LEGISLATIVE COUNCIL

Thursday 31 October 1991

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

JUSTICES AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of long title.'

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

Page 1, line 17—Leave out 'magistrates courts' and substitute 'the Magistrates Court'.

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

Clause 6—'Interpretation.'

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

Page 2, line 6—Leave out 'proclamation' and insert 'regulation'.

The amendment deals with the definition of 'industrial offence', which means a summary offence declared by proclamation under this Act to be an industrial offence. My amendment is to change 'proclamation' to 'regulation'. I recognise that 'proclamation' has been a feature of this definition for some time but, in view of the substantive changes that are being made generally, it ought to be changed to 'regulation', which then makes it at least reviewable by the Parliament.

The Hon. C.J. SUMNER: The Government has no objection.

Amendment carried.

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

Page 2—

Line 14—Leave out 'definition' and substitute 'definitions'.

After line 15—Insert 'definition' as follows:

'offence of violence' means an offence where the offender—

(a) uses a weapon, or threatens to use a weapon, against another;

or

(b) inflicts serious injury on another,

or threatens to inflict serious injury on another, for the purpose of committing the offence, or escaping from the scene of the offence:.

Under the Bill, the reclassification of a number of offences of dishonesty downwards should be limited to cases in which the offence is not aggravated by the use of force. This new definition is designed to give some guidance to the courts as to the meaning of that limitation.

Amendments carried; clause as amended passed.

Clause 7—'Industrial offences.'

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

Page 2, lines 34 to 39—Leave out all words after 'repealed' in line 34.

This amendment is consequential upon the amendment to change 'proclamation' to 'regulation' in clause 6.

Amendment carried; clause as amended passed.

Clause 8—'Categorisation of offences.'

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

Page 3, line 2—Leave out 'categories' and substitute 'classes'.

This is a drafting amendment.

Amendment carried.

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

Page 3, lines 10 and 11—Leave out paragraph *(c)*.

This amendment removes the specific reclassification of common assault in this section because the Statutes Repeal and Amendment (Courts) Bill lowers from three years to two years the maximum penalty applicable to the offence, hence removing the need to separately reclassify that offence.

The Hon. K.T. GRIFFIN: There will be other amendments later which pick up this issue, but I am certainly happy to support the Attorney's amendment. I move:

Page 3, lines 10 to 14—Leave out paragraphs *(c)* and *(d)*.

I wish to delete paragraph *(d)* as well as paragraph *(c)* because I do not believe that it is appropriate to remove those offences of dishonesty from the category of minor indictable offence. I recognise that some of them are already summary offences but some are already offences of an indictable nature.

During the second reading stage, I received a rather caustic response to an observation I made about offences of dishonesty. The response was that there is no such offence as dishonesty. I recognise that, but whoever prepared the reply for the Attorney-General misunderstood the context in which I raised the issue and probably did not read *Hansard* accurately, because I used the description that was actually in the Bill—an offence of dishonesty. Anyone with any basic knowledge of the law knows that there is no specific offence of dishonesty. I must confess that I did not appreciate the caustic response. Notwithstanding that, we have kept our observations generally on an amicable and amiable level, and now I have got that off my chest I intend to continue on that course.

However, it is important not to limit further the right of an accused person to elect in those matters which are currently minor indictable offences to be tried by a judge with a jury if the person so wishes. Offences of dishonesty range over a very wide field. Quite obviously, they will have a significant impact on citizens who are so charged. That impact will vary from person to person. If a lawyer, for example, were charged and convicted in relation to an offence of dishonesty, that would probably result in that lawyer being removed from the roll. Quite obviously, it will affect the job prospects of people in positions of trust more than it will affect a person who is perhaps a labourer.

Although the majority of these sort of cases have been tried summarily with the concurrence of the accused person and there may be a handful of cases that go to a jury, I do not believe that we ought to move to limit the right of those few people, who feel so strongly and who have so much to lose from a conviction, to have the issue tried before a jury.

For those reasons I oppose paragraph *(d)*. I believe that the limitations in paragraphs *(a)* and *(b)* are adequate to deal with the definition of summary offences, and to broaden it to areas of dishonesty in the way in which paragraph *(d)* seeks to do deprives citizens of rights which they ought to be able to exercise and which, for them, are important rights because of the potential consequences. I do not think they are trivial or minor. People of integrity who are wrongly charged will feel that these are anything but trivial or minor and that they ought to have the opportunity to be judged by their peers in a jury trial.

For those reasons I believe paragraph *(d)* ought to be removed from the Bill. I do not see any serious consequences for the courts or court administration if that paragraph were removed. The bulk of the ordinary summary offences will be picked up anyway by paragraphs *(a)* and *(b)*.

The Hon. C.J. SUMNER: This amendment is opposed. Under the existing law the current classification of offences in the Justices Act means that the following are now summary offences: any offence relating to property the value of which does not exceed $2 000 and any offence involving the stealing of cattle, deer, llama or alpaca; goods in the process of manufacture; and a whole range of other larceny

offences where the value is less than $2 000. So, they are currently dealt with as summary offences. They are offences of dishonesty.

The provisions which are sought to be deleted generalise this classification so that it is consistent over the whole range of offences of dishonesty. The monetary limit, which is the cut-off point, remains at $2 000 which is the cut-off point under the present law for a number of so-called dishonesty offences. If this amendment is carried, the classification of offences will revert to what was the case in the last century and, in our view, that will be contrary to the scheme being introduced by this legislation, namely, that there be a uniform standard, no matter what dishonesty offences are being discussed, where $2 000 is the cut-off point.

The Hon. K.T. GRIFFIN: Stealing a llama or alpaca is quite different from being charged with shoplifting or with some form of embezzlement or fraud, which are very serious offences.

The Hon. C.J. Sumner: What about stealing goods in the process of manufacture and the whole range of other larceny offences?

The Hon. K.T. GRIFFIN: You did not identify those. If we maintain the *status quo*, that is fine. However, what the Attorney-General seeks to do by this amendment is to broaden it quite significantly, and that is what concerns me, particularly in relation to the sorts of offences which can have a very significant impact on the reputation and work of those who might be wrongly charged.

The Hon. I. GILFILLAN: It seems that we have a structural situation in which both the Attorney and the shadow Attorney want to delete paragraphs *(c)* and *(d)*.

The Hon. K.T. Griffin: No, I am *(c)* and *(d)* and the Attorney-General is *(c)*.

The Hon. C.J. Sumner: We are both common on *(c)*.

The Hon. I. GILFILLAN: But the Attorney-General seeks to delete *(d)* and replace it, does he not? Perhaps I am wrong in my interpretation of that. In fact, the Government wants to keep paragraph *(d)* as is?

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

The Hon. I. GILFILLAN: Would the Attorney or shadow Attorney give me an indication of what would be the restriction on those offences of dishonesty that could be heard as a summary offence if, indeed, the Hon. Trevor Griffin's amendment to delete paragraph *(d)* is effected? From the discussion to date, I do not understand what would be the change.

The Hon. K.T. GRIFFIN: The issue is whether an offence must be a summary offence, and those offences contained in paragraph *(d)* will be summary offences, or whether the offences covered by paragraph *(d)* should be indictable offences which will give the accused person an opportunity to elect to be tried either summarily or by a judge with jury. What the Attorney is arguing is that this broadens the category to include all offences of dishonesty where the offender stands to gain through the commission of the offence something like $2 000 or less.

The Hon. I. Gilfillan: Does it remove from the offender the option to choose?

The Hon. K.T. GRIFFIN: In relation to the offences included in paragraph *(d)*, it removes the offenders' option to be tried by jury—they will be dealt with summarily.

The Hon. C.J. SUMNER: Of course, this amendment will totally overturn the structure of classification of offences that the Government is seeking to achieve. In this area we are trying to rationalise the situation so that there is a rational determination as to whether issues will be dealt with summarily or by judge and jury. At present it is a totally irrational system. For instance, there is an offence such as shoplifting. If a 25c pencil is taken with the intent to deprive the owner of the shop of that article permanently, it is a minor indictable offence and can, at the election of the accused, go before a judge and jury. On the other hand, a large number of other offences which are much more serious than that are dealt with summarily.

Even within the current classification of offences, for instance, under section 171 of the Criminal Law Consolidation Act, any person who breaks and enters any buildings referred to in section 170 or any place of divine worship with the intent to commit any felony therein shall be guilty of felony and liable to be imprisoned for a term not exceeding seven years. Under the current classification of offences that is dealt with summarily. It is simply not logical. We are saying that that would no longer be dealt with summarily as a right—it would depend on whether violence was involved, on the amount of money—

The Hon. K.T. Griffin: One of the keys to this is what is meant by 'dishonesty'; it is a pretty loose description.

The Hon. C.J. SUMNER: Another offence that is currently a summary offence is larceny in a dwelling house. Any person who steals in any dwelling house any chattel, money or valuable security shall, if the value of the property stolen amounts to $10 or more, or if he by any manner or threat puts any person being in the dwelling house in bodily fear, be guilty of a felony and liable to be imprisoned for a term not exceeding eight years.

The Hon. I. GILFILLAN: I do not need to have examples brought forward at this stage and I respect the effort the Attorney is putting in to give them. The point I would like clarified is that there is a right of appeal to an offender found guilty to a higher court.

The Hon. C.J. SUMNER: Yes.

The Hon. I. GILFILLAN: In those circumstances, I will oppose the intention of the amendment of the Hon. Trevor Griffin in this matter. It appears to me that the Government's position is following its macro pattern of rationalising the offences, and for that reason I will oppose the amendment.

The Hon. K.T. GRIFFIN: I am very disappointed because it means that, although my amendment might override some of the current provisions, the Government's amendment significantly reduces the right of an accused person to have a trial by a jury for offences that have not previously been summary offences. That is the issue; it is not a question of rationalisation. It is a question of what rights are being removed. Although we can use trivial pencil-type cases, nevertheless it covers pencils and, maybe, a thousand pencils—up to a value of $2 000 (they are very expensive pencils).

The difficulty is that we are depriving people who currently have a right to elect to be tried by jury of that right to do so. When we deprive people of existing rights it seems to me that we have to be very cautious about doing it and do it only in those instances where there is an overwhelming argument in favour of it. There is no overwhelming argument in favour of removing the existing rights of an accused person to be tried by a judge with jury. All we have is the concept of rationalisation, but I suggest that that is an inadequate reason for seeking to remove rights. It is all very well to say that there is a right of appeal, which from a magistrate will be a right to rehear evidence and to hear new witnesses, but one is depriving a person of a right to be judged by a jury of his or her peers—the best judges of fact. One is giving that responsibility, in one instance, to a magistrate and, on appeal, to the Supreme Court.

That is the issue that concerns me. If total rejection of paragraph *(d)* means some offences that are currently summarily dealt with and with no right for a jury trial, then so be it. However, we can adjust that in part of the overall review if the principle is established, and I would argue very strongly that the principle ought to be established and that the *status quo* in relation to the right to be tried by judge and jury ought to be maintained and we ought not to deprive individuals of that right only on the basis of rationalisation within the courts. That is the issue, and I feel very strongly that we should not take that course of removing existing rights. I am disappointed in the Hon. Mr Gilfillan's expression of view because I understood that he and his Party also held very strongly to the view that existing rights, generally speaking, ought not to be removed.

The other issue of concern to me goes back to what I said during the course of my second reading contribution; that is, what is the offence of dishonesty? Quite rightly, in his reply, the Attorney-General said that there is no such offence of dishonesty. We have a situation where we now have an offence of dishonesty, broadly described, but no definition.

That in itself will cause a lot of problems in the courts deciding whether breaking and entering is an offence of dishonesty. Embezzlement obviously is; fraud obviously is; forging and uttering a cheque is probably dishonesty, but is car theft dishonesty? If the Attorney-General believes there is a clear definition of that, fine, but the broad description of an offence of dishonesty I suggest is not adequately defined to give clarity sufficient to enable the citizen to say that a certain matter will go before a jury, or that there is a right to elect for a trial by jury, or that it will be dealt with summarily. There are really two issues.

The Hon. I. GILFILLAN: I have not been persuaded to change my mind. I can understand some apparent confusion as to the interpretation of dishonesty as an offence. I would not accept that break and enter is a form of dishonesty: it is a criminal offence in its own right. I note a rewording of it as 'not being an offence of violence', to be moved as an amendment later by the Attorney-General, I assume. Therefore, I am still consistently holding the view that I will oppose the amendment, but I recognise that there seems to be some ambiguity about the interpretation of dishonesty as an offence. With respect to the rewording—an offence of dishonesty not being an offence of violence—for dishonesty even to be contemplated as an offence of violence does stretch the imagination as to what the normal person in the street would view as dishonest behaviour. There may well be some confusion about the interpretation of dishonesty, but that is an argument that I prefer not to buy into.

The Hon. C.J. SUMNER: This is an issue of principle. As we have gone through this debate and issues have been raised with respect to drafting, definitions and the like, we have been very willing to look at them because constructive suggestions made during the course of debate have led us to reconsider some aspects of the drafting. That has been necessary because this is a re-write of a fairly substantial part of the law relating to courts. It was introduced into the Chamber for a public exposure period, and it was always anticipated that issues of drafting and the like would need to be looked at. We will look at the definition of dishonesty. It is important to get clarity on the principles and, in this case, they are whether we will accept the general scheme which the Government has introduced to determine whether or not an offence is to be a summary offence. That is what the Hon. Mr Gilfillan has now agreed to.

We think it is logical, because there are a lot of illogicalities in the categorisation of offences at the present time. I referred to a couple of examples. At the time, I should have added, 'where the amount does not exceed $2 000'. Those cases are treated as summary offences, so there does not seem to be any real logic in that when, as I said, the 25c pencil from the shop can end up before a judge and jury. That is the sort of irrationality and illogicality we are trying to remove from the law. We are doing it by reference to the two criteria: first, the amount of money involved, $2 000; and secondly, whether or not there are aggravating circumstances in the commission of the offence, such as violence. If we get the principle fixed (which it seems we now have), certainly the Government is amenable to looking at any drafting difficulties.

The Hon. K.T. GRIFFIN: I agree with the Attorney-General that we have to focus on the principle, and that is where he and I differ, on what the principle should be. It may be that larceny of a llama, an alpaca or livestock up to $2 000 is an appropriate provision in the Criminal Law Consolidation Act, but I would have thought that that does not necessarily mean that embezzlement, for example, ought to be treated in the same way as stealing a llama or an alpaca.

The Hon. I. Gilfillan: Where do you get this llama or alpaca from?

The Hon. K.T. GRIFFIN: Because the Attorney-General mentioned it—that is all.

The Hon. C.J. Sumner: It was only given as an example of the sort of illogicality which exists. There is a large number of other offences in that same category. It is illogical.

The Hon. K.T. GRIFFIN: I am not sure that it is so illogical. One must look at the likely consequences to a range of people in each offence. What worries me is that the Bill is seeking to categorise all these offences, whatever they might be, as offences of dishonesty, and say that $2 000 is the cut-off point for summary jurisdiction. If it is over that amount, it is a minor indictable offence.

The Hon. C.J. Sumner: What about larceny from a dwelling house?

The Hon. K.T. GRIFFIN: I do not think that ought to be classified as summary.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am not suggesting there is not illogicality. If you look at all offences of dishonesty under $2 000, you are not really looking at the potential consequences for anyone who might be charged with an offence. As I say, for some people, stealing a pencil or a box of pencils might have very little consequence but, for other people, it could mean they would lose their job, be debarred from legal practice or whatever. In my earlier days in practice, distraught people came to me because they had been charged with a very minor shoplifting offence. In one specific instance, it was decided to take the matter to a trial by judge and jury. It resulted in an acquittal, because it was quite obvious to the jury. It may have been obvious to a magistrate if it had been heard summarily, but the person was not prepared to risk the decision being made by one person as opposed to 12. For that person, it may have resulted in very substantial mental disturbance if there had been a conviction ultimately. Those circumstances may be rare—they may not be. Shoplifting, for example, is regarded as a prevalent offence. Anyone who has been in practice or who is a member of Parliament will know of cases where there has always been that concern that the person did not do it—and most likely they did not—but there is no opportunity to have that tested before a jury.

The principle is: at what point should you say a citizen does not have a right to trial by jury? I understand what

the Attorney-General is trying to do. It is just that I disagree with him, because I do not think that that general approach to it is appropriate. It might be rational in the sense of logic, but it is not necessarily appropriate in terms of an assessment of the seriousness of those offences and the likely consequences of conviction.

The Hon. C.J. Sumner's amendment carried; the Hon. K.T. Griffin's amendment negatived.

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

Page 3, lines 12 to 14—Leave out paragraph *(d)* and substitute:
(c) an offence of dishonesty (not being an offence of violence) involving $2 000 or less.

The Hon. K.T. GRIFFIN: We are all agreed on removing paragraph *(d)* and inserting new paragraph *(d)*, which will become paragraph *(c)*.

The Hon. C.J. SUMNER: This amendment will give effect to the policy of the Government, which we have debated fully. If the Hon. Mr Griffin and others do not want that policy implemented, they will vote against it. By doing that the *status quo* in the existing law will remain.

The Hon. K.T. GRIFFIN: I agree with that. This is the issue of principle upon which I wish to divide.

The Committee divided on the amendment:

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

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

Pair—Aye—The Hon. Anne Levy. No—The Hon. J.C. Irwin.

Majority of 1 for the Ayes.

Amendment thus carried.

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

Page 3, after line 14—Insert at the end of subsection (2) 'but an offence for which a maximum fine exceeding $100 000 is prescribed is not a summary offence'.

This amendment seeks to address the issue of fines and the point at which an offence for which a particular fine ceases to be a summary offence. This matter was addressed by the Attorney-General in his reply, but I thought it appropriate to raise the issue again in Committee. It seems that at some stage there has to be a general classification of what is a summary offence or a minor indictable offence in other legislation where a fine is imposed. Since the Attorney-General has replied at the second reading stage, I had limited opportunity to research the matter. However, I noted that in the Water Resources Act an offence under that Act for which the maximum penalty equals or exceeds a Division 1 fine, is a minor indictable offence. A Division 1 fine is $60 000.

I notice that under the marine environment protection legislation an offence for which the maximum fine prescribed by the Act equals or exceeds $150 000 is a minor indictable offence. There is already some inconsistency there. It may be that we cannot resolve the issue immediately but this process of rationalisation needs to be addressed as the Attorney-General calls it. Probably it ought to be linked, rather than to a limit of $100 000, to a Division 1 fine. Although I have moved my amendment in the form of $100 000, a Division 1 fine limit is preferable. It is a question of requiring rationalisation throughout legislation so that we know where we stand in all areas.

The Hon. C.J. SUMNER: This is a sensible amendment. If we are to go to a more rational classification of offences and determination of what should be summary and what should be judge and jury, in the area of regulatory offences (to which this amendment is directed) there may be fines which can be very substantial but which under specific Acts of Parliament are now dealt with summarily. The honourable member is saying that if it involves more than $100 000 it should, in all cases, be dealt with by judge and jury.

The Hon. K.T. GRIFFIN: Either $100 000 or a Division 1 fine, which is $60 000.

The Hon. I. Gilfillan: For a corporate offence $100 000 may not be much, for example, for pollution offences. The difficulty in stating a monetary figure is an argument in point.

The Hon. C.J. SUMNER: I do not know how else you do it. The current problem is that, in those regulatory environmental offences and the like.

The Hon. I. Gilfillan: What about the Hon. Mr Griffin's suggestion that it be a Division 1 fine?

The Hon. C.J. SUMNER: That does not make it any more rational because it reduces it to $60 000.

The Hon. K.T. Griffin: If I put 'Division 1' rather than '$100 000', is the Attorney-General happy with Division 1?

The Hon. C.J. SUMNER: I am happy with $100 000. I was not arguing about it. I was supporting saying that it was good and I was supporting it. I was saying that I would support this amendment, because it does introduce some rationality. The honourable member is saying that anything over $100 000 should be a matter for a judge and jury. Anything under that in the regulatory offence area can be dealt with summarily if that is what is provided for in the individual statute.

The Hon. I. Gilfillan: Will that leave the option that a penalty over $100 000 can be dealt with summarily if there is no objection by the offender?

The Hon. C.J. SUMNER: I think that needs to be clarified, because I suppose a specific Act could still state that a matter could be dealt with summarily, but here we are trying to get a general standard that is applicable across a range of criminal offences. I think that is a logical course of action. If $100 000 is at risk by way of a fine, it is reasonable, whether or not they be a corporation, or whether they be an individual, to have the right to trial by jury.

The Hon. I. GILFILLAN: If I could make a couple of observations, I think that there is an advantage in having Division 1 or some classification which will automatically be adjusted. We do not want to come back and tinker with set dollars. I make an observation (I do not think it is a particularly serious one) that if we have a common agreement, we should not hold it up for that, but I make that point.

The Hon. C.J. Sumner: The point being?

The Hon. I. GILFILLAN: The point being that, wherever we have specific dollars in an Act, it is bound to have to be revised, whereas, if it is Division 1 or whatever it happens to be, we have that structure, very sensibly, automatically making dollar value changes. I think that is a minor criticism but I want to make that point.

The second point is that I am assuming that, where there is the sort of perfunctory penalty for corporate pollution or infringement of some sort of control or regulation, this amendment will not lock them all into a trial by judge and jury. That difficulty may be overcome, and I think perhaps the Attorney was indicating that the legislation dealing with those sort of offences specifies that this offence can or will be dealt with summarily. I am not sure. A figure of $100 000 will have different significance to different offenders in different circumstances and, in relation to pollution and other corporate control measures, this may be an awkward figure to pin down for all offences.

The Hon. C.J. Sumner: Of course, that applies to anything, doesn't it? There may be some individuals who are able more easily to afford a particular fine than others.

The Hon. I. GILFILLAN: Yes, but the offence itself may be an open and shut case—so much cyanide having been poured into the Patawalonga, for instance. I would ask the Attorney to give me an answer to my question. Is this problem overcome by the Acts dealing with those sort of offences, where appropriate, having sections specifying that the offence shall or can be dealt with summarily?

The Hon. C.J. SUMNER: That certainly can be done, and I think that the Hon. Mr Griffin's amendment would probably have to be changed to deal with that situation.

He is looking to do that in all circumstances. However, it does provide us with some practical problems and there is no question about that. At the moment a number of Acts dealing with so-called regulatory offences do say that charges under those Acts should be dealt with summarily.

What I think I would be inclined to do here again is accept the principle put forward by the honourable member, but perhaps we will have to look at how we deal with it in relation to particular Acts. I do not think it is a bad idea to establish some kind of standard.

The Hon. I. Gilfillan: I think the Hon. Trevor Griffin's amendment could be qualified to the extent 'except where it is otherwise determined in statute'.

The Hon. C.J. SUMNER: Yes; I do not know what practical effect that will have. We would have to go through each statute and determine it. Can we approve the amendment, and I will look at that drafting problem? I understand what the Hon. Mr Gilfillan is saying, and I do not think the Hon. Mr Griffin disagrees with it; that is, if a specific statute provides that the matter will be dealt with summarily, this general provision does not apply. If that is the policy, we will remedy it.

The Hon. K.T. GRIFFIN: I did indicate that I was debating whether it should be $100 000 or whether it should be linked to something like a Division 1 fine. The Hon. Mr Gilfillan tends to think it should be a Division 1 fine and probably that is preferable, but I am comfortable with $100 000 so that the principle is there. This is an issue that can be finalised as part of the review of the package when it is recommitted.

The other point I think we need to make is that, if it is not a summary offence, my next amendment makes an offence that is not punishable by imprisonment a minor indictable offence, so that, if it is not a summary offence, if the penalty is more than $100 000, then it will be a minor indictable offence. That amendment enables an election to be dealt with summarily.

I do not know how one distinguishes between a corporation and an individual in that sort of cut-off point, and I do not think it is wise to do it. I do not think it is done in the Federal legislation where, of course, penalties under legislation like the Trade Practices Act are very much heavier than any that we envisage here. I would be pleased if we accept the principle on the basis that it is examined in the overall review of the package before it finally passes.

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

Amendment carried.

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

Page 3, after line 16—Insert:

(ai) those are not punishable by imprisonment;.

That is the point I have just made—those that are not punishable by imprisonment and are not summary offences become minor indictable.

Amendment carried.

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

Page 3, lines 21 to 24—Leave out all words in these lines and substitute:

— an offence of dishonesty (not being an offence of violence) involving $25 000 or less;.

This amendment brings in the new wording in relation to the limitation about the use of violence and the meaning of that phrase which was covered in an earlier amendment.

The Hon. K.T. GRIFFIN: I agree that it is consistent; and I presume that this also will be looked at in terms of the definition of the offence of dishonesty.

The Hon. C.J. Sumner: Yes. The honourable member would say 'consistently wrong', but we will look at that.

The Hon. I. GILFILLAN: I would repeat my confusion about the actual offence of dishonