the purpose of defeating the object of this Part'. In paragraph *(d)* in the Government's Bill the Attorney's argument is that if a company has a short-term loan and the Commissioner can be satisfied that that loan has not been obtained to defeat the purpose of the Act, it can be allowed as part of the calculation. That relates to paragraph *(d)*. As to the arguments that I am developing about cash and money on deposit in paragraphs *(a)* and *(b)*, the Attorney says that they are covered by the Commissioner's satisfaction.

The Hon. C.J. Sumner: Partly.

The Hon. R.I. LUCAS: That is not what the Attorney said earlier. He is now saying 'partly' and he has moved back from what he said before.

The Hon. C.J. Sumner: There is a two-year limit on loans under paragraph *(c)* as well.

The Hon. R.I. LUCAS: I was arguing, as the Hon. Mr Gilfillan will know, about cash and money on deposit in paragraphs *(a)* and *(b)*. There is no Commissioner's satisfaction or discretion in relation to those. That was the argument I was developing under paragraphs *(d)* and *(e)* and to a degree under paragraph *(c)* as well. The Attorney's argument is partly correct. His answer is now limited to those three cases. We are seeking to look at genuine assets of the company such as cash and money on deposit in paragraphs *(a)* and *(b)*.

The Hon. I. GILFILLAN: I am attracted to the argument that paragraphs *(a)*, *(b)*, *(c)* and *(d)* should all be covered by the Commissioner's discretion. I am not sure how the amendment can be adjusted, but I do not believe particularly that the Opposition's amendment that the relevant property has been held by the private company or scheme for at least one year should stand on its own. That could be a contrivance.

In the wording of this amendment, it is secure of any concern the Commissioner has that it has been used just as a contrivance. It would appear to me that the Commissioner would have adequate resources to prevent moves to defeat the object of the legislation if paragraph *(g)* in the amendment stood. It may mean that if that were the direction of the amendment, other wording changes would flow on. Rather than pause on that, I indicate to the Committee that I believe that there is good argument for the Commissioner to have the discretion to include loans, money on deposit and, in certain cases, possibly cash, as being able to be taken into account in subsection (1).

The Hon. C.J. SUMNER: The Government is willing to accept in principle the Commissioner's discretion in relation to all the property specified. An amendment can deal with that. Perhaps we ought to move on and in the meantime I will prepare a separate amendment to make clear what we are doing. I will have an amendment prepared in my name to accommodate the Hon. Mr Gilfillan's questions and have that circulated. I think we can achieve the objective by agreeing to the Hon. Mr Lucas's amendment to lines 21 and 22, agreeing to the amendment on lines 23 to 26, and deleting the whole of paragraph *(f)* down to 'or' and redesignating *(g)* as *(f)*.

The Hon. I. GILFILLAN: I find that acceptable.

The Hon. R.I. LUCAS: In the spirit of happy compromise I indicate that we will support the proposition. As I said, our preferred option would be that we still retain paragraph *(f)*—that is the one year provision—but having listened to the arguments of the Hon. Mr Gilfillan and the Attorney-General, I am realistic enough to appreciate that the numbers are not there for that, so, at the very least, I am pleased to see that we have moved to a partial accommodation of the points we have raised.

Suggested amendment carried.

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

Page 10—
Lines 21 and 22—Leave out all words in these lines.
Lines 23 to 26—Leave out all words in these lines after 'prescribed property,' in line 23.

Suggesed amendments carried.

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

Page 10, after line 26—Insert—
, other than where it is shown to the Commissioner's satisfaction that the acquisition of or dealing with the relevant property has not occurred for the purpose of defeating the object of this Part.

Suggested amendment carried.

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

Page 11, after line 20—Insert new subsection as follows:
(9) In this section—
'property' includes any asset.

This is the third of five areas in which the Liberal Party has amendments. Again, we are talking about the 80 per cent rule. A submission that we have received states:

> One of the most significant problems in these provisions is created by this subsection. Unlike New South Wales, the section deals only with 'property' in the ratio requirements contained in section 94 (1) *(b)* [of the House of Assembly Bill] in *Pan Continental Mining v the Commissioner of Stamp Duties* (Queensland, 1988-89 ATC 4190) assets such as confidential information were held not to constitute property, but as appears in that case, may be very valuable. Accordingly, many assets will be unfairly excluded in the computation as proposed by the Bill. It does not appear to be appropriate in the circumstances. The section requires amendment to cover that difficulty. New South Wales appears to have contemplated the difficulty. In that Act the terminology is 'asset', not 'property'. It is important that the change be made.

This amendment simply seeks to clarify the law as the result of advice given to us following the case *Pan Continental Mining v the Commissioner of Stamp Duties* in 1988 to ensure that property includes any asset and can include the sorts of things that were discussed in that case.

The Hon. C.J. SUMNER: The Government opposes the amendment. The Stamp Duty Act currently taxes only property; it does not tax assets in the broadest sense of the word. Therefore, the Stamp Duties Act would not tax the transfer of confidential know-how, for instance. It is not considered appropriate, therefore, to include for the purposes of whether the legislation applies all sorts of interests that are not treated by the Act as property. Additionally, the inclusion

of assets other than property would weaken the operation of the legislation and provide scope for clever professional advisers again to restructure transactions in such a way that high values were attributed to assets that were not property and therefore dilute the value of real property to less than 80 per cent.

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

Suggested amendment negatived.

The Hon. R.I. LUCAS: I do not intend to move my next amendment on file as it is consequential. I now move:

Page 14, line 45—After 'South Australia' insert '(but only in so far as may be reasonable taking into account the amount of the assessment and any estimated penalty)'.

This amendment is based on a submission that the Party received, and I will read into *Hansard* part of that submission, as follows:

In general, the notices, charges and powers contained in sections 101 to 103 are exceptional and unwarranted. No similar powers are given for recovery of duty on conveyances of real estate, whether on sale or *inter vivos*. To allow these powers of recovery for duty which is assessed on the basis of a highly contrived artificial legislative provision when the same powers are not available in relation to substantive transactions is unwarranted. New South Wales has not adopted that approach but most other jurisdictions have.

The section allows the creation of a charge for duty of which the corporation may be unaware. Consequently a request may be recorded by the Commissioner of Stamp Duties over property without the knowledge of either the vendor or purchaser (at the time of entry into a contract of sale). Section 101 as noted requires the request to be recorded over all the corporation's land, and upon being recorded each and every parcel of land would be charged to the full extent of the duty payable on the relevant statement under the prescribed provisions. This can have serious consequence for purchasers and mortgagees, where the vendor or mortgagor is a corporation. The Commissioner could be limited in lodging the notice on land of the value not exceeding the amount of the duty involved plus an allowance for the penalty that may accrue.

The Liberal Party is seeking to take on board, at least in part, the sorts of submissions that we have received. As I understand the argument, if, for example, a company has not paid $10 000 in stamp duty and if it happens to have 10 separate properties worth $1 million each, through these procedures a charge for duty can be placed upon all those properties. The submission contends, and we tend to agree, that it is a bit unreasonable. Through this amendment, the Opposition is seeking to put into the legislation a degree of reasonableness.

The Hon. C.J. SUMNER: The Government opposes the amendment because it does not consider that it is necessary. The Commissioner has a discretion as to whether or not he forwards a notice to the Registrar and I doubt whether the notice could just be at large. Under the legislation, it would have to relate to the amount of the assessment or estimated penalty. However, in the view of the Commissioner of Stamps the clause is an integral enforcement provision to ensure that the payment of duty is made.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. I have been advised that there is already a right to challenge in the legislation, but I seek clarification from the Attorney-General on that.

The Hon. C.J. SUMNER: There is certainly a right to challenge an assessment. The Government does not see the point of the amendment. The notice that is sent will contain the assessment of the actual duty and any penalty.

Suggested amendment negatived.

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

Page 18, lines 16 to 35—Leave out section 105a and substitute new section as follows:

Notice of statement must be served on company

105a. (1) Subject to subsection (2), the Commissioner must, as soon as is reasonably practicable after a person lodges a statement under this Part, serve a copy of the statement on the private company or scheme in respect of which the person has acquired the relevant interest or land use entitlement.

(2) If the Commissioner cannot, after making reasonable inquiries, ascertain the address of a private company or scheme for the purposes of subsection (1), the Commissioner may effect service by placing a notice that complies with subsection (3) in a newspaper circulating generally in the State.

(3) A notice complies with this subsection if the notice—

(a) is addressed to the private company or scheme;

(b) sets out—

(i) the name of the person who has lodged the statement under this Part;

and

(ii) the date on which the statement was lodged;

(c) warns the company or scheme that if the assessment of any duty chargeable on the statement is not paid in accordance with this Part, the Commissioner may (if the Commissioner thinks fit) take action to create a charge against real property of the company or scheme for the purpose of recovering that duty and any penalty payable under this Part;

and

(d) invites the company or scheme to obtain a copy of the statement from the Commissioner during normal office hours.

New section 105a provides:

(1) Where—

(a) by relevant acquisition, a person acquires a majority interest in a private company;

or

(b) a person requires a land use entitlement in a private company,

the company must lodge a statement under this section with the Commissioner.

It then goes on to provide in detail for the form of the statement and various penalties. We have indicated in previous arguments that it is possible for a company to be unaware of an acquisition, for example, when made by way of a gift, under the definition of 'acquisition'—a point I mentioned earlier—until some later stage when the land is perhaps finally charged with duty under new sections 101 to 103. So, this amendment seeks to change the focus of new section 105a so that, instead of a company having to lodge a statement, the Commissioner will have to serve a copy of the statement on a company and, in fact, will be warning the company of the possible consequences of not complying.

The Hon. C.J. SUMNER: The Government opposes this amendment. It really turns the Government's proposition on its head. The Government believes that the individuals who are carrying out the transactions should notify the Commissioner of Stamps. They are the people who will have the knowledge as to what is occurring, and they ought to be obliged to notify the Commissioner. We cannot see what the point is of having the Commissioner notify or serve a statement on the company. New section 105a, as presently in the legislation, is, in the view of the Commissioner of Stamps, an integral measure in the compliance provisions of the legislation to ensure that the acquisition of a majority interest is brought to the attention of the Commissioner. The amendment removes this measure and in lieu povides that the Commissioner must serve a notice of the statement on the company, which seems a trifle odd.

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

Suggested amendment negatived; clause as suggested to be amended passed.

Clause 8 and title passed.

Bill read a third time and passed.

CONTROLLED SUBSTANCES ACT AMENDMENT BILL (No. 2)

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate what program there may be for the proclamation of the operation of this Bill?

The Hon. C.J. SUMNER: As soon as possible. The Bill will have to be referred to the advisory committee and then regulations drawn up, but it is estimated that the period will be two months.

Clause passed.

Clause 3—'Interpretation.'

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

Page 2, after line 14—Insert new definition as follows:
'school' means a kindergarten, a child-care centre that provides after school care, a school that provides primary or secondary education, a university, a college of advanced education or a TAFE college:.

One of the difficulties with this sort of legislation is to define its limits where concern is expressed to be about the availability of drugs to children in particular, but also to other young people who may not fall within the definition of 'child'. We need to look carefully at the scope of the definition to ensure that it is not unnecessarily narrow. I have already made some observations about the concept of school zones and I shall deal with that in some questioning later.

It seemed to the Liberal Party that if the focus were to be on primary and secondary schools, it ought to be broadened because other areas are equally exposed to risk. We believe that kindergartens and child-care centres, particularly those which provide after school care, schools which provide primary or secondary education (which are already in the Bill), universities, colleges of advanced education and TAFE colleges are equally appropriate for inclusion.

Whilst the majority of students would probably be over the age of 18, many of them would be in the 17-year age group, particularly those in first year; and young students, even those over 18, are still in the early development years of their lives and are likely to be subject to pressure at the university, and the same is true of colleges of advanced education.

It would be important to identify the strength of concern in the community for the availability of drugs to these young people by including those institutions within the definition to relate to school zones. TAFE colleges are in a similar position.

The other important aspect of TAFE colleges, as I understand it, is that many secondary students attend TAFE colleges for part courses and, in that context, there is even a more persuasive reason why they should be included within this definition. If we are to identify school zones and increase penalties for the availability of drugs within those school zones, it seems to the Opposition appropriate to extend the scope of that signal to the community and to drug dealers in particular that it is not just primary and secondary school students who are impressionable and susceptible to the pressure which would come from the availability of drugs and the dealing in drugs, but also other young people around other educational institutions. It is in that context that we move for the broadening of the school zone, and the definition of 'school' is an integral part of that extension.

The Hon. C.J. SUMNER: The Government opposes the amendment. First, it should be remembered that sale to a child, wherever it occurs, is an offence and will attract the higher penalty. The intention was to warn off dealers who may be lurking in the vicinity of schools. The majority of persons under 18 years of age who have any concept of drugs would be at primary or secondary schools. The legislation was primarily aimed at those children. That is not to say that the Government views any less seriously the dealing with 16 or 17-year-olds, but we must remember that sale to someone of either age does attract the higher penalty.

The majority of people at TAFE colleges or university would be over the age of 18. As for the inclusion of preschools or kindergartens, I suggest that one really needs to be realistic about the situation. The Government believes that the matter should be focused on the original intention—schools—and not be distracted by the honourable member's proposition.

The Hon. M.J. ELLIOTT: I do not support the amendment. I am quite satisfied with the legislation as it is now proposed.

The Hon. K.T. GRIFFIN: I indicate that, although there will be several divisions during the course of consideration of this Bill, in view of the fact that time is pressing and there is such a clear indication that the Australian Democrats will not support this, if I lose it on the voices, I will not call for a division.

Amendment negatived.

The Hon. K.T. GRIFFIN: In relation to clause 3, can the Attorney-General say whether he is satisfied with the reference to the 500 metres zone? During the course of the second reading debate, I raised a question relating to the calculation of the 500 metres. It seems to me that there is at least a technical argument, if that was ever raised, that there is an inadequacy in the reference to the 500 metres of the boundary of the school, particularly where there is an angled boundary. The Minister of Health in another place said that, as far as he could see, one takes a line at right angles to the boundary and the 500 metres was it. However, it does not seem to me that that is satisfactory. Once one gets to the end of a particular boundary at an angle, one then probably needs to talk about a radius at the point of the angle. If that is a problem I would suggest that it be addressed because there is a hiatus there if what the Hon. Minister of Health said is actually the way in which the Government regards it as being calculated.

The Hon. C.J. SUMNER: I recognise there may be a problem in certain cases particularly those that might be close to the borderline and I suppose that, if there is, one will just have to, from a prosecutorial point of view, consider that the person was outside the 500 metres. However, it is intended from the point of view of the police that if an offender is apprehended at a place which is thought to be within the school zone, the police will measure out the distance from the point of apprehension to the nearest point of the school boundary to determine if this is less than 500 metres and, if so, therefore within the school zone.

There may be problems with angles as outlined by the honourable member but we do not think we can get it any more precise than it is in the Bill. If it is a dubious case, obviously we would not be able to prosecute but, clearly, there would be many obvious cases that would be quite clearly within the 500 metres and no problem would arise.

Clause passed.

Clause 4—'Prohibition of manufacture, production, sale or supply of drug of dependence or prohibited substance.'

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

Page 2, lines 33 to 35—Leave out 'amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection' and insert 'prescribed amount'.

We now get into the difficult area. In the course of my second reading contribution I said that I had a concern

about the reference to the prescription of particular quantities of drugs because that was left to regulation rather than to Parliament. I made the same criticism in 1984 and, to a limited extent, the Government in the House of Assembly has at least accommodated the point of view which I have put for a long time but more so in relation to cannabis where a private member's Bill in the other place included specific quantities of cannabis, cannabis plants and cannabis resin as the level beyond which the greater penalty applied. Of course, we will deal with that under the private member's Bill.

I have sought to try to identify the level at which the various penalties will come into operation. There may not be so much difficulty in relation to cannabis and cannabis derivatives as there is in relation to other drugs, but it is important to have the quantities specified in the legislation.

The way in which this matter is dealt with in my amendments is by removing the reference to the amount prescribed in each of the four instances in which it appears in this clause and in each instance referring to a prescribed amount which is then identified in the schedule.

My first amendment deals with the prescribed amount of cannabis or cannabis resin in relation to the sale, supply or administration of a drug of dependence or prohibited substance to a child or possession within the school zone. Consequential upon this amendment but related to it is the proposal that the amount of cannabis be half a kilogram and the amount of cannabis resin be 125 grams. This is referred to in Schedule I, the amendment on page 3, and it is at that point that tougher penalties apply.

That is the first issue. The second issue relates to other prohibited substances and drugs of dependence which are the subject of my second amendment, and they are referred to in Part II of the schedule which I propose to move at a later stage. First, we need to deal with the principle of whether we should include a prescribed amount or leave it to regulation, whether we should include a prescribed amount in respect of cannabis and other related products and not the other drugs of dependence or prohibited substances, or whether we should include all quantities in the legislation.

The latter position is my preferred position: I would not want us to go away without having considered this issue and at the very least included the various quantities of cannabis, which is the more prevalent drug available to young people. I am told that half a kilogram of cannabis is something akin to a sugar bag, so it is a fairly large quantity, and it seemed that that was an appropriate quantity to include in the legislation, but I am open to suggestion. I do not recollect any quantity being expressed in the Minister's second reading reply, and that is why I have taken a punt and reached a judgment about the amount. If the Attorney-General wishes to give some guidance in relation to this matter I am amenable to it.

The Hon. C.J. SUMNER: The Government opposes this amendment. While it is true that, under the private member's Bill that we will be considering shortly, the amounts of cannabis or cannabis resin will be defined in the Act unless changed subsequently by regulation, since the introduction of the Controlled Substances Act 1984 the amounts of other drugs have been prescribed by regulation. In fact, the *Government Gazette* of 9 May 1985 contains the requisite regulations, but the Government does not support their incorporation in the Act.

We are referring to a large number of drugs, some of which I have not even heard of, so I am not sure that I would be in a position to determine whether or not the quantity is appropriate. All other jurisdictions in Australia apparently prescribe by regulation. The principal Act requires that the amounts prescribed for the purposes of section 32 must be made on the recommendation of the nine-member expert Controlled Substances Advisory Council.

The amendments seek to put the amounts in the Act and therefore they would not be a matter for the expert committee. That, I think, is relevant to what I said earlier, namely, that I would not know what half these drugs were or whether the amounts prescribed or sought to be prescribed by the Hon. Mr Griffin are satisfactory. Therefore, I prefer that the matter be left to an expert committee.

The Act has been in existence now since 1984, and there does not seem to have been any problem with the prescription of these amounts by regulation. I seem to recollect that when we had this Bill before us on a previous occasion—I did not have the pleasure of piloting it through the Council at that time; my former colleague the Hon. Dr Cornwall did—there was an argument about this particular matter and it was resolved in favour of the current position.

The Hon. K.T. Griffin: I said that.

The Hon. C.J. SUMNER: Yes. I cannot see any reason why it ought to be altered.

The Hon. M.J. ELLIOTT: I agree with the Attorney-General's comments when referring to the schedule that we will be looking at later, in that it contains many substances that I have never heard of. I would not have the vaguest idea as to whether or not they were huge or small amounts nor what effect most of them would have. Certainly, when we come to look at the schedule, I will oppose it on the grounds that I have received absolutely no information about this. There has been no lobbying and no concern expressed to me about it. I see no substantial reason for it, particularly in light of the Attorney-General's comments.

While I support the concept that we have already looked at in clause 3 of creating school zones and wanting to do everything in our power to ensure that drugs are not sold in those zones, I must say that in the long run legislation as a way of controlling drugs will not work. It has not worked anywhere in the world and, unless people are willing to live in a society such as in Singapore, I am really not losing a whole lot of sleep over what is here because I do not think it offers any major solutions to drug problems. It does not confront the questions as to why people take drugs. Unless that is solved all the laws in the world will not really help. I do not think the amendment will alter the effect of this law significantly. As I said, I have some doubts about whether or not the law itself is particularly effective in any case.

The Hon. R.J. RITSON: I understand the arguments that have been put about this schedule, but I would like to make a few comments. First, the Opposition wanted to establish the principle that in the past the amounts (particularly of cannabis) that have been laid down have been so vastly in excess of personal requirements that people could be quite substantial dealers and yet not be caught by the more stringent penalties that apparently, in conjunction with the previous quantities, were designed to catch only the very big manufacturer or importer.

The Hon. M.J. Elliott: They're the ones you have to get.

The Hon. R.J. RITSON: Indeed; but if one is talking about the intermediate dealers, they are the backbone of the industry and ought not to be treated simply as personal users. The personal users are the tragedies of the industry. So, we did reduce the amount of cannabis to what we thought was still more than a reasonable requirement for personal use, and the quantities of drugs outlined in Part II were simply proportionately reduced.

I want the Attorney to understand some of the quantities involved as well as their significance. I now refer to the

drugs in common therapeutic use which are abused, because I am familiar with them. If we take the example of morphine, we have listed the quantity of 15 grams. The therapeutic dose is 10 to 15 milligrams, so that 15 grams represents 1 000 to 1 500 individual therapeutic doses. Given that addicts develop great tolerance (10 or 20-fold), that amount could represent only 200 doses or hits for an addict which, nevertheless, would be a month's supply, and, probably, a good deal more in the worst case.

In the case of pethidine, the adult therapeutic dose is 75 to 100 milligrams, and the 75 grams listed represents about 1 000 therapeutic doses. I must admit that there are some preparations in this schedule that do not have a therapeutic use or have, perhaps, an abandoned therapeutic use (such as LSD, for which I do not know the patterns of usage). So far as I can determine, the reduction in quantities has not reduced the level to anywhere near a small personal use dose.

There is still a fairly large margin; for example, the 1 500 doses of morphine contained in 15 grams. It is important for us to state the principle that higher penalties should apply not only to those importers of massive amounts or large-scale experimenters but also to all people conducting a very substantial trade in these drugs.

The Hon. K.T. GRIFFIN: It is clear that I will not gain the numbers. If I lose this on the voices, I do not propose to call for a division.

Amendment negatived.

Progress reported; Committee to sit again.

[*Sitting suspended from 1.5 to 2.15 p.m.*]

PAPERS TABLED

The following papers were laid on the table:

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

Privacy Committee of South Australia—Report, 1989.

By the Attorney-General, on behalf of the Minister of Tourism (Hon. Barbara Wiese)—

Citrus Board of South Australia—Report for year ended 30 April 1989.

Forestry Act 1950—Myora Forest Reserve—Variation of proclamation.

By the Minister of Local Government (Hon. Anne Levy)—

Local Government Superannuation Board—Report, 1988-89.

Roseworthy Agricultural College—Report, 1989.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following interim report by the Parliamentary Standing Committee on Public Works:

Royal Adelaide Hospital Kitchen Redevelopment and Central Plating System.

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

West Beach Marine Research: Replacement Seawater System.

QUESTIONS

LOST COURT FILES

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question on the subject of court delays and lost court files.

Leave granted.

The Hon. K.T. GRIFFIN: A Mrs J.M. Reu of St Agnes is a plaintiff in an action in the Supreme Court for damages arising from a motor vehicle accident in 1984. She is suing for damages for injuries sustained in that accident. The matter commenced in the District Court but on 18 October 1989 was transferred to the Supreme Court. Prior to that occurring, there had been significant delays in the District Court with waiting lists for various pre-trial procedures being the major reason and concern.

After the transfer to the Surpeme Court it was indicated that a directions hearing was hoped to be arranged within three weeks. That was finally listed for 22 November 1989 but was then adjourned until 25 January 1990. That adjournment was not regarded as being the fault of the court. On 25 January 1990 Mrs Reu's solicitor had a call from the Court saying the file had been lost and that the matter would be adjourned until 15 March. On 15 March, at the directions hearing at the Supreme Court, the parties were told that the file again was missing, and that the matter could not proceed: it was adjourned again until 3 May for directions. On that occasion the Master who was hearing the application commented that this was not the only file that was missing in the Supreme Court. Mrs Reu writes:

> We now appear to have to wait until 3 May for a directions hearing which in effect means that, six years on from the time of the accident, this matter is still not even effectively filed in any court or on any waiting list, and the hardship associated with the consequences of these accidents is further compounded.

My questions are: First, will the Attorney-General investigate this matter and indicate if the Government will make an *ex gratia* payment to all parties for the costs incurred as a result of the delays caused by missing court files? Secondly, will he also determine the extent to which Supreme Court files are missing, causing delays, and the reasons why those files are missing?

The Hon. C.J. SUMNER: I will certainly investigate the matter. It does sound a sorry tale, if true. Obviously, as to an *ex gratia* payment, I could not give any commitment at this point to do that. I would need to examine the circumstances of the case, but I will undertake to examine the matter and I will also undertake to examine whether there is anything in the assertion that there are further missing Supreme Court files.

TAXIS

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 the taxi industry deregulation.

Leave granted.

The Hon. DIANA LAIDLAW: Earlier today the Minister of Transport dropped a bombshell on the taxi industry by announcing that he intended to impose sweeping changes upon the industry, changes that would, in effect, totally deregulate the taxi industry. The first that taxi drivers knew of that step by the Minister was at 10 o'clock this morning when they read the first editions of the *News*. They are angry that the Minister was prepared to brief exclusively Mr Tony Baker of the *News*, and yet he was not prepared

to inform them or their association of the Government's decision in this matter. As I have known for some time, but learnt again in front of Parliament House a few moments ago, many taxi drivers have invested over $100 000 in their taxicab plates and many of them have mortgaged their house to do so. Many of the older taxi drivers indicated that in recent times they had invested their superannuation in a taxi plate but now the Minister has wiped out their investment altogether.

They are angry that they have been trying to see the Minister since before Christmas—for over four months—to make an appointment to discuss the whole issue of deregulation and yet the Minister has not once sought to make such an appointment. In fact, as I understand it, he has refused about five such requests from the taxi industry association to see him in the past four months. They are also angry at the underhand way in which the Minister has sought to deal with this very important issue, which will affect the lives of the drivers and their families, by regulation and not by legislation. In addition, they are angry that this measure has been introduced on the last day of Parliament, which confines the steps that members of this place can take in regard to the Minister's actions. If any honourable member wanted confirmation of how angry the taxi drivers are about the Government's moves, they need only note that for the first time in my seven years in this place, messengers have had to close the front doors of the Legislative Council because the taxi drivers are so furious. It was thought that it was better to close the doors than to perhaps risk any violent action.

Therefore, I ask the Minister why he has refused, since November of last year, to meet with members of the taxi industry association on not one occasion but on many occasions and why he has not paid them the courtesy of discussing the issue of deregulation—decisions which the Minister has now made and which have a vital impact upon the future livelihood of taxi drivers?

The Hon. ANNE LEVY: I will refer that question to my colleague in another place and bring back a reply. I would point out that as I understand it the taxi licences themselves will not be changed in number by the proposals made public by the Minister. There will still be the same number of taxis and they alone will have the right to be hailed or to use taxi ranks. There is no change as far as they are concerned in this matter.

The PRESIDENT: Order! By way of explanation, I was approached by the police, who were having trouble keeping the crowd under control. It was suggested that one door be kept open instead of two doors and I authorised that our door be shut. As soon as the crowd has dispersed sufficiently, the doors will be opened.

GOVERNMENT AGENCY ANNUAL REPORTS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in this place, a question about Government agency annual reports.

Leave granted.

The Hon. L.H. DAVIS: The Attorney-General would be well aware of Opposition concern, over a number of years, about the failure of Government agencies to report on time. Section 8 of the Government Management and Employment Act 1985 provides:

(1) Each Government agency shall, once in each year, present a report to the Minister responsible for the agency on the operations of the agency.

The report must be presented within three months after the end of the financial year to which it relates. Subsection (5) provides:

The Minister shall, within 12 sitting days of receipt of a report . . . cause copies of each report to be laid before each House of Parliament.

Unfortunately, because of what I think is an exceptionally long time—12 sitting days—it meant that many of the Government agency annual reports were not laid on the table before the State election was called last year.

It would have been reasonable to assume that a sheaf of reports would be available on 8 February when we resumed this year—and, indeed, there were. But, the fact is that many Government agency annual reports are yet to be presented to the Parliament. Three were presented just today—9½ months after the end of the financial year. It is a concern to the Opposition, and I am sure to the community, that this very lax attitude on the part of the Government has meant that information of great importance is not available. In fact, in relation to agencies that have not presented reports to Parliament we will not receive that information now until Parliament resumes in August—some 13 or 14 months after the end of the financial year—when the information is stale and is not perhaps quite as important as it would have been when it was first available.

The Hon. C.J. Sumner: Name them.

The Hon. L.H. DAVIS: The Attorney, by way of interjection, says, 'Name them.' If the Attorney-General and the Government had been true to their word they would have developed a register of Government agencies required to report which would have been available to Parliament and which could have been easily searched. Unfortunately, that is not the case and that will, of course, be one of the questions I will be asking in due course.

To give one or two examples, the Police Pensions Fund, a very important measure which we debated last night, has yet to present its annual report for 1988-89. The South Australian Council on Technological Change did not present its 1987-88 report until 14 months after the end of the 1987-88 year and is yet to present its report for 1988-89. As this is the last day of Parliament, presumably, it will be 14 months before we receive that, yet the Government claims that technological change is one of the key areas in which the South Australian economy must progress.

The Coast Protection Board covers one of the most critical areas addressed by this Government, which claims to be environmentally conscious. The board, which deals with such matters as erosion of flood protection, the Sellicks Beach marina, the rise in the sea level and the greenhouse effect, has treated this Parliament with disdain. In fact, the Coast Protection Board is so laid back that it is horizontal. It presented its 1984-85, 1985-86, and 1986-87 reports all in November 1987—three reports in one year—and then it presented its 1987-88 and 1988-89 reports in October of last year.

There are many examples of statutory authorities flouting the requirements of the Government Management and Employment Act. I have mentioned on more than one occasion to the Attorney-General that the public companies listed on the Stock Exchange are required to report their financial details within three months of the end of the financial year and are severely penalised if they do not.

My questions to the Minister, as Leader of the Government in this place, are as follows: first, will he as soon as possible provide a schedule of those Government agencies which have yet to report for the 1988-89 financial year as at today; and, secondly, will he fulfil the promise made many years ago by the Government to establish a register of the hundreds of Government agencies which are required

to report to Parliament so that the Opposition and the community are in a better position to ascertain whether or not they have reported?

The Hon. C.J. SUMNER: Obviously, it is not satisfactory if agencies are not reporting within the prescribed time, and it is even less satisfactory if they are not reporting within the periods mentioned by the honourable member of 12 months or so. I will refer the honourable member's questions relating to an up-to-date schedule and also whether there should be a permanent register to the appropriate Minister. It seems to me that these matters should be addressed by the Government Management Board and its office. I will ensure that the honourable member's questions are referred to the Minister responsible and that replies are provided.

REMM-MYER PROJECT

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about the State Bank's investment in the Remm-Myer project.

Leave granted.

The Hon. I. GILFILLAN: Last September I asked the Attorney-General a question regarding the level of State Bank investment in the Remm-Myer project. To date I have received no answer to that question from the Attorney-General or through any information from the bank, which is disturbing and unsatisfactory. The only response was a threat by the State Bank of an action for defamation prior to the State election.

Recently a number of disturbing reports have been published in the *Advertiser* relating to financial problems with the Remm-Myer development. Specifically, on 2 April this year the *Advertiser* published information regarding the Adelaide Remm development and its problems and linked it to problems previously experienced by the Myer centre in Brisbane. The Brisbane venture was also built and managed by Remm, but was then subsequently sold to the Interchase Corporation. It turns out that the body which has a controlling interest in the Interchase Corporation is the State Bank of South Australia and the Bank of New Zealand.

Reports from Brisbane suggest that even now, some two years after the Remm-Myer centre opened in that city, about 20 per cent of its facilities remain vacant. In fact, the Interchase Corporation is now considering spending another $2.5 million on a refurbishment program to try and attract new customers to the centre, after losing more than $2 million on the centre last year. Interchase now has its 40 per cent share in the Brisbane centre on the market, with little interest from any buyers, and Interchase is reportedly about to cancel its contract with Remm to manage the complex.

This raises serious doubts about the future of the Myer development in Adelaide, especially since it has been announced that the Adelaide development will not be finished on time and will have its opening substantially delayed. Of major concern is the area of finance and the State Bank's responsibility for the approximately $570 million loan facility to the Remm developers. I understand (and have seen no evidence to the contrary) that the State Bank remains the sole provider of finance to the Remm developers, and there is no sign that anyone is preparing to buy into the enterprise. Therefore, one can predict that the bank has not only been the financier by way of a loan but also is likely to remain as an owner and operator.

In the light of the State Bank's approximately $570 million commitment to Remm, the bank's failure to offload any of the risk factor involved and the disturbing news about problems with a similar development in Brisbane, does the Minister believe that the standard of investment decisions being taken by the State Bank in any way threatens its future operations on behalf of the people of South Australia, and will the future of its involvement in the Remm-Myer development in Adelaide be jeopardised by the same lack of support as appears to have occurred in Brisbane? Does he believe that a lack of information is being made available to the people of South Australia about the financial decisions being taken by the State Bank?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

MULTIFUNCTION POLIS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about the multifunction polis.

Leave granted.

The Hon. M.S. FELEPPA: During the recent Federal election campaign, the former Federal Opposition Leader, Mr Peacock, announced his Party's opposition to the concept of the multifunction polis based on the notion that it would become an enclave. Because of the lack of information about the concept, there has been evidence of much public apprehension and even a suspicion about the concept. The name itself 'multifunction polis' means nothing to most people and has only led to confusion and fears.

Through this sketchy information available on the concept published in the media, the public is left asking what it is all about. The added element of Japanese involvement has led to fears of a private Japanese city where Australians would be excluded. It is being perceived by many ordinary Australians that the concept will create an enclave of Japanese citizens. It is also perceived that the concept will be exclusively for Japanese developers which will exclude Australians from participating.

It has also been suggested that it will create a ghetto and will keep foreigners away from Australians, and that the whole scheme is being hatched in secret. Given these fears and given the fact that this project could be of economic significance to Australia, my questions are as follows:

Once the final concept of the multifunction polis is released, will the South Australian Government initiate an information program which will clearly state:

(a) What is the purpose of the multifunction polis.

(b) Whether the project will serve to act as a further catalyst to enhance our technological capacity in manufacturing and scientific industries.

(c) What adverse effects the proposal might have for South Australians and Australians.

(d) What advantages the proposal would have for South Australians and Australia.

(e) In what way ordinary Australians could participate in this proposal.

The Hon. C.J. SUMNER: The honourable member's questions are important, as indeed the multifunction polis proposal itself is important for Australia. I do not think it is something that has been hatched in secret. There has been a considerable amount of public discussion about the multifunction polis. There have been a number of seminars and public discussions held about it. Certainly, if agreement is reached to go ahead with a multifunction polis the ideas put forward by the honourable member for information

about it are certainly very worthwhile. I would expect that to happen.

I should say that the debate about the multifunction polis is not going on just within South Australia. I think most other States have put forward proposals for the siting of the multifunction polis, whatever that might turn out to be, in their States. So, there is certainly no guarantee at this stage that South Australia would be chosen as the State in which the multifunction polis would be developed. However, the South Australian Government certainly believes that it should be pursued, and we have aggressively tried to promote South Australia as an appropriate place for the multifunction polis, provided that in the final analysis we agree with the details of the proposal.

At this time the final structure of the proposal has not been determined. There is a group with interests in Japan operating nationally to conduct a feasibility study on what a multifunction polis might look like, where it would be established and how it would be funded, etc, as well as the question of who would be involved in it—whether it would be Japanese interests only or whether there would be broader international participation. Most recent discussion has revolved around the fact that there ought to be broader international involvement although, obviously, there is a direct Japanese interest in the promotion of the multifunction polis.

The remarks of the former Leader of the Federal Opposition, Mr Peacock, in the midst of the election campaign, in which he said quite bluntly that his Party would not accept it, were short sighted. While I suspect that, in the long run, he undoubtedly did it to try to obtain some votes during the dying stages of the campaign, it did not do him any good because it indicated a purely opportunistic view on what has the potential to be an exciting concept for Australia as far as the development of future research and technology in this country is concerned. Just to knock it on the head as Mr Peacock did, even before the feasibility study had been completed and before the precise structure of the polis had been determined was, I suggest, opportunistic and irresponsible. In any event, I do not think it did his electoral prospects very much good because, rightly, he was condemned by the press throughout the nation and, I suggest, by any forward thinking people, for the stance he took.

South Australia is still very actively involved in the discussions which will lead to the firming up of the idea of the multifunction polis. At that time, I assume, information will be given to the public as to exactly what has been determined and where it will be sited. Of course, if there is then to be a debate about it, that debate can be conducted on the basis of a concrete proposal. Whatever happens, there is no guarantee that South Australia will be where the multifunction polis (or whatever it will eventually be called) will be sited. We are involved with other States in suggesting that South Australia is an appropriate place, provided that the details of the project can be worked out to our satisfaction.

NATIONAL CRIME AUTHORITY

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

Leave granted.

The Hon. R.I. LUCAS: I refer to an article in today's *Advertiser* which says that a charge against a former senior public servant stemming from an alleged involvement with Rocco Sergi, the gardener in the Moyse drug crop case, has been dropped by the Director of Public Prosecutions. The Opposition is aware that the former senior public servant referred to in the article is Mr Stephen Wright, a former personal secretary to Labor Premier, Don Dunstan.

We are also aware that, following investigations by the National Crime Authority, Mr Wright was charged by the Director of Public Prosecutions on 26 September 1989 with making a false statement and declaration. This charge was lodged with the Adelaide Magistrates Court on 4 October 1989. We are advised that Mr Wright briefly appeared in court on 20 January and was remanded to appear again the following month. However, I understand that on 27 March the charges against him were dropped through want of prosecution. I also understand that charges were laid, again following NCA investigations, against Adelaide chef Clemente Fornarino—father-in-law of Gianni Malvaso—again on similar charges to those faced by Mr Wright.

Last week the Attorney-General, in his long awaited ministerial statement on the operations of the NCA, issued and tabled in this Council, together with his ministerial statement, a range of documents, including a letter from a member of the NCA, Mr Gerald Dempsey, and a document entitled Annexure 1, which purported to be a list of the NCA charge register of charges by the NCA current to 2 March 1989. I refer to those documents. The letter from Mr Dempsey to the Attorney-General on 26 March 1990, signed by Mr Dempsey, states:

> With regard to your [the Attorney-General's] specific requests, annexure 1 to this letter is a summary of charges laid as a result of the National Crime Authority investigations. This summary is up to date to 2 March 1990; no change has occurred in the interim.

I refer then to annexure 1, which is the NCA charge register (a summary of charges as at 2 March 1990) and there is a list of 29 persons, with some 90 charges listed on the NCA charge register. Interestingly, neither Mr Wright nor Mr Fornarino is listed on the charge sheets or charge register. My questions are: will the Attorney-General indicate why the charges against the two men were dropped? I might add that the charge against Mr Fornarino was dropped this morning—I did not indicate that in my explanation. Secondly, was the Attorney-General aware that Mr Wright and Mr Fornarino had been charged as a result of NCA investigations when he made his ministerial statement last week? Thirdly, why were the names of Mr Wright and Mr Fornarino not on the NCA charge register tabled last week by the Attorney-General?

The Hon. C.J. SUMNER: I cannot answer why the charges were dropped. They do not have anything to do with me or with the State prosecutions. They are being handled by the Director of Public Prosecutions, who is a Commonwealth officer and, obviously, relate to breaches of Commonwealth law. That is my assumption. I do not believe that the South Australian prosecution authorities have had anything to do with the matter, but I can certainly confirm those facts. Certainly, I have no involvement in the charging of either of those gentlemen.

As to the answer to the second question—was I aware that they were charged—I do not think that I had any personal knowledge that either Wright or Fornarino had been charged. Whether there was information within my office which indicated that they had been, I would have to check but, if my assumption is correct, that it was entirely a matter of the Commonwealth DPP, there is no reason why I, the Crown Prosecutor or the South Australian police would be aware that charges had been made against Wright and Fornarino.

As to the third question—why the names were not on the annexure which I tabled in the Parliament last week—I cannot answer that. My request for the information by letter to Mr Dempsey was tabled in the Parliament, his response was tabled and, as can be seen, that was a full disclosure of the correspondence that occurred between me and Mr Dempsey. Why those names were not included on Mr Dempsey's annexure to his letter, frankly, I cannot say, but I will certainly seek the information from Mr Dempsey and bring back a reply. I will also try to ascertain from the Director of Public Prosecutions why the other charges laid were apparently dropped. I assume there are some reasons for it and I will be able to obtain that information from the Commonwealth Director of Public Prosecutions.

I should say that the NCA is the investigative body: it acts to collect evidence, to try to assemble evidence with a view to prosecution but, in the final analysis, the decision whether to prosecute, proceed with a prosecution or withdraw charges is a matter for the prosecution authorities. It could either be the Commonwealth Director of Public Prosecutions, the South Australian Police Force or the South Australian Attorney-General, acting principally through the Crown Prosecutor.

The Hon. R.I. LUCAS: As a supplementary question, is the Attorney-General indicating that, in all his discussions with the NCA, including the compilation of his ministerial statement last week, he was unaware of any NCA investigations into Mr Stephen Wright and Mr Fornarino?

The Hon. C.J. SUMNER: This is where life gets difficult.

The Hon. R.I. Lucas: It's a pretty straightforward question.

The Hon. C.J. SUMNER: Sure it is, and it is a question of how much one can reveal about what names may have been before the NCA. I would have to check exactly what I am or am not able to answer in this respect. I am not sure whether or not the honourable member has said in his question that Fornarino or Wright were charged as a result of NCA investigations. I do not think he did say that.

The Hon. R.I. Lucas: I indicated that the information provided to us was that there had been NCA investigation into those matters and, as a result, charges were laid by DPP. My question is whether you were aware.

The Hon. C.J. SUMNER: Again, I suppose the problem is that I am not sure what I am able to say about those individuals, particularly now that charges have been dropped, but I suppose, without giving away anything that might be related to the South Australian reference, that I was aware that those two individuals were named in certain NCA documents. I am not sure that I am in a position to respond. I will have to check what I am able to say about those matters, as far as the NCA investigation of them is concerned.

The Hon. R.I. Lucas: Will you send me a reply?

The Hon. C.J. SUMNER: Yes, I will send you a reply but, as far as I am concerned—and I am not sure what the honourable member is trying to get at—apart from some knowledge which I have indicated, those two individuals were named in certain NCA documents.

The Hon. R.I. Lucas: I want to know why they were not on the register.

The Hon. C.J. SUMNER: I have already said I will try to find out why they were not on the register. That was your earlier question, but if the honourable member—

The Hon. R.I. Lucas: It's a fairly important one, too.

The Hon. C.J. SUMNER: It may be an important one, but I am not sure what the honourable member is trying to get at. If he is trying to suggest that they are not on the register because I interfered, or something of that kind, I can tell the honourable member that that is absolutely incorrect.

The Hon. L.H. Davis: Someone else might have.

The Hon. C.J. SUMNER: It is not likely that anyone did. The situation with respect to those matters is that I wrote to the NCA in a letter that has been tabled in this Parliament. Mr Dempsey replied, I tabled my letter and I tabled his reply in full. It was not censored. There was no discussion between Mr Dempsey and me about the matter. The letter was sent off in the normal way and the reply was received in the normal way. The letter was then incorporated in the details of my ministerial statement. That is what happened. As I said, I was not aware, as far as I can recollect, that those particular individuals had been charged, but I will check with my office to see—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: I do not know why they have been left off the register and I have already said that I will check why they were left off. What I am trying to get on the record, in case there is some innuendo that is trying to be—

An honourable member interjecting:

The Hon. C.J. SUMNER: That is all right, I am just trying to anticipate the innuendo because I have been subjected to enough innuendo and—

The Hon. R.I. Lucas: You see innuendo in everything.

The Hon. C.J. SUMNER: Well, I don't. I know what you are trying to suggest.

The Hon. L.H. Davis: It is a reasonable question.

The Hon. C.J. SUMNER: It is a reasonable question and I am trying to anticipate the innuendo, which is that—

Members interjecting:

The PRESIDENT: Order! The honourable Attorney.

The Hon. C.J. SUMNER: I have said I will answer the question. What I have said, however, is that I do not know why they were not mentioned on the annexure that Mr Dempsey sent me, but I will find out why. However, the reason they are not there—whatever it is—has absolutely nothing to do with me.

DIOXIN

The Hon. T.G. ROBERTS: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Tourism, who is absent, but who represents the Minister of Health, a question about dioxin.

Leave granted.

The Hon. T.G. ROBERTS: The *Weekend Australian* of 24 and 25 March contained an article headed 'Verdict gives Viet veterans fresh hope' in which Stuart Rintoul raises some interesting questions. The article states:

> Grave doubts have emerged about evidence accepted by the Evatt royal commission into the effects of chemicals used during the Vietnam War after a $16.25 million punitive damages award against the chemical company Monsanto in the United States. Lawyers for the plaintiffs claimed that during the three-year trial in Illinois there were 'literally hundreds of admissions that Monsanto was selling dioxin-contaminated chlorophenol products to its customers for nearly 30 years'.

This does not have implications only for Vietnam veterans; it also has implications for those people who are using a lot of the chemicals that contain either dioxin 2,4,5-T or 2,4-D. Accusations have been made against many people for being too alarmist about some of the contents of these products. Many people in the rural sector have raised the spectre that people have been too alarmist, and that many people have been unduly alarmed about the use of many of the products that contain some of these chemicals in

very small amounts. The question raised in this article highlights this problem. The article goes on:

If true as well as having vast implications for Vietnam veterans on several continents a question mark hangs over other Monsanto products which have been used around the world including Santophen, which was sold to the manufacturers of the widely used disinfectant Lysol. The case was decided in October 1987 but has only reached representatives of Australia's Vietnam veterans now, apparently because US lawyers failed to make the link with the Evatt royal commission. An appeal by Monsanto was lodged in October last year and listed to be heard in the US next month.

A spokeswoman for Monsanto Australia in Melbourne, Mrs Marion Shears, said yesterday, Monsanto 'utterly rejected' the claim that fraudulent reports were prepared on the effects of dioxin and said that where dioxin was found in its products it was within acceptable health limits and did not contravene Government regulations.

A court in St Clair County, Illinois, awarded $16.25 million in punitive damages against Monsanto in October 1987 in the case of *Frances Kemer et. al v Monsanto* after 65 people claimed in a class action that a spillage of chemicals in the town of Sturgeon, Missouri on 10 January 1979 had produced cancers among those exposed to the spill.

While the jury awarded a token $1 actual damages, it awarded punitive damages after lawyers for the plaintiffs tendered evidence which they said showed that Monsanto had falsified and concealed reports on the effect of dioxin in contaminant of chlorophenol.

The presiding judge in the case, Richard Goldenhersh, said yesterday from his home in Illinois that he found the decision to award punitive damages 'allowable' under Illinois law.

Included in the reports which have been thrown into doubt by the award are several done by Dr Raymond Suskind of the University of Cincinnati, related to an explosion at a Monsanto chemical plant in Nitro, US in 1949, which concluded that there was no evidence that exposure to dioxin caused cancer. Workers at the plant were exposed to 2,4,5-T and its dioxin contaminant 2,3,7,8. Agent Orange, which was one of a large number of chemicals widely used during the Vietnam War, was made up of 2,4,5-T and 2,4-D.

For those who can remember, Dr Suskind's evidence was widely used in the Evatt royal commission in making its assessment of the dangers associated with dioxin. The legal decision that has now been handed down casts grave doubts on the value of the evidence that has been put forward by Dr Suskind. The article continues:

Dr Suskind, who has been regarded as a world authority on the effects of dioxin was interviewed by the Evatt royal commission in Cincinnati, US, for two days during its inquiry which reported in August 1985 that Agent Orange was 'not guilty' of causing a range of problems among Vietnam veterans including cancers and birth defects in their children.

Despite an independent opinion by the ALP's national Secretary, Mr Bob Hogg, that the report was deeply flawed and directly used material from Monsanto in the judgment, three years after the report was delivered, the Federal Government said it had 'no option' but to accept its conclusions.

In volume eight of the royal commission's controversial 3 000 page report, Justice Evatt described Dr Suskind as 'a dignified and scholarly researcher' and said he found Dr Suskind's evidence persuasive. Justice Evatt said: 'The commission treats its negative conclusion in relation to cancer incidence, especially in relation to soft tissue sarcoma, as persuasive. Dr Suskind, a dignified and scholarly researcher whose work is of the highest quality, was good enough to share his raw data with the commission and its advisers in Cincinnati, Ohio. He freely gave two days of his time so as to permit close analysis'.

Justice Evatt's opinion contrasts dramatically with allegations raised in the Illinois trial—the longest civil jury trial in US history—that Dr Suskind and other Monsanto researchers produced fraudulent reports. It was claimed that Dr Suskind falsified his report, which stated the problems in nervous system of workers exposed to dioxin in the 1949 Nitro explosion disappeared by 1953 except in a few cases and showed no cause and effect between 2,4,5-T and soft tissue carcoma deaths.

Lawyers for the plaintiffs, who for the first time had access to the details of three separate reports on the Nitro explosion with which Dr Suskind was involved, claim that, in fact, the rate of death from cancer among workers exposed to dioxin at Nitro was 65 per cent greater than expected in the general community.

Death from lung cancer was 143 per cent higher than expected, genito-urinary cancer 108 per cent higher, bladder cancer 809 per cent higher, lymphatic cancer 92 per cent higher and death from heart disease 37 per cent higher.

People did not get old enough to have a heart attack; they died of all these other cancers before their heart gave out. The article continues:

The lawyers allege that in one study in 1984 Dr Suskind omitted a large number of cancer cases and shifted some people who had been exposed to dioxin at Nitro who had cancer into the unexpected category to indicate a comparable level of cancer between exposed and unexposed groups.

Some of the problems associated with epidemiological cancer studies show that, if one shifts those study groups around, one can change the results to suit. In the light of the article, my question is as follows (and it is not a dorothy dixer, Mr Legh Davis): is the South Australian Health Commission aware of this American case, which has thrown doubts on previous evidence relating to dioxin given to the Evatt royal commission and will the Minister of Health pursue this matter with his Federal colleague?

The Hon. ANNE LEVY: I will refer that question to our colleague in another place and undertake that a reply will be provided either through my office or through the office of the Minister of Tourism.

MINISTERIAL STATEMENT: DUNCAN REPORT

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: Following my ministerial statement to Parliament on Tuesday 3 April 1990 concerning the report of the Duncan Task Force, members of the Opposition raised the question of the proper investigation of allegations of 'political cover-up' in respect of the 1972 Duncan Inquiry.

In the House of Assembly on 4 April 1990, the Hon. H. Allison asked:

I direct my question to the Minister of Emergency Services. Did police interview any political identities in connection with allegations of political interference in the investigation of the Duncan murder and, if not, why not? One of the major reasons why this task force was appointed was a front page article which appeared in the *Advertiser* on 3 August 1985. This article carried the headline 'Inquiry thwarted by political cover-up' and alleged that at the time of the investigation police had been given a political direction not to interview a man prominent in South Australian legal affairs thought to have been in the vicinity of the crime at the time it occurred. However, the report tabled yesterday contains only two paragraphs of brief reference to political interference, and even this gives no indication that this specific allegation, made in 1985, has been investigated.

In the Council, also on 4 April, the Hon. Mr Griffin asked:

My questions to the Attorney-General are as follows:

In view of the fact that the Attorney-General's ministerial statement and the report he tabled yesterday both failed to refer to the specific allegation of political interference made in 1985:

1. Was the allegation as reported in the *Advertiser* on 3 August 1985 investigated by the task force and, if it was, did the task force produce any report on this investigation?

2. In the course of this investigation, were any political figures interviewed? If so, who were they and, if not, why not?

3. In all the circumstances, does the Attorney-General consider that there has been the full investigation into this matter he promised in 1985, when he told this Council on 13 August that year that 'the Government guarantees they will be pursued with all the vigour at its disposal'?

Responses were provided to these questions in Parliament at the time by the Minister of Emergency Services. Contrary to the Hon. Mr Griffin's assertion in his questions, the issue of the investigation of political interference was specifically dealt with in the report of the task force tabled in Parliament, and this is made clear in my answer at the time the

question was asked on 4 April 1990. I will repeat only the conclusion in the task force report:

Para 4.4. Determination whether any of the 1972 inquiries were thwarted due to political interference.

Inquiries revealed that this issue is not substantiated and no further investigation is warranted.

There could be nothing more categorical or clear than that, unless Mr Griffin is suggesting that the investigators on the task force were not doing their job—something which I reject.

Mr Griffin, by way of interjection, tried to suggest that the task force only dealt with the allegation that the inquest had been held prematurely. That is not correct. However, because the Opposition has chosen to ventilate this, apparently in some continuing vain hope that its initial position taken in 1985 will be vindicated, it is necessary to deal with the matter in more detail so that the Parliament and the public can be assured that all that could be done was done by the task force to track down and investigate the allegations of political interference.

Before doing so, however, it is worth tracing the history of this allegation. The allegation was made in a substantial story on page one of the *Advertiser* by police reporter, Robert Ball, on 3 August 1985 in the middle of renewed public debate about Dr Duncan's death. The heading was 'Inquiry thwarted by "political cover-up"'. The article relied on 'information supplied to the *Advertiser*' to assert as follows:

1. that political interference to protect the identities or reputations of prominent South Australian homosexuals thwarted a Scotland Yard team investigation.

2. that detectives were prevented from interviewing a man prominent in the legal affairs of South Australia on instructions from someone at a top level of Government.

The article then went on to say that this fact was included in the Scotland Yard Report and that report names many people including homosexuals prominent in Adelaide affairs. I dealt with the contents of the Scotland Yard Report in my ministerial statement on 13 August 1985 as follows:

However, I can assure the Parliament of a number of things. Firstly, the assertion in the *Advertiser* on 3 August 1985 (that the report contains reference to an attempt to interview a man prominent in the legal affairs of South Australia) is wrong. There is absolutely no mention of such a person in the report, no suggestion that such a person was in the vicinity, and no mention of difficulty interviewing him.

Secondly, a claim by the *News* on 8 August that names of dozens of South Australians, some of them prominent people, are in the report is wrong. In fact, only 30 people in all are named in the report, and to my knowledge, only one (apart from the formal witnesses) might qualify as being known to at least some of the South Australian community. Fifteen were police officers, and there was also the Coroner, pathologist and others who gave evidence of a formal nature in relation to the investigation. I can assure the Parliament that there is no legal identity, no politician (past or present) or other prominent South Australian of that kind mentioned in the report.

I said that in my ministerial statement of 13 August 1985. In the *Advertiser* of 7 August 1985, the Liberal Opposition gave a commitment to the establishment of a royal commission into the death of Dr Duncan. In particular, its legal affairs spokesman, Mr Griffin, said the case had taken a new turn with allegations in the past few days of a political cover-up at the time of the investigation in 1972. I dealt with the allegations of political cover-up in some detail again in my ministerial statement of 13 August 1985 as follows:

I will now deal with the allegations of a political cover-up. Out of this entire, unfortunate saga I cannot imagine a more repellant scenario than that of purely political considerations thwarting the various endeavours to get at the truth. But at this point in time and on the evidence available, there is no allegation more fanciful and less substantial than this.

There is simply no evidence that has been furnished to those in authority which gives it any weight or credence whatsoever.

On 3 August, the *Advertiser* made allegations relating to a political cover-up. This has been used by the Opposition as grounds for calling a royal commission. The fact is that on any objective analysis, there is at present no credible evidence to justify such action. The following points need to be made.

(1) As I have already stated, the assertion by the *Advertiser* that the Scotland Yard Report contains details of Scotland Yard investigators trying to interview a man prominent in legal affairs in South Australia, or a professor, over firm information that he had been seen at the same time and near the place at the River Torrens where Dr Duncan drowned on 10 May 1972 is wrong.

(2) The allegations that detectives were prevented from interviewing a man prominent in the legal affairs of South Australia on the instructions from someone at a top level of Government is from 'information supplied' to the *Advertiser* but is not supported by any other evidence.

(3) The task force has advised me that there is no suggestion in either the Scotland Yard Report or the accompanying statement that police investigations were stopped or discouraged from interviewing potential witnesses.

(4) The allegations are by unnamed persons, no details are provided.

(5) Former Police Commissioner Salisbury says he knew nothing about any direct political interference. His deputy at the time, Mr Draper, said, 'Certainly I issued no instructions and I know of no pressure'. The allegation is also denied by the then Premier Dunstan.

(6) The basis of the allegation is that Mr Salisbury or Mr Draper would not have issued such an instruction and therefore there must have been pressure from someone at the time.

The reality is that there is at present no evidence of such pressure. Indeed, public statements of people involved at the time tend to refute it.

However, this allegation will be investigated by the task force. The task force will approach the *Advertiser* and Mr Ball, the journalist concerned. The Government expects their fullest cooperation in pursuing this inquiry.

Allegations of this kind, made anonymously but then used by the Opposition for its own political ends, must be substantiated by the newspaper which made them. If they are, the Government guarantees they will be pursued with all the vigour at its disposal.

That was another quote from a statement of 13 August 1985 dealing with the allegations of political cover-up.

Members will note from what follows that neither the newspaper nor the journalist concerned were able to provide any substantiation of the allegation.

My undertaking that, despite the virtual total lack of credible evidence on this topic, the matter would be investigated by the task force has been fufilled. In the final analysis, the *Advertiser* story was a complete furphy, no doubt designed to fuel Adelaide's notorious rumour mill.

The Deputy Commissioner of Police, Mr Killmier, sought the cooperation of the editor of the *Advertiser* in making available Messrs Ball and McEwin for interviews, as well as any other member in his employ who had identified that they were in possession of any information which may assist in bringing to justice the person or persons who caused the death of Dr G.I.O. Duncan. Regrettably, no response was ever made by the editor of the *Advertiser,* or anyone on its behalf, to that invitation. The police, at their own initiative, flew to Melbourne to interview Mr Ball. His contributon, an interview which was 10 minutes in length including questions as well as answers, I will deal with in more detail later. Again, the police at their own initiative contacted the editor of the *Advertiser,* Mr John Scales, for approval to interview Mr Mike McEwin. Mr McEwin was subsequently interviewed for approximately one hour, but could not assist with any further information.

Further, Mr Killmier wrote to the editor of Nationwide News Pty Ltd seeking assistance in relation to investigations by the task force. Although the editor, Mr R. G. Holden, responded to Mr Killmier's letter, he provided no information other than to indicate that a Mr Steele, the editorial

manager, would contact Mr Killmier if 'there is any way in which members of our staff can be of assistance'. Again, regrettably, nothing further was ever heard from the *News* in this regard.

I now turn to the police inquiries of Mr Robert Ball, the author of the article in the *Advertiser* on 3 August 1985. The conclusions drawn by the task force, following the interview with Mr Ball on 8 October 1985, are as follows:

Ball was interviewed by the 'Task Force' members on 8 October, 1985, and the following emerged:

- Ball refused to disclose his source(s) of information relative to the article of 3 August 1985.
- Ball does not have any direct evidence to support his allegations of political interference.
- Ball would not identify the person whom he referred to in his article as a prominent 'legal man'.
- Ball himself does not possess any information to identify the person referred to in the article as an 'academic'.
- Ball's inability to nominate any person who would be able to provide the quantum of evidence to support the assertions made in the article.

Despite the total lack of substantiation of the story by Ball, all State police involved in the Scotland Yard inquiry were questioned about political interference. The following police involved in the Duncan inquiries were interviewed:

- Detective Lloyd Morley,
- Superintendent Noel Lenton,
- Inspector Colin Lehmann,
- Inspector Paul Turner,
- Superintendent Peter Arthur Collins—'B.2' Division,
- Detective Inspector Anthony John Ryan—Drug Squad,
- Inspector John Nicholas Attwood—'D.1' Division,
- Detective Senior Sergeant Norman George Davy—Holden Hill CIB.,
- Detective Senior Sergeant Manfred Heinz Bator—Darlington CIB.,
- Detective Senior Sergeant Desmond Thomas Moresey—Drug Squad,
- Detective SCIG Robert John Bull—Adelaide CIB., and
- John James Sharp (retired)—Unit 2, 235 Payneham Road, Joslin.

All the officers were interviewed by the task force and, without exception, state that there was no political interference, nor did they receive any directions, either oral or written, to cease any particular line of inquiry.

The task force in its interim report in December 1985, which is Annex B to the final report, comments as follows:

There is no evidence to support any allegation of political interference and/or 'cover-up'. Ball himself is unable to provide any substantive evidence to support the claim. All police officers involved in the 1972 investigations deny that any of their inquiries were in any way inhibited. It would seem, most feel, that the Coroner's inquest was conducted prematurely, in that 'key' witnesses were reluctant to alter the testimonies they gave before that inquiry to investigators later assigned to inquire into this matter.

It should be noted by members that the final report of the task force tabled last week is to similar effect, but adds 'however, this is pure speculation' when dealing with the question of whether the inquest was held prematurely.

In summary, the answers to the Hon. Mr Griffin's questions are as follows:

Question one: Yes, Mr Robert Ball was interviewed as were all the State police officers involved in the 1972 investigations. The inquiry was not limited to the question of whether the inquest had been held prematurely. There is clearly no evidence of any political cover-up.

Question two: No political figures were interviewed. There was no allegation capable of being formulated which could be put to a politician (or, indeed, anyone else).

Question three: The final report in its entirety is made up of a number of attachments, some of which are quite voluminous, which encompass the initial investigation, coronial inquiry, Scotland Yard inquiry and the 1985 task force inquiry.

The task force not only looked into the death of Dr Duncan, but also into extensive allegations of impropriety and corrupt practices and behaviour by police in the 1972 era, and subsequently investigated a series of allegations generated during the life of the task force. The charter of the task force was wide. It has examined thoroughly all facets emanating from the death of Dr Duncan and subsidiary allegations.

It is clear from what I have said that the Government has fulfilled its undertaking to have this matter thoroughly investigated and, in particular, to pursue the allegations relating to a political cover-up with all the vigour at its disposal. Regrettably, those in the media responsible for reporting the allegations failed to assist the task force inquiry by substantiating the claims made. I repeat what I said last week:

As far as the Government and the police are concerned, at this stage, the matter is closed.

ASHFORD COMMUNITY HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the Ashford Community Hospital.

Leave granted.

The Hon. M.B. CAMERON: I refer to yesterday's decision by the South Australian Health Commission to reject an application by the Ashford Community Hospital to establish a unit for heart and bypass operations. By its decision, the commission has retained a cosy monopoly for this type of surgery for its premier public hospital, the Royal Adelaide Hospital, but it has also rejected a prime opportunity to reduce surgical waiting lists at the RAH, where lists rose to record levels in January this year.

The commission's explanation to Ashford in rejecting its plan was that there was no immediate need for an extra cardiac unit to that already at the RAH because a reduced number of Tasmanian patients would be coming to South Australia, once a Hobart hospital cardiac unit was set up there next year.

In the next breath, however, the commission concedes that there will be a need for an extra cardiac unit in South Australia within the next three years. People have said to me that one cannot avoid the conclusion that the commission wants to perpetuate its monopoly on cardiac surgery within the public hospital system, in which many private patients are also treated.

If we believe comments attributed to the commission's chairman, Dr Bill McCoy, reported in today's press, it seems that one of the reasons Ashford's proposal was rejected was because there were supposedly insufficient support services for the unit. Dr McCoy said that the commission was aware that this 'safety net', as he calls it, is not provided in all private hospitals interstate which conduct cadiac surgery, but it was the commission's view that South Australians should continue to enjoy this degree of backup. I understand that when the submission was put to the commission, it was indicated that backup was to be provided at all levels.

I have been in contact with Ashford Hospital authorities and been informed that this excuse is absolute rubbish. The hospital's cardiac unit was to be a joint venture with the Flinders Medical Centre and every base was to be covered at least to the standards obtaining in interstate private hospital cardiac units. I am told that Ashford annually refers

350 private patients to the RAH's cardiac unit and that the establishment of a unit at Ashford would simply allow these privately insured patients to be seen at that hospital. This would free 350 places for public patients who now have to wait up to 2.5 times longer for surgery than their private counterparts, even at the RAH. It has been put to me that some public patients have died while waiting for cardiac surgery at the RAH. I understand that that information is as the result of a report prepared by two heart specialists at the Queen Elizabeth Hospital and Flinders Medical Centre and presented to the Health Commission. There is evidence in the report that that is the case. Some of these patients come from lists at Flinders Medical Centre or the Queen Elizabeth Hospital; two hospitals that would benefit greatly from an Ashford cardiac unit, as they fall within its general catchment area.

If there is any doubt about the need for this extra cardiac unit, one has only to gauge the support the proposal received from local government. The four Mayors of Marion, Unley, Mitcham and West Torrens met with the Health Minister about a month ago, but I understand that they were given short shrift. The Mayors apparently came away with the impression that the Minister had already been well briefed by the Health Commission, which wanted to retain its monopoly and, that the Minister had already made up his mind to reject the Ashford proposal. It has been put to me that this is a scandalous state of affairs when it is remembered that Ashford Hospital went ahead with about $7 million in upgrading, specifically with the intention of establishing a cardiac unit, and did so in the belief that it would obtain approval.

I am also informed that every time a private patient is treated at the RAH it loses $200 a day because the amount of recovery from the private health insurers is only half the amount that it costs to run a bed per day at the RAH, whereas at Ashford there would be full recovery from the health insurance fund involved. Not only are public patients losing access to that bed but also the RAH is losing money on the bed itself. My questions to the Minister are:

1. Will the Minister provide details of the average length of time public patients must wait for cardiac surgery at the Royal Adelaide Hospital, and the average length of time that private patients must wait?

2. Will the Minister provide details of what percentage of the above public and private patients waiting for surgery are from the Flinders Medical Centre and Queen Elizabeth Hospital lists, and what is the average length of time they have to wait for surgery at the RAH?

3. Will the Minister table the report given to the Health Commission, by heart specialists from the hospitals to which I have referred, which details the deaths of people while awaiting heart surgery?

4. Will the Minister detail the number of public patients who have died in the past 12 months while waiting for cardiac surgery at the Royal Adelaide Hospital?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and either I or the Minister of Tourism will bring back a reply.

REPLIES TO QUESTIONS

The Hon. ANNE LEVY: I seek leave to have inserted in *Hansard* answers to the following questions, for which slips have been distributed.

Leave granted.

SALISBURY COUNCIL

In reply to the **Hon. J.C. BURDETT** (22 March).

The Hon. ANNE LEVY: I confirm my earlier response to the honourable member. The letter distributed was not written on official council letterhead paper, but on paper provided to members for use in correspondence with ratepayers. The letter had been written by council members in their capacity as individuals and it was not a letter from the council itself. This is supported by the reported comments of the acting City Manager when he stated that 'what elected members choose to write on their notepaper is their own affair'.

I understand that a council officers' report on the subject was placed before the council at its regular monthly meeting on Monday 26 March 1990. Therefore, there was an opportunity to openly discuss the matter in the council forum. I believe the report indicates that no council resources were committed to the exercise. I would suggest that, in general terms, the action of those individual members of council was nothing more than, and is parallel to, what happens when members of Parliament communicate with their own constituents through their electorate offices.

WILLUNGA BASIN

In reply to the **Hon M.J. ELLIOTT** (13 February).

The Hon. ANNE LEVY: My colleague, the Minister for Environment and Planning, has advised me that she announced a major investigation of the area surrounding the Aldinga Scrub on 22 November 1989 in response to a number of proposals for the area prepared by various organisations. The central local organisation in this respect has been the Friends of the Earth (Willunga).

The Major Projects and Assessments Branch of the Department of Environment and Planning is responsible for undertaking this investigation. The department's major responsibility will be, in determining the feasibility of the various options, to liaise extensively with the many organisations that have an interest in the area.

To facilitate this liaison, the department is currently preparing a discussion paper on the conservation and development opportunities for this area.

In the circumstances I am sure the honourable member would agree that it would not be appropriate to respond in detail to any one specific proposal prepared for this area.

One of the issues to be dealt with in the discussion paper relates to the hydrology (surface and subsurface water) of the Aldinga Scrub and surrounding areas.

The Government recognises that the drains constructed since the Second World War have reduced the amount of surface and subsurface water available in the area.

The impact that this modified water regime may have on the vegetation is not generally well understood in this area. What seems reasonable is that vegetation reliant on a high water table and/or inundation from surface water may continue to exist, albeit under stress or in a state of decline.

To properly understand the complex relationship between the hydrology and vegetation of the area it is necessary to undertake a long-term monitoring program. It is expected that this issue will be addressed in further detail in the discussion paper being prepared.

Notwithstanding this, the balance of scientific opinion suggests that the vegetation in the park will survive although there may be some modification in the structure of one or more of the communities represented.

LAND CLEARANCE

In reply to the **Hon. M.J. ELLIOTT** (20 February).

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

1. My colleague, the Minister for Environment and Planning, has advised me that while she is concerned about the future use of the land in question and the need to protect the catchment of the Kangaroo Creek Reservoir, the Minister has no reason to believe that she has been misled by her public servants.

The Woods and Forest Department is developing a land management program which recognises the steepness of the area and its vulnerability to fire. The program, which includes the establishment of high value, native hardwood tree species better adapted to fire, recognises the inherent problems of the local topography and will lead to a stable land use practice for the benefit of the catchment, wildlife species and the general community.

2. An interdepartmental multidisciplinary working group has already been established to investigate the management of the area. Initially this group is to report on any action necessary to prevent the current land clearance from having a detrimental effect on water quality in the Kangaroo Creek Reservoir.

BOTTLE DEPOSITS

In reply to the **Hon. M.J. ELLIOTT** (22 February).

The Hon. ANNE LEVY: My colleague, the Minister for Environment and Planning, has advised me that, as the honourable member is no doubt aware, the South Australian Waste Management Commission has set up a Recycling Advisory Committee to investigate and develop a practical scheme to recycle a wider range of packaging and materials. It is possible that some of the broad principles of the Beverage Container Act may be incorporated in such a scheme.

Further, the Premier, in launching the Minerals and Energy Policy on 8 November 1989, said:

> A comprehensive State Energy Plan Green Paper is being prepared by the Energy Planning Executive—bringing together Government initiatives on energy supply, pricing and sourcing—as well as addressing environmental concerns.

After extensive public consultation on the Green Paper a State Energy Plan will be released which will set the energy strategy for the 1990's and beyond.

MARINE POLLUTION

In reply to the **Hon. M.J. ELLIOTT** (1 March).

The Hon. ANNE LEVY: My colleague, the Minister of Fisheries, has provided me with the following information:

1. A report on heavy metal concentration on fish in the South Australian environment was released by the South Australian Department of Fisheries in 1983. This report included the results of samples from Spencer Gulf adjacent to Port Pirie. These samples showed that one garfish, out of several sampled, had lead concentrations in its tissue in excess of the Food and Drugs Act (SA), 1976 Regulations. The latter results of extensive Commonwealth Scientific and Industrial Organisation (CSIRO) marine environmental studies in the Port Pirie area indicated that human health was unlikely to be affected by consumption of seafood caught in the area.

The South Australian Department of Fisheries study referred to was a baseline study to examine the distribution and abundance of small animals, such as marine worms, shells and crustaceans, that live in the sediments of upper Spencer Gulf. This baseline study was undertaken for biological monitoring of the marine environment, and not to investigate the concentration of toxins in the marine environment.

My colleague, the Minister for Environment and Planning, has provided me with the following information:

2. No character assassination is being perpetrated on Mr King or on any other member of the Public Service. Neither is Mr King being described as a 'loony'. In fact, Mr King nominated for the recent election for the Senate.

The question seems to hinge on the issue of bringing to the public 'knowledge that should have been readily available to it anyway'. If this is intended to refer to the Broken Hill and Associated Smelters (BHAS) operations at Port Pirie, then members will be aware that there has been extensive research by CSIRO, on behalf of the International Lead Zinc Research Organisation Inc. Indeed, the Hon. Mr Elliott has been aware of this at least since February 1989, when he cited the final report in correspondence with the then Minister for Environment and Planning. That report was released by the CSIRO Executive in 1982. It is in a form which could be readily understood by membes of the public. Summaries of its contents have appeared in several popular journals and magazines. The knowledge always has been readily available to the public.

Similar comments apply to the extensive research which the Engineering and Water Supply Department has carried out on discharge of treated and untreated sewage around Adelaide and at Port Lincoln. In the latter case, the department called a public meeting to release its most recent reports on water quality at Proper Bay.

There was no delay of six years. Mr King—then Mr Ruler—drew up a 'work program to achieve marine pollution legislation' in November 1984. He nominated the target date for presentation to Parliament as October 1985.

Early in 1985 an officer was seconded to assist in preparing technical support material for this exercise. By November 1985 a report of 70 pages, drawing on 193 references, was available to Mr Ruler. Mr Ruler did not submit a draft of legislation in 1985.

Mr Ruler claimed that his workload did not allow him to prepare a draft. In 1986 he was offered an opportunity to work virtually full time on the legislation with another officer, but he declined.

By October 1987 he had prepared a draft, which he circulated within the department with a request that other officers give comments on the draft submission and recommend any necessary changes, deletions and additions. He further recommended that, after those comments had been considered, the draft be sent to other departments for their comments.

Other officers—senior and junior to Mr Ruler—did comment, as he requested. Mr Ruler did not submit a further draft for circulation to other departments, although he did continue with other activities. Amongst other things, he also took long service leave during 1988.

In December 1988, the then Minister for Environment and Planning convened an Interdepartmental Advisory Committee on Marine Pollution (IDACOMP). The committee reviewed the work to date, and prepared the White Paper on 'Control of Marine Pollution from Point Sources', which was released to the public in July 1989.

The public was invited to comment on that White Paper until 18 August 1989. There was a wide response, including comments from (now) Mr King, dated 18 August 1989.

Mr Ruler had four years to prepare a draft for consideration by other Government agencies. When that draft had

not appeared by late 1988, the task was taken up by IDACOMP, which took 10 months to review previous work, prepare the White Paper, carry out public consultation and have a Bill ready to be presented to Parliament.

PLAGIARISM

In reply to the **Hon. M.S. FELEPPA** (3 April).

The Hon. ANNE LEVY: In relation to the first question raised by the honourable member, the Crown Solicitor has advised that in his opinion the unpublished original literary, dramatic, musical and artistic works of students studying at academic institutions are afforded the protection of the Copyright Act 1968 (Commonwealth).

Section 32 (1) of that Act provides copyright protection to 'qualified persons' which includes Australian citizens and persons resident in Australia. The question of residence might be open to determination in the case of overseas students but, on a review of the cases, the Crown Solicitor has formed the opinion that overseas students would be considered as residents, and so qualified persons, for the purposes of this Act.

With regard to the second question raised, I am advised that at Flinders University of South Australia, statute 2.5 provides for complaints about staff misconduct to be made directly to the Vice-Chancellor who is responsible for dealing with the matter. Students alleging plagiarism would be able to do so under this statute. Similarly, if a student who has made a complaint of plagiarism believes that the staff member is subsequently committing acts of academic discrimination, whether covert or overt, a further complaint could be made under this statute.

At the University of Adelaide there are precise and detailed procedures for dealing with misconduct of academic staff. Overt discrimination of the kind referred to would be classified as serious misconduct and dealt with in accordance with the regulations to chapter IV of the statutes of the university. Procedures for dealing with covert discrimination are less well defined and the Registrar of the university is presently discussing with student organisations ways in which the anonymity of students can be maintained while preliminary investigations of allegations against staff are undertaken.

LOCAL GOVERNMENT DEPARTMENT

In reply to the **Hon. J.C. IRWIN** (1 March).

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

1. Mr R. Roodenrys, the recently appointed Director, Local Government Division, Department of Local Government, is a qualified accountant, eligible for membership of the Australian Society of Accountants.

For 10 years until March 1984 he was employed by the Commonwealth Grants Commission—a position which gave him a sound understanding of the intergovernment relations between the three spheres of government.

In March 1984 he was appointed as the Director, Intergovernment Relations in the Northern Territory.

From April 1987 until his recruitment to the South Australian Public Service he was the Director of the Northern Territory Office of Local Government, a member of the Local Government Grants Commission and Chair of the Jabiru Town Development Authority.

Mr Roodenrys has been the Assistant Director, Department of Local Government since January 1988.

His working career, in the Australian Capital Territory, Northern Territory and South Australia has provided him with extensive experience relevant to the position of Director, Local Government Division, Department of Local Government.

2. I table for the information of the honourable member a revised organisation chart showing senior positions in the Department of Local Government.

ELDER CONSERVATORIUM

In reply to the **Hon. DIANA LAIDLAW** (21 February).

The Hon. ANNE LEVY: In response to the concerns expressed by the honourable member over administrative and assessment procedures within the Elder Conservatorium, I referred this question to my colleague, the Minister of Employment and Further Education, who has responsibility in this area.

It was stated by the honourable member that Professor Esser gave a student a score of zero. I am advised that the situation is as follows: In rare cases, it has been Professor Esser's decision to withdraw from the examining panel. The final score of the student is decided upon the scores granted by the other examiners. This is, of course, quite different from him awarding a score of zero.

The Minister also has advised me that the issue of the resignation of teachers and the non-renewal of some contracts is explained by the fact that the Conservatorium is about to employ a full-time piano teacher. As a result the University is unable financially to support a number of part-time piano teachers; in consequence of this one part-time teacher has resigned and three have not been re-employed.

The honouarble member asked whether an investigation would be initiated into the alleged concerns. The Minister of Employment and Further Education has advised me that he does not have the powers to intervene in what is clearly an internal affair of the Conservatorium. These are matters which the University, as an autonomous body, will deal with in the manner that it considers most appropriate.

Nevertheless, the Minister has undertaken to raise the alledged concerns with the Vice Chancellor of the University of Adelaide.

FESTIVAL CENTRE PLAZA

In reply to the **Hon. DIANA LAIDLAW** (28 March).

The Hon. ANNE LEVY: Work was approved to proceed on the Adelaide Festival Plaza repairs and improvements in 1987, at an estimated total cost of $10 700 000. The estimated cost included the cost of repair and investigations carried out in the preceeding years 1982-1987 as well as the new work.

The Northern Plaza covering approximately 1.2 hectares has been totally repaired to stop water leakage through the plaza. The repair work to the Northern Plaza was finished in February 1990, and all points of leakages through the plaza are fixed. All areas of the northern plaza were water tested prior to completion to ensure that the construction is satisfactory. The waterproofing and rectification of the Northern Plaza has been designed and constructed so that there is access for future maintenance of the waterproofing. In an area of 1.2 hectares there is always the possibility of accidental damage to the waterproofing which would cause leakage. The original construction did not allow for any

practical means to carry out maintenance repairs. The new works do allow these maintenance repairs to be carried out.

Repair work to the Southern Plaza (i.e. the Car Park) has been carried out in a different manner to the Northern Plaza. Repair work has been limited to the areas where leakage was causing structural damage. Other areas have not been repaired as there was no structural damage and minor leakage within a carpark was considered to be acceptable. The repair work that has been carried out has caused further defects to become evident in the southern carpark drainage system. These defects are currently being investigated and corrected. The need to rectify some of the drainage system was not evident at the commencement of the project. It is anticipated that this work will be completed by the end of May.

The delay is completion has led to some additional costs being incurred. The anticipated final cost is less than $11 000 000 for the total repairs and improvements, including investigations and repairs carried out prior to the commencement of the major repairs in 1987.

If the repair work had not been carried out there would have been significant structural damage and internal damage to the Adelaide Festival Centre complex. The repair work has halted this damage, and allows routine maintenance to be carried out effectively.

In addition to the repair work, the opportunity was taken to improve the Festival Centre by inclusion of the following works:

- Completely remodelled box office.
- Provision of new main entrance stairs, replacing the previous narrow staircases.
- Completion of the western end of the complex.
- Connection of the Adelaide Festival Centre plaza with the ASER plaza.
- Provision of a water sculpture, adjacent to the Drama Theatre (with National Australia Bank support).
- More extensive landscaping on the plaza.

PINNAROO AREA SCHOOL

In reply to the **Hon. R.I. LUCAS** (1 March).

The Hon. ANNE LEVY: My colleague, the Minister of Education, has provided me with the following information:

1. *(a)* 100.

1. *(b)* The figures from Victoria are unavailable.

2. No.

BUILDING ACT

In reply to the **Hon. J.F. STEFANI** (3 April).

The Hon. ANNE LEVY: The council is responsible to ensure compliance with the Building Act and regulations both in the approval of original plans and any subsequent alterations.

Section 8 of the Building Act requires the owner to apply to council for approval of the building work before the work is commenced.

Section 9 of the Building Act provides for the council to approve or not approve the work and also to approve alterations or modifications to the work.

Section 10 of the Building Act, however, provides that a person shall not begin to perform any building work unless it has been approved by the council. This means that approval for any alterations must also be given before the work commenced.

If, however, structural alterations have been carried out without council's approval, and council has felt inclined to allow the construction to remain, it may approve the work retrospectively by invoking the provisions contained in the regulations which allow council to accept a certificate from a practising structural engineer, or other body approved by the council, certifying that when completed the construction will be structurally sound.

Full details, including plans and specifications, must accompany such a certificate so that council has a record of what was constructed and approved.

The Hon. ANNE LEVY: On behalf of the Minister of Tourism, I seek leave to have the following replies inserted in *Hansard*.

Leave granted.

HEALTH CARE

In reply to the **Hon. T. CROTHERS** (21 March).

The Hon. BARBARA WIESE: I am pleased to supply the following information, which has been provided by the Minister of Health, in response to the honourable member's questions:

1. Yes. In addition to the four year, $46 million Metropolitan Hospitals Funding Package announced by the Premier in June, 1989, South Australian public hospitals have recently been provided with an extra $2.85 million to cover increased activity.

2. Yes.

HOMESURE SCHEME

In reply to the **Hon. L.H. DAVIS** (15 March).

The Hon. BARBARA WIESE: The Minister of Housing and Construction has advised that: The decision to use BUSPAC as a medium for advertising the Homesure Scheme was based on gaining the best possible value for each advertising dollar. The Government will also use the print media and radio to give Homesure further exposure.

Consideration is being given to direct mailing to all people who may be eligible for assistance as another means of promoting the Scheme.

In announcing the BUSPAC Advertising Campaign on 28 February 1990 the Government also indicated its intention to double its Homesure Advertising Budget from $50 000 to $100 000.

VEGETATION CLEARANCE

In reply to the **Hon. M.J. ELLIOTT** (8 February).

The Hon. BARBARA WIESE: In response to the questions raised by the honourable member on 8 February 1990 the following advice is provided:

1. Clearance has already ceased. All planned clearing at Cudlee Creek for agroforestry projects has been completed. No further clearing for this purpose is proposed.

2. It is proposed to convert the remaining 500 hectares of burnt plantation to native species, either as forest or woodland.

However, active management will be required as the area is a dense mixture of pine regeneration, weeds and native species.

Some areas contain in excess of 20 000 Pinus radiata seedlings per hectare. This is some 15 to 20 times the

number of trees either planted in commercial plantations or found in native forests. Weed infestation is generally high and local authorities have assessed this as a significant problem and unacceptable to them.

Without active management the very dense and undesirable mixture of plant species will continue, the conservation value of which is considered low.

The Department is continuing to assess how best to convert the area to native vegetation. The Department of Agriculture and Engineering and Water Supply personnel will be further consulted in this process.

3. The land management of the area is difficult and complex. A review undertaken following the 1983 fire indicated the desirability of establishing a range of demonstration areas planted to high value tree species widely spaced providing opportunities for future returns as well as limited grazing to restrict weeds and reduce the fire hazard on part of the area.

Due to the fire history of the district, it is desirable to ensure that there are, within the total area, zones of lower fuel areas for fire management purposes.

Desirable species cannot be established by under-planting. Removal of the competing vegetation (weeds and pines) can be done by using chemicals or by clearing. Chemicals were not deemed acceptable. Access within the area is also very difficult due to the density of the regeneration and the mass of fallen tree trunks on the ground.

Methods of clearing have been considered in detail since 1983 with forest officers assessing the risks involved. The area successfully established in 1989 was cleared using techniques to minimise soil disturbance. The area was not ploughed and work was carried out under close Departmental supervision.

47 600 trees were planted in 1989 in holes prepared by spade. There was minimal silting and although some initial concerns were expressed by neighbours, some favourable comments were received following establishment.

The area proposed for planting in 1991 has been similarly cleared. At this stage the appearance is stark.

The vegetation in the creek-lines has been retained as filter strips and the debris removed placed adjacent to these areas. Clearing has been done with minimal interference with the top soil.

Grass species will be aerially sown in autumn, as occurred when the area was totally burnt on Ash Wednesday.

The area cleared in 1989 for planting in 1990 is well grassed and erosion has not been a problem.

A further 102 000 seedlings will be planted over the next two years. The reason for delaying planting is to allow time to treat the weeds, including blackberry and gorse, that will grow on the site.

The Department has undertaken rehabilitation operations in the area since the fire and concerns have not been expressed rgarding problems with water quality.

4. Both the Woods and Forests Department and the Department of Agriculture have a contribution to make in regards to agroforestry.

It should be emphasised that, as in other States of Australia, agroforestry has been initiated and promoted through the forestry agency. The Woods and Forests Department has established agroforestry trials and experiments in both the South East and the Central region.

There has been consultation between the Department of Agriculture and the Woods and Forests Department on this particular project.

The rehabilitation of the fire killed forests at Cudlee Creek is being conducted using the best available methodologies economically achievable. The circumstances and problems are unique. Allowing it to remain in its present form is not an acceptable solution. The objective is to utilise the land for community benefit and limit the potential hazards. No other sound alternatives to rehabilitate the land have been forthcoming.

FRUIT AND VEGETABLE QUALITY STANDARDS

In reply to the **Hon. M.J. ELLIOTT** (21 February).

The Hon. BARBARA WIESE: The Minister of Agriculture informs me that he is reviewing the need for statutory quality standards for fruit and vegetables sold in South Australia. If the Government accepts there is such a need, an appropriate announcement will be made.

GREENHOUSE EFFECT

In reply to the **Hon. M.S. FELEPPA** (20 February).

The Hon. BARBARA WIESE: The Minister of Agriculture has advised in the following terms:

1. The honourable member asked whether it will be policy to restrain the extent of stocking so that changing land conditions over a number of years can become well established before the benefit of global warming is reaped. In response, I advise that there are two areas of the State which must be considered in this reply. In the pastoral area, the lease agreements which will be established under the Pastoral Land Management and Conservation Act (1989) will stipulate maximum stocking rates. These will be determined at each 14 year interval when the properties are assessed for vegetation and carrying capacity. There is some concern that the global warming will increase the summer rainfall and cause a change in the species composition of the native vegetation. It is important to recognise that these changes may take seveal decades and possibly centuries to occur due to the longevity of many of the trees and shrubs which occur in this region (e.g. Bluebush which is estimated to live for up to two hundred years). Careful stocking rates are required until the stability of the system is determined. This will be managed by the Pastoral Board taking advice from the Soil Conservation boards in the area and pastoral inspectors.

In the agricultural area, there are more land use activities than just grazing stock on most lands. Consequently, the condition of the land will be the determinant for the combination of land uses and the subsequent management practices used by farmers. This will be managed under the Soil Conservation and Land Care Act (1989). Past experience indicates that management strategies in the agricultural regions can accommodate the relatively rapid changes in commodity values (year by year) and consequently the longer term changes resulting from the greenhouse effect (decades) should not pose a major problem.

2. In the pastoral areas, new lease agreements establishing stocking rates according to the current vegetation are being determined and placed in the conditions of lease. In the agricultural areas, guidelines for management of different land classes (district plans) are being developed with the community based on current agricultural production methods. These processes are both managed under the Pastoral Land Management and Conservation Act and the Soil Conservation and Land Care Act which was passed by Parliament in 1989.

OLYMPIC DAM

In reply to the **Hon. I. GILFILLAN** (27 February).

The Hon. BARBARA WIESE: The Minister of Health has provided the following information:

1. The Olympic Dam Indenture precludes the setting of limits on exposure to radiation which are more stringent than current national and international standards. The International Commission on Radiological Protection (ICRP) has recently issued a draft recommendation that the present limit of 50 mSv should be reduced to 20 mSv per annum. When the ICRP recommendation is confirmed the Olympic Dam Project will be obliged under the Indenture to comply with it.

It is the Minister's understanding that the community in general, and workers at Olympic Dam in particular, are well aware of potential risks to their offspring resulting from exposure to radiation. However, the need for training to emphasise this potential risk will now be reassessed in the light of the new reports to which the Honourable Member has referred.

2. Any such incident will be dealt with on the facts of the particular case, if and when it arises.

MARINELAND

In reply to the **Hon. K.T. GRIFFIN** (7 September 1989).

The Hon. BARBARA WIESE: The following summary of Tourism South Australia's involvement with Marineland redevelopment proposals is provided in response to questions asked by the honourable member:

January 1987

Officers of Tourism South Australia (TSA) were introduced to Messrs Rodney and Grant Abel at a meeting with officers from the Department of State Development (DSD). The Abels outlined their proposal and sought and received details of the Government's financial assistance schemes.

TSA subsequently advised DSD that the proposal was in accord with the objectives of the SA Tourism Plan.

February 1987

TSA participated in a site inspection.

May 1987

TSA provided the following response to DSD in support of Tribond's Government guarantee application:

- A valuable tourism asset would be lost unless redevelopment of the existing facilities occurred;
- The predicted attendance figures were considered too high. Rather, potential attendance was estimated at between 242 000 and 292 400 with 250 000 visitors per annum considered achievable if the project was to be developed to a very high standard and well marketed;
- When fully operational the proposal would offer a unique range of experiences.

The following criteria were considered in nominating an achievable attendance figure:

- The expertise and experience of the Abel family;
- The inclusion in the proposal of a variety of marketable extras designed to tap into specialist markets, for example, adult and school group education programs, audio-visual information, and use of the facility for cultural performances and fashion shows;
- Attendance figures for other related attractions.

November 1987

TSA assisted in the preparation of a draft business plan to support Tribond's formal planning application. Tribond subsequently advised that parts of this draft plan had been used for planning approval purposes.

July-November 1988

TSA attended a series of meetings at DSD to consider Tribond's emerging financial difficulties.

February 1989

Officers of TSA were introduced to representatives of the Zhen Yun group and their proposal to develop a tourist hotel on the Marineland site.

March-June 1989

TSA attended a series of meetings in conjunction with DSD and officers of the Department of Premier and Cabinet, wherein it was recommended Zhen Yun undertake market research to determine what type of hotel would make best use of the Marineland site, and which market segments it should target.

Zhen Yun undertook market research as suggested and has developed its plans accordingly.

To assist in market analysis and the preparation of feasibility studies, TSA provided tourism data base information to both Tribond and Zhen Yun, as it normally does for any tourism proposal which meets the objectives of the SA Tourism Plan.

In reply to the **Hon. K.T. GRIFFIN** (2 February).

The Hon. BARBARA WIESE: The following information is provided in response to the honourable member's questions regarding Marineland.

1. Neither myself nor Tourism South Australia were consulted about the decision not to proceed with the redevelopment of Marineland. This was a commercial decision made by Zhen Yun. This decision was discussed in Cabinet on 6 February 1989 when a committment in principle to Zhen Yun's new proposal for the West Beach site (minus a dolphinarium) was given.

2. Between February and June 1989, officers of Tourism South Australia attended a series of meetings with Zhen Yun and others to discuss the preparation of a business plan, choosing a marketing consultant, meeting the chosen marketing consultants, and the provision of data to assist in market analysis and the preparation of a feasibility study.

Zhen Yun subsequently commissioned a market study by independent consultants and developed its plans accordingly.

WORKCOVER

In reply to the **Hon. R.I. LUCAS** (22 February).

The Hon. BARBARA WIESE: The honourable member's questions regarding WorkCover and small business were examined by the Minister of Labour and the following information is provided:

1. Employers are required to pay their levies monthly in arrears within seven days of the end of the month for which it is due.

If the levy is not paid a reminder letter is sent within a further seven days. In addition, as part of WorkCover's service philosophy, courtesy phone calls are made to all first offenders to ensure that they realise how seriously paying late is regarded.

If the levy is still not paid a fine is imposed at the rate of 100 per cent of the expected levy payment. This fine is reduced to 20 per cent if the levy is paid within seven days of the fine letter.

Penalties of 150 per cent, 200 per cent or 300 per cent are incurred for the second, third, fourth and subsequent

defaults; but the same 80 per cent reduction applies if the levy is paid within seven days of the reminder letter.

To incur a 300 per cent fine, an employer must have paid the levy late on at least four occasions in a 12 month period and have made the payment in question at least three weeks late.

WorkCover has an obligation to ensure that the scheme is fully funded on an equitable basis. To achieve this and be fair to employers who pay on time requires a clearly defined policy to penalise those who do not comply. It is an employer-funded scheme. Those who do not pay on time are not carrying their weight.

Where genuine reasons for paying late are apparent, WorkCover is fair and reasonable. In addition, employers are advised that section 72 of the Act provides an independent review for appeal against fines.

2. Being a new scheme, WorkCover has a program to progressively review its operation procedures, guidelines and policies—including its business rules on the procedures for overdue payments and returns. That review is scheduled for April/May 1990.

In reply to the **Hon. R.J. RITSON** (21 March).

The Hon. BARBARA WIESE: In response to the honourable member's questions, the Minister of Labour has advised the following:

1. Medical costs were estimated to be approximately 35 per cent of all injury claim expenses in 1986-87.

2. In WorkCover 1988-89, medical expenses were 44 per cent of all injury claim expenses. Under WorkCover, however, the corporation pays on claims where there are no days lost from work. Excluding these claims, the cost would be 39 per cent. However, it should also be noted that medical costs are expected to be a higher proportion of total costs during the early years of a scheme. Actuarial forecasts of medical costs in WorkCover show that these will be about 27 per cent of total costs when the scheme stabilises, and this is the figure which should be used for comparison purposes with the stabilised percentage of medical costs under the old system.

3. A worker requiring treatment for an injury has a choice as to where treatment is provided. If this treatment is provided in a Government institution the charges that apply are covered by regulation 166 of 1989 of the SA Health Commission Act of 1976. These changes are applicable to all users of Government institutions including WorkCover. WorkCover does not willingly pay higher charges than other users, and indeed is attempting to secure lower charges because of its ability to pay accounts on time.

MARINELAND

In reply to the **Hon. J.F. STEFANI** (27 February).

The Hon. BARBARA WIESE: The Minister of Industry, Trade and Technology has provided the following information in response to the honourable member's questions:

1. A market study was undertaken by independent consultants for Zhen Yun. The study remains the property of Zhen Yun.

2. This report has not been sighted by the Government.

3. The report was not omitted as it is not in the possession of the Government. It is a private report of Zhen Yun and has not been made available to the Government.

4. No. The report is the property of Zhen Yun.

The Hon. ANNE LEVY: Although I am incorporating these answers in *Hansard* today, a number of the slips were distributed up to three weeks ago in relation to questions asked of me. Members opposite are obviously so uninterested in the answers to their questions that they have not asked for them. I cannot comment on the length of time that it took for answers from the Hon. Minister of Tourism, as I am not aware of the dates on which the slips were distributed.

The Hon. C.J. SUMNER: I seek leave to have inserted in *Hansard* answers to two questions.

Leave granted.

DANGEROUS REEF

In reply to the **Hon. M.J. ELLIOTT** (27 February).

The Hon. C.J. SUMNER: The Premier has provided me with the following response to the Honourable Member's questions.

1. The platform was sited according to strict conditions regarding use, access to the reef and management of wastes. No single National Parks and Wildlife Service officer can be described as having sanctioned the siting.

2. The Minister for Environment and Planning is responsible for administration of the Planning Act, which sets out the provisions for environmental impact statements. The Minister accepted advice from the Department of Environment and Planning that it was not necessary for an environmental impact statement to be carried out on the proposal. The Department considered that adequate powers existed to enable an informed and responsible decision to be made on the proposal without imposing the environmental impact statement provisions. Given the long history of and experience with visitor interaction with sea lions at Seal Bay Conservation Park and strict licence conditions regarding waste and access and operation of the platform, this approach is considered appropriate.

3. The answer to Questions 1 and 2 indicate the level of environmental investigation and safe guards undertaken before this proposal was given sanction.

ABORTIONS

In reply to the **Hon. J.C. BURDETT** (1 March).

The Hon. C.J. SUMNER: The Minister of Health has provided me with the following response to the Honourable Member's questions.

1. The conduct of a small, confidential inquiry concerning the use and efficiency of contraceptive methods among the various age groups is under consideration by the Health Commission, in consultation with the clinics whose co-operation would be needed. Contrary to the extraordinary views expressed in the *News* and repudiated the next day in the *Advertiser* by Professor Cox, the Committee did not call for a 'comprehensive review of abortion services in the State'. As well as recommending the confidential inquiry to which I have just referred, the Committee also recommended a cumulative review of statistics after 20 years of operation of the legislation. This review will be undertaken during 1990 by the Pregnancy Outcome Unit of the Health Commission.

2. No. South Australian abortion services operate very clearly and carefully within the provisions of the Criminal Law Consolidation Act.

BEVERAGE CONTAINER REGULATIONS

The Hon. DIANA LAIDLAW: I move:

That the general regulations under the Beverage Container Act 1975, made on 5 April 1990 and laid on the table of this Council on 5 April 1990, be disallowed.

This motion seeks to disallow the general regulations under the Beverage Container Act 1975, made on 5 April 1990 and laid on the table of this Council on that date. I do so on the basis that the regulations are not compatible with the objectives of the Beverage Container Act which have been to minimise litter and to attack resource wastage by encouraging efficient and effective use in this State of refillable bottles.

Since the Act was passed in 1975 this important goal has been realised by this Parliament insisting upon a deposit differential on refillable and non-refillable bottles. The regulations made by the Government on 5 April wipe out this key differential in deposits. The Government's regulations apply a 5c deposit to all beer cans and all beer and wine cooler bottles returned by container depots or marine store dealers.

It is also proposed that a 10c deposit will apply to glass beer and wine cooler containers at the point of sale. Henceforth, the Government proposes that there be no distinction between refillable and non-refillable glass bottles, merely a distinction between the place of return. The Government argues that this move is not a major issue but the Liberal Party disagrees most strongly. I note also that the Australian Democrats have a motion similar to that moved by the Liberal Party on the Notice Paper, so they would also share the Liberal Party's view.

The Government was forced to address the issue of the differential following a High Court decision in favour of the Bond Brewing Company that the 15c deposit for non-refillable bottles and the 4c deposit for refillable bottles represented an unacceptable imposition in terms of interstate trade. As a consequence, the Bond Brewing Company was deemed to be suffering some commercial disadvantage. However, the High Court did not rule out the application of the differential deposit on refillable and non-refillable containers. The High Court merely ruled on the margin of the differential, indicating that the 15c and 4c margin was acceptable. I note that the High Court gave implicit approval for the differential of 4c and 6c.

The Government, therefore, in reintroducing the regulations could—and I argue should—have insisted on a reasonable differential for deposits on refillable and non-refillable containers, and a deposit differential of two-thirds in favour of refillable bottles would have been acceptable to the High Court and certainly to Liberal members of this place. However, the Government has chosen not to do so and, accordingly, we have accused it of taking the soft option. Certainly, it is an unacceptable option, which we believe was taken with some sense of panic.

I note that it is a most unusual step in terms of the procedures of this Parliament to have the Government make regulations on a specific day and lay them on the table of this Council on that same day. Any honourable member looking through even today's Notice Paper will note that there is no similar situation. It is most unusual in general terms and in terms of the procedures of this place. The Conservation Council, in assessing the Government's move, has gone further than indicating that it is a soft option: it has accused the Government of being chicken-hearted. I should like to quote from the Conservation Council's press release of 7 April, as follows:

The move by the South Australian Government in Parliament on Thursday to place the same deposit on both refillable and non-refillable beer/wine cooler bottles is 'chicken-hearted' according to environmentalists. Conservation Council of South Australia spokesperson Marcus Beresford says there is wide community support for a strengthening of the Act to favour use of refillable containers, and discourage the wastage of 'one-trip' bottles, cartons, plastic and metal containers . . .

'Apart from environmental concerns, a key issue in favouring refillable as opposed to non-refillable containers through the legislation is cost,' says Mr Beresford. 'A recent survey has shown that Coca-Cola soft drink can be up to 86c per litre cheaper in a refillable container, and is almost always about 10c per litre cheaper than in non-refillable containers.' Eight key proposals put forward by conservationists but so far ignored by Government would also reduce public confusion over different deposits and raise low deposits on some containers to a more realistic level.

The thrust of the proposals is to extend the current 10c and 20c deposits (according to size) on refillable soft drink bottles to all refillable containers regardless of contents; and to create 15c and 30c deposits on all non-refillable containers, regardless of contents or type of container. 'It is interesting to note that the European Court of Justice recently upheld Denmark's right to legislate that beer and soft drinks only be sold in returnable bottles since 1981. The court specifically ruled that this effective ban on plastic and metal drink containers did not breach the Treaty of Rome in relation to free trade or movement of goods. Protection of the environment was ruled to constitute an 'imperative requirement' which might limit application of free trade rules. This and the Conservation Council's own legal advice suggests that the Government could successfully pursue a bolder course than it has in the new regulations,' Mr Beresford said.

The Liberal Party strongly endorses that view. Further, I quote from a press release issued by the South Australian Brewing Company, as follows:

The new regulations on the Beverage Container Act, gazetted yesterday, will have far-reaching implications for the South Australian Brewing Company. SAB's General Manager, Glenn Wheatland, said that the removal of the differential deposit to refillable and non-refillable bottles would now force local manufacturers to seriously consider abandoning the refillable system, to enable them to compete with the other brewers. This would mean that some five times as many bottles would have to be manufactured each year, instead of the local brewers refilling the bottles, once they have been sorted, washed and sterilised.

The existing efficient system has operated since 1977 and beer bottle return rates, which are in excess of 80 per cent, have improved annually. Under the new system, non-refillable bottles would be filled once and returned for smashing and reprocessing. However, a large number of refillable bottles would certainly be lost in the process. Mr Wheatland added that, with the same deposit levied on refillable and non-refillable bottles, there would be no incentive for bottle dealers to properly sort the two bottle streams. This would result in a mixing of bottle streams causing tremendous operational difficulties in SAB's bottling plants.

SAB had recently committed an additional $10 million in capital expenditure on plant in its refillable bottling lines, including the most technically sophisticated bottle sighting machines. Mr Wheatland said that it was a great shame that South Australia had to fall victim to the non-refillable bottle syndrome as had occurred in other States, particularly when Australians are becoming increasingly environmentally conscious, and everyone is making an effort to conserve the earth's resources.

The immediate increase of deposits on refillable bottles from 4c to 5c—

I interpose here that the 4c was imposed by the Government immediately following the High Court ruling in February. Earlier, it had been 15c and 4c—

would cost the South Australian brewers dearly, as there were many millions of bottles in the system already charged at the 4c rate. To suggest that unredeemed deposits held by manufacturers could be used to fund the additional 1c per bottle indicated a lack of understanding of the bottle collection system economics. In fact, the cost of bottles to the South Australian consumer has been kept down by the efficient operation of the collection system and the Adelaide Bottle Company, which is a non-profit organisation.

Those two press releases reinforce the Liberals' own view that the Government has effectively undermined the noble objectives of the Beverage Container Act by seeking to remove the differential on refillable and non-refillable bottles. Also, the Liberal Party believes very strongly that it is necessary for the Government to initiate a full public review

of the beverage container legislation. We called for this review last week, before the regulations were made. The call was supported by the Conservation Council, and repeated by us last weekend.

In moving the motion of disallowance of the regulations today, the Liberal Party aims to press the Government to implement such a review. We want to review many matters, including the whole ambit of recycling of materials. We would also like the review to address the Minister's statement to Parliament on 5 April when she argued that she was getting rid of the differentials on the basis that energy audits and recent statistics indicated that there is little difference between the energy used to wash and refill glass bottles and the energy used to crush the bottles and make new ones.

That statement has been challenged by the Conservation Council, and was challenged in the press release I just read from the South Australian Brewing Company. It is also certainly being challenged by other people who have a considerable interest in energy resource use in this State.

It is a statement by the Minister without foundation, certainly without any background references, and yet it is a statement that she then makes to move a very radical change to the whole approach under the beverage container legislation to minimise litter in this State and encourage recycling.

The Liberal Party believes very strongly that the community is now demanding that the Government make a strong commitment to the whole matter of recycling and the re-use of resources and, in regulating to remove the incentives on the re-use of refillable bottles, the Minister is now breaking away even further from such a commitment. Therefore, we move the disallowance of these regulations today and, in doing so, we also press the Government very strongly to implement a full and independent inquiry into this whole ambit of the Act, and recycling in general. If we find that the Minister has not acted to establish such an inquiry, the Liberal Party would intend to move further on this matter when Parliament resumes in August.

The Hon. M.J. ELLIOTT: The Democrats support this motion to disallow the regulations under the Beverage Container Act. When South Australia's beverage container legislation was first brought in in 1976, it had two main objectives. The first was to reduce the litter problem in the State, and on this point it has been successful, and the second was to conserve resources. That was quite clearly stated during the debates at the time of the introduction of the legislation.

The legislation was a deliberate attempt by the South Australian Government to create a bias towards refillable glass containers. It was to create a financial disincentive, through the higher deposits, for companies to use one-trip, or non-refillable containers. The system has worked well in keeping the state litter-free, and in setting an example of environmentally conscious and responsible Government action. South Australia has been seen as a pioneer in this type of legislation (I think it was preceded only by Oregon in the United States), and throughout Australia and overseas we have been looked upon in high regard. But now we see the present Government backing off from and betraying the original and admired intentions of the Beverage Container Act, at a time when Australians and the world generally are becoming increasingly environmentally conscious.

The latest Government move to set a flat rate for both refillable and non-refillable bottles will continue to encourage the return of bottles and, therefore it will be effective on the first point (the reduction of litter). However, it will do nothing for the other, perhaps more important aspect of the legislation, to encourage the conservation of resources. The need for new regulations is accepted. It is just unfortunate they have been introduced so late in the Parliamentary session, and I would suggest they have been introduced late so as to stifle the opportunity of proper debate. These regulations have certainly been destructive in terms of the intentions of the Beverage Container Act. It is unfortunate that more time and energy was not expended on the subject by the Government, looking at the effect of the regulations and trying to find a solution which would uphold the intentions of the Act and be supported by industry. If that had been done, it may not have been necessary for the Council to reject these regulations.

There seem to be two main reasons for the Government's backdown on deposits: the High Court ruling that the Act contravenes section 92 of the Constitution, and the claim that there is no difference in resource use between washing and refilling bottles and crushing glass to make new ones. These reasons are at least questionable and, I believe, wrong. They are certainly a shaky foundation on which to base changes to regulations which will have a significant effect on our established bottle recycling and refilling system.

The High Court, in the Bond Brewing case, did not rule out a differential deposit on refillable and non-refillable containers. This is an important point and the Government, in setting the deposits at the same level, has failed to address it properly. The High Court suggested difficulty with the legislation because of its narrow base: bottles apparently account for approximately .7 per cent of the total resource usage in South Australia. The court hinted there would be less of a problem with legislation if it had a broader scope. One could read into the ruling an invitation for broader legislation and that it would be defensible under section 92. So instead of backing off, the Government should be forging ahead with new, wider container controls.

It is interesting to note that the European Court of Justice recently upheld Denmark's right to legislate that beer and soft drinks be sold only in returnable bottles.

The Hon. C.J. Sumner: What has that got to do with us?

The Hon. M.J. ELLIOTT: Just listen a moment and let me finish it. The court specifically ruled that the effective ban on plastic and metal drink containers didn't breach the Economic Community's free trade and movement of goods treaty. They have a treaty very similar to our section 92 of the Constitution. Obviously, the court had better facts put before it than those prepared by the South Australian Government when it went to the High Court. The court ruled that protection of the environment was found to constitute an 'imperative requirement' which might limit application of free trade rules.

The second reason for the Government's same-deposit decision is based on the claim—and I quote from Ms Lenehan's Ministerial statement—that:

> Energy Audits and recent statistics indicate that there is little difference between the energy used to wash and refill glass bottles and the energy used to crush the bottles and make new ones.

That is the claim of the Minister. I do not know where the Minister obtained those energy audits and recent statistics; they have not been released publicly. However, with comparative ease I have collected several very different conclusions about energy use comparisons. The West Australian Environment Protection Authority in October last year released a paper on the Cost Analysis and Energy Balance of Recycling. That report states:

> The use of a refillable bottle is around 80 per cent more energy efficient than manufacturing molten glass from raw materials, and seventy per cent more efficient than producing glass from cullet, that is, recycled glass.

That authority sat down, did the work and got those figures. If those sorts of figures had been presented to the High Court, we would not have got into the sort of mess that we are in now. I would think that the Government has to admit that difference is more than a 'little difference' as indicated by the Minister's statement. To look at it from a different angle, I refer to 'Resource and Environmental Profile Analysis of Nine Beverage Container Altlernatives', a report put out by the Environmental Protection Agency in the United States. The report compares various non-returnable containers with a 10-trip refillable bottle and concludes that air pollution would be reduced by between 60 per cent and 70 per cent, and water pollution by between 38 per cent and 49 per cent by the use of refillable bottles.

However, the energy use comparison is the most important in this instance, given the Government's claim. The Government appears to have been over-enthusiastic in its rounding-off of resource usage statistics. My main concerns are that the State Governemnt is appearing, with its same-level deposits, totally to withdraw support for a refillable container system. There has been no indication of future support for a refillable container system, of an examination of the possibility of wider legislation, or a commitment to look at the whole question of resource usage in packaging.

I accept that because of the High Court ruling there is a need to do something about beverage container deposits now, but what is done now should only be a short-term solution until a more permanent, wider solution can be sought. I also know that the Government, should the regulations be knocked out, would immediately reintroduce them, but it is important the Council send a message that it views the Government's action with concern.

It is also important that industry has an indication now of what Parliament is thinking. It is important that both local and interstate industry see that the commitment of the Parliament to refillable containers is not diminished. If, however, the whole issue is put off until the next session, business decisions will have to be made in the interim which may undermine the situation already in place in South Australia. That is a point which concerns not only myself and environmentalists but also local business, which has a financial interest in the present system being supported.

The South Australian Brewing Company, in its comments on the ministerial statement of 5 April, says 'that with the same deposit levied on refillable and non-refillable bottles, there would be no incentive for bottle dealers to properly sort the two-bottle streams.' It goes on:

> The inevitable mixing of refillable and non-refillable bottle streams will cause the SA brewers immense plant operational problems. In addition, the practice of smashing non-refillable bottles once they have been returned, will result in many refillable bottles also being destroyed. Their higher glass weight will return greater dollars to dealers as cullet sold to ACI. This will reduce the return rate of refillable bottles and eventually could destroy the economic viability of the refillable system.

Industry acknowledges that the Government's move will spell the end of the refillable system.

The Hon. C.J. Sumner: What's your proposal?

The Hon. M.J. ELLIOTT: I will get to that in a moment. The demise of the refillable system will lead to greater resource use in bottle manufacture and, once again, show that the Government's environmental commitment is absurdly thin when put to the test. One of the basic intentions of the Beverage Container Act will be abandoned. How far will the Government back-peddle without looking in the rear vision mirror? The Government knows that its regulations are unpopular, and I am sure it knows that its reasons, or excuses, are questionable. That is why it has introduced them so late in the Parliamentary session. That is why there has been no public debate until this time: it has all been done in the back rooms of the Government and its departments, wheeled in late in the session in the hope that things would go through and that the situation would quieten down very quickly. Changes to the regulations are necessary but by rushing them through, the Government will stifle debate and attempt to divert the spotlight from the long term effect of its fix up. It makes a mockery of our democratic, open government principles.

With more time and thought devoted to the regulations, and more of a commitment to the environmental concerns that the Beverage Container Act aims to address—or used to aim to address—it may not have been necessary for the Council to reject the present regulations.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: I will answer a few of the questions asked. You were obviously not listening during the first half of my contribution. If one examines the High Court ruling, one finds that it did not rule out differential deposits. One also finds that the court made the point that if we had a problem it was because our legislation was narrow, relating only to bottles, which constituted a small percentage of resource usage. Finally, the Government did not establish any difference in resource usage itself. That is the excuse that the Minister used in her press release announcing the new regulations. I say to the Council that other State Governments have done work, and work has been done overseas, that clearly shows that difference in resource usage, which alters the case—the case was never put properly. I am also saying—

The Hon. C.J. Sumner: That's absolute rubbish. With your legal advice last time, you knocked down the regulations and put us in the position that we are in now. You destroyed the thing. The proposition was sustainable: we introduced it and you did not allow the regulations and we ended up in the High Court. Because of that we are worse off.

The Hon. M.J. ELLIOTT: The behaviour we are witnessing now is self-justification from the Crown Solicitor. I am told that he was going to refuse to sign certain regulations if they had any sort of differential in them. The Crown Solicitor really seems to be justifying the position that office took and, to some extent, covering the inadequacies of the case prepared. I would suggest that the lack of resources of the Department of Environment and Planning would have a great deal to do with the problems that it had because it was not given the facts. It was not given the facts upon which it could have properly argued the case. It has been argued for a long time that the State Government should be looking at much broader legislation—legislation that goes well beyond simply beer bottles and well beyond wine cooler containers. The Government had started to look at that issue last year but it appears to have backed off from everything completely. Now we have the complete cave-in by the Government, as shown by the recent regulations. It is not acceptable. The community does not find it acceptable and the Democrats will certainly be supporting the motion.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

ENERGY NEEDS

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

That—

1. A select committee of the Legislative Council be established to inquire into, consider and report on—

(a) alternative sources and types of energy for electricity generation and heating to those currently used to provide the majority of South Australian consumers with their personal, domestic and industrial needs;

(b) methods of conserving this energy and the comparative economic costs and advantages in doing so;

(c) the truth, or otherwise of claimed environmental and economic consequences of using, or not using, any of the suggested alternative sources and types of energy which are drawn to the attention of the committee;

(d) the Government decision to establish wind driven electricity generating equipment at Coober Pedy and the National Energy Research Development and Demonstration Council (NERDDC) and other expert opinion and recommendation relating to it;

(e) the effectiveness or otherwise of the process of 'wide public consultation' to have been undertaken by the Government, in keeping with the commitment to do so given in the Address of His Excellency at the opening of the forty-seventh Parliament;

(f) any related matters.

2. Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.

3. This Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

When seeing this motion on the Notice Paper and hearing notice given yesterday I guess some members would think that we are beggars for punishment because it was in only November 1989 that the Select Committee on Energy Needs produced and tabled its third report which, together with the first and second report, represented more than three years of work. A lot of that work was pretty hard not only from the point of view of slogging through mountains of evidence but also from the point of view of understanding the complexity of the technical arguments put to the committee. I must say that, despite some downsides in the meetings of the committee, I found the work and the deliberations both rewarding and stimulating, especially as one without any great formal technical background.

The task set for that select committee by the Hon. Mr Gilfillan when he moved to establish it was, indeed, daunting. However, it showed me that with determination, application and help from expert assistants, ordinary members of Parliament can, through the select committee process, make individual and collective decisions that can play a part in the chain of the decision-making process of the Parliament and through the Parliament to the Government. Not only that, time served on various diverse select committees schools all of us in many different areas and, hopefully, makes us better members of Parliament serving the people from at least an informed and educated position, if that is what those who serve on select committees want to achieve.

The energy select committee was set up in 1986 and had a number of terms of reference. The first three reports tabled by the select committee addressed seven of the nine major references it was given. The two issues that it did not address, which would have made up the fourth report, were reference *(g)*—alternative sources of energy—and reference *(h)*—methods of conserving energy—which are now picked up by my proposal to set up another select committee. Over its long life, the energy select committee received quite a deal of evidence relating to terms of reference *(g)* and *(h)* as part of other evidence. In other words, it was all intertwined with formal evidence on other matters and some submissions were quite specifically aimed towards alternative sources of energy and energy conservation.

As a select committee, we tended to put that evidence aside for what was to be a fourth report, but I feel that all of the select committee's members found a certain attraction and fascination for the subject. I know that I certainly did. This attraction of looking at a further interesting subject certainly increased for me, and I believe for other members, when the worldwide debate on the greenhouse effect became more intense and important and virtually unfolded during the energy select committee deliberations over those three years. It is interesting to note, and it is very important, that out of the 13 recommendations made by the energy select committee, three were directly related to the environment. No matter what is the state of play with the various debates raging around the world, and here in South Australia, relating to the health of the atmosphere and the health of the world, it would be irresponsible for us not to have serious regard for this debate. Until eminent scientists and other people can agree about the nature and extent of the damage our lifestyle is inflicting on the very environment in which we live, we will have a responsibility to adopt at least a cautious and conservative approach to the whole subject. I believe it is important at all times that all of us should keep our mind entirely open to the arguments that are coming in quite strongly on both sides of this very important argument on the greenhouse effect.

I make brief reference now to the five terms of reference of the proposed select committee to inquire into a number of areas. I hasten to ensure the Council that I have no intention of actually seeking to set up the select committee until we meet again for the budget session.

My purpose in proposing a select committee and its terms of reference now is to signal to those interested people and people expert in the subject matter that in four or five months time a select committee will be set up to look at alternative energy and conservation of energy. Those interested people and organisations can plan the sort of submissions they want to make, gather the material necessary for those submissions and, indeed, update submissions already on their own files or with the energy select committee that I have mentioned earlier.

The first term of reference paragraph *(a)* refers to 'alternative sources and types of energy for electricity generation and heating' to those currently used to provide the majority of power for South Australia, for example, sources such as solar and wind power. I do not intend to canvass this topic in detail, but I guess that Port Pirie would be a windy spot.

An honourable member: Not as windy as this place.

The Hon. J.C. IRWIN: Not as windy inside or outside? We might be able to have co-generation in here. The second term of reference relates to methods of conserving this energy and the comparative costs and advantages of doing so. This should allow the select committee to look at evidence and clearly set down its interpretation and the facts about what is available, what it will cost and if it is feasible, now or in the near future, to implement promising alternative energy sources. Too often, it seems to me, the community hears about a whole range of good ideas and how we should implement them. No doubt a great deal of work has been done by Governments, their departments and private firms regarding alternative sources and costs, but we do not often see published all the facts about these so-called good ideas. The select committee will be able to do just that.

We often hear that solar panels should be fitted, for instance, to all Housing Trust homes. Let the select committee judge the evidence on this matter and many like it and publish the findings. As with other matters there probably will still be an area where judgment has to be made and the select committee may well be able to help give advice in that regard.

For instance, in recent times there has been much discussion about new energy efficient light globes. Some study

may show that, even if these globes are expensive, their life span makes them economically attractive. I would like the select committee to quantify this sort of evidence as well as show the public just what would happen if every light globe in Adelaide or South Australia were changed over. I would like this to be shown in energy saving as well as economic terms. My preconceived position is that, even adding other energy saving devices to the light globe example, it would still leave a considerable amount of energy to be generated by conventional means.

I expect that the same could be said for double-glazing of windows and other energy conservation ideas in housing and industry, including large city buildings. Let the select committee address these problems and try to quantify them. Let it look at co-generation and attempt to quantify savings through that technology, which we know is already in place in the central business district of Adelaide and by the time the select committee commences co-generation will have operated long enough for the committee to look at the economics of it.

As a result of the work and findings of the energy select committee, we all know that not too far down the track South Australia will need major new power generating sources. It will greatly help this Parliament's understanding of South Australia's future energy needs if the findings of this select committee can help identify and quantify the many areas of savings, some of which I have mentioned today.

Paragraph *(c)* obviously flows on from paragraphs *(a)* and *(b)* but, in addition, introduces the examination of the truth or otherwise of claimed environmental consequences of using or not using alternative sources of energy. It is a conservation audit whereas previously we have been talking about an economic audit. This, of course, introduces the whole question of the environmental concern. The select committee will need to have a solid understanding of the environmental debate, both ozone and other, and use that understanding to determine if any new energy source will enhance the health of the atmosphere and environment in which we live, or in fact make it worse. There is not a perfect answer to these issues before us. In relation to this topic, there will always be an area where society will have to make a judgment and accept any drawbacks. If we are to make any progress at all and not go back to the horse and cart (which I believe that society will not do), those judgments have to be made.

Paragraph *(d)* is specific and asks the select committee to look at the establishment of wind-driven electricity generating equipment at Coober Pedy. I understand that this wind-driven equipment has been approved for Coober Pedy, but I am not sure whether it is or has been installed, or whether it is operating at the moment, but we can establish that. Obviously, it is well and truly in the pipeline.

The final term of reference, other than the catch-all of any related matters, refers to the effectiveness or otherwise of the Government's consultation process in keeping with a commitment given in the address of His Excellency at the opening of Parliament in February this year. By the time that this select committee is set up in August this year, five months will have elapsed, which is a reasonable period for the Government to have started and used the public consultation process. The select committee can study that process and any progress that it has made to see if the whole community has taken part in the consultation.

As I said, this select committee will not be set up today in the final hours of this session but I sincerely hope that it will be in the early part of the next session. By giving notice now about the ambit of the proposed select committee, I hope to forewarn and stimulate those individuals and groups in our community to prepare material for submissions to the select committee. Similarly, by giving notice now, both Government and Democrat members can give some thought, through the long winter months ahead, about their participation. Further, if any honourable members are travelling within this country, or have the opportunity to go further afield to other parts of the world, they could keep their eyes open for ideas that could be useful for any of the select committee's deliberations. They could gather some material and references for the select committee. Finally, I commend to the Council the setting up of this select committee and its terms of reference.

The Hon. I. GILFILLAN: I rise to support the motion and wish to speak very briefly to it. The mover has indicated that he intends to seek the implementation of this motion in the next session. It obviously does pick up a very important part of the terms of reference of an earlier committee. I support the Hon. Jamie Irwin's identification of the increasing importance of those sources of energy and the other alternatives, for example, the actual conservation of energy which is currently recognised as the most profitable form of so-called generating energy and expected to remain so for the next quarter of a century.

I have some misgivings about paragraph *(e)*. I appreciate that generally the terms of reference are politically neutral. I would like an opportunity to revise or look more closely at paragraph *(e)* as it is currently worded. I am not persuaded of the need for that paragraph as a term of reference. I also urge the mover to consider the number he will eventually move should comprise the committee. I recommend that five would be appropriate in the circumstances. We will then have a chance to pursue this matter (and I indicate that I would be delighted to serve on the Committee), in a constructive way which will offer substantial recommendations and analysis for energy consumption, production and alternatives to fossil fuel energy in South Australia. I look forward to supporting the motion when it eventually reappears on the Notice Paper in the budget session.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

AUSTRALIAN GRAND PRIX LOTTERY

Adjourned debate on motion of Hon. J.C. Burdett:

That the regulations under the Lottery and Gaming Act 1936 concerning the Australian Grand Prix Lottery, made on 26 October 1989 and laid on the table of this Council on 8 February 1990, be disallowed.

(Continued from 4 April. Page 1130.)

The Hon. M.J. ELLIOTT: I will make this a brief contribution. There are a few aspects about which I am concerned, but one in particular, namely, that the Government has proposed in the regulations that the Grand Prix Lottery be granted an exemption for ever from the Lotteries Act. When one considers the very strict conditions under which other lotteries need to operate, most of which will not be applicable to this lottery, it is unacceptable to grant that exemption for evermore. For those reasons, we support the motion of disallowance of the regulations.

The Hon. M.S. FELEPPA: I had no intention of intervening in this debate, but I do so briefly to put my views and those of the Government on the record. The Premier and the Grand Prix Authority have made it clear for some

time that a final decision has not been made on whether to conduct the lottery in association with the 1990 event. Information has been provided to the Joint Committee on Subordinate Legislation clearly indicating that the intention of conducting the event was for promotional purposes. Therefore, the Joint Committee on Subordinate Legislation resolved to take no further action to disallow the regulations. Therefore, it is difficult for me to understand the motives of the Opposition in moving to disallow these regulations.

The Hon. Mr Burdett has claimed to be 'a friend of the Grand Prix', if I can interpret it that way; yet he and his Opposition colleagues seem to lose no opportunity to hinder the innovative way in which the Grand Prix Authority can run. I believe that their unnecessary attacks during debates on amendments to the Grand Prix Act make one doubt whether their support of the Grand Prix is genuine.

In speaking to his motion to disallow the regulations, the Hon. Mr Burdett seems to have no clear reason for taking this course of action. That, to me, is quite surprising. In fact, he clearly states that, if these regulations are disallowed, the Grand Prix Authority simply needs to go through the same process of having a regulation approved by the Governor in order to conduct the event in 1990. The Hon. Mr Burdett does not question the usefulness of conducting the lottery; indeed, he does not question the process of conducting the lottery. To the extent that he does not suggest that there was any misconduct associated with the lottery, it confirms in my mind that the Hon. Mr Burdett has no other suspicions in this whole matter. If so, why does he wish to burden Parliamentary Counsel, the Joint Committee on Subordinate Legislation and the Grand Prix Authority with unnecessary regulations?

It seems to me that this whole exercise is pedantic and bureaucratic—no more, no less. This is at odds with the stated philosophy of the Opposition to increase efficiency and streamline processes in the public sector, which are frequently mentioned in this Chamber. With those few comments, I shall be interested to see what in the final analysis will happen to these regulations.

The Hon. J.C. BURDETT: I thank members for their contributions. The questions raised by the Hon. Mr Feleppa had already been answered before he asked them by the Hon. Mr Elliott, because he encapsulated what I said when I introduced the motion: that my objection is that it is the spirit of an Act which enables exemptions—and this is an exemption from an important Act of Parliament—that they be case by case as they come up. The Hon. Mr Elliott correctly stated that the objection to this regulation is that it is for ever and that Parliament has no control over it again. Any future lottery conducted in connection with the Australian Grand Prix, which need not necessarily be ours, is for ever exempted, except by the procedure of a Bill, without Parliament's having any control over it at all. The nature of regulations is that they are matters of detail dealing with detailed things. The intention clearly was that each application had to be dealt with by way of regulation.

I do not envisage any difficulty in future regulations being made. The authority has only to apply to the Governor and the regulation is made. It is likely that it will be made out of sitting time anyway, as the last one was, and it will be over before anything else happens. However, I object strongly in principle. It is contrary to the intention of subordinate legislation and regulations that an exemption from an Act of Parliament be for ever, and not case by case. It is for that reason that I have moved the motion and now seek the support of the Council for it.

Motion carried.

HEALTH AND WELFARE SERVICES

Adjourned debate on motion of Hon. M.J. Elliott:

This Council urges the State Government to implement an urgent public review of health and welfare services in South Australia with consideration to be given to:

1. Management, administration and staffing of health and welfare services.
2. Recruitment practices.
3. Qualifications, training and ongoing education of personnel.
4. Options for children removed from parental care by courts.
5. The policy of direct practice, programs and service delivery.
6. The value of contracting out and privatisation of some health and welfare services.
7. The role of the non-government sector in the provision of health and welfare services.
8. Other ways in which statutory health and welfare services can be provided.
9. The way in which health and welfare can act together to improve preventative strategies and enhance community development.

And, that this review be conducted before any restructuring of health and welfare services is undertaken.

(Continued from 4 April. Page 1133.)

The Hon. J.C. BURDETT: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. DIANA LAIDLAW: The Liberal Party will not support the motion moved by the Hon. Mr Elliott. We accept not only the motivation for the motion but also his commitment in pursuing these issues. I believe that he has been most genuine in his concern about the proposed restructuring of health and welfare services in South Australia—concerns that the Liberal Party and I share. I certainly know that in the health and welfare sector the McCoy Vardon report, to which the honourable member has referred, is causing enormous uproar, anxiety and unnecessary alarm. There was, in fact, even a large advertisement in today's newspaper calling on the Premier not to play with South Australians' health, not to waste taxpayers' funds and not to create an administrative nightmare. It also pointed out that the plans would deny access to needed health services for the most vulnerable families and would disrupt the link between hospitals and community services.

I also note that the Australian Medical Association has expressed its concern in relation to these matters, as has the Australian Association of Social Workers. The Australian Nursing Federation, the Public Service Association, the South Australian Community Health Association and the United Trades and Labor Council have all called on the Government not to pursue its proposals for restructuring health and welfare services. I wholeheartedly endorse those sentiments.

In fact, we seem to be just regurgitating arguments that we had in the community and in this place some two or three years ago, when the former Minister of Health, John Cornwall, was promoting coalescence between community welfare and health. For a time the Premier was able to be persuaded that the then Minister should not be given his head and pursue schemes that were unresearched and unconstructive in terms of the delivery of health and welfare services in this State. It is an enormous pity to have that argument of a couple of years ago returning today, I would argue, magnifying the sense of depression that is prevailing in the Department for Community Welfare (now the Department of Family and Community Services). That distresses me a great deal.

Notwithstanding those comments, I believe that it is not necessary to implement an urgent public review into health

and welfare services with consideration for a whole range of the nine matters that the honourable member has noted. We, of course, have a select committee in this place, which was first moved back in 1988 and passed with majority support. That select committee essentially looks at child protection policies, practices and procedures in South Australia and has specific terms of references. However, it is also charged with looking at such other matters as may be incidental to the aforementioned.

The Liberal Party believes very strongly in those wide terms of reference in relation to a select committee of this Parliament. The committee that is already established is not working as constructively as one would wish and certainly not meeting as often as is desirable. It is the most effective forum for addressing the issues noted by the honourable member in his motion. We also add that the select committee, when it heard evidence last year, was prepared to address a wide range of issues, many of which are covered in the matters raised by the Hon. Mr Elliott.

It would seem to me that it would be repetitive, in seeking to establish yet a further urgent inquiry, of so much of the evidence provided to the select committee to date and much of its deliberations. I would also say that the member's motion, although it involves a genuine attempt to do something about this issue (for which I commend him) is nevertheless simply a request from this place for the Government to do something to address the mess that it is creating at the present time in health and welfare services. It would simply be a request (I repeat, a genuine one), but it would not actually see the establishment of such an inquiry. We already have the Legislative Council select committee operating and we have the power to control that agenda, to receive submissions and to call for further evidence. We should be making greater use of that select committee to address a whole range of practices in the State in relation to the welfare of children. Also, it could relate to a general overview of health and welfare services in this State.

It is on that basis that the Liberal Party will not accept this measure. However, we do not deny that it involves a genuine motivation on the part of the mover, and we share his goals in ensuring that the current efforts to restructure health and welfare do not proceed as proposed.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

BALTIC NATIONS

Adjourned debate on motion of Hon. M.S. Feleppa:

That this Council supports the Baltic nations of Lithuania, Latvia and Estonia in their desire to have separate nation status with independent constitutions. This Council therefore:

1. Calls upon the Australian Government to use its influence to encourage negotiations between the Government of the Soviet Union and the Governments of the Baltic States with a view to bringing about a peaceful settlement which recognises the legitimate aspirations of the Baltic nations free of the trauma associated with confrontation.

2. Directs the President to convey this resolution to the Prime Minister.

(Continued from 4 April. Page 1133.)

The Hon. J.F. STEFANI: The Opposition supports this motion. In his speech, the Hon. Mr Feleppa has made mention of the recent developments which have occurred not only in Lithuania but also in Latvia and Estonia. His motion follows a peaceful rally which took place on the steps of Parliament House on Saturday 31 March 1990, and which was attended by more than 1 000 people. Seven hundred and fifty South Australians who originally migrated from Lithuania, Estonia, Latvia, Hungary, Poland and the Ukraine signed a petition presented to me at the rally. I was pleased to receive this petition and to present it to Parliament on behalf of the people of South Australia.

The rally was a wonderful sign of Baltic unity, with the presence of many national flags and costumes representing the various Baltic countries. It also emphasised the uniqueness of the Baltic spirit which clearly unites the people from all Eastern European nations in demanding greater independence and freedom for their beloved homelands and their fellow countrymen and women. For more than 50 years now, the Baltic people have been struggling against the slavery of socialism and communism forced upon them through an illegal secret protocol pact between Stalin and Hitler.

That infamous pact, signed in 1939, led to the annexation and later incorporation of the three independent Baltic States into the Soviet Union. The popular movements of the Baltic republics are unanimously demanding that the pact be declared null and void. This view is strongly supported by all the nations of the free world.

In Lithuania there is a growing demand for Lithuania to secede from the USSR. Recently a Lithunian parliamentary commission denounced the Red Army occupation of 1940 and said that Lithuania was forced to join the Soviet Union, and that the parliamentary vote which was taken to join the Soviet Union was invalid. National conciousness is extemely strong; 80 per cent of the population are native Lithuanians, the majority of them Catholics. In September last year 600 000 people formed a human chain 600 km long linking all three Baltic States.

In Latvia, although the level of violence is lower than in the other two Baltic States, the national independence movement is very strong. Last June the Council of the Latvian Popular Front voted unanimously to join in the struggle for Latvian independence. There is also a strong push to introduce an independent Latvian currency.

Estonians are also calling for the right to an Estonian homeland. A new body known as the Estonian National Congress, which consists of a coalition of various nationalist groups, has launched a campaign to register native Estonians who lived in the republic during its free years (between the World Wars). On 16 November 1988, the Estonian Parliament adopted a declaration of sovereignty and proclaimed the republic autonomous in all matters except defence and foreign affairs. However, this motion was defeated in Moscow and declared inadmissible.

In the Ukraine a protest took place against the banning of the Ukrainian national symbols. That protest was followed by a meeting which took place in August last year where thousands of participants waved outlawed flags and banners in defiance of Moscow. In recent days Ukrainians have publically called for the control of their own natural resources and industries.

Meanwhile, Lithuania's recent declaration of independence from the Soviet Union has caused the Soviet President (Mr Gorbachev) to issue a harsh warning to the Baltic nations, following the law passed by the Soviet Parliament which will enable the Soviet President to introduce a state of emergency in any Soviet Republic. However, the leaders of all three Baltic republics have refused to recognise the new law. In considering these developments, it is clear that there is still a long road to achieve independence by the Baltic nations. As a free society, we must give our support to the Baltic people in their struggle to achieve their independence and freedom so that one day the Baltic nations can rise again. I support this motion.

The Hon. M.J. ELLIOTT: I rise to support the motion. It is one month today since the Lithuanian Parliament declared its independence from the Soviet Union. Their bold move re-established the country's pre-World War II independence. The Australian Government welcomed the declaration. However, one month later, the euphoria of the declaration has waned, and the people of Lithuania are left with an uncertainty about their future. Although Moscow has said it would not use force to block the independence move, the Red Army's presence within Lithuania has been increasing.

Troops have ejected Lithuanian officials from offices, rounded up military deserters and occupied strategic buildings. Moscow has consistently denied that force has been used but, to a people fighting to regain the independence that was and is their right, the army's mere presence is a form of force.

The drive for independence in the Baltic States is not new. The fight began the day their freedom was lost when the Soviet Union annexed the three republics in 1940. It is also a hope close to the hearts of many Australians who have family ties in Latvia, Lithuania and Estonia. The Baltic people have now gained courage and inspiration from the progressive Government in Moscow, and the Eastern Bloc nations who are now turning from communism and coming out from the shadow of the USSR.

There is now an urgent need for tact, restraint and, above all, openness and negotiation for the situation to be resolved without confrontation. The rest of the world cannot let the Iron Curtain drop thick and heavy once again around the Soviet Union but must actively encourage the progressive attitude taken by the present Soviet Government.

As a nation, Australia has consistently refused to accept Lithuania's 1940 incorporation into the Soviet Union. This cannot be an excuse for being idle when their independent status is being asserted, it must be the basis of unwavering support. I state again that the Democrats support the motion.

The Hon. M.S. FELEPPA: I am extremely happy that both the Democrats and the Liberals have supported this motion. It is an expression of support for the people who have struggled for many years to achieve their democratic rights.

Motion carried.

EXOTIC FISH

The Hon. PETER DUNN: I move:

That the regulations under the Fisheries Act 1982, concerning Exotic Fish, Farming and Diseases—Permits (Amendment), made on 5 October 1989 and laid on the table of this Council on 11 October 1989, be disallowed.

I have moved this motion purely as a result of an administration problem that has arisen. The 14 days for holding this motion have expired and, if we do not continue to hold this regulation, we will lose it. I have received a letter from PIJAC and from several other people in this State indicating that a few problems are still occurring.

This problem has been going on for two years. We have had holding motions off and on now for a very long time in relation to this problem. We have been able to establish a committee that will be able to determine federally what fish should and should not be allowed into Australia. I understand that that is working. The Natural Animal Quarantine Branch has also been looking at species. It has allowed in species which the committee set up under this legislation has refused. Furthermore, some of the biological names of the fish were wrong and need to be corrected.

The reason for maintaining the holding motion is that, if we knock out these regulations, they can be reintroduced; nothing stops, they just continue on as they are, but it allows us to put another holding motion in August until the matter is corrected. That is my only reason for moving that these regulations be disallowed. It is a procedural motion so that Parliament has control over what is going on, because after today it becomes a gazetted regulation—we could not move a holding motion to it after today.

The Hon. M.J. ELLIOTT: I find this a difficult matter. I have been involved in it for a couple of years and there is no doubt that, on previous occasions when motions of disallowance have been moved, they were absolutely necessary. I believe that, while the Department of Fisheries may have had the best of motives, it has been rather heavy handed and clumsy in the sort of regulations it promulgated in the past. While I have noted that the Hon. Mr Dunn has placed his notice of motion before us, I have not received any lobbying in relation to the regulation, either for or against it. This makes things extremely difficult, complicated by the fact that, as the Hon. Mr Dunn noted, Parliament would lose control of the regulation, or the chance to review it, should we not act today.

I would prefer not to be in this situation and I would hope that in future, when such a notice appears, a little more information could be forthcoming from both sides of the argument, rather than leaving me simply with this motion as it now stands. I must say that the arguments put forward did not seem to be overpowering. I had an opportunity to glance quickly at the letter written by the people involved in the fishing industry and it does not seem to relate to the sort of problems we had in the past. There is no doubt that there have been real problems. They seem to have a small problem in terms of what species names are being applied to certain fish, but I am not sure whether or not there is an indication that there are serious problems in terms of the overall application of the Act. Using an improper name for a fish is an administration problem, not a regulatory one.

The Hon. Peter Dunn: It stops them from selling those fish, if they are incorrectly named.

The Hon. M.J. ELLIOTT: Surely, the species list is prepared according to the Federal list? If people in South Australia are applying the wrong name—

The Hon. C.J. Sumner: Come on, get on with it.

The Hon. M.J. ELLIOTT: The Attorney-General wants me to hurry it up, so in that case I support the motion for disallowance.

The Hon. T.G. ROBERTS: I only want to say that the Government opposes the motion for reasons stated previously in other debates, but to facilitate the workings of Parliament I will not make any further contribution.

Motion carried.

REAL PROPERTY ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 5 April. Page 1263.)

The Hon. L.H. DAVIS: The Opposition supports this Bill. The amendments to the Real Property Act have become necessary because of a decision by the Planning Appeal Tribunal with respect to a matter occurring in the District Council of Tatiara involving staged development for land division. This Bill seeks to overcome the problem that

apparently occurred following the decision of the Planning Appeal Tribunal. The second reading explanation indicates that both the South Australian Planning Commission and councils in city and country areas believed that the Planning Act and the Real Property Act had allowed staged divisions. However, the Planning Appeal Tribunal, in the District Council of Tatiara case, threw some doubt on that and, therefore, the Real Property Act has been amended to ensure that, if planning authorisation has been given for a proposed division, and that that planning authorisation has not expired, a certificate can be issued by council or the commission, notwithstanding the development plan having been subsequently amended. It seems that it is a relatively straightforward amendment and presents no difficulty for the Opposition. Therefore, we support the Bill.

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

ADELAIDE CHILDREN'S HOSPITAL AND QUEEN VICTORIA HOSPITAL (TESTAMENTARY DISPOSITIONS) BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1153.)

The Hon. J.C. BURDETT: I support the second reading of this simple Bill, which arises by reason of the fact that Adelaide Children's Hospital was dissolved by proclamation, and also the Queen Victoria Hospital Incorporated will pass to the new Adelaide Medical Centre for Women and Children. The proclamation which dissolved the Adelaide Children's Hospital proclaimed an incorporated body named the Adelaide Medical Centre for Women and Children. That centre was established to take over the functions of the two institutions. It has been a controversial decision and some people have objected to the fact that it has been done. However, that is probably irrelevant at this stage. The purpose of the Bill is that a number of testators have left bequests to the Adelaide Children's Hospital and also to the Queen Victoria Hospital, and this Bill provides that, where that has happened, they shall be deemed to be bequests to the Adelaide Medical Centre for Women and Children.

The reason for the Bill is quite sensible, as the second reading explanation stated, namely, that otherwise there would be a number of applications to the Supreme Court for direction and the outcome would not be certain—there would be no guarantee—and costs to the estates would be involved. I anticipate that perhaps it will be the case that members of families of some testators may object to bequests going to the Adelaide Medical Centre for Women and Children. However, this is a hybrid Bill and will have to be referred to a select committee. If there are such objections, they should go before that committee. In relation to people who are still living and who have made bequests to one of the two bodies in question, of course they can change their will if they want to and if they know. I suppose that is the problem. However, certainly for the purpose of putting the Bill to a select committee, and depending on the outcome, I support the second reading.

Bill read a second time.

The PRESIDENT: As this is a hybrid Bill, it must be referred to a select committee, pursuant to Standing Order No. 268.

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

That the select committee consist of the Hons J.C. Burdett, T. Crothers, L.H. Davis, K.T. Griffin, R.R. Roberts and G. Weatherill.

Motion carried.

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

That the quorum of members necessary to be present at all meetings of the select committee be fixed at four; that Standing Order 389 be so far suspended to enable the Chairperson of the select committee to have the deliberative vote only.

Motion carried.

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

That this Council permit the select committee to authorise the disclosure of publications it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council. That the select committee have power to send for persons, papers and records, to adjourn from place to place, to sit during the recess and report on the first day of the next session.

Motion carried.

CONTROLLED SUBSTANCES ACT AMENDMENT BILL (No. 2)

Adjourned debate in Committee (resumed on motion).

(Continued from page 1413.)

Clause 4—'Prohibition of manufacture, production, sale or supply of drug of dependence or prohibited substance.'

The Hon. K.T. GRIFFIN: Before the luncheon break we were debating the issue as to whether there ought to be included in the Bill specific amounts of cannabis or cannabis resin rather than allowing those amounts to be prescribed by regulation, those amounts being the level at which the tougher penalties apply. Just before the luncheon break the Hon. Mr Elliott indicated that he would not support my proposal, nor would the Government. Because of the time, I did not seek a division and recognised that the numbers were against me on that particular subject. I took it to be a general position of the majority of the Committee that, except in one case (which of course has not yet been debated but with which I want to deal more specifically at the time), the amounts should be prescribed by regulation.

For that reason, in my view it would not be appropriate to continue with my amendments in respect of the deletion of the prescription by regulation except, as I say, in respect of one area which is also the subject of a private member's Bill on the Notice Paper. On that basis, I do not propose to proceed with my next amendment on file, page 2, line 46 and page 3, line 1, to leave out 'amount prescribed in respect of that substance for the purposes of this subsection' and insert 'prescribed amount' because that is, in a sense, consequential on the amendments we discussed before the luncheon break.

Nevertheless, I think it is appropriate to make this observation that, although the Hon. Mr Elliott said he did not know what a lot of the drugs of dependence or prohibited substances in the schedule were and did not know about the appropriate quantities, the list comes from the regulations already made under the Controlled Substances Act. The quantities have been reduced in line with the reduction in so far as it was made for cannabis and cannabis resin proportionately upon the provisions already in the Act dealing with section 32 (5). The drugs of dependence and prohibited substances were identified from the schedule already in the regulations.

On the basis that I am not moving that amendment, I now move on to page 3, lines 13 and 14. This provision really picks up the amendments already agreed by the House of Assembly, as I understand it, in the Controlled Substances Act Amendment Bill, which is a private member's Bill on our Notice Paper. That Bill (No. 25) amends section 32 and provides that, for the purposes of the existing sub-

section (5), the amounts of cannabis or cannabis resin prescribed are:

(a) for cultivation of cannabis plants—100 plants or, if a lesser number is prescribed by regulation, that number;

(b) for any other offence involving cannabis—10 kilograms or, if a lesser amount is prescribed by regulation, that amount;

(c) for an offence involving cannabis resin—2.5 kilograms or, if a lesser amount is prescribed by regulation, that amount.

The Bill, as it went to the House of Assembly, sought to do two things: first, to repeal section 45a dealing with cannabis expiation notices (and I propose we deal with that under the private member's Bill (No. 25) on our Notice Paper); and, secondly, to reduce the quantities of cannabis plants, cannabis and cannabis resin prescribed by regulation by a factor of 10. In those circumstances it seems to me that, because the Bill has already passed the House of Assembly, this is the occasion when we can make an exception to the earlier decision of the majority of the Committee that specific quantities would not be referred to in the statute but, rather, in the regulations.

My understanding, which I think is correct, is that my amendment to delete or leave out 'amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection' and insert 'prescribed amount' would allow this Bill to include the quantities which have already been agreed by the House of Assembly and which come before us in Bill No. 25.

Consequential upon that, we pick up part 3 of the schedule which identifies those quantities as per the private member's Bill: cannabis plants in cultivation, 100 plants; other cannabis, 10 kilograms; and cannabis resin, 2.5. My view is that my amendment to page 3, lines 13 and 14, would have the effect of picking up the private member's Bill provision already accepted by the Government in the other place, although I am open to advice as to some alternative method of dealing with this matter. It is important that we get the quantities of cannabis into the Bill as per the private member's legislation. If there is an alternative way of dealing with it, perhaps by still moving and supporting the private member's Bill rather than playing around with this one, I am comfortable with that as long as we vote on the issue at some stage. Hopefully, the quantities will then be included if the Government continues to support its position as demonstrated by the majority vote in the House of Assembly. I therefore move:

Page 3, lines 13 and 14—Leave out 'amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection' and insert 'prescribed amount'.

The Hon. C.J. SUMNER: I understand that if we oppose the amendment and rely on the passage of the Ingerson private member's Bill, which we are to deal with shortly, the problem will be resolved.

The Hon. K.T. GRIFFIN: If that is the case, I am comfortable with that. I take that as an indication of how it will work. If that is agreed, I shall seek leave to withdraw the amendment, on the basis that we will get a chance to debate it in the proceedings on the other Bill.

Leave granted; amendment withdrawn.

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

Page 3, line 33—Leave out 'the prescribed number of' and insert 'five'.

Section 32 (6) of the Controlled Substances Act provides:

Where a person is found guilty of an offence of producing cannabis but the court is satisfied that he produced the cannabis solely for his own smoking or consumption, the person shall be liable only to a penalty not exceeding $500.

The Bill provides:

Where a person is found guilty of an offence involving cultivation of not more than the prescribed number of cannabis plants and the court is satisfied that the person cultivated the plants solely for his or her own smoking or consumption, the person is liable only to a penalty not exceeding $500.

My view is that five plants is an appropriate figure. Personally, I would like to take it lower than that. On the basis that five mature plants are likely to be worth about $10 000 and will probably take a very long time to use, that figure is probably extraordinarily generous. If there is a proposition to take it below that, I would certainly be comfortable with that. For the purposes of getting the debate off the ground, I simply move that amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment. This clause will enable a limit to be set on the number of cannabis plants which can be grown before it is deemed to be a commercial operation. It is proposed that 10 plants should be that number. The Government intends to prescribe in regulations 10 plants as being the threshold for commercial operation. As we have dealt with most of the other areas by regulation, the Government considers it appropriate to do so in this case, but I indicate that the number will be 10.

The Hon. M.J. ELLIOTT: Consistent with what I have done on other amendments, I will not be supporting this amendment.

The Hon. K.T. GRIFFIN: I think that the figure of 10 is too high.

The Hon. M.J. Elliott: Is that 12 ft plants or six inch plants?

The Hon. K.T. GRIFFIN: They could be 6 ft plants. It is one of those areas where I wish to insist upon the smaller number and I believe that it should be included in the Bill.

Amendment negatived; clause passed.

Clause 5—'Matters to be considered when court fixes penalty.'

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

Page 3, lines 41 and 42—Leave out 'or at or near any other prescribed place'.

Section 44 of the principal Act provides that certain matters may be taken into consideration by a court in fixing a penalty, but it does not indicate in what respect they must be taken into consideration, whether positive or negative. One would presume it is negative rather than positive, but it is not clear. The Government is proposing to provide that, in relation to 'an offence involving the sale, supply, or administration, or taking part in the sale, supply, or administration of a drug of dependence or prohibited substance to a child', the court should take into account 'whether the offence occurred within a school zone or at or near any other prescribed place'.

It is not really clear what the reference to 'at or near any other prescribed place' might mean. I have an amendment on file to delete that, although I am not yet moving it. Can the Attorney-General give some indication as to what is proposed by those words?

The Hon. C.J. SUMNER: It is the Government's intention to prescribe certain other places where children might congregate, so that that can be taken into account when any penalty is imposed.

The Hon. K.T. GRIFFIN: I do not intend to proceed with my amendment which I have on file. In relation to the next amendment, which I am not yet moving but which is on file, relating to new paragraph *(db)*, what is the Government's intention in respect of the prescribing of places referred to in that paragraph?

The Hon. C.J. SUMNER: It is the same argument as in relation to new paragraph *(da)* except that new paragraph *(db)* deals with being in possession, whereas the former deals

with the sale, supply or administration of the drug. The intention of new paragraph *(db)* is to provide that if one possesses a drug near a prescribed place the court must take that into account.

The Hon. K.T. GRIFFIN: I do not propose to proceed with my amendment to leave out new paragraph *(db)*.

Clause passed.

Clause 6—'Expiation of simple cannabis offences.'

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

Page 4, lines 5 and 6—Leave out 'the prescribed number of' and insert 'five'.

This amendment relates to a simple cannabis offence and expiation notices. There will be an opportunity in the private member's Controlled Substances Act Amendment Bill to explore this in detail, because I intend to move for the repeal of section 45a. But, on the basis that it may stay in, I want to include a number of cannabis plants that might be regarded as suitable for a simple cannabis offence rather than leaving that to regulation.

The Hon. C.J. Sumner: That is the same argument as we have just had.

The Hon. K.T. GRIFFIN: I am going to move it in relation to this, but I am not going to spend a lot of time on it. I am moving the number be five, instead of leaving it to be prescribed.

The Hon. C.J. SUMNER: I oppose that for reasons previously stated.

Amendment negatived; clause passed.

Clause 7 and title passed.

Bill reported without amendment; Committee's report adopted.

CONTROLLED SUBSTANCES ACT AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

New clause 3—'Repeal of section 45a.'

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

Page 1, after line 24—Insert new clause as follows:

Repeal of s. 45a

3. Section 45a of the principal Act is repealed.

Section 45a deals with expiation notices, an issue on which I and the Liberal Party have taken a very strong position. I raise this in the context of this Bill because it was in the legislation that was introduced as a private member's Bill in the House of Assembly, and it is desired that we bring this matter before the Legislative Council to be dealt with now. I realise that this has been a matter of debate in this place on a number of occasions, but it is appropriate to review the matter yet again.

The Liberal Party is implacably opposed to cannabis expiation notices for reasons which have been put on record on previous occasions and to which I have referred in the course of the second reading debate on this Bill. It is inappropriate, in our view, for the use of any drug of dependence such as cannabis to be, in a sense, trivialised by an expiation notice scheme which puts the offence at the same level as a parking offence, where convictions are not recorded in circumstances where there may be repeated offences, and there can be any number of those offences over a period of time without any further penalty, remedy or rehabilitation order, or any other similar steps being taken to deal with an offender.

Of course, significant revenue arises from the expiation notice scheme, not only in relation to traffic but also in relation to cannabis. In 1987-88, $244 000 was collected, and in 1988-89, $242 000 was collected. That is a substantial increase in the funds collected three years ago, when these were the subject of court action—court action which does give to the offence the significance that the Opposition believes it requires.

In the other place Mr Martyn Evans, MP, the Hon. Lynn Arnold and other members, particularly on the Government side, said that the scheme had been in operation for five years, and that they regarded that as an acceptable period of trial; therefore there was no requirement for them now to vote to repeal the cannabis expiation notice scheme.

I want to put on record that it has been only three years: the Act came into effect on 30 April 1987 and, during that time, it has been the subject of a report from the Office of Crime Statistics. That related to the first period of nine months, and there has been no report subsequent to that. The most recent annual report of the Police Commissioner makes only a passing reference to it in terms of revenue and statistical data.

For a variety of reasons the Opposition takes the view that this provision ought to be repealed. It is an issue of significance, and I intend to call for a division on this issue.

The Hon. C.J. SUMNER: The Government opposes this amendment, for reasons which were dealt with by the Hon. Trevor Crothers during his second reading contribution to this Bill, and I have nothing to add.

The Hon. M.J. ELLIOTT: The Democrats also oppose the amendment. It appears to me that the present system is working very well, but I repeat the comments that I made before when looking at the previous Bill: the Liberal Party is getting a little hung up on trying to control drugs with a big stick. Quite frankly, in the long run it will not work; we will have to confront drug problems in our society in other ways. This is something that we have been saying consistently.

I note that the Hon. Mr Griffin has said that he does not want to see the use of any drug of dependence being trivialised, yet that is precisely what happens in our society with alcohol and tobacco. The Liberal Party opposed a ban on the advertising of tobacco. If the honourable member wants to talk about trivialisation of the use of a drug of dependence, that is certainly what the Liberal Party was doing on that occasion.

As a former teacher of health in schools, I have been most concerned about drug use and, certainly, I have done all in my power to counsel children against the use of drugs—whatever they may be. I do not think that the matter of drug taking itself is a trivial matter, but the way in which it is to be handled could be very different. I do not believe that the sort of path that is implicit in this amendment will ever work in a free, democratic society. The Democrats very strongly oppose the amendment.

The Committee divided on the new clause:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, R.J. Ritson and J.F. Stefani.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. Barbara Wiese.

Majority of 1 for the Noes.

New clause thus negatived.

Title passed.

Bill read a third time and passed.

CONTROLLED SUBSTANCES ACT AMENDMENT BILL (No. 2)

Bill read a third time and passed.

[*Sitting suspended from 5.53 to 7.45 p.m.*]

CORRECTIONAL SERVICES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 3 April. Page 1072.)

The Hon. J.C. IRWIN: The Opposition supports the measure outlined in this Bill. It arises in part from problems experienced at Yatala in September 1989, when a group of prisoners went on strike and sabotaged equipment. This anti-social action continued for some time. The causes of the dispute are not really addressed in this Bill.

The Government retaliated by disciplining the prisoners to some extent by reducing their pay to a basic 10c a day, the amount which is prescribed in legislation and regulation dating back to 1984 following the passage of the Correctional Services Act 1982, which was proclaimed in 1985. I understand from the Minister's second reading explanation that, notwithstanding that, the daily wage rate was reduced to 10c, a humanitarian payment or allowance of about $2.20 or $2.50 a day was made to enable all prisoners at Yatala to purchase daily necessities.

From the group of prisoners responsible for this strike and the ongoing sabotage, emerged one or two ringleaders who decided to appeal to the court against the decision to reduce their daily pay on the basis that such action was not legitimate under the provisions of the Correctional Services Act. Mr Justice Olsson in a judgment brought down in January 1990 ruled in favour of the prisoners.

The department in its wisdom—although His Honour decided that it was not wisdom—decided to regulate to legitimise past practices of the Government and the department in making incentive payments to prisoners, partly as a management tool and partly as a disciplinary measure. Very quickly the matter was taken back into court where Mr Justice Olsson rebuked the department allegedly saying, according to an *Advertiser* article of 27 January 1990, that the department had used the prisoner payments as a weapon against both innocent and guilty alike, and that that was an action unworthy of a responsible Government department.

The original intention of section 31 of the Correctional Services Act was an honourable one because it gave the Department of Correctional Services and the Government the power to award incentives to prisoners by means of increased pay rates provided the prisoners were cooperative and met certain criteria laid down by the Government and the department. So, I am not absolutely sure whether Mr Justice Olsson's comments were fair to the department but, as I said before, the measures that are proposed in this Bill will not address the original cause of the dispute at Yatala which led to the subsequent action of the Government and the department and which, in turn, led to Mr Justice Olsson's judgment.

This Bill seeks to legitimise past practices of the department in making incentive or reward payments to prisoners who cooperate, a diminished payment to remandees, those people who are sick or legitimately unable to work or who may be on educational study leave, and a very much diminished payment to those prisoners who are totally unwilling to cooperate and work. This legislation addresses that part of the problem by at least attempting to legitimise the Government's award payments to prisoners.

It also seeks to do other things. For example, it seeks to limit prisoner access to money where prisoners have money in a private account either from earnings within the gaol or from moneys paid in from sources outside the gaol. It seeks to give the managers of prisons the right to refuse prisoner access to other than a fair amount of money where it is obvious that prisoners are seeking simply to avoid any financial restrictions when they deliberately are not cooperating or working.

It also seeks to amend the parole provisions by first strengthening the parole provisions by making it automatic that a prisoner serve time when he breaches parole for a second time and, secondly, it gives the Parole Board expanded powers rather than simply warning a prisoner as a minimum penalty or imprisoning a prisoner as a maximum penalty when a prisoner breaches parole.

The Bill also provides a third avenue, that of community service. It is in that area of community service, in particular the proposed insertion of new section 74aa, that the Opposition expresses its concern. This is not a new concern, because as recently as late February the Opposition, through the Hon. Trevor Griffin and the Hon. Diana Laidlaw as well in a debate on the Children's Protection and Young Offenders Act Amendment Bill, raised similar concerns relating to community work where for community work attendance of a child at any educational or recreational course of instruction, approved by the Minister, is to be taken to be the performance of community service. That is similar to the Bill we are now debating. New section 74aa *(h)* provides:

> The attendance of the person at any educational or recreational course of instruction approved by the Minister will be taken to be performance of community service;

In this Bill the board may impose community service for breach of a non-designated condition. The Opposition does not have any problem with a court being able to order attendance at educational or recreational courses of instruction properly approved and supervised, because that may be of benefit to the rehabilitation of the offender.

However, we do object to the board's imposing this so-called community service and point out, as the Hon. Mr Griffin has done previously, that attendance at an educational or recreational course of instruction can hardly be considered a community service. It is not community service, and no stretching of the imagination can convince the Opposition and me that it is. I have no objection to the attendance of an offender at any educational or recreational course of instruction approved by the Minister but it should not be any part of any community service ordered by the board as part of a penalty imposed by the Act.

The two should be kept quite separate. The Opposition has said constantly that this Bill does not address the cause of the dispute which arose in 1989 and which would probably have arisen in one form or another before that. We hope that the Government will address or is addressing those problems now. Having said that, the Opposition supports the second reading.

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

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued for 10 April. Page 1357.)

The Hon. L.H. DAVIS: As I mentioned in my opening paragraph, which indeed was the only paragraph I delivered last night, this is the 'I told you so night' or perhaps 'show and tell time'. The workers compensation legislation had its genesis in early 1986, and it finally passed the Parliament in late 1986. It is worth reflecting, just briefly on the predictions (which sadly are all too true) that were made by members of the Opposition in this Chamber at that time.

The Hon. Trevor Griffin, who was Leader of the Opposition in this place during the debate in early February 1986—just four years ago—made several very salient points. He mentioned that the information on costings, which have been presented by the Government, was grossly inadequate. It had been preliminary information provided by Mr Fedorovich and Dr Mules, which was not based on adequate information. He also understood that the costing of the actual Bill was done by a very large self-insurer who, under the Bill, would become an exempt employer. That costing showed that, rather than the Government's proposed scheme resulting in a saving, it would increase cost to exempt employers by 25 per cent. This was quite an extraordinary difference in relation to the claims by Government that there would be savings of 25 per cent plus.

At the time the Insurance Council of Australia was most concerned about the proposals, saying that it represented 90 per cent of the market and it believed that the costings of the Government were inaccurate, but the Minister declined to release the information and calculations. In fact, during the debate in this Council, we were disadvantaged by simply not having those costings. The shadow Attorney-General at the time, Trevor Griffin, made the point that workers compensation schemes overseas in Ontario, Canada, had developed enormous unfunded liabilities; it had been a particular problem in Canada.

In raising several criticisms of the then proposed legislation, I made the point that, if implemented, it would give South Australia the most generous workers compensation scheme in the world. The point that had to be borne in mind was that workers compensation represented a significant component of labour costs. According to a survey by the Confederation of Australian Industry, it was between 25 per cent and 50 per cent of labour on-costs. So, if that cost increases at a rate faster than occurs in other States, it would simply act as a disincentive for potential new investors in South Australia and businesses contemplating expansion in South Australia.

We should bear in mind that until the early 1980s South Australia had a significant cost benefit over other States, which was an inducement or attraction for new industry or industry contemplating expansion. If our workers compensation levies, representing, as they did, a significant part of labour on-costs, were to be greater than those in other States, it would act as a disincentive to industry.

There was much talk about the study undertaken in 1984 by Dr Trevor Mules, of the University of Adelaide, and Mr Fedorovich, the Chief Project Officer of the Department of Labour. They presented an academic document entitled 'New Directions' at a conference which had been convened by the then Minister of Labour, the Hon. Jack Wright. In that paper they concluded:

> The establishment of the Workers Rehabilitation and Compensations Corporation to act as sole authority—

taking away all the rights of the private sector to introduce a sole Government authority—

> and administer the Workers Compensation Act should lead to a cost saving of approximately 25 per cent. These savings arise from economies of scale in routine administration, 6 per cent; the elimination of brokerage and other procuration expenses of insurance, 4 per cent; the elimination of the margins required by private insurance for profit, risk fluctuation and contingency reserves, 9 per cent; the elimination of interest earned by insurers on the investment of surplus funds, 6 per cent.

Those four items total 25 per cent. Dr Mules and Mr Fedorovich went on to argue that there were further cost savings of 5 per cent achieved by:

> the elimination of the statutory reserve fund levy currently required to cover the risk of insurance company insolvencies, 1 per cent; the effect of changing to an administrative system for settling disputed claims in lieu of the present highly legalistic adversarial processes of claim settlement, 4 per cent.

The White Paper argument developed at that time, on which the Government so heavily relied, has total savings of up to 30 per cent. It was conceded that there would be an offset in the form of higher costs of introducing a no-fault system of indexed pensions and lump sums for functional loss as compared with the present mixed system of statutory benefits and common law settlements. They again argued:

> A real reduction in costs for employers will also arise through the Government's proposal to phase out over a two-year period the current 8 per cent stamp duty on premiums. All employers, apart from those few who are not involved in stamp duty because they self-insure, will eventually enjoy an 8 per cent reduction in premiums on this count alone.

We were talking about benefits of 38 per cent, less the additional cost of no-fault benefits, which were said to be 6 per cent, leaving a net real saving on premiums of 32 per cent, plus the transfer of first week payment to employers (that is, employers pick up the cost of workers compensation for up to one week) which was said to be 12 per cent. Therefore, there was a potential reduction in workers compensation premiums of 44 per cent.

That was the argument—all roses at the bottom of the garden. Of course, amongst those at the bottom of the garden were the Democrats, because they believe in fairies at the bottom of the garden. The economic illiteracy of the Democrats sadly seduced them into supporting this legislation in 1986. Their naivety in economic matters, given that they have the balance of power in this place, is a matter of some concern. That economic illiteracy was reflected in the recent Federal election, where the Democrats (who cobble together policies by having postal ballots of their members and, if a majority vote in favour, then it is a policy) had an unfunded election promise list of $25 billion. So, indeed, it is true to say that there must be fairies at the bottom of the Democrats' garden.

So, there we are. We had this extraordinary proposition that workers compensation *a la* South Australian Labor Government style was going to break free of all the demonstrated problems of workers compensation schemes experienced interstate and overseas. A brave new world was promised by a fearless Government which has its head in the sand, which does not have one front bench Minister with any small business experience whatsoever but which believes that human nature can be changed by such legislation. So, this Council is now being dragged screaming to support an increase in workers compensation levies on average of 27 per cent, when at the time this legislation was introduced we were assured there would be a reduction of 25 per cent. It is worth thinking about, is it not? What has happened to this brave new world in the intervening 2½ years since the workers compensation legislation was introduced?

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: There might be leprechauns at the bottom of the garden of the Hon. Trevor Crothers, but I would leave them there if I were him. So, the Hon. Ian Gilfillan accepted that workers compensation legislation would be a good thing for South Australia. He was very confident as to the costs involved in the workers compen-

sation scheme. The debate in February 1986 in this Council proceeded through the Committee stage because the Hon. Ian Gilfillan said, 'We don't have the answers, but we can still debate the Bill'. That is probably right as far as the Democrats are concerned, because they are economic illiterates. Because it proceeded right through the Committee stage, it did not take long, after the Government had introduced it in the dying hours of the end of the session in December 1986, for this Bill to pass into law.

I believe it is worth quoting directly from what the Opposition and the Democrats said, because this is show and tell time; it is, 'I told you so' night. On 4 December 1986 (page 2748 of *Hansard*) the Hon. Trevor Griffin said:

> Until yesterday one could not have believed that there was any sense of inevitability that this Bill was going to pass the Parliament, the matter having been relegated to the very back burner since March this year, then being revived only two days before the end of this part of the session, suggesting that the Government was not going to do anything about the matter of workers compensation in 1986. In effect, it has taken two years for the Government to get to this point where there is now a Bill about to pass through the Legislative Council and, after consideration in Committee on this second occasion, I suppose one could now suggest that there is an inevitability about the matter going to a conference, although one cannot foresee the result of that conference.

There was not a conference because the Democrats, of course, collapsed as they always do. The Hon. Trevor Griffin went on to say:

> According to the experience in Victoria, those who are paying low premiums will find that their premiums will increase quite substantially as a proportion of their net wages bill and those who are paying a very high premium rate will have their premiums subsidised by those others who are paying low premiums.
>
> I do not believe that it is good for the workplace; I do not believe that it will achieve the savings proposed by the Government; and I do not believe that it will be able to be applied fairly and equitably, not only to employees but also to employers. Although I am sure that the Government and the Australian Democrats will cause this Bill to pass the third reading, I place on record the Opposition's view that the third reading of this Bill should not be supported.

One could not hear a more prophetic statement in just over three years. But what did the Hon. Ian Gilfillan say (*Hansard*, page 2749)? He said:

> As percentages of wages (and this is total cost to employers) in 1986 for a series of schemes costed in our report, the present scheme—

that is, before WorkCover—

> at it current level would cost 2.54 per cent but, levelled to what would be appropriate had no Bill been pending, the cost of the present scheme as a percentage of wages would be 2.86 per cent. That compares with the cost of the original Government proposal at 3.32 per cent, and the cost of the proposal that we have now accepted as an amendment in the Legislative Council would be 2.31 per cent. That is less expensive than the current system at 2.54 per cent . . . It is one full per cent of wages less expensive than the Government's original proposal.

In conclusion, the Hon. Ian Gilfillan said:

> The passing of this Bill in the reasonably near future will enhance our opportunity to attract in particular the submarine project and other industries, which will realise that unlike Victoria, we have a system that is based on real costings and that we are not artificially presenting levies and a mirage of a lower ongoing cost. Employers, both here and in other States, are not fools, and they will realise the integrity of the actuarial work and, if the Bill is passed in a reasonable form, they will trust it as a responsible and efficient workers compensation scheme.

Well, the Australian Democrats and Government members should eat their hearts out, because they have been found wanting in an extraordinary fashion. The Minister's second reading explanation sets out the sad truth, and it is reinforced by the annual report of the WorkCover Corporation which we received some time in January 1990. That report contains relatively good news, until one realises what is not said. However, let me just examine some of the points raised by the Government through the second reading explanation.

The definition of 'disease' will be tightened to ensure that compensation is payable only where a disease is work related. My colleague the Hon. Dr Ritson made some very salient points about that aspect of the Bill. The explanation goes on:

> Over the past 12 months the corporation has experienced a serious and sustained deterioration in its claims experience and it is anticipated that it will have an unfunded liability of approximately $70 million by the end of 30 June 1990.
>
> The deterioration that has occurred in WorkCover's claims experience over the past 12 months has a number of key features:
>
> Firstly, claim numbers have been considerably higher than expected on the basis of easlier trends. While this increase in claim numbers is partly explained by the overall strong growth in employment in South Australia—

one would have to question that given the surge in unemployment in recent months—

> and the disproportionately higher growth in high-risk industries, this does not provide the full explanation for the increases observed.

There is no statistical data to demonstrate that point; I think it is an assertion rather than a fact. The second reading explanation continues:

> Secondly, not only has there been a higher claims incidence but the average cost of each claim has also increased as a result of rising medical, hospital and rehabilitation costs and because the percentage of overall claims involving lost time from work time has increased.

What does that say about the effectiveness of the rehabilitation unit that was to be the saving grace on the surging costs of WorkCover? The explanation continues:

> Thirdly, a target of a 25 per cent reduction in the number of claimants remaining on benefits after one year has not been achieved although there appears to have been some improvement in recent months.

In the face of these rising costs, the Government claims that it is necessary to raise the average levy from 3 per cent to 3.8 per cent of remuneration. So, in 2½ years of delivering South Australians to the promised land of workers compensation with a 25 per cent reduction in employer contributions what do we have? Not on your nelly the minimum 25 per cent reduction, but a 27 per cent increase in the average levy rates. That is a trick of which any magician would be proud. In addition the current 4.5 per cent maximum ceiling is to be increased to 7.5 per cent.

But, later on in the second reading they say:

> The fundamental cause of the cost pressures being experienced by WorkCover is the poor safety management practices and procedure of a minority of employers.

So, in other words, it is not really the Government's fault; it is not WorkCover's fault; it is the employers' fault. Yet surprisingly, we have heard three reasons which seem to be quite contrary to that and which were mentioned earlier.

I just want to turn quickly to the WorkCover annual report because, as I have said, it is significant for what it does not say. Obviously a number of questions will be asked during the Committee stage. One question to which I have already alluded is the experience of claims on employers, given that employers are picking up the first week. That point is, of course, of interest and importance particular to employers and to members on this side of the Council.

In the foreword of the 1988-89 annual report (which, I think I am right in saying, was presented in January 1990), it claimed that—

The Hon. T.G. Roberts: Claimed or stated?

The Hon. L.H. DAVIS: It was claimed in this foreword that an average reduction of 40 per cent in claims severity has been achieved in a pilot program. Yet later we find that that pilot program had been conducted in early 1988. The

question has to be asked: if the pilot program was achieving a reduction of 40 per cent in the severity of claims through target firms, why on earth has there been such a severe blow-out in WorkCover performance indicators?

In fact, a document to which my colleague, the Hon. Julian Stefani, who is leading the Opposition in this debate, has already referred and which was discussed at the board meeting of WorkCover held on 16 February 1990 (agenda item 4.2), is alarming in what it states. There are detailed actuarial assessments from Cumpston and Buchanan, John Ford and Associates (who are styled as Cumpston) and Robert Buchanan Consulting styled as Buchanan, in September and October regarding the actuarial performance of the fund. Buchanan states that he is:

> ... concerned with procedures and standards of claim administration; particularly with what relationship it may have had to the change in our experience with claims from date of takeover of agency. Focused on average delay of 100 days from the date of injury to rehabilitation referral.

That is 100 days from the date of injury to rehabilitation referral! That is absolutely scandalous! He further states:

> The problem of recording of days lost for claims ... has added to the uncertainty in the calculations; highlighted as a most important statistic ... the current level of claims handling expenses is too high—

in other words, the administrative costs are far too high—

> at 21 per cent of claim payments and if budgeted levels are met in the next two years then it will still be at the higher end of acceptability.

One must ask what was budgeted for in terms of the percentage costs of claims payments. So, that is most concerning, and the Leader of the Opposition in another place said that the WorkCover scheme performance indicators for the December quarter 1989, which were discussed at the board meeting of 16 February, showed that there had been a 33 per cent increase in the average cost per claim since the start of the scheme and a 15 per cent increase in the number of WorkCover claims in the first half of 1989-90 compared with the same period of 1988-89.

There was also a rise in claims handling costs to 21 per cent of claim payments, as I have said. These are alarming statistics, and obviously the Government can expect questions regarding the performance of the fund in the first three quarters of the current financial year.

This contrasts sharply with the reassuring noises made in the WorkCover Corporation annual report for the year ended 30 June 1989. A very important argument can be developed that sensitive corporations such as WorkCover should fall into line with public companies and perhaps provide a half yearly report, not with the financial detail involved but with the information which will be of interest to people in the community and to the Parliament. Some Government corporations will be sensitive about this and it will be difficult for them to do that—and I accept that.

However, there is a very good argument in such sensitive areas as this for the Government to consider producing a half yearly report in brief.

The Presiding Officer (Les Wright), on page 4 of the annual report dated 30 June 1989 (but obviously written some time after that) states:

> It is too early to say whether some adjustment in the levy structure will be necessary because of these trends. If changes should prove necessary, the desirability of making adjustments at the same time as a bonus and penalty system is introduced for individual employers is obvious.

That is the closest this report comes to admitting the problem that now confronts us. In the political language that is inevitably used in second reading speeches, let us make no mistake that WorkCover is in enormous financial trouble. There is a problem, and it is a deteriorating problem.

Another statistic on page 10 of last year's annual report is that, of all workers who submitted claims during the 1988-89 year, 96.5 per cent were working on 30 September 1989. That meant that 3.5 per cent were not working. What does that mean? Does it mean that they have left the work force, or are they disabled? Are they still on worker's compensation? What were the levels of people who had submitted claims during 1988-89, and what number of them were not working at the end of July and at the end of August? I find that figure frighteningly high. The detail that is provided in the graphs on page 10 concerning claims reported by report month and claims reported by injury month, is useful but, with respect to the Minister, it would be more helpful if we had figures so that we could actually make percentage calculations.

I give notice that, during the Committee stage, I would like an update of all the information of claims reported by report month and claims reported by injury month. Obviously that data may not be immediately available during the Committee stage, but it would be useful if it could be provided in written form for the benefit of the Parliament. Also, it would be useful to have an indication of the trends that are developing in the nature of the claims that are being made, because the anecdotal evidence coming to me is rather frightening. Stress related workers compensation claims are certainly very significant, and I have had several examples cited to me in the past two or three days which are cause for alarm. I will mention one or two of them.

One was a situation in which a doctor was approached by a patient, a woman who said that she was suffering from stress from work and would like a couple of months off with a medical certificate to cover the time off because she was badly stressed. The doctor suggested she consult a psychologist. The psychologist rang the doctor and said, 'I think she should have six or seven months on WorkCover.' The doctor rang the employer to say, 'This employee has a problem with stress: I think it would be helpful if the two of you got together and talked.'

Quite clearly, the doctor was a bit startled at the psychologist's suggestion that WorkCover should immediately be brought into it. As a result of the discussion between the employer and employee, the employee was back at work within two weeks. So, a new culture has developed with WorkCover of people who are inevitably using the system to their advantage. That is something we talked about when this legislation was initially debated in 1986-87.

One cannot help human nature. If we fashion a system in this way, inevitably it will be used—and it was used and abused. Quite clearly, when we have people who have, for instance, their own accident and sickness cover—such as people with small businesses, who are now forced to pay workers compensation cover as well—there has been some resentment and people will possibly take advantage of the system and abuse it.

One of the ironies is that where an employer pays levies for WorkCover it includes superannuation, but what happens if someone goes off with a work related injury under WorkCover? WorkCover will not pay the superannuation contributions while that person is off work, which is a bit like having sickness and accident cover and, when you are sick, not being covered for an accident. That is not a bad analogy.

I find that several anomalies and several disturbing trends have developed since this annual report was presented to Parliament only a few months ago. We have been told that an actuarial assessment indicates an $18 million deficiency to the end of this year. I will be interested to know whether

that is still a prediction. Has there been any further assessment of that amount? Has it been upgraded or is the $18 million still the expected deficiency? On pages 24 and 25 we are given data as to the number of organisations registered under WorkCover. It seems that about 75 000 locations have WorkCover registration and about 11 000 of those have had fines for late or only partial payment.

Notwithstanding the always difficult nature of getting a big scheme up and running, the first forms that came from WorkCover were mind boggling. My wife, who runs a small business, was confronted with a form she did not understand. She showed it to me, and I did not understand it. We made a payment according to that form—which, in fact, turned out to be only a notice assessing what would be payable in the future. As a result, that was a part payment and my wife had to pay later. I think that the administration of the scheme was pretty ordinary in those opening months. The forms were most ambiguous.

The other matter that must be addressed in dealing with this financial blow-out in WorkCover is the aspect of fraud prevention. On page 30 of this annual report, scant attention is given to fraud prevention, except to say that 'an expanded fraud prevention and control function has been established with the creation of the Fraud Prevention Department. The department will implement a database system which will identify practices and situations likely to lead to successful fraud prosecutions'. It 'will implement' a database system. We are told that this scheme began in September 1987 and it is talking about 'implementing' a database system. I would be interested to know what has been established as being the level of fraud, because I believe the incidence of fraud is much higher than has been admitted.

So, there are many questions to be answered, and the second reading explanation raises more questions than answers. I would be interested to know amongst the people employed in WorkCover how many actually have experience in assessing claims and evaluating the viability of claims. I indicate that I would like the background of people employed because there has been widespread criticism of inexperience and of the inappropriateness of many of the WorkCover staff.

Given the pressures of time, I indicate that I will reserve other material for questions during the Committee stage, but I reiterate the concern that the Opposition has about this measure. I reiterate the prophetic words of the Hon. Trevor Griffin and other members at the time this scheme was first introduced in 1986. I will ask the Hon. Ian Gilfillan, whose economic naivety knows no bounds, to consider the position if he were a member of the WorkCover board in February 1990. Let him put himself in that position, with the information that we have read from that leaked agenda item and from information in the second reading; would he honestly be saying—as a businessperson with acumen, wishing to protect the taxpayers of South Australia and to preserve what competitive advantage may be left in the economy of South Australia—'Let us not worry about a select committee now; let us have it in October'?

Is that a business-like, statesman-like approach? Of course it is not. The Hon. Ian Gilfillan certainly might believe in fairies at the bottom of the garden, but there are goblins in the WorkCover scheme and they should be addressed immediately, not later. That is one reason why a select committee should be established immediately to inquire into this serious financial problem being faced by WorkCover, not to mention the 27 per cent increase in costs faced by the employers of South Australia.

The Hon. DIANA LAIDLAW: My contribution to this debate will be short, because I am conscious that this is the last evening of the session and we have a lot of work to do before we rise. I also appreciate that my colleagues, the Hons Julian Stefani, Legh Davis, Peter Dunn and others have made comprehensive contributions to this debate to date. This Bill has major financial implications for industries and workers in the fields for which I have shadow responsibility, which are transport, tourism and the arts.

The Bill essentially addresses three issues: the maximum rate of levy; the definition of disease; and the composition of the appeals tribunal. The issue that I want to address this evening is the proposal to increase the maximum levy from 4.5 per cent to 7.5 per cent. We all first heard about the proposed increase in the levy in December, a few short weeks after the election date, and I highlight this fact because it is now apparent that both WorkCover and the Minister of Labour, if not all Cabinet members, were aware that WorkCover was not paying its way at that time and that it had a deficit of about $18 million, after only two years of operation. I am very confident that if people in the community had been aware of that situation—in particular, if people in industry had been aware that WorkCover had such a deficit, and was proposing such a marked increase in the maximum rate of levy—they would have expressed their outrage at that time, and justifiably so.

It is a provision within the current Act that WorkCover must be fully funded and that is a goal which I, together with my colleagues, do support. However, I do not accept that, in seeking to fulfil this goal, WorkCover should merely accept that it can put up its maximum premium from 4.5 per cent to 7.5 per cent (on this occasion) of payroll tax and related expenses, and thereby simply pass on its costs to industry in what I see as an unchecked and undisciplined fashion. It has sought to make such increases without accompanying financial justification and without assessment of the financial impact on industry and employment in this State, and already we have much greater unemployment problems in this State than have other States.

In addition, WorkCover has sought to increase this levy without making an effort to prune its own administrative expenses or stamp out inefficient practices. The fact is that WorkCover is a monopoly. We will not be able to change that situation tonight but it is worth highlighting again, because I believe that, since it is a monopoly in this field, it is able to do what it wants, when it wants, essentially in an unchallenged, unchecked fashion. I appreciate that the Bill is before Parliament and that we have an opportunity to debate it, but I would not wish to be party to a situation where WorkCover did not meet its objective, as laid out in the Act, for it to be fully funded and, therefore, passed on huge debt to future generations. Therefore, in a sense, we are blackmailed in considering this Bill and, particularly, this rate of levy.

That is why I strongly believe that, if WorkCover is $18 million in deficit after two years of operation, it is time for us to review the operations of WorkCover. I would also note the amazing situation that occurred last year when Santos sought to leave the confines of WorkCover and become self-insured. That provision is in the Act, and yet to become a self-insurer—to leave WorkCover—the permission of WorkCover has to be sought. It is a most extraordinary situation that WorkCover should be the arbiter in those circumstances and that is an area that I would like reviewed. I was very much hoping that, if there is to be a review of this Bill before a select committee at this time, as the Liberal Party proposes, that could be one area that is dealt with.

I am a strong advocate of self-insuring. I do not make any apology for that, because I see that as the most satisfying

way in which we can fulfil the other objective of the Act, that is, rehabilitation and, hopefully, the prevention of injury in the first place. I believe that if management and the work force work closely together—and I have seen it work successfully in many instances in the workplaces that I have visited where self-insuring practices operate—that is, in fact, the most beneficial system of prevention and rehabilitation for the work force. Essentially, that is what we are pursuing in this place.

As I say, I found it most extraordinary when Santos sought to implement such beneficial practices in its workplace and, at the same time, it assessed that would save many millions of dollars by leaving WorkCover, that WorkCover itself deemed that that was not an acceptable practice and waged quite a fight. As I recall, Santos did, belatedly, leave WorkCover, but I also recognise that WorkCover made threatening sounds at the time, and it is most unlikely that there will be any situation in the future where other organisations in the private or public sector could follow the Santos example.

Therefore, I believe there is a whole range of matters that we should be reviewing at this time in terms of the provisions of the Act, but also in terms of the administrative practices within WorkCover. I mention just one at this time and that is the issue of compensation for STA workers. I am aware that a number of workers are unhappy with what is happening in relation to compensation claims and rehabilitation practices within the STA and they have informed me of rorts within the system, where fellow workers are staying away from work for four days when, essentially, they could be back at work almost immediately. Those workers are refusing to take light duties and are refusing to cooperate in a whole range of matters. As the Hon. Mr Legh Davis highlighted earlier, this Act tolerates all of those practices. I believe that, in many respects, this legislation is acting against the best interests of an efficient, productive work force and especially against the best interests of the self-esteem of workers in the workplace.

I will refer to just three representations that I have received in relation to this Bill. The first is from the Australian Hotels Association. The association's Executive Director, Mr I.P. Horne, writes:

> Our concerns relate to the proposed increase in the ceiling of the current levies. It would seem that such a move should firstly justify a review of the current administration system in light of concerns over:
> - current benefit levels;
> - definition of average weekly earnings; and
> - the rehabilitation process.
>
> We would urge you to consider such a review which could take the form of firstly giving WorkCover the opportunity of undertaking its own public review or ultimately a select committee.
>
> We would maintain that the industry and community have to be assured that the current system is in fact viable and would support the submission of the South Australian Employers Federation.

Mr Horne concludes by thanking me for my consideration of this issue.

Secondly, I refer to a letter from the South Australian Taxi Association. Its President, Mr Wally Sievers, states:

> As you would be aware the taxi industry was not a prescribed class of work until October, 1988, less than 18 months ago, and it was prescribed against the wishes of the vast majority of taxi owners.
>
> To address the issue of the levy rate ceiling, I find it surprising that an amendment is needed as I was led to believe there was provision in the Act for WorkCover to fix an industry rate in excess of 4.5 per cent up to a maximum of 20 per cent.
>
> In the case of the taxi industry it would be unacceptable for a levy increase to be imposed before the two year period has elapsed to enable the aggregate cost of claims attributed to the taxi industry to be assessed against the aggregate remuneration to be paid to drivers, because we were informed by WorkCover that our levy rate would not be increased unless our claims exceeded 30 per cent of the aggregate remuneration over a two year period.

Unfortunately for the taxi owners the understanding they have is not the reality. The third representation I received is from Mr Bob Osborne, the Executive Officer of the Earthmoving Contractors Association of S.A. Inc. In the letter Mr Osborne outlines very strongly his support for the stance taken by the Chamber of Commerce and Industry which, like the South Australian Employers Federation, is arguing for a review of the legislation before WorkCover presses for increases in the maximum levy and before we come to such a decision in this place.

I strongly support such a course of review by way of a select committee. I know that is the view of the groups that I represent as shadow Minister of Transport and Tourism. I believe that the Government would be very wise to heed the advice of those groups because they are important operators in our community. If they are uncertain about the manner in which WorkCover is working at present, I believe that this Parliament owes it to those productive industries in our community to act as they would wish—to review WorkCover.

The Hon. ANNE LEVY (Minister of Local Government): In responding to some of the comments that have been made in this debate, I would like to pick up on a few of the points made by some members of the Opposition. The Hon. Mr Stefani, for instance, made a number of allegations about WorkCover's so called financial mismanagement. I must add that these allegations are not new and, indeed, have been the subject of correspondence between the Hon. Mr Stefani and WorkCover on previous occasions. WorkCover has refuted all the allegations that have been raised in this Council, yet the Hon. Mr Stefani continues to trot them out and to ignore the advice that he has been given in correspondence.

Accordingly, I do not intend to go through the various points raised by the honourable member, but I will give an example of the type of distortion of facts in which the honourable member is indulging. For instance, he referred to a $346 000 loss made on WorkCover's foreign currency investment for the year ended 30 June 1989. What the honourable member fails to mention is that over the same period WorkCover made a $463 000 foreign currency gain, which more than counter-balances the currency losses. However, in any case, losses and gains are a natural part of operating a diversified investment portfolio—as I am sure the Hon. Mr Davis could attest.

In WorkCover's case, it has, in fact, done extremely well with its investments and the rates of return it has achieved have placed it amongst the top performing institutional investors in Australia. Unsubstantiated and one-sided allegations of the sort made by the Hon. Mr Stefani are simply mischievous. Members opposite have also made a number of allegations of rorts against the system.

Employer organisations have made similar allegations but, to date, none of those alleged rorts has been substantiated, yet they continue to be raised. The Hon. Dr Ritson told of a case where a worker had recovered from his disability yet was continued on rehabilitation. If such cases do occur, members opposite have a duty to provide details to WorkCover so that they can be followed up to rectify any faults in the system if, in fact, they exist. Whilst none of the alleged rorts—

An honourable member interjecting:

The Hon. ANNE LEVY: If you've got a rort for heaven's sake take it up! If people are prepared to stand up here and make allegations about rorts I think they have a duty to take those so-called rorts to WorkCover.

Members interjecting:

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

The Hon. ANNE LEVY: Whilst none of the alleged rorts has been proved to have any basis in fact, there is no doubt that abuse of the system may be occurring. This is to be regretted. Such behaviour is totally unacceptable, and WorkCover is taking a very tough line on any such cases. Its fraud department currently has 300 cases under investigation and is using the latest sophisticated techniques to prevent systematic fraud.

The Hon. Mr Griffin, in his contribution to this debate, alleged that the Government and WorkCover had misled the community over the extent of WorkCover's problems at the time of the election. He went on to suggest that the actuary's reports had been suppressed. The facts are that, at the time of the election, although early adverse trends had been detected, the actuaries did not consider an increase in levies was warranted but that the situation had to be closely monitored. Once it became clear that the earlier detected adverse trends were not of a temporary nature, the actuaries recommended an increase in levies.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: Thank you, Mr President. Members opposite are obviously at it again.

Members interjecting:

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

Members interjecting:

The Hon. ANNE LEVY: I am just waiting for members to stop.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Stefani.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Crothers. The honourable Minister.

The Hon. ANNE LEVY: The firm recommendation to increase the levies occurred after the election. The suggestion that the Government, WorkCover and its board deliberately misled the community is strenuously denied.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: The Hon. Mr Griffin, in his address, was particularly critical of the system of review under the WorkCover system. It is true that there are currently excessive delays under that system, but nothing in the order of the average 15 months delay suggested by the honourable member. The current average delay is six months from application to final determination. Even though this is far quicker than the old Industrial Court system, the delay involved is still unacceptable. However, this issue is being actively addressed and has been the subject of considerable discussion between the social partners. Despite the delays in the review system the social partners remain totally committed to the basic approach involved and are working cooperatively to improve the speed of its operation.

Already, some of the agreed changes have been implemented. For example, a time limit of 14 days has now been placed on the conciliation phase and the corporation is currently recruiting extra review officers to ensure that the review process returns to its earlier performance of settling disputes within six to eight weeks of an application being lodged.

The Hon. Mr Gilfillan raised an issue of critical importance in his second reading speech and that is the need to ensure that employers accept greater responsibility for their workers compensation costs. He is quite correct in pointing out the critical role that the proposed bonus and penalty scheme will play in achieving this greater accountability. The absence of direct financial incentives for employers to improve their performance has been the vital missing ingredient in the scheme so far. In Victoria there has been a marked improvement in that scheme's performance over the past 12 months and a large part of this has been attributed to the introduction of a bonus and penalty scheme.

The Hon. Mr Dunn discussed at some length the position of the rural sector and stated that, although he recognised the high risk nature of much rural sector work, he still considered the industry should get special consideration in the setting of its rates. Under the original 4.5 per cent ceiling, the rural sector has, in fact, received a massive subsidy from employers in low risk industries. With the proposed 7.5 per cent ceiling, this cross-subsidy will be reduced but will nevertheless still be substantial. Under the old system rates in excess of 20 per cent of payroll were being paid for shearing work.

The Hon. Peter Dunn interjecting:

The Hon. ANNE LEVY: Rates in excess of 20 per cent of payroll. It is percentage of payroll we are talking about—

The Hon. Peter Dunn: It's only a few days a week; it's not a very big payroll.

The Hon. ANNE LEVY: It will be even less when it is 7.5 per cent. As I say, under the old system rates in excess of 20 per cent of payroll were being paid for shearing work. Under the new structure, employers of rural labour employees will pay only 7.5 per cent.

An honourable member: Only?

The Hon. ANNE LEVY: It is a lot less than 20 per cent. With such subsidised rates, it will still be very strongly subsidised by other employers. With such subsidised rates comes a responsibility—

Members interjecting:

The PRESIDENT: Order! Repeated interjections are out of order. The honourable Minister.

The Hon. ANNE LEVY: With such subsidised rates comes a responsibility to take every possible measure to reduce the incidence of work-related injury and disease. On this point it is of particular concern that the blow-out in costs has occurred in the subsidised high risk sectors. Low risk employers cannot be expected to continue to subsidise those employers operating in high-risk sectors if the latter are not doing everything in their power to keep their costs down.

The new ceiling of 7.5 per cent and the bonus/penalty scheme will provide for a much fairer sharing of the costs. The greatest impact of these changes will, of course, be felt by the worst performers—that 7 per cent of employers who account for 94 per cent of the cost of the scheme. Indeed, the long-term success of the scheme will depend on turning around the performance of these worst performers. Tightening the scheme's administration, as necessary as it is, involves tinkering only at the margin. Real improvements—

Members interjecting:

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

The Hon. ANNE LEVY: I have already discussed that, if you had listened.

Members interjecting:

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

The Hon. ANNE LEVY: Real improvements in the scheme's performance can only be delivered by a change in the attitude of employers to occupational health and safety. On a closing note, it needs to be pointed out that under the previous system workers compensation costs were increas-

ing at 20 per cent per annum in real terms, and at that rate they were—

The Hon. Diana Laidlaw: There have been changes to the administration since then.

The Hon. ANNE LEVY: I repeat: they were increasing at 20 per cent per annum in real terms and, despite interjections, they are not interjections of denial.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: At that rate, the average levy would now be 6.24 per cent of payroll, not the 3.8 per cent that WorkCover is now proposing.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

Members interjecting:

The PRESIDENT: Order! Interjections are getting repeated too often, and they are not even humorous any more. The honourable Minister.

The Hon. ANNE LEVY: The rate of increase under WorkCover in real terms over the past 2½ years, taking into account the proposed increase to an average levy of 3.8 per cent, is approximately 9 per cent, or less than half the rate of increase under the old system. The WorkCover scheme has thus markedly slowed the spiralling costs of workers compensation.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

Members interjecting:

The PRESIDENT: Order! There are too many repeated interjections.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will have his chance when we are in Committee. The honourable Minister.

The Hon. ANNE LEVY: The Government and WorkCover still consider this result disappointing and recognise that the only answer is to place increasing pressure on that small minority of employers whose performance is the root cause of the scheme's financial problems. I look forward to dealing with any other questions during the Committee stage.

Bill read a second time.

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

That this Bill be referred to a select committee; that Standing Order No. 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only; and that this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

At the second reading stage I canvassed reasons why I believe that a select committee on this Bill is essential. After less than three years operation of WorkCover and at a stage where the excess of liabilities over assets is growing steadily, we have before us a proposal to increase the maximum levy from 4.5 per cent to 7.5 per cent. With the prospect of considerably increased costs to employers because of the way in which the operation of the scheme seems to be blowing out, the Opposition is of the view that before an increase of such magnitude in the levy is permitted there ought to be a select committee.

Such a select committee will undoubtedly consider not only the levy rate but also the proposed increase in the average levy from 3.1 per cent to 3.8 per cent, the reasons why costs seem to have blown out quite extraordinarily and why there seems to be a growing excess of liabilities over assets.

The select committee will be able to look at the costs and method of administration, the benefits and the consequences of those benefits on the general operation of the fund and come to grips with what appear to be severe problems with this fund so early in its life. It is important in that context that those who have experience of the scheme so far be given an opportunity to make their representations to a committee, such as a select committee of the Legislative Council, and that those submissions should be properly assessed before the significant decision is taken to increase the levy as proposed in the Bill.

There is a lot that one could canvass again in relation to the operation of the scheme, but I do not propose to do that. It has already been dealt with extensively during the course of the debate in this place as well as in the House of Assembly. However, I rely upon all that information in submitting to the Council that there is no greater need at the moment in relation to WorkCover than that there be an independent public inquiry into its administration before an increase in the maximum levy is permitted to be imposed by the statute. It is in that context that I move for the establishment of a select committee, and I urge the Council to support it.

The Hon. ANNE LEVY (Minister of Local Government): The Government opposes this motion. We do not believe that a select committee is either necessary or desirable. The WorkCover scheme is only 2½ years old. The WorkCover Board is widely representative and it has—

Members interjecting:

The Hon. ANNE LEVY: Ms Acting President, when the Hon. Mr Griffin was giving his reasons for a select committee, he was heard in silence. I would ask that he give me the same courtesy in my reply to his motion.

The ACTING PRESIDENT (Ms Carolyn Pickles): Standing Order No. 181 says that interjections are out of order. I ask honourable members to listen to the Minister in silence.

The Hon. ANNE LEVY: The select committee is not necessary. As I said, the WorkCover scheme is only 2½ years old. As members no doubt know, its Board is widely representative. It has six employer and six union members, plus numerous other committees with considerable employer input. Throughout its operation it has continually reviewed its peformance. It has numerous consultant and internal studies addressing its performance, which is monitored and improved all the time. It has a very strong internal audit group which reviews its performance on an ongoing basis. Furthermore, we feel that a select committee at this stage would not be desirable because—

The Hon. L.H. Davis: It might find some facts for a change.

The Hon. ANNE LEVY: Thank you for your politeness, Mr Davis. It is not desirable, because it is really too early to have a detailed assessment—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. ANNE LEVY: An inquiry at this stage will divert management and staff from very important work relating to the bonus penalty scheme, claims administration and computer system development. Furthermore, staff morale has been affected negatively by recent media and political attacks, not least from members opposite, and an inquiry will only worsen this situation and impact on the administration's ability to manage the present very desirable changes.

The Hon. J.F. STEFANI: I rise to support the motion moved by the Hon. Trevor Griffin. Despite what the Minister has tried to tell us, the employer organisations certainly

advocate a select committee. We are of the opinion that WorkCover is not working properly and it has wasted $12 million on computer equipment that is hidden somewhere or not being used in SGIC buildings. We are also of the opinion that WorkCover is paying a lease for a building that it does not occupy. We are of the opinion, too, that it is moving into new buildings and trying to re-lease another building. So, it is with a great deal of concern, which has been expressed to us by employers and other organisations, that we are very firm in advocating the establishment of a select committee.

We have sought to obtain a lot of information, but it has been refused to us. This Government always keeps the hard facts under the table, and it is about time that we found out what can be done to assist WorkCover, as we have the scheme in place, to operate more efficiently. With those few comments I support the motion.

The Hon. L.H. DAVIS: I rise to support my colleague, the Hon. Trevor Griffin, and I make a particular plea to the Democrats to reconsider their already stated position. The Hon. Ian Gilfillan in his contribution at least recognised that there was a problem in saying that we should have a select committee, not now but later. He said, 'Let us wait until August or September, when we resume in the new session, and I will be quite willing to move for the establishment of a select committee.' He was very enthusiastic in fact, when the story first broke. There seemed to be some urgency about the need to examine this extraordinary blow-out in WorkCover levies.

I put it to the honourable member on this basis: if he was managing director of a company and he had a problem such as this which was unknown or not recognised two or three months ago, would he be leaving it until October to make a full investigation? I would hope not! I think there is some urgency about this. It is not good enough for the Minister to say that WorkCover has been running for only two and a half years. In fact, that is an argument in favour of a select committee, because the Hon. Ian Gilfillan, if he was listening to my second reading contribution, himself believed on 4 December 1986, just three years ago, that this scheme would cost 2.31 per cent of salary. That was his belief, and he made that statement in good faith.

I accept that in the months that ensued between March and December 1986 he at least made an endeavour to establish some costings. Having taken other advice, we were most sceptical and cynical about the scheme and our cynicism and scepticism has borne fruit in a most unfortunate fashion, in that we are here tonight debating this extraordinary 27 per cent increase.

So I put to the Democrats seriously that they should look at this in a statesman-like fashion and accept that a select committee may well have some impact on WorkCover, busy though it may be in solving the problem. Surely, however, it is in the public interest, and surely it is the 75 000 people on the WorkCover scheme and the many employees covered by WorkCover who are more important than the morale in, and administration of, WorkCover. Is this not the time to have a select committee in the four months lay-off season of Parliament, rather than in August or September in the hectic budget session? Surely it is the time to do it now, before there is a further deterioration in the position. I put it to the Hon. Ian Gilfillan that when we received that document only a few months ago there was no hint that we would be here in March and April debating a 27 per cent increase. I bet he did not believe it; I certainly did not.

It is a matter of great concern. This should be above Party politics. The Hon. Ian Gilfillan and his colleague the Hon. Mike Elliott and I have been on many select committees, where I believe some of the most constructive work in Parliament is done; for instance, the South Australian Timber Corporation Select Committee, the final outcome of which the Democrats made a significant contribution. So I believe there is an urgency, and that the Hon. Trevor Griffin has put up a persuasive and irrefutable case for a select committee now rather than later.

It is in the interests of the Parliament to root out the problem; it is in the interest of employers who are facing this 27 per cent increase; and it is most certainly in the interest of the work force and the South Australian economy, struggling as it is in most difficult economic circumstances.

The Hon. I. GILFILLAN: The Hon. Legh Davis is correct: we do need a select committee. In fact, it would be necessary, I believe, to have a select committee to review the workings of WorkCover regardless of whether there was a dramatic rise in premiums. It is an extraordinarily complicated activity. It is the first time the State has run such an activity. It is responsible to Parliament, and Parliament should know what goes on and should have direct influence.

I share concern with what has been a dramatic blow-out in costs in quite clearly defined areas of deficient or faulty operation of WorkCover, but I remain convinced that there is no point in establishing a select committee now in this climate. I say this with due respect, because my previous experience of most select committees has been that members elected to those select committees have been impartial to a reasonable extent in the deliberations of the committees. However, it is patently obvious that Opposition members have never had a good word to say about WorkCover from the day the idea was introduced into this place.

The Hon. L.H. Davis interjecting:

The ACTING PRESIDENT: Order!

The Hon. I. GILFILLAN: No. I hope that in October or whenever this select committee is established Opposition members who are on it will, indeed, bring a constructive and unprejudiced view to its work. However, it is absolutely plain that the basis upon which this select committee is being promoted now is on the firm argument of political criticism of the philosophy and the pattern that went into engendering it.

So, it is very difficult to separate political motives from financial motives in the Opposition's argument for the appointment of a select committee at this time. I think it is absolutely proper that a very strong message be taken to the board of WorkCover, which is already smarting from its own awareness of what is an embarrassing distortion of predicted costs that are worked into WorkCover. I say that, bearing in mind the composition of that board; there are 14 people on it, if my memory serves me correctly, representing all parties involved. They have certainly been highly respected by all the people with whom I have spoken; they are comparable to those on any other board; and they diligently apply themselves in an impartial way to get this thing working properly.

The board is addressing a problem. I indicated in my second reading speech the first batch of constructive and cost cutting amendments which the board is eager to have implemented in order to get on with the job of immediately reducing costs and looking at alternative methods. It is no disadvantage in the long run for the proper and effective working of WorkCover, to my mind, to ensure that when a select committee sits it has some substantial data and some positively proven fact to work on in recommending amendments to WorkCover. In the opinion of the Demo-

crats there is no resiling from the need for a committee to review WorkCover by picking a more appropriate time, in our opinion, than the timing of the current Opposition motion.

The argument that there will be a gap between now and the budget session sounds attractive, except that there is pressure for other select committees to sit during that time and that members will be going away. I intend to take leave for some weeks. So, it is not an ideal time for meetings of select committees.

The Hon. R.I. Lucas: Now we know why you're not going to have one!

The Hon. I. GILFILLAN: The interjection from the new Leader of the Opposition ridicules my desire to have a break during the interval between the two sittings. He may declare to the Chamber that he will not be having a break and will be working right through, as will all other Opposition members.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. I. GILFILLAN: If the contribution of the Opposition relates to whether it is warranted for members to take breaks in between sessions, the matter becomes far too petty to be taken seriously.

The Hon. R.I. Lucas: You raised the issue.

The Hon. I. GILFILLAN: I raised it because I believe that the level of this debate should relate to the proper management and improvement of the conduct of WorkCover. For that reason, I oppose the motion to form a select committee at this time. Also, I believe that if there is to be a select committee it needs wider terms of reference than those introduced under this Bill. I signal quite clearly that I will not be jostling for position to be the one to move for a select committee. If a select committee were set up with comprehensive and politically neutral terms of reference, aimed at being a constructive assessment of how WorkCover was working, I on behalf of the Democrats would have no trouble in supporting the motion and offering to serve on the select committee. However, this is not the correct time or form in which to set up a select committee, so the Democrats oppose this motion.

The Hon. R.J. RITSON: I was not planning to speak, but I cannot resist two minutes worth after hearing the Hon. Mr Gilfillan talking about prejudice and adversarial politics. Of course, members have fixed positions: many members on this side of the Chamber believe that the principle of WorkCover is fundamentally flawed and that the financial result that is looming is predictable, as it was in Victoria. Similarly, the Government (and the Hon. Mr Gilfillan, because he supported the Government in the fundamental principle) believes that the principle is correct. Those are two opposite positions.

The Hon. Mr Gilfillan has reminded us that on many occasions, when the Council has been divided with two opposite and irreconcilable positions, the select committee process produces a better and more realistic coming together. That is what we want, and that is what the Democrats went to air saying they want. The Hon. Mr Gilfillan is entitled to a holiday, but there are four months before the budget. There is no excuse for the Democrats going to air, demanding a select committee, and then sitting here denying us one, because when we come back we will be straight into the budget session and the Estimates Committees, after which we will face the Christmas recess.

If the Democrats meant it, and if they accept the idea that fixed positions can compromise during the select committee process—that prejudices can soften in that process instead of in this Chamber—they will remove this measure from this Chamber and refer it to a select committee forthwith. For the life of me, I do not know why they went to air saying they would do that, and now they say they will not.

The Council divided on the motion:

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

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

The Hon. I. GILFILLAN: I move:

Contingently on the Workers Rehabilitation and Compensation Act Amendment Bill being read a second time, I will move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider new clauses relating to Chief Executive Officer, the provision of compensation, review of weekly payments, claims for compensation, penalties, review of levy, proceedings, medical examinations and offences.

I have some amendments, which I alluded to in my second reading speech. I will not go over them now in detail; I simply wish to say that the amendments received considerable attention and deliberation by parties interested and involved in WorkCover, including groups on the board. I am convinced that there is no reason why they should not be considered with this Bill and passed.

The Hon. J.F. STEFANI: The Opposition will not support the proposed amendments by the Hon. Mr Gilfillan. We have a great deal of sympathy with the honourable member's efforts in this matter, but I believe that, as these amendments are not critical or related to the success or otherwise of the legislation before the Chamber, the Council should not be precipitated into considering the 10 pages of amendments which, unfortunately, were circulated only yesterday. The Liberal Opposition has not had an opportunity adequately to consult the employer and employee organisations.

The PRESIDENT: Order! I do not want to be too severe, but the honourable member should be talking to the Hon. Mr Gilfillan's motion at the moment, but when we go into Committee he can discuss—

The Hon. C.J. Sumner: He's right on the point.

The PRESIDENT: I will monitor what the honourable member says.

The Hon. J.F. STEFANI: Accordingly, we believe that these amendments could be dealt with at a later stage, and I suggest that that will be the course of events.

The Hon. C.J. SUMNER (Attorney-General): I want to make clear that the Government opposes the amendments placed on file by the Hon. Mr Gilfillan. Without wanting to go into the details of each amendment, our position is that these amendments have been the subject of discussion within the bipartite legislative subcommittee of the WorkCover corporation, and while there has been—

The Hon. R.I. Lucas: After Mr Gilfillan drafted them?

The Hon. C.J. SUMNER: No, before they were drafted.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I do not know where he got them.

Members interjecting:

The Hon. C.J. SUMNER: There is no point interjecting; I am explaining what happened. While WorkCover's bipartite subcommittee has approved the draft amendments, they have not achieved full board approval. The Government believes that further consultation is necessary with the various registered employer organisations—which is the same point made by the Hon. Mr Stefani—and with the United Trades and Labour Council, before they can be introduced or, certainly, before they can be passed by Parliament. The Government is not necessarily opposed to the specifics of these amendments, but simply believes that such amendments should be handled in an orderly way to allow the proper consideration by the various interested parties. Accordingly, the Government will oppose the amendments, if the honourable member is given an opportunity by the Council to move them.

I would suggest to the Hon. Mr Gilfillan that, in light of the position adopted by the Liberal Party, namely, that it will oppose the amendments, and in light of the fact that the Government will oppose them, the best course of action for the honourable member would be for him not to proceed with this motion at this time. However, if he does, the Government will support the motion to enable the amendments to be considered. All I can say is that I think that, in the final analysis, that will be a fairly futile exercise. I do not want the honourable member or the Council to be under any misapprehensions about the Government's position. At this point we are opposed to the Hon. Mr Gilfillan's amendments and we will oppose them in the Committee stage. Therefore, I think that his best course of action would be not to persist with the motion at this stage but, if he does persist, because he wants a chance to air the amendments, the Government would not oppose his motion but we think that a more appropriate course would be for the honourable member to deal with his amendments in the next session of Parliament.

The Hon. I. GILFILLAN: I appreciate the attitude taken by the Attorney and I seek support for my contingency motion. I will not speak to the amendments, but I make the observation that both the Government and the Opposition will put forward amendments, none of which has had the opportunity of being viewed by a select committee or had the approval of the board, so it is remarkably hypocritical for both the Government and the Opposition to be so resentful of amendments which have had 100 per cent support from everyone in the industry, and to deny Parliament the chance even to discuss them. So, from that point of view, I appreciate the Attorney's offer to support the motion and I urge the Council to take the opportunity to consider these eminently suitable amendments.

Motion carried.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. I. GILFILLAN: I move:

Page 1, line 15—Leave out subclause (1) and substitute new subclause as follows:

(1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.

This first amendment is consequential on later amendments, and I move it as such. It has already been indicated that I cannot expect support for my amendments. Considering the time, I will not argue unnecessarily, as I predict that each amendment will be defeated, so I will not waste the time of the Chamber on this matter.

The Hon. J.F. STEFANI: The Opposition has already stated its intention. We have no particular reason not to consider these at a later stage but we received them as a total group of amendments yesterday. In spite of what Mr Gilfillan said, we have not had an opportunity to consult about or discuss these amendments with anyone and we will oppose the first and consequent amendments right throughout.

The Hon. C.J. SUMNER: To short circuit any further debate on these matters, I indicate that the Government's position is the same as the Opposition's on this matter.

Amendment negatived.

The Hon. I GILFILLAN: I move:

Page 1—Line 16, After '3' insert '*(a)*'

This amendment is consequential and I therefore withdraw it.

Amendment withdrawn; clause passed.

Clause 3—'Interpretation.'

The Hon. I. GILFILLAN: I move:

Page 1—Line 20, After 'amended' insert:

—

(a)

After line 26, Insert new word and paragraph as follows:

and

(b) by inserting after subsection (6) the following subsections:

(7) The regulations may exclude from the application of this Act, or specified provisions of this Act (either absolutely or subject to conditions or limitations), classes of workers prescribed in the regulations.

(8) A regulation under subsection (7) cannot be made except with the unanimous assent of all members of the board of the corporation.

These amendments will allow the regulations to exclude prescribed classes of workers from the operation of the principal Act or specified provisions of the Act. A regulation may be made subject to conditions. A regulation made under this provision will not be made except with the unanimous support of the board of the corporation. This is to clarify what are described as grey areas of people who may or may not be included under cover with WorkCover, such groups as subcontractors, taxi drivers or ministers of religion.

The Hon. J.F. STEFANI: The Opposition has not altered its position in the past few minutes and we oppose the amendment.

The Hon. C.J. SUMNER: I have made my position clear.

Amendment negatived; clause passed.

New clause 3a—'Substitution of s.21.'

The Hon. I GILFILLAN: I move:

Page 1—After line 26, insert new clause as follows:

3a. Section 21 of the principal Act is repealed and the following section is substituted:

Chief Executive Officer

21. (1) There will be a Chief Executive Officer of the Corporation.

(2) The Chief Executive Officer is responsible to the board for—

(a) the implementation of its policies and decisions;

(b) the efficient and effective management of the Corporation's business;

and

(c) the supervision of its staff.

(3) A person must not be appointed as the Chief Executive Officer of the Corporation unless the Corporation has first consulted with the Minister in relation to the proposed appointment and the proposed terms and conditions of appointment.

(4) A reference in any other Act to the General Manager of the Corporation will be taken to be a reference to the Chief Executive Officer.

(3) Compensation in respect of costs to which this section applies may be paid—

(a) to the worker;

or

(b) directly to the person to whom the worker is liable for those costs (thus discharging in whole the liability of the worker to that person for those costs).

(3a) Where, in the opinion of the Corporation, a worker has been charged an amount in excess of a reasonable amount for

the provision of a service in respect of which compensation is payable under this section—

(a) if the compensation is paid to the worker under subsection (3) *(a)*—the Corporation may—

(i) recover from the person who imposed the charge, as a debt due to the Corporation, the amount of any excess paid to the person by the worker;

or

(ii) set off, against any further compensation that may be paid under this section to the person who imposed the charge, the amount of any excess paid to the person by the worker;

or

(b) if the compensation is paid to the person who imposed the charge under subsection (3) *(b)*—the amount of the payment made by the Corporation need not include the amount of the excess.

As I indicated in my second reading speech this is a simple amendment to alter the terminology or nomenclature of the general manager to have him or her described as the Chief Executive Officer.

The Hon. J.F. STEFANI: The Opposition opposes the amendment.

New clause negatived.

Clause 4 passed.

New clauses 4a to 4d.

The Hon. I. GILFILLAN: I move:

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

Compensation for medical expenses, etc.

4a. Section 32 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) Compensation in respect of costs to which this section applies may be paid—

(a) to the worker;

or

(b) directly to the person to whom the worker is liable for those costs (thus discharging in whole the liability of the worker to that person for those costs).

(3a) Where, in the opinion of the Corporation, a worker has been charged an amount in excess of a reasonable amount for the provision of a service in respect of which compensation is payable under this section—

(a) if the compensation is paid to the worker under subsection (3) *(a)*—the Corporation may—

(i) recover from the person who imposed the charge, as a debt due to the Corporation, the amount of any excess paid to the person by the worker;

or

(ii) set off, against any further compensation that may be paid under this section to the person who imposed the charge, the amount of any excess paid to the person by the worker;

Discontinuance of weekly payments

4b. Section 36 of the principal Act is amended—

(a) by striking out from paragraph *(b)* of subsection (1) 'that the worker has ceased to be incapacitated for work' and substituting 'that the worker is no longer incapacitated for work on account of the compensable disability';

(b) by inserting 'compensable' after 'certifying that the' in subparagraph (ii) of paragraph *(c)* of subsection (1);

(c) by inserting 'on account of the compensable disability' after 'incapacity for work' in paragraph *(b)* of subsection (2);

(d) by inserting after paragraph *(b)* of subsection (2) the following paragraph:

(ba) the reduction is necessary to correct an arithmetical or clerical error;;

(e) by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where the Corporation decides to discontinue or reduce the weekly payments made to a worker in pursuance of this section, the Corporation must—

(a) in the case of a discontinuance or reduction pursuant to subsection (1) *(b)* or *(c)* or subsection (2) *(b)*—at least 21 days before the decision is to take effect;

or

(b) in any other case—as soon as practicable after the decision is made (but not necessarily before the decision takes effect),

give notice in writing to the worker—

(c) stating the ground on which the corporation's decision is based;

and

(d) informing the worker of the worker's right to have the corporation's decision reviewed.

(4) Where a worker applies for the review of the corporation's decision, the corporation's entitlement to discontinue or reduce weekly payments under this section is suspended pending the outcome of the review and, if the corporation's decision has already taken effect, the corporation must immediately take action to—

(a) reinstate the weekly payments to their previous level;

and

(b) pay to the worker the amount or amounts that the corporation would have been required to pay had it not discontinued or reduced weekly payments;

and

(f) by inserting after subsection (6) the following subsections:

(7) Where an employer believes that reasonable grounds exist for the discontinuance or reduction of weekly payments by the corporation under this section, the employer may, in a form approved by the corporation, request the corporation to review the circumstances of the particular case and make a determination in relation to the matter.

(8) The corporation is not required to comply with a request for a review under subsection (7) if the request is made within three months from the completion of an earlier review.

(9) The corporation must, as soon as practicable after the request for a review is made under subsection (7), send a copy of the request to the worker.

(10) If it appears that there has been undue delay in carrying out a review on a request under subsection (7), a Review Officer may, on the application of the employer, give such directions as appear reasonable in the circumstances to expedite the review.

(11) The corporation must comply, or take steps to ensure compliance, with such a direction.

(12) Where the corporation completes a review on a request under subsection (7), the corporation must give to the employer and the worker a notice in writing—

(a) stating the corporation's decision on the review, and the reasons for its decision;

and

(b) informing each of them of their rights to have the corporation's decision reviewed.

(13) The corporation must establish procedures for the reference of applications under subsection (10) to Review Officers.

Review of weekly payments to disabled worker

4c. Section 38 of the principal Act is amended by striking out from subsection (2) '6' and substituting 'three'.

Claim for compensation

4d. Section 52 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) Notwithstanding subsections (1) and (2)—

(a) the absence of, or a defect in, a noice of disability is not a bar to the making of a claim if—

(i) the proper determination of the claim has not been substantially prejudiced;

or

(ii) the failure to give the notice, or the defect in the notice, was occasioned by ignorance of the claimant, mistake or absence from the State, or other reasonable cause;

and

(b) a failure to make a claim within the prescribed period is not a bar to the making of a claim if—

(i) the proper determination of the claim has not been substantially prejudiced;

or

(ii) the failure to make the claim within the prescribed period was occasioned by ignorance of the claimant, mistake or absence from the State, or other reasonable cause.

New clause 4a amends section 32 of the principal Act, which relates to compensation for medical expenses. The provision addresses the problem encountered when a disabled worker is charged in exccess of a reasonable level for medical services. The payment of compensation for the person who has provided the service to the worker will discharge the whole of the worker's liability to the person in respect of the costs for that service. If the worker has already paid the person for the service, the corporation will be able to recover the amount of excess from the service provider, or set off that amount against future payments that may be made to him or her. In effect, this keeps a watch on over-charging, an urgent need for WorkCover. WorkCover is currently empowered to control the actual treatment, but not the charge.

New clause 4b amends section 36 of the principal Act in several respects. First, it is intended to state expressly that weekly payments may be discontinued or reduced when the effect of the compensable disability on the level of incapacity for work changes. Secondly, it is intended to allow the corporation to reduce weekly payments if there has been an arithmetical or clerical error in the calculation of the relevant amount to which a worker is entitled. Thirdly, it is proposed to allow an employer to require the corporation to make a determination under section 35 in respect of weekly payments being paid to a worker if the employer believes that reasonable grounds exist for the discontinuance or reduction of payments.

As one can see, this gives the corporation power to make very simple adjustments to arithmetical or clerical errors. It seems ridiculous that this Parliament is not empowering the corporation in that way because of some sort of pique about the origin of these amendments. It also has the power to enable WorkCover to restrict the compensation paid to only the compensable disability of an injured worker, whereas the current situation is leaving WorkCover vulnerable to pay for disabilities which may have arisen from other than work related causes.

New clause 4c is a tidying up of consistency between sections 36 and 38 of the Act. It reduces the interval between reviews from six months to three months. It is an eminently sensible, simple and practical measure which, if WorkCover was able to use it, would immediately put into effect the very thing about which it is criticised so stridently, that is, time delays in certain matters. Once again, we have the pigheadedness of this place in refusing to allow WorkCover the opportunity to have this very simple amendment.

New clause 4d corrects a technical problem that has been identified under section 52 of the principal Act. The problem relates to the fact that the operation of section 52 (3) relies on the exercise of a discretion by the corporation. However, the provision does not operate if a claim is made to an exempt employer. It is then arguable that the rejection of a claim by an exempt employer on the ground that the claimant has failed to comply with other provisions of section 52 cannot be the subject of an application for review under section 95.

The amendment will allow the issue to be addressed as part of the decision on the claim, whether the claim is made to the corporation or to an exempt employer. It is rather extraordinary that an exempt employer—the classification that the Hon. Diana Laidlaw was so much admiring, and I agree—has a power to consider claims that are outside a mandatory time limit, which is in the Act. This amendment, which simply seeks to enable WorkCover to have the same provision that is enjoyed by exempt employers, is being refused, once again, because of the stubborn obstinancy of the other members of this place and the Government and Opposition generally.

The Hon. J.F. STEFANI: The Opposition opposes these amendments, not because we are stubborn, but rather I reiterate that the Opposition has not had an opportunity to consider them, or consult. Employers and employee organisations have not received them officially. If the honourable member has received them through some other means, then so be it. We only received them yesterday afternoon and I am sure that the employer and employee organisations have not received them officially. We stand firm in our opposition to these amendments.

New clauses negatived.

Clause 5—'Imposition of levies.'

The Hon. J.F. STEFANI: I move:

Page 2, lines 7 to 9—Leave out paragraph *(a)* and substitute the following paragraph:

(a) by striking out subsections (6), (7) and (8) and substituting the following subsections:

(6) The corporation may, by notice in the *Gazette*—

(a) fix the percentages applicable to the various classes of industry for the ensuing financial year;

or

(b) amend a notice previously published under this subsection in order to correct an error or omission,

(but, subject to subsection (9), a percentage fixed under this subsection may not exceed 7.5 per cent).

(7) Before fixing percentages under subsection (6) the corporation—

(a) must make estimates, in relation to the relevant financial year, of—

(i) the aggregate remuneration to be subject to the levy;

(ii) the proportion of that aggregate referable to each class of industry;

(iii) the aggregate income to be derived from the levy;

(iv) the proportion of that aggregate referable to each class of industry;

(v) the aggregate costs to be incurred by the corporation in relation to compensable disabilities;

and

(vi) the proportion of those aggregate costs referable to each class of industry;

and

(b) must have regard to the need to establish and maintain sufficient funds—

(i) to satisfy the corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in the relevant financial year;

(ii) to make proper provision for administrative and other expenditure of the corporation;

and

(iii) to make up any insufficiency in the compensation fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities.

(8) without derogating from the principle referred to in subsection (7) *(b)*, the corporation must not fix the percentages under subsection (6) so that the total estimated income to be derived from the levy would exceed 3.8 per cent of the total estimated remuneration to be subject to the levy.

This amendment requirements the imposition of the levy applicable to various classes for the ensuing financial year.

It also seeks to set the maximum average levy at a level of no more than 3.8 per cent.

We recognise the Government's intention to broaden the range of industries to which the maximum average levy will apply, and accept the setting of the maximum levy level at 7.5 per cent of remuneration. Our proposal provides for the corporation to make estimates in relation to relevant financial years and generally establish as a maximum average levy rate of 3.8 per cent and a broader range to 7.5 per cent.

In moving this amendment, the Liberal Party believes that there ought to be some justification for the extra $60 million that the employer groups are being asked to fund through increased levy charges. The Liberal Party believes that any future increase in the average levy rate should come before Parliament before it is implemented. This view is strongly supported by the majority of the employer organisations who, I might add, are the people who will be asked to fund and pay for these increases. It is our firm belief that Parliament should have some continuing involvement in ensuring that the appropriate and equitable level of funding is achieved by the WorkCover fund. The Liberal Party seeks the support of members for this amendment.

The Hon. I. GILFILLAN: Has the Liberal Party had the approval of the board of WorkCover for this amendment? Has the Executive of the South Australian Employers Federation, the Executive of the Chamber of Commerce and Industry and the Executive of the United Trades and Labor Council had an opportunity to study this and give their opinion to the Liberal Party and, if so, what is it?

The Hon. J.F. STEFANI: The question is fictitious. The facts are that this amendment is very much part of the Bill. What the honourable member introduced is not forming any parts of the Bill whatsoever. His amendments were totally unrelated, as I said at the beginning of this session. I would have thought that, even from an inexperienced member like me, he would observe some procedure in presenting material to Parliament that is relevant to the subject.

The Hon. I. GILFILLAN: I take it that Mr Stefani cannot answer my question or refuses to answer my question: is that true?

The Hon. J.F. STEFANI: The honourable member is being pedantic. It is late in the night and he ought to stick to the subject.

The Hon. C.J. SUMNER: The Government opposes this amendment. It is unnecessary, because the practice already exists and the corporation has gazetted the levy rates each time there has been a change. The corporation, in fact, incorporates more factors in its assessment of levy rates than outlined in the amendment. The second part of the amendment seeks to fix the average rate of levies collected at 3.9 per cent of remuneration. This is too restrictive as the corporation cannot control the bulk of the cost of a scheme such as WorkCover as costs are dependent on industry performance and economic conditions. The economy of South Australia is fluid and, over time, significant changes occur in the industry mix. These changes in industry mix mean the average levy rate will not be stable and fixing the average rate will restrict WorkCover's ability to respond to these changes in industry profile. It is particularly relevant with a growing manufacturing sector. The costs of a scheme like WorkCover are very much dependent on employers taking on board appropriate safety and rehabilitation practices. The results of not doing this will be reflected in higher costs and higher levies and the legislation should not, therefore, stop these costs from being passed back to employers.

The Hon. I. GILFILLAN: It is unfortunate that the date of this amendment is 10 April 1990, which as members would know was yesterday. The date of my series of amendments was 6 April 1990, which was some days ago.

Members interjecting:

The Hon. I. GILFILLAN: They were on file for several days. Unfortunately, because of the lateness of delivery, I have not had an opportunity to look in detail at the Liberal Party's amendments and, therefore, following its lead, I feel it is almost impossible for us to consider them and support them.

The issue which I did hear mentioned and which I referred to in my second reading speech is the question of fixing an average premium. I believe there are very good grounds for looking at some global recognition of the limit on what is the expenditure level of WorkCover and I have promoted the idea of setting a ceiling for average premiums—that certainly is a thought starter. It stirred some very energetic responses from WorkCover staff and the board. I think that from that burst of energy, eventually the deliberations of the select committee will provide some procedures whereby Parliament does have if not a direct hand on the average of premiums, then some way of keeping restraint so that WorkCover is not led to believe that it has an open-ended budget and a capacity to adjust increasing costs through increasing premiums. It is totally inappropriate for that matter to be addressed at this time through this amendment. I oppose the amendment.

The Hon. K.T. GRIFFIN: I think it ought to be clarified that, so far as the Opposition is concerned, the amendments of the Hon. Mr Gilfillan were not available until yesterday, so, it is inappropriate to make a comparison between the very voluminous amendments of the Hon. Mr Gilfillan and the rather straightforward amendments being moved by the Hon. Mr Stefani. So far as the amendment of the Hon. Mr Stefani is concerned, the Opposition's view, as he has already explained, is that, if the maximum levy rate is to increase to 7.5 per cent, there really is no check on the corporation from increasing the levies to classes of employers beyond the average 3.8 per cent average levy and across the board.

The Opposition is concerned that, whether it is 3.8 per cent or 3.9 per cent, regardless of whether or not there are fluctuations, at least an objective ought to be an average levy of 3.8 per cent. That will have the effect of allowing an increase in the overall recovery by WorkCover from employers to meet the growing deficit, yet ensuring that the corporation examines its own administration and practices and is not led to believe that it can merely increase levies and get remuneration from employers without also creating and achieving efficiencies in its own organisation. Whichever figure one uses—3.8 per cent or 3.9 per cent—it is designed to signal to the WorkCover corporation that it must look to its own house as well as to employers to finance the liabilities. This figure will put an appropriate check in place, if in future it is necessary to increase levy rates further, as was proposed in the paper referred to by my colleague in another place, Mr Graham Ingerson, where there was a forecast that in two years the maximum levy may have to be increased to 9 per cent.

I support the Hon. Mr Stefani's amendment. It will give the corporation flexibility, particularly with the bonus/penalty scheme which it proposes to implement, but keep some check on the upper limit of total levies which may be recovered from employers.

The Hon. J.F. STEFANI: My colleague, the member for Bragg, introduced an identical amendment in the other place on 4 April. That amendment was circulating at that time. The Liberal Party consulted widely with the employer and

employee organisations. In effect, the amendments to which the Hon. Mr Gilfillan referred were received after I had asked him whether amendments were available. He directed me to obtain them from the Clerk, but they had not been put on file.

The Committee divided on the amendment:

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

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner (teller) and G. Weatherill.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. L.H. DAVIS: I have a series of questions on this clause, which increases the levy from 4.5 per cent to 7.5 per cent. My questions bear very much on the administration and cost of the scheme. Can the Attorney advise the Committee as to the projected levy income in future years? The WorkCover Corporation 1989 annual report indicates that the corporation received $210 million in levy income for the fiscal year to 30 June 1989. If the amendment is carried and we anticipate a projected average levy of 3.8 per cent in the balance of 1989-90 and ensuing financial years, what are the projected amounts of levy income that the corporation expects to receive in 1989-90, 1990-91 and 1991-92? It is relevant for the Parliament to understand exactly the projected increase in levy income. I accept that those figures may not be available immediately.

The Hon. C.J. SUMNER: As the questions do not relate particularly to any amendment—

The Hon. L.H. Davis: They relate to the clause.

The Hon. C.J. SUMNER: I am not criticising the honourable member for asking questions, but I undertake to have a response sent out to him. He should run through his questions and, if any can be answered simply, I will do so and, if they cannot be answered, I will refer them on.

The Hon. L.H. DAVIS: The leaked document that we received from the February WorkCover report suggested that 21 per cent of claim payments were taken up by administrative costs; was that the figure which was budgeted for by WorkCover? In other words, is the administrative cost of the scheme above or below the figure budgeted for in the current financial year?

The Hon. C.J. SUMNER: I will take that question on notice.

The Hon. L.H. DAVIS: The WorkCover Corporation annual report for the last financial year (page 12) states that there was implementation of a targeted program of employer contact offering support for management to improve health and safety practices. As a pilot program in early 1988, this process achieved a mean reduction of 40 per cent in the severity of claims through targeted firms. That would indicate that there had been some success in that area. What has been the experience in 1988-89 and 1989-90 in that area?

The Hon. C.J. SUMNER: We will obtain those details.

The Hon. L.H. DAVIS: On page 30 there is little information available to the Committee about fraud prevention. Will the Attorney-General undertake to provide the Committee with information about the level of fraud in WorkCover? Have any cases involved the police? Is the incidence of fraud in the scheme higher than was expected?

The Hon. C.J. SUMNER: A fraud department of seven people operates within the finance administration division with an emphasis on fraud prevention. It has recently advertised for additional fraud investigators. It has specialist fraud consultants reviewing its activities and identifying the specific staffing and systems requirements. Sophisticated computer systems are installed to monitor claims and identify systematic fraud. Over 300 cases are under investigation covering workers, employers and medicos. A number of cases are before the courts or soon will be.

The Hon. R.I. LUCAS: The Attorney-General mentioned some 300 cases under investigation. Can he confirm that there is a backlog of some 200 cases in relation to investigation by that fraud section?

The Hon. C.J. SUMNER: We will check that.

The Hon. L.H. DAVIS: The Attorney-General is in a receptive mood. I will proceed in regard to investigation of fraud, because anecdotal information has been coming through from a variety of sources about this area. I return to the question I asked in the second reading stage; the 1988-89 report deals briefly with fraud prevention and the department's implementing a database system to identify practices and situations likely to lead to successful fraud prosecutions. The report goes on to say:

> This department will establish prevention and detection systems to monitor all aspects of WorkCover compensation identifying actual and potential fraud. It will ensure that claims are under constant scrutiny and irregularities are quickly detected.

That report was prepared, presumably, some time in September/October 1989; two years after WorkCover was established. Why is it that it talks about something that will be established to deal with fraud prevention? Why was there not something in place? If there was something in place, can the Attorney advise the Committee exactly what it was?

The Hon. C.J. Sumner: I will include that in the response that we are providing.

The CHAIRMAN: I ask the Attorney to stand when he addresses the Chamber.

The Hon. C.J. Sumner: It would be a nice, sensible idea to change that Standing Order.

The CHAIRMAN: The Standing Orders at the moment provide that a member must be on his feet when he addresses the Chamber, and it is a courtesy that should be honoured in this place.

The Hon. L.H. DAVIS: I find the Attorney-General's attitude and demeanour arrogant and high-handed, given that—

The Hon. C.J. Sumner: Don't be stupid. That is objectionable in the extreme.

The Hon. L.H. DAVIS: It is. You are very reluctant to provide any information.

The Hon. C.J. Sumner: I am not reluctant to provide any information.

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: Some of the information is quite clearly available to the Committee now, if you wish to provide it.

The Hon. C.J. SUMNER: Well, I don't have it, if that is what you want to know. I said that I would get it.

The Hon. L.H. DAVIS: The Attorney then comes not fully prepared for the Committee, because it is reasonable to expect that when we are talking about a 27 per cent increase in levies for people under WorkCover in South Australia, which is a significant increase that will be an enormous impost on employers throughout South Australia, we are entitled to some explanation.

The Hon. G. Weatherill interjecting:

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: We seem to have stirred the Hon. George Weatherill, which is at least some achievement. Will the Attorney, again in written form, indicate the number of employees in the WorkCover corporation, and will he indicate the breakdown in those employment areas? Will the

Attorney also indicate the number of psychologists, psychiatrists and other people who are retained either as employees or on contract to assist WorkCover in assessing claims and in rehabilitation? Will the Attorney, as I have already asked in the second reading stage, provide information about the experience of employees handling claims, because there is certainly some suggestion from more than one quarter that those employed by WorkCover do not necessarily have the appropriate experience and qualifications?

The Hon. C.J. SUMNER: I reject and, in fact, resent the remarks of the Hon. Mr Davis. I said at the outset of this line of questioning, that, if I could not answer the questions easily—that is, without having to spend 10 minutes talking to advisers and having them work out what information they have with them—I would get replies and send them to him in writing. He said he was happy with that. When I say that that is what I will do, subsequently he complains and says, 'Well, we should know all the information now.'

The Hon. L.H. Davis: I didn't say that.

The Hon. C.J. SUMNER: That is the effect of what you said. I said that I would get the information. I did, in fact, provide some information about fraud, because the briefing notes that the officers had covered that topic. To expect the officers to come down with the sort of detailed information that you are requesting is just simply not reasonable. To expect me to be able to answer those questions is simply not reasonable. I am not quite sure what the honourable member is trying to prove. Is he trying to prove that he is a know-all about WorkCover or a man of great erudition or what? The fact of the matter is that I have given the undertakings to provide the answers. If the honourable member wanted answers for the Committee stages, he could have asked all the specific questions, in the second reading debate, or he could write to WorkCover and it could provide him with the information.

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: All we can do tonight is for the honourable member to put the question on notice, in so far as they go into the detail that he wants, and I will get the answers.

The Hon. L.H. DAVIS: As I mentioned in my second reading speech, I understood from page 25 of the WorkCover annual report that some 75 000 workplaces were registered for WorkCover. Am I to take it that that means that there are effectively 75 000 businesses paying a WorkCover levy? Is that a correct interpretation of the information in the annual report?

On page 24 they describe as disturbing the nearly 11 000 fines imposed for late payment of levies over a 12 month period. Some of those fines, as my colleague the Hon. Mr Stefani has pointed out, are most draconian—up to 300 per cent. Am I right in putting together those two pieces of information and saying that a total of 11 000 fines have been incurred by 75 000 individual WorkCover registrations, or are some of those fines second and third offences by the same parties?

If I am right, we are talking about 15 per cent or one in seven people covered under WorkCover being fined for late payment. That reflects the argument that I put during the second reading stage that there was much confusion because of the very bad administration of WorkCover when it was first established.

The Hon. C.J. SUMNER: I have given my undertaking to obtain answers for the honourable member. I will not do it for every question. If he puts the questions in *Hansard*, we will obtain answers.

The Hon. L.H. DAVIS: Looking at the most recent performance of WorkCover and the serious deterioration which has obviously occurred there in recent months, I want to put on record some questions to be answered at some point in the future, given that we will not be having a select committee to investigate this matter. I understand that rehabilitation payments have increased significantly as a proportion of claim payments. They have run from approximately 2.7 per cent in 1987-88 to nearly 9 per cent in 1989-90.

The Hon. R.J. Ritson: They have a lot further to go.

The Hon. L.H. DAVIS: I accept the wisdom of the Hon. Dr Ritson's remark. That is where I was leading. Where does WorkCover expect that level of rehabilitation payments as a proportion of claim payments to settle as the scheme matures? Presumably, there is some target, and I would be interested to know the level. Is it true that rehabilitation payments are running at 9 per cent of claim payments? Is this above or below budget, and to what extent is that the case?

I will continue with my next question in the spirit of compromise and with silence from the other side. Community service claim costs have also increased as a proportion of claim costs. Will this matter be elaborated on? I am saying that, in industry, community service claim costs have increased as a proportion of claim costs, and there have been downward trends in mining, I understand. Some of the information that has fallen off the back of a truck seems clearly at variance with that provided during the second reading debate, suggesting that the buoyant economy was responsible for the overrun in WorkCover costs. That was a load of hyperbole.

The average amount paid for all claims is increasing. At six months after injury, the average paid for injuries in the first 12 months of the scheme was about $600. I understand that, currently, it is running at $750. Was that expected when WorkCover was established? Is that figure settling at $750 or is it rising? My next question is particularly important and refers to a very alarming trend.

The Attorney-General may be aware that WorkCover has employed two actuaries to give advice on the actuarial trends in WorkCover. Both actuaries were projecting an increase of something like 4 per cent in claim numbers in the current financial year as against 1988-89. I am reliably informed that, in fact, the claim numbers have increased not by 4 per cent to date but by 13 per cent. That is a dramatic overrun and I would be interested to know why that is occurring and why the actuaries' forecast is so far out.

Clearly, there are severe cost implications for WorkCover with that dramatic overrun. I would be interested to know why there has been this severe overrun, where this overrun is occurring and what are the implications for the financial year. My great fear is that, in the absence of a select committee, thanks to the economic illiterates who voted against such a committee, the 1990 annual report of WorkCover will show that the deficiency has ballooned even further, certainly if the last statistic I provided is any indication.

I would also be interested to know how many claims are being rejected in the current financial year as against the preceding financial years. How many people are employed investigating claims in this financial year, and what is the validity of the claims in this financial year compared with previous financial years? I would like to know whether WorkCover has noted a trend—it has been described to me by professionals as an alarming trend—that people are going on stress holidays. People are discovering that stress is the way to win WorkCover benefits and, given that there are

rotten apples in every barrel, some professionals are happy to support some quite dubious claims for WorkCover benefits for many months. I gave an example of that in my second reading speech. As a system, WorkCover is capable of being abused and, indeed, it is abused. My concern, which I am sure is shared by my colleagues, is the real difficulty of ensuring that the scheme is not subject to abuse.

My next question concerns employers picking up the cost of the first week. This matter has received very little discussion, which surprises me, but it is an important matter and should not be neglected. WorkCover is not triggered until the second week, employers picking up the first week. In other words, employers pay their WorkCover levy and have to pick up the cost of an injured employee for a few days (say, for instance, a restaurant employee who is off for four or five days with a cut finger).

That is a hidden cost, which is not discussed. I would be interested to know whether WorkCover has any statistical data or anecdotal information about the incidence of work-related injuries that are borne by employers. Again, it may well be that these figures are difficult to assess but I suspect that there is an underestimate because employers may be happier to pick up the bill themselves rather than lock themselves into WorkCover, with the fear that employees may find themselves on a good thing. This matter certainly relates to the need for employer-employee relations being harmonious, and I accept quite readily that employers have to work hard to maximise the relationship with their employees. It is a matter on which the WorkCover corporation may have some information, and I will certainly follow that through also with employers associations.

I have asked the Attorney about the number of psychologists, social workers, psychiatrists and other health professionals involved in the assessment and rehabilitation program, and I presume that, like Medicare and like the Department of Health, their performance is closely monitored.

The Hon. J.F. STEFANI: I will try to be brief. I also have a series of questions. Briefly, on page 41 of the report, under 'Investment Income', the last item recognises a loss of $346 000. That loss is not identified as realised or unrealised: can that be confirmed either way? Is that loss of $346 000 realised or incurred as at 30 June 1989, or is that unrealised loss?

The Hon. C.J. SUMNER: I will get the replies.

The Hon. J.F. STEFANI: The point I make is that it is identified that we have an unrealised gain of $463 000, as was pointed out to me by the Minister. There is no identification that this loss is not realised and therefore it can be assumed that one is unrealised and one is realised. The other point concerns the rehabilitation costs of $3.575 million. In a report considered by a meeting of the WorkCover board, under agenda item 4.1, a submission identifies that rehabilitation payments was the category to increase the most proportionately and my colleague the Hon. Legh Davis has referred to that. Therefore, I tabled in this place on 21 March a series of questions on notice relating to rehabilitation costs. Is the Minister able to provide me with replies to those questions?

The Hon. C.J. SUMNER: I undertake to reply by letter to the questions on notice from the honourable member.

The Hon. J.F. STEFANI: Likewise, I would like to receive an answer to a question on notice of 6 March. Further, what is the status of the contingent liability noted as $10.4 million to SGIC? Has any progress been made on the matter, and can we be advised of the situation?

The Hon. C.J. SUMNER: That matter is still subject to negotiation.

The Hon. J.F. STEFANI: On the question of the computers, I realise that WorkCover has now terminated the agency agreement with SGIC. Termination costs have been paid out at $6.4 million. WorkCover is now undertaking a new expenditure of $12 million to install computer equipment. Will this equipment be sufficient to satisfy the requirements of WorkCover as they relate to the new procedures that the Parliament has approved in the exchange of information to the Rehabilitation Commission and the Department of Labour?

The Hon. C.J. SUMNER: I am advised that it is a better system and should be adequate to cope with the situation.

Clause passed.

New clauses 5a and 5b.

The Hon. I. GILFILLAN: I move:

Page 2, after line 12—Insert new clauses as follows:

Penalty for late payment

5a. Section 71 of the principal Act is amended by striking out from paragraph *(a)* of subsection (1) "shall" and substitute "may".

Review of levy

5b. Section 72 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) Except where the application relates to the imposition of a levy under section 66 or 68, an application for review must be made within two months after the employer receives notice of the assessment or imposition of the levy or fine unless the board, in its discretion, allows an extension of time for making the application.

New clause 5a will give the corporation the discretion whether or not it imposes penalty interest when an employer fails to pay a levy under the Act. The current stricture of the Act is 'shall', meaning that the corporation has no discretion whether or not it imposes the penalty. It seems ridiculous to me that we are not in a position to obtain the support of the Government or the Opposition to this simple amendment, which would so obviously be in favour of employers.

New clause 5b restricts the time within which an application for the review of a levy or penalty imposed under the Act may be made to the board. The proposed time limit is three months from the imposition of the levy or penalty. However, no time limit will be applied in relation to a general levy under section 66 or section 68. This is simply a helpful administrative step and is quite straightforward.

The Hon. J.F. STEFANI: The Opposition stands firm on its previous indications and opposes the amendment.

New clauses negatived.

Clause 6 passed.

New clauses 6a, 6b and 6c.

The Hon. I. GILFILLAN: I move:

Page 2, after line 38—Insert new clauses as follows:

Notice of proceedings, etc.

6a. Section 89 of the principal Act is amended—

(a) by inserting '(but subject to subsection (2a))' after 'Review Officer' in subsection (2);

and

(b) by inserting the following subsection after subsection (2):

(2a) A Review Officer may refuse to allow a party to call a particular witness in proceedings before the Review Officer if the Review Officer considers that the party has had a reasonable opportunity to call or give evidence in support of his or her case and that it is reasonably likely that the evidence of the witness would be superfluous.

Application for review

6b. Section 95 of the principal Act is amended by inserting after paragraph *(c)* of subsection (2) the following paragraph:

(d) a decision not to discontinue or reduce weekly payments on an application under section 36 (7);.

Medical examination at request of employer

6c. Section 108 of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) If it appears that there has been undue delay in having a worker examined under this section, a Review Officer may, on the application of the employer, give such directions as

appear reasonable in the circumstances to expedite the examination.

(5) The Corporation must comply, or take steps to secure compliance, with such a direction.

(6) The Corporation must establish procedures for the reference of applications under subsection (4) to Review Officers.

New clause 6a is specifically designed to speed up the process of the review officer, the cause of so many complaints from the Opposition and others in the delay of the processes of WorkCover. It is a very simple amendment that is designed specifically to speed up the process. It is therefore extraordinary that this amendment is to receive absolutely no support in this place.

This clause will allow a review officer to refuse to allow a party to proceedings before the review officer to call a particular witness if the review officer considers that the party has had a reasonable opportunity to put his or her case and it is reasonably likely that the evidence of the witness would be superfluous.

The situation now is that the proceedings of the review officer are choked by legal proceedings, introducing quite extensive and time consuming argument and, bearing in mind that appeals can, of course, go on to a tribunal, where exhaustive legal argument could and should more properly take place, this current lack of ability of the review officer to be selective denies him the ability to get straight to the guts of an issue and deal with it expeditiously.

New clause 6b is consequential on the amendment to section 36 of the Act that will allow an employer to request the corporation to make a determination as to whether or not weekly payments of compensation should be discontinued or reduced. The corporation's decision in such a case will be reviewable under section 95 of the Act. This is designed specifically to enable WorkCover to deal with arithmetical error. It is such a simple amendment, and it is so ridiculous that it is not able to be passed by this place to enable WorkCover to work efficiently.

New clause 6c will allow an employer to apply to a review officer if the employer considers that an undue delay has occurred in arranging the medical examination of a worker on the request of an employer under section 108 of the Act.

New clause 6d amends section 122 of the Act to allow a prosecution for an alleged offence against the Act to be commenced up to three years after the alleged date of the offence. At present, prosecutions must be commenced within three months of the alleged offence. This amendment deals specifically with fraud. It is the very area of criticism and concern that has been expressed by the Opposition and others in relation to the way in which WorkCover has been operating in some areas. It is a simple amendment to enable these actions to be taken for up to three years rather than the restrictive three months, and we are now to be denied that because of the stubbornness of the Opposition and the Government in dealing with these very sensible and simple amendments.

In moving these amendments, I point out that, even were the Opposition's proposal for a select committee to come into place, there would have been no opportunity for these measures to become effective for at least six months. It causes me some very serious concern that in an effort to help WorkCover deal with its day to day working procedures in a whole range of areas—economic efficiency, combating fraud and speeding up the review processes—it has been apparent that, because of the so-called pride, I suppose, of both the Opposition and the Government, they have bitten off their nose to spite the face of WorkCover. I hope that the shame I feel at their inability to deal with this will stand to their embarrassment.

I think it is a very sorry saga of insincerity on the part of the Government and the Opposition regarding doing something constructive for WorkCover that they have heard the argument for some of the simplest and most immediately effective amendments but have not even deigned to discuss them. It is a disgrace in relation to both the Government and the Opposition.

The Hon. J.F. STEFANI: I resent the Hon. Mr Gilfillan's referring to the Opposition's behaviour in consideration of these matters as disgraceful. The honourable member must realise that both the Government and the Opposition have procedures to deal with these matters. We have more than two members to consider in the Party room, in Caucus or in shadow Cabinet. The Australian Democrats can sit alongside each other, consult and get on with it. However, we have other responsibilities, and we will observe them and will not be bulldozed into accepting things that have not been properly dealt with by the Party, by the employers or by the employee organisations. We will stand firm in opposing them.

New clauses negatived.

Clause 7—'Confidentiality to be maintained.'

The Hon. ANNE LEVY: I move:

Page 2, line 40—After 'amended' insert:

(a) by striking out paragraph *(e)* of subsection (2) and substituting the following paragraph:

(e) the disclosure in accordance with the regulations of prescribed information to—

(i) any association that represents—employers registered under the Industrial Conciliation and Arbitration Act 1972;

or

(ii) any prescribed Government authority, or prescribed agency or instrumentality of the Crown (whether of this State or of another State or Territory of the Commonwealth, or of the Commonwealth).;

and

(b) [the remaining part of clause 7 becomes paragraph *(b)*].

This amendment seeks to add employer organisations who are registered under the Industrial Conciliation and Arbitration Act to the list of organisations that can be supplied with information on the claims performance of those employers who are poor performers. Improving the performance of the 7 per cent of employers who account for 94 per cent of the cost of the WorkCover scheme is critical to the scheme's long-term success. The Government believes that the provision of this information will allow employer organisations to offer peer group assistance and advice to such employers.

The Hon. I. GILFILLAN: Has this amendment been approved by the board of WorkCover and has it been presented to the Chamber of Commerce and Industry, the South Australian Employers Federation and the UTLC and, if not, why not? If so, what is their opinion of the amendment?

The Hon. ANNE LEVY: I understand that this amendment arises from discussion that took place when this measure was in the other place. There was a question and answer between the Minister and a member of the Opposition. The amendment arose from discussions that occurred when the Bill was in Committee in the other place. The member of the Opposition indicated that he would welcome such an amendment being placed in the Bill. In response to that indication this amendment is now proposed.

The Hon. J.F. STEFANI: I move:

Page 2, line 40—Leave out all words in line 40 after 'amended' and substitute 'by striking out paragraph *(e)* of subsection (2) and substituting the following paragraphs:

(da) the disclosure of information to the South Australian Department of Labour or the South Australian Occupational Health and Safety Commission;

(e) the disclosure of information in accordance with the regulations.'

This clause deals with two matters. First, it deals with the question of making information available to employer organisations and the intended disclosure of information to the Department of Labour and Industry or the South Australian Occupational Health and Safety Commission. We have no objection to this proposal because we realise that this is necessary in the pursuance of such matters. However, we feel that the employer organisations should not be included as the making of information broadly available to the employer would in my view—and rightly so—be demanded by the employer organisations, if we want to be fair about it.

It is with this thought in mind that the Opposition has placed on file an amendment to accommodate the requirement necessary to make available some information. The other question that is dealt with relates to the present legislation which requires a regulation to lay on the table for 14 days and this Government amendment would strike out that provision.

We feel that that would be unwise. It was put in there in the first place to make available to Parliament the regulations that would affect the workings of WorkCover and the legislation and regulations concerning it. We feel it is important to keep that part of the clause as it stands, but accommodating very much the provisions that are necessary for the Department of Labour and the Occupational Health Commission to receive information so that they can pursue their particular work and be effective.

The Hon. K.T. GRIFFIN: Can I just add to what my colleague, the Hon. Mr Stefani has said? As I understand it, there is currently a regulation that has been promulgated which authorises information to be made available by WorkCover to the South Australian Department of Labour and the South Australian Occupational Health and Safety Commission. The difficulty is that that regulation will not become operative until 14 sitting days have elapsed and provided there has been no motion for disallowance moved and passed within that time.

Of course, as we now move into a reasonably long period of recess, that will mean that the regulation cannot become operative until at least some time in August. In those circumstances there will be an impairment to the proper functioning of WorkCover and the other two agencies unless there is some specific provision which authorises that exchange of information. The Government solution was to merely delete the provision which we enacted within the last year or so that any regulation authorising the disclosure of information should be laid on the table and not become effective until the 14 sitting days have elapsed. The Government's proposal to delete that would then bring such a regulation into the same position as other regulations, namely, that they are valid from the date of promulgation and are subject to disallowance.

In terms of the disclosure of information the difficulty is that the information can be disclosed as soon as the regulation is promulgated. It is not much good disallowing the regulation later if one is inclined to do that, because the information is already passed. The Opposition's preference is to retain in section 112 subsection (2) *(a)* which provides that a regulation under this section does not become operative until after the 14 sitting days provided no motion for disallowance is moved and passed in that time.

In addition to that, to assist the Government in overcoming the immediate problem of exchange of information between WorkCover and the Department of Labour and the Occupational Health and Safety Commission specific provision for that is made in the Bill. That would overcome the delay problem which I understand is presently inherent in the regulations which have been promulgated only last week.

In order to maintain some control over the exchange of information it is my view, as it is that of my colleague, the Hon. Mr Stefani, that the Opposition's amendment, which he has moved, overcomes the immediate difficulty and maintains the protection of subsection (2) *(a)* and does not allow the disclosure of information by WorkCover Corporation to get out of hand.

The Hon. I. GILFILLAN: I understand that neither the amendment of the Government nor the amendment of the Opposition has had the approval of the WorkCover board, and that neither amendment has been the subject of consultative agreement with the interested employer and union bodies. In those circumstances it is obviously inappropriate to support either amendment and the Democrats intend to oppose them both.

The Hon. ANNE LEVY: While the Government prefers its own amendment, should that fail we will be happy to support the amendment of the Hon. Mr Stefani as being a compromise, which is better than nothing.

The Hon. Anne Levy's amendment negatived; the Hon. J.F. Stefani's amendment carried; clause as amended passed.

Clause 8—'Transitional provision.'

The Hon. ANNE LEVY: I move:

Page 3, lines 5 to 7—Leave out all words in these lines and substitute:

(b) the rights of any claimant whose claim is determined before the commencement of this Act; or

(c) the rights of any other claimant who, as at the commencement of this Act, is a party to proceedings before a review officer that are at least part heard.

The purpose of this amendment is to put beyond doubt the fact that this legislation, as it relates to the effect of the amendments relating to disease, is not intended to affect a person who has received a decision on a claim from the corporation or an exempt employer. The Bill presently provides that the amendment to the principal Act does not affect the rights of any claimant whose claim has been determined before the commencement of the Bill.

This provision, coupled with the operation of the Acts Interpretation Act, is designed to ensure that the rights of a person who has received a decision on his or her claim are preserved. This is especially relevant to preserving any accrued entitlements and to the institution of appeal proceedings. However, concerns have been raised about the position of a person whose claim is before a review officer. Section 95 of the principal Act provides that a person may apply to the corporation for a review of a decision under the Act and that, if the application is not settled, the matter is referred to one of the corporation's review officers. The Government considers that a person who has reached the hearing stage before a review officer should not be affected by this legislation. It does not want to leave open the argument that the claim is still to be 'determined.' The amendment will put the matter beyond doubt.

The Hon. J.F. STEFANI: I move:

Page 3, lines 5 to 7—Leave out all words in these lines and substitute:

'*(b)* the rights of any claimant whose claim is determined before the commencement of this Act;

or

(c) the rights of any other claimant who, as at the commencement of this Act, is a party to proceedings before a review officer.'

The Opposition certainly supports the general thrust of the Government's amendment. However, there are two points

that we would like to make about it. The Government's amendment refers to proceedings before a review officer which are at least part heard. Our concern is that if they are not heard at all and they are before the review officer, those people claiming may not be considered. With this thought in mind, we felt it appropriate to put beyond any doubt the position of those people who have claims before a review officer; they need not necessarily be part heard, but they are before him or her.

The Hon. K.T. GRIFFIN: I support that proposition. If WorkCover has made a decision on a claim, and has perhaps rejected it, and then the matter has been referred to a review officer, for all practical purposes it is before the review officer even though it may not have been heard. It seems to me, as it does to the Hon. Mr Stefani, that if the matter is before the review officer, those persons may have accrued rights which, because of the way in which they have been dealt with, should continue to proceed through the system. We concede that those whose claims have not been determined by WorkCover and are waiting in the wings and those who have not got to a review officer will miss out. I still have some concerns about that as a matter of principle; nevertheless, one makes compromises on these things. However, when they have been determined and gone to the review officer, although not heard, it seems to me that they should be kept alive. That is the distinction between the Hon. Mr Stefani's amendment and the Minister's amendment.

The Hon. ANNE LEVY: I merely indicate, more or less in agreement with the Hon. Mr Griffin, that it tends to be arbitrary as to where the line is to be drawn. The Government prefers its own amendment but, if that is not successful, it will support the amendment moved by the Hon. Mr Stefani.

The Hon. I. GILFILLAN: In that case, the Minister will be supporting the amendment moved by the Hon. Mr Stefani. It seems to be splitting hairs as a very small number is involved. The difference between those who have lodged a claim and those who have proceeded to a part hearing seems an unnecessary and rather cruel distinction between people who find themselves in that position. My preference and support will be for the Opposition amendment.

The Hon. Anne Levy's amendment negatived; the Hon. J.F. Stefani's amendment carried.

The Hon. I. GILFILLAN: I no longer intend to proceed with the amendment to this clause standing in my name.

Clause as amended passed.

Title passed.

Bill reported with amendments.

Bill recommitted.

Clause 3—'Interpretation'—reconsidered.

The Hon. R.J. RITSON: I thank the Attorney for his courtesy in giving me the opportunity to deal with certain matters. I want to ask four or five questions relating to clauses 3 and 4. Can the Minister explain the meaning and significance of the definition of 'disease' in paragraph *(a)* and perhaps relate it to any case that might have given rise to the amendment?

The Hon. C.J. SUMNER: The definition of 'disease' which we seek to insert in the Act and which is contained in clause 3 is in the same terms as the definition of 'disease' included in the old Workers Compensation Act. We are not trying to do anything new: we are trying to return to the definition that then existed. It is fair to say that the honourable member will be able to make a critique of the definition. However, it is a definition which has been built up over a period of time no doubt based on legal, medical considerations and legal determinations on those medical considerations. The legal case in High Court which I have been referred to and which dealt with the question of disease is *The Commonwealth v Hornsby* (1960, 103 Commonwealth Law Reports, page 588).

The Hon. R.J. RITSON: I will not make a critique of it, because I understand that the law often has to build up artificial meanings of what are ordinarily common words dealing with the legal situations as they arise. Section 30 of the original Act, when read in conjunction with the definition clauses at the beginning of the Act, tries to distinguish between a disability involving, for example, an injury or some trauma, in which case compensation is granted as a matter of course if the disability occurred in relation to employment, and a disease in the sense of a condition which would normally be naturally occurring but which arises out of employment and where some causal relationship to employment can be established. Has this definition been inserted as a result of that case in an attempt to preserve that distinction?

The Hon. C.J. SUMNER: Yes.

The Hon. R.J. RITSON: Clauses 3 and 4 are in opposition to each other as a matter of principle. Under clause 3 the Government is trying to restrict 'disease' to what it was formerly meant to mean in the face of this court decision, to restrain and confine, as far as possible, the number of people who can be compensated as a matter of course without demonstrating a work related causality, that is, who receive compensation for a naturally occurring disease as is commonly understood. I think that is what the Government is trying to do.

Clause 4 provides that we can take a commonly occurring natural disease, namely coronary heart disease and, through the evidentiary presumption, we ensure that causation does not have to be established in the first instance by the worker. This closes one door and opens another in a way that is quite inconsistent. I just want to put the following to the Attorney-General: if we are looking at a cerebrovascular haemorrhage or thrombosis causing a stroke, clause 3(a) ensures that that is regarded as a disease and requires some causality whereas a coronary artery thrombosis or haemorrhage does not.

I guess that the Government is entitled to be inconsistent if, in regard to coronary artery disease, there is a particular pressure or the particular politics of heart attacks in the workplace. Really the truth is that, in the case of these arterial events, there is one disease widespread right throughout the body, that being atherosclerosis. It seems that it is a lottery as to whether the precipitating event that causes the claim happens in a coronary artery or a cerebral artery, because the Government is really saying that if one has atherosclerosis and it happens in a cerebral artery, then one does not get compensation without evidence of causation. However, if it happens in a coronary artery, then one does. I am not trying to move an amendment, so I will not speak for more than another minute. But, I just wanted to point out to the Attorney the way that these grow like topsy and get their internal inconsistencies as in matters of principle, and this one.

I do not know what the cost implication of future claims for cardiovascular disease will be. It will be significant, I am sure, and at the end of the day one will have to decide, as this Act grows by multiple amendment over the years—as I am sure that it will—and as the administrative work experience grows, whether to revise the whole legislation and restrict it to things which are really accidents at work caused by the nature of the injury, or whether it blends into social service and welfare in an indistinguishable way, as natural disease starts to be more and more compensable

through WorkCover, instead of through invalid pensions and such things. The difference between those two questions indicates the sort of schizoid nature of the legislation at this stage.

I look forward with interest over the years to see whether Governments will eventually be forced, by the sheer cost of industry, to trim it back to what it started out to be, namely, an Act to provide for accidents which were an inevitable consequence of the workplace, or whether they will allow things such as section 4 in relation to coronary artery disease to be extended to aortic disease, to peripheral vascular disease of the legs or, for example, to other areas of compensability, in areas of Veterans' Affairs claims. That has gone far wider than this.

It is not that one begrudges those heroes the care in their later years. However, this is a trend of all of this sort of legislation, as claimants argue before the body politic and before various tribunals for an extension here and an extension there. Eventually, it ends up to be what it was not meant to be in the beginning, but another branch of welfare. I point out that there is a glaring inconsistency between clauses 3 and 4 because they are both trying to do opposite things with the same disease, namely, atherosclerosis. I leave those comments on the record for future analysis.

The Hon. C.J. SUMNER: The honourable member may well be right, but what—

The Hon. R.J. Ritson: It is not a criticism of the Government or this Bill.

The Hon. C.J. SUMNER: I understand what the honourable member is saying, and I am not taking it as a criticism. I do point out that this Bill puts the definitions with respect to coronary artery disease, and disease generally, back to what it was before the Workers Rehabilitation and Compensation Act 1986 was introduced—that is, back to the definitions which existed in the old Workers Compensation Act. The honourable member may well be right, but there is some logical inconsistency in those definitions. That is not something that surprises me.

The Hon. R.J. Ritson: I appreciate the difficulties of responding.

The Hon. C.J. SUMNER: I am not being critical of you. I am just saying that that lack of logical clarity does not surprise me, because these Acts, particularly in the area of workers compensation, which provide benefits to people who are employed, tend to grow up a bit like topsy with benefits added from time to time as the people who are operating in the industry perceive there to be a problem.

A causal relationship with respect to the disease of arteriosclerosis still has to be established. The only difference is that under clause 4 (that is, new section 31, with respect to coronary heart disease, which is one manifestation of arteriosclerosis), if the heart attack occurs while the worker is actually at work, it will be presumed that the employment contributed to the disability in the absence of proof to the contrary.

So, it is an evidentiary provision. The causal nexus between the heart attack and the employment still must be established. Therefore, with respect to an injury as opposed to a disease, if it arises out of the employment or during the course of the employment, it is compensable. In respect of the disease of arteriosclerosis, there must be a causal nexus between the work and the disease. With respect to coronary heart disease, the clause presumes that the employment contributed to the disability, but it is still possible for the employer to prove that the contrary was the case.

The Hon. R.J. RITSON: The Attorney-General referred to heart attacks. The wording describing aggravation, acceleration, exacerbation, deterioration, etc, of pre-existing coronary heart disease does not necessarily require a heart attack as such. It might be that the angina slowly over months or years became more frequent. Almost every working man who suffered that sort of gradual exacerbation of symptoms such as angina could rely on the fact that it developed during the course of his employment.

As people discover what else that sentence can embrace, WorkCover may indeed find, as the lawyers discover the breadth of its application, that a wide variety of very slowly developing disabilities that do not have an episode at a point in time nevertheless will come into the ambit of this. I point out to the Minister that we are talking about the biggest single cause of morbidity and death, so the potential for claims expansion in that area is as yet unfathomed, although probably very great. I say that not critically but as a helpful warning to the Government that the day may come when we will see the Bill back here to have that part of section 31 of the principal Act trimmed back to its pre-1990 position.

Clause passed.

Clause 4 passed.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

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

CORONERS ACT AMENDMENT BILL

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

POLICE SUPERANNUATION BILL

The House of Assembly initimated that it had agreed to the Legislative Council's amendment.

REMUNERATION BILL

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

LIQUOR LICENSING ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

EQUAL OPPORTUNITY ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

LEGAL SERVICES COMMISSION ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

No. 1. Clause 6, page 2, line 5—

Leave out 'determined from time to time by the Commission' and insert 'from time to time determined by the Commission and approved by the Commissioner for Public Employment'.

No. 2. Page 2, after line 6, insert new clause 7 as follows:

Insertion of s. 18a

7. The following section is inserted after section 18 of the principal Act:

Legal costs secured by charge

18a. (1) Where, pursuant to a condition on which legal assistance is granted, legal costs payable to the Commission by the assisted person are to be secured by a charge on land, the Director may lodge with the Registrar-General a notice (in a form approved by the Registrar-General) specifying the land to be charged and certifying that legal costs are to be charged on the land.

(2) Where a notice is lodged under subsection (1), the Registrar-General must register the notice by entering a memorandum of charge in the register book or register of Crown leases.

(3) If the land to be charged is not under the *Real Property Act, 1886*, a notice specifying the land to be charged and certifying that legal costs are to be charged on the land may be registered in the General Registry Office.

(4) Where a notice is lodged with the Registrar-General or registered in the General Registry Office under this section, the Director must inform the assisted person in writing of the action so taken.

(5) On the registration of a notice under this section, legal costs payable to the Commission by the assisted person are a charge on the land for the benefit of the fund.

(6) If any default is made in the payments on account of legal costs, the Commission has the same powers of sale over the land charged as are given by the *Real Property Act, 1886*, to a mortgagee under the mortgage in respect of which default has been made in the payment of principal.

(7) Where the amount secured by a charge registered under this section is paid or recovered or the Commission determines that such a charge is no longer required, the Director must—

(a) in the case of a charge on land under the *Real Property Act, 1886*—request the Registrar-General to remove the charge;

(b) in the case of a charge on land not under the *Real Property Act, 1886*—register a notice of the removal of the charge in the General Registry Office.

(8) The Registrar-General must, on receipt of a request for the removal of a charge on land under the *Real Property Act, 1886*, register a memorandum of the removal of the charge in the register book or register of Crown leases.

(9) No stamp duty or fee is payable in respect of any notice lodged or action of the Registrar-General pursuant to this section.

Consideration in Committee.

Amendment No 1:

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

That the House of Assembly's amendment No. 1 be agreed to.

This amendment deals with the employment of persons by the Legal Services Commission and was debated at some length when this matter was previously before us. The provision in the Bill enables the commission to employ persons on such terms and conditions as are determined from time to time by the commission. The present situation is that commission employees are appointed on terms and conditions determined by the commission and approved by the Governor.

The Government considers that the commission should have the capacity to make its own appointments. However, the Government believes that, because the commission relies heavily upon public funding, either Federal or State Government funding, there ought to be some means of ensuring that the terms and conditions determined by the commission are consistent with the principles applicable within Government employment or, if not applicable to those terms, at least acceptable to Government.

At present the Governor is involved in approving terms and conditions of employing staff. To an extent, this is a matter of formality, but it retains some control in the Government over employment. The amendment provides for the commission to determine from time to time the terms and conditions under which persons will be employed. It also requires the Commissioner for Public Employment to approve those terms and conditions. It is in the nature of a compromise, compared to the alternatives that we were talking about when the matter was previously before us. It has been the subject of consultation with the Director of the Legal Services Commission. She will not now raise any objection to the amendment in this form in the light of the importance of this Bill passing the Council.

The Hon. K.T. GRIFFIN: The debate on the issue has been an extensive one. I am pleased that at least there has been some concession to the views which were expressed by the Liberal Party on the control over commission staff. The amendment is certainly an improvement on what was in the Bill. I do not think it really goes as far as we would like to see it go, so it is not ideal. However, in the circumstances of the improvement we will not raise any objection now to the amendment proposed by the House of Assembly. In relation to the second amendment, it is a formality; we have supported the statutory charge, and we are pleased that that now becomes part of the Bill.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

That is the actual insertion of the money clause that left this Chamber in erased type.

Motion carried.

STATUTE LAW REVISION BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

Returned from the House of Assembly without amendment.

CONSTITUTION (ELECTORAL DISTRIBUTION) AMENDMENT BILL

The House of Assembly requested that the Legislative Council give permission for any of its members to attend and give evidence before the Select Committee of the House of Assembly on the Constitutional (Electoral Redistribution) Amendment Bill if they so desired.

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

That the Council give leave for any of its members to attend and give evidence before the select committee of the House of Assembly on the Constitution (Electoral Redistribution) Amendment Bill if they think fit.

Motion carried.

ELECTRICAL WORKERS AND CONTRACTORS LICENSING (1987 AMENDMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 April. Page 1348.)

The Hon. J.F. STEFANI: The Opposition supports the Bill. Legislation was introduced in 1987 to recognise licences

of qualified registered electrical workers between South Australia and other States. The legislation was in line with a national reciprocity agreement which allowed qualified electricians to work interstate without the formality of registration in each of the States where they undertook work. South Australia assented the Act in April 1987 to facilitate the procedure. Unfortunately, the Act could not be proclaimed, as some of the other States had not enacted similar legislation.

In 1988, ETSA published a notice in the *Gazette* announcing the reciprocal arrangements. However, as the Act had not been brought into operation, this left the possibility that liabilities arising from work done by electricians licensed in other States might not be covered by insurance if the installation failed. This Bill will correct the administration error and will bring the Act into operation from 7 July 1988. The Liberal Opposition supports the Bill.

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

SUMMARY OFFENCES ACT AMENDMENT BILL

At 1.3 a.m. the following recommendations of the conference were reported to the Council:

As to Amendment No. 1:

That the Legislative Council amend its amendment by leaving out the word 'justice' and inserting in lieu thereof the word 'magistrate'.

and that the House of Assembly agree thereto.

As to Amendment No. 3:

That the House of Assembly do not further insist on its disagreement to this amendment.

As to Amendment No. 4:

That the Legislative Council amend its amendment by substituting the following subsection for proposed subsection (9):

'(9) The Commissioner must, as soon as practicable after each successive period of three months following the commencemnt of this section submit a report to the Minister in relation to that period stating—

(a) the number of authorisations granted under this section during that period;

(b) in relation to each authorisation granted during that period—

(i) the place at which the establishment of a roadblock was authorised;

(ii) the period or periods for which the authorisation was granted or renewed;

(iii) the grounds on which the authorisation was granted or renewed;

(c) any other matters the Commissioner considers relevant.'

and that the House of Assembly agree thereto.

As to Amendment No. 6:

That the Legislative Council amend its amendment by leaving out the word 'convicted' and inserting in lieu thereof the words 'found guilty'.

and that the House of Assembly agree thereto.

As to Amendment No. 7:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Page 4 (clause 5) after line 7—Insert the following subsection:

(5a) Subsection (5) *(a)* does not apply to—

(a) a person if it is reasonably necessary for the person to enter the area, locality or place in order to protect life or property;

(b) a representative of the news media, unless the member of the police force who gave the warning believes on reasonable grounds that the entry of the representative into the area, locality or place would give rise to a risk of death or injury to any person other than the representative and advises the representative accordingly.

and that the House of Assembly agree thereto.

As to Amendment No. 8:

That the Legislative Council amend its amendment by substituting the following subsection for proposed subsection (8):

'(8) The Commissioner must, as soon as practicable after each successive period of three months following the commencement of this section submit a report to the Minister in relation to that period stating—

(a) the number of declarations made under this section during that period;

(b) in relation to each declaration made during that period—

(i) the area, locality or place in relation to which the declaration was made;

(ii) the period for which the declaration was in force;

(iii) the grounds on which the declaration was made;

(c) any other matter the Commissioner considers relevant'.

and that the House of Assembly agree thereto.

As to Amendment No. 10:

That the Legislative Council amend its amendment by substituting the following subsection for proposed subsection (6):

(6) The Commissioner must, as soon as practicable (but not later than three months) after each 30 June submit a report to the Minister in relation to the year ended on that 30 June stating—

(a) the number of authorisations and warrants granted under this section during that year;

(b) the nature of the grounds on which the authorisations and warrants were granted;

(c) the type of property taken from premises pursuant to warrant under this section;

(d) any other matters the Commissioner considers relevant.

and that the House of Assembly agree thereto.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

I will vote on the recommendations *en bloc* and explain them separately. The first area of disagreement has been resolved by the conference agreeing that an extension of the initial 12-hour period for a roadblock shall be granted by a magistrate rather than a Justice of the Peace. In respect of amendment No. 3, the House of Assembly did not insist on its disagreement to this amendment, which dealt with the question of the search that was able to be conducted by the police at a roadblock. It was agreed that the search by the police at a roadblock could include a search for, and the apprehension of, persons where there was evidence that did not specifically relate to the roadblock.

Amendment No. 4 dealt with the reporting mechanism for roadblocks. It was agreed that the report should be every three months; that there should be specifics as to the report—the number of authorisations—and, in relation to each authorisation granted during that period, the place and the period of the authorisations and the ground on which the authorisations were granted (that is, a Police Commissioner's three monthly report).

Basically, the original Bill did not refer to reporting and, essentially, we have accepted the obligation that there needs to be a report. However, we have extended the time from seven days, which was the Legislative Council's proposition, to three months.

Amendment No. 6 deals with a person who enters a dangerous area and the question of compensation that might have to be paid by the person who enters the dangerous area and causes difficulties which cost the State money. It was agreed that the Legislative Council's amendment would be upheld except that the person might be liable to pay compensation, not if they were convicted of an offence but if they were in fact found guilty of an offence.

Amendment No. 7 caused the most difficulty in the conference. After some fairly detailed consideration of it and some work on the drafting by the Hon. Mr Griffin, which the conference and the Council should acknowledge, the proposition finally agreed was that an offence would be committed if a person entered a dangerous area after receiving a warning from the police, but that that offence provision would not apply if a person entered the dangerous area

for the purpose of protecting life or property, and it was reasonably necessary for the person to do that.

In particular, with respect to the media, the offence is not committed when a warning is given to the media representative that entering the area would give rise to the risk of death or injury to a third person, if a representative of the media enters the dangerous area. So, that frees up significantly access of the media to a dangerous area, but it makes clear to the media that, if there is the risk of death or injury to a third person, and a warning is given to the media to that effect which is ignored, then an offence may be committed.

If the media enter the dangerous area, and the only risk is to themselves, no offence would be committed under that provision. I think that has accommodated the concerns expressed in that area. There may be problems with the practical operation of this provision relating to dangerous areas because, under the original proposition, the police had absolute power to prevent entry into a dangerous area.

The Hon. K.T. Griffin: To give a warning.

The Hon. C.J. SUMNER: To give a warning. If a person entered once that warning had been given, an offence would be committed. Such a person would be prevented not physically, but by threat of an offence. That was clearcut.

The compromise proposition from the House of Assembly—I am not sure that it was dealt with in the Assembly, but it had been floated—was that the police should be able to allow persons, citizens or the media to enter the dangerous area under certain conditions and that control would rest with the police officers at the scene. In my view that was a more clearcut way of dealing with the matter but, in the final analysis, the proposition that I have outlined was agreed to. If there are any difficulties with the operation of this provision, we may need to reconsider it in future.

Amendment No. 8 deals with reporting in relation to a dangerous area situation. Again, the reporting is on a three-month basis. Amendment No. 10 deals with reporting of the forced entry. In that situation, the reporting is not as stringent as for roadblocks or dangerous areas. The commissioner must give a general report, but only an annual report is necessary under that provision.

I have outlined as briefly as I can the results of the conference and the reasons therefor. I think that the reporting mechanisms which have been inserted into this measure now are too onerous and have the potential to be too bureaucratic, given the number of such incidents which occur each year with which the police have to deal. I would have preferred a more general reporting provision that the Police Commissioner could have incorporated in his annual report, but the agreement is for a fairly particularised reporting every three months. I indicated earlier that the number of such events—for example, roadblocks—in a 12-month period is about 100, and there was a number of examples of other dangerous incidents. I do not see the need for the stringent reporting procedures that we have put in. I think they may turn out to be overly bureaucratic. However, the conference has agreed to them and I have agreed to them to resolve the impasse that resulted in this matter.

The conference also agreed that I could make this view known to the Council and add that the Government would want to review the reporting procedures in a couple of years to see whether they prove to be bureaucratically too onerous. In any event, I suppose it would be reasonable to review the operation of the Act at that time. That is not an undertaking for a formal review; it is an indication that the Government may believe it is necessary to introduce amendments to these provisions at some stage in future when they have been operating for some time. In particular, I direct attention to what may be somewhat onerous provisions relating to reporting.

With those remarks, I commend the motion to the Committee, and I thank honourable members who participated in the conference and, in particular, the Hon. Mr Griffin for his work on the drafting of the most difficult issue that arose, namely, amendment No. 7.

The Hon. K.T. GRIFFIN: I support the motion. The Attorney has concisely identified the substance of the amendments, and I have no reason to differ from the remarks he has made in respect of the amendments. Members on this side of the Council started from the premise, as did the Government, that it was necessary to provide a codification of the law relating to roadblocks, the declaration of dangerous areas and the breaking into property in certain circumstances to provide for the police a clearer indication of their rights and powers.

While this may not in the true sense of the description of codification bring together all the powers of the police in relation to the stopping of traffic, for example, it nevertheless provides a more extensive codification of the law rather than police having to rely on the common law.

So, starting from that premise, we then considered what checks and balances should be placed in the legislation. During the course of the consideration of the Bill the Legislative Council proposed a number of controls. Some of those have been modified, as the Attorney has indicated. For example, the reporting requirements have been modified from the very strict seven days report of an authorisation for a roadblock and for a declaration of a dangerous area out to a quarterly reporting regime.

As to the breaking into of property, an annual report is adequate because the nature of the power is much less controversial than that relating to roadblocks and declarations of dangerous areas. As the Attorney has indicated, we gave detailed consideration to amendment No. 7, which relates to the rights of persons to enter an area declared by a senior police officer as a dangerous area. It is a sensitive and perhaps controversial area in respect of the extent to which police should have power to prevent access to areas that they may declare to be dangerous.

I suppose the most sensitive area is in relation to a drama such as a siege, the taking of hostages or maybe a car bomb or some other similar situation of danger. It is quite obvious that there do need to be some controls by police over access to an area around that dangerous locality. The Bill gives that power to the police and imposes the sanction of a conviction and payment of compensation where a rescue is necessary.

In the area of natural disasters, bushfires, earthquakes and floods, the access to the area is more difficult to control, and it is recognised that some people may have an urgent need to enter that locality to attempt to rescue a person who may be within that area. There may be a need for a person who knows the area better than firefighters or police and who has a better prospect of rescuing a person to enter the area, and that is accommodated.

The powers and rights of the media are specifically referred to. In a sense, they take it upon themselves to enter a dangerous area. They accept the risk, but the police do have power to indicate to a member of the media that an area is dangerous and to give a warning that entry would give rise to a risk of death or injury to any person other than the media representative. Then, if the media representative goes ahead and takes that risk, a prosecution may follow, and there would be no defence to that.

Under the scheme of the original Bill, as the Attorney-General indicated and as was clarified by way of interjec-

tion, there is no power to physically prevent a representative of the media entering a dangerous area, but there is that sanction in relation to a prosecution and compensation. However, the rights of the news media are very broad in this context and are qualified only in those circumstances where there is a risk of death or injury to any person other than the media representative by entering that dangerous locality.

It has been put to us on a number of occasions that in a siege situation, for example, it may be with a highly tense person who is conducting the siege that movement by media may trigger a reaction which could threaten the safety of hostages. So, there is a reasonable balance in this Bill with the amendments which have been proposed between the powers of the police and the clarification of those powers, on the one hand, and the rights and freedom of individuals and representatives of the news media on the other hand. The Attorney-General has indicated that he believes that the reporting procedures may be too bureaucratic. With respect, I would not agree with that, but I acknowledge that if problems do arise in relation to that procedure—the requirements placed on the police—we should be in a position to review their operation.

In respect of amendment No. 7 and, in fact, the whole Bill, because it is relatively novel legislation, particularly in so far as it deals with declarations of dangerous areas, I would be the first to acknowledge the need to keep its operation under review so that it does not unduly hamper police in the legitimate exercise of their responsibilities to the community. I would hope that the Government sees that that occurs. I join with the Attorney-General in expressing my appreciation to those who participated in the conference for their preparedness to discuss the matter rationally and reasonably and for the assistance of Parliamentary Counsel and other officers. I commend the agreement of the conference to the Legislative Council.

The Hon. I. GILFILLAN: I would like to add my support for the recommendations of the conference to the Legislative Council and commend those who were involved in arriving at what appears to me to be an eminently satisfactory resolution of the disputes that went into the conference. There is nothing further for me to add to previous comments from the Attorney and shadow Attorney. It is legislation which I believe is new, possibly on a world basis and certainly in Australia, in its scope, and it would properly be subject to review in the way it works and in its various aspects. I congratulate those who took part in the conference for their patience and good nature under very trying circumstances, and recommend the amendments to the Council.

Motion carried.

ADJOURNMENT

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

That the Council at its rising do adjourn until Tuesday 15 May.

The Premier was most inconsiderate last year when he called an election without letting the Parliament know that he was going to do so, so that we were unable to have the customary end of year adjournment motion to thank various people for their assistance to Parliament during this past year. I should like to take the opportunity now to thank everyone involved in the operation of the Chamber last year and also during this session, which began in February and which, of course, is the first session of the third Parliament of the Bannon Government.

It has been a reasonably productive few weeks since commencing in February, and I should like to thank the officers of Parliament, in particular the table clerks, although I note that Mr Mertin is absent owing to ill health. I trust that that is only a temporary situation. I should like to thank him, as the Clerk, the Black Rod (Jan Davis), and the other table officers for their work. In the last few days of a session, in particular, the workload is quite heavy for them, and I should like to thank them for their continuing cooperation.

The same applies to the messengers—who, like us, are starting to look a little bleary-eyed but who soldiered on well over the past few days, in particular. The *Hansard* staff are essential for our operation, and I thank them for their efforts during the year and particularly during the past few days; likewise, the catering, library and other support staff in the Parliament. On behalf of the Government and the whole of the Council, I should like to express our thanks for their efforts over the past year and, in particular, during this first session of this Parliament.

The media—at least, some of them—have sat it out with us, and we should like to thank them for the good and the bad they have been able to report about us over the past couple of months. I particularly wish to thank them for the good they were able to report about us during the last election campaign—although some might say that that was being overly generous. In the final analysis, it could not have been too bad, because the Government finally won the election. I trust that I have covered everyone who has operated in and about Parliament. If I have not, certainly, I intended to do so.

While I am on my feet and have some time to go before we receive the final message from the House of Assembly, the other matter is the issue that was raised during a similar adjournment debate last week, when certain complaints were made by the Hon. Mr Lucas (Leader of the Opposition) and the Hon. Mr Elliott about the conduct of business in the Parliament, in particular in the past few days. I would put to them that, in fact, the dealing with business at the end of this session has been better than it has been probably for most other sessions, that I have been involved with since I have been in the Parliament over the past 15 years. Regrettably, for some reason (and it is regrettable, but it occurs), there is always a buildup of legislation towards the end of a session. In this case, however, I point out that we did not have to sit beyond midnight on any night except tonight, the last night, and that we were able to accommodate all the business in a reasonable way by sitting on a couple of occasions on a Thursday morning. We did agree at one stage to sit on a Friday morning, and that would have assisted the process.

In the last two or three weeks of a session, members should be expected to sit on Thursday evenings, Thursday mornings and, perhaps on the odd Friday, to clean up the business. I do not think that is too onerous a task to expect of members. Certainly, in the Federal Parliament, for instance, the Senate sits for two weeks or more—sometimes three weeks—beyond the period of the House of Representatives sitting and it sits in the morning, the afternoon and the evening.

So, I only make the point that, despite the complaints that were raised by the Hon. Mr Lucas and the Hon. Mr Elliott, I believe that on this occasion we have been able to deal with the business in a reasonably civilised manner, certainly without sitting for several days in a row into the small hours of the morning. I would point out that the Government did not press on with six Bills, which remain on the Notice Paper. They were introduced but were not

proceeded with because of the pressure of time. However, we got through the major Bills.

I notice the Hon. Mr Lucas raised a number of issues and said that there were certain procedures that the majority in the Chamber could adopt, if the majority chose to do so at the end of the next session. I am not quite sure what the honourable member had in mind about that. He said that the situation in which we found ourselves on this occasion ought not to be allowed to continue for future sessions. Again, I am not sure quite what the basis of the complaint was, because I think that on this occasion matters have probably been dealt with better than on virtually any other occasion towards the end of a session. If the honourable member is suggesting that there need to be some changes to Standing Orders, some proposals were debated some years ago which would have imposed time limits on speeches and a number of other suggestions of that kind were made that would restrict prolix debate on issues.

However, I am not sure that we need to go down that track. As I said, I think that on this occasion the legislation was dealt with reasonably expeditiously and without too many late night sittings. If the Government is at fault, perhaps I could also point to members opposite who, today, in private members' time, introduced two or three substantive motions for debate.

Apparently, if the Government introduces material in the last week or so of the session it is to be criticised, but, if the Opposition introduces material on what is effectively the last day of sitting, that is satisfactory. Are you going?

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: We have not finished; we have not put the message yet. I am glad that I did not thank him for his cooperation during the course of my speech. In spite of the fact that he has three staff, he still does not know how to be civil.

Members interjecting:

The Hon. C.J. SUMNER: Perhaps members opposite would like one of the Democrats' staff and perhaps that is something that we might consider if the Hon. Mr Gilfillan insists on walking out in the middle of my thank you speech. With compromise, did achieve what we set out to achieve on the amount of material that we got through with the Government dropping six Bills, and we did get through the program with the cooperation of members opposite and the Australian Democrats. I thank members for their cooperation which, contrary to expectations last week, saw the legislative program of the Government and, indeed, the legislative program of members opposite, fulfilled.

The Hon. R.I. LUCAS (Leader of the Opposition): I am pleased to support the motion and, in the interest of ending the session in good humour and cheer, I do not intend to pursue the detail of the latter part of the Attorney's response. I just want to make two comments. First, there were a number of suggestions that, in the contributions from me and the Hon. Mr Elliott, perhaps during the next three or four months the Government, the Liberal Party and the Australian Democrats might explore ways of making the last days of the session less onerous for not only honourable members but also table staff, messengers and other staff. Indeed, that offer remains and I hope that we could use some of that three or four months to look at some options—not in a threatening manner—to see whether we can improve our procedure as a Parliament for those last few days.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Davis suggests that it would help if we had more staff. But, again, we will not pursue that matter. I will make only one other comment in relation to the latter part of the Attorney's address and that is that it is true that we got through much of the legislation. However, I intended to speak on the WorkCover legislation, and to participate in the Committee stage as I have done on previous occasions but, because of the pressing nature of the end of the session, I chose on that occasion, as I did on one or two other occasions, not to participate. Other members from the Liberal Party—

Members interjecting:

The Hon. R.I. LUCAS: As did members on the other side, because I know that at least two or three members have very strong views on WorkCover that they wanted to share. A number of members opposite who have strong views on WorkCover would have loved to get to their feet and express those views.

The Hon. Mr Roberts and others were champing at the bit to get into the WorkCover debate. That is what the Parliament ought to be about. With a Bill as important as one involving WorkCover, members on both sides, whether Government backbenchers, Opposition backbenchers or Independent members, ought to have the opportunity to put their views and have a good, healthy, free exchange, with a few interjections allowed on occasions. I think that we should bear in mind that we got through it, but that a number of members, in a productive and harmonious fashion, were prepared not to involve themselves in debates on certain pieces of legislation.

On behalf of Liberal members in the Chamber, Mr President, I thank you for your general good humour and consideration during this session and certainly, on most occasions, for staying awake and alert even during the most boring of contributions that some of us might have made on particular pieces of legislation. On behalf of Liberal members, I thank you for all that you have done not just in the Chamber but in defending the independence and role of the Legislative Council in various discussions.

An honourable member interjecting:

The Hon. R.I. LUCAS: And, I am reminded, defending the integrity of the Legislative Council snooker room. On behalf of members on both sides of the Chamber, I thank you for that. I trust that you will continue with that very strong defence that you have shown when that room has been under attack from others in the Parliament.

I join the Attorney in thanking the table staff and the messengers in the Council for all that they have done for us.

The Hon. T. Crothers: And absent friends?

The Hon. R.I. LUCAS: Mr Mertin, certainly, an absent friend. I thank all of them for what they have done for all members. We appreciate it. Again, it is not just what they do for us in this Chamber, but what they do for us by way of advice and assistance with our jobs generally.

For those members who have not been at the *Hansard* party this evening, the length of the speeches that the Attorney and I deliver is of more than usual interest to the *Hansard* staff. There is a sweep going on in *Hansard* about the time of the adjournment of Parliament. I am on a commission for about 1.50 a.m. One member of the *Hansard* staff put down 3.30 a.m., but I was not prepared to accept the considerable donation that she was prepared to make to the Lucas family trust fund to ensure that this adjournment debate went on until 3.30 a.m. The time of 1.50 was attractive, and I am on a commission basis for that.

I also thank the members of the media who are still here, in particular, the *Advertiser* and ABC radio. It is an in-joke, which I will explain to others afterwards, but I indicate to members of the *Advertiser* staff that I intend to grow a

beard before the next session. As I said, I will explain that later to those who might be interested.

I also join the Attorney in thanking all the other staff in the Parliament who assist us: catering staff, library and caretakers. In particular, I thank Parliamentary Counsel. All of us who are involved in debates on various pieces of legislation are grateful for their help. In my case, trying to grapple with the intricacies of the Stamp Duties Act during the last two to three weeks, I shall be for ever indebted for the advice and good humour of Parliamentary Counsel as they have guided me through the consideration of clauses and amendments.

I also thank the Attorney, as Leader of the Government in this place, and Ms Pickles, the Government Whip, and other members—but those two in particular—for their consideration of the views that have been put forward by the Liberal Party on occasions in relation to the procedures of the Council.

We may not have always agreed, but that is always going to be the case in the parliamentary system. I want to put on the record my thanks to the Attorney-General and the Hon. Ms Pickles as Whip for their assistance and consideration in getting us through this session in a relatively productive and harmonious fashion. With that, I indicate my support for the motion and I think that four minutes away from 10 minutes to 2 o'clock will mean that a particular member of the *Hansard* staff is a comfortable victor.

The Hon. M.J. ELLIOTT: It has fallen upon me this evening—

The Hon. Anne Levy: You have an hour and three-quarters.

The Hon. M.J. ELLIOTT: I suppose that this is the time to take up such challenges.

The Hon. C.J. Sumner: Where's your Leader?

The Hon. M.J. ELLIOTT: He probably has more sense than the rest of us, I suggest. I will attempt to keep this brief. I would like to thank everyone. If I do not, they would probably think that we do not appreciate their efforts. I thank the table staff, the messengers in this place, *Hansard* and the media. We have a cow of a job, and their job in having to sit and listen to all this is a damn sight worse. We appreciate their efforts and I must say that, despite the very strong disagreements we have in this place, it is pleasant that people are generally still amicable once we get out of the Chamber. That is the way it should be.

I believe that our procedures could work better. We have survived the end of this session, we have got through things, but we could have done things better. I would like to see the load transferred earlier in the session. Had that been the case, some of the later legislation would have come out better than it did, and I hope that that aspect will be looked at. I support the motion.

The PRESIDENT: I believe I should get into the act, too. My comments will be brief. I just want to add to the comments of the Leader of the Government, the Leader of the Opposition and the Hon. Mr Elliott in congratulating and thanking the staff for the work that they have done. I cannot pick out any staff in particular—they have all been superb in the effort that they have made. What happens in the Chamber is only part of the action that happens within the Parliament. Something is going on all the time, and it is like an iceberg: one-tenth is on top and the other nine-tenths are what is going on underneath, or behind the scenes.

However, one matter concerns me, and eventually the Parliament as a whole and the Government and Opposition will have to come to grips with the accommodation problems that we are experiencing. It may seem petty when we meet with the other House and try to resolve the situation as to where members and staff should be located. Everyone knows the conditions in which the staff work: we even have them working in the corridors. While they seem big and roomy corridors, they were never designed as workrooms and facilities for such a purpose. Therefore, there is an enormous amount of pressure.

Perhaps it seems to the public that we are petty when we cannot get together as two Houses. However, I can assure members—and the staff know this—that the two Houses have got together and are acting in a very cooperative manner, more so than I can ever recall. But, that still does not resolve the pressures of space within the Parliament.

I would like to thank everyone, especially honourable members, for the cooperation they have given. During the time that I have been in the Chair there has been no bitterness or unpleasantness evident in the Council. There has been the usual toing and froing and the free and easy exchange of ideas; the volume of conversation across the Chamber has been high, but it has never been nasty or unpleasant. Certainly, I have never had to be heavy-handed to try to bring the Chamber to order. All members respect the parliamentary privileges, and my view is that, as long as something is to be done, all honourable members of the Council should be involved in the decisions to be made. That has been my position in the past and I hope to continue it in the future.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL

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

SUMMARY OFFENCES ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

ADJOURNMENT

At 1.51 a.m. the Council adjourned until Tuesday 15 May at 2.15 p.m.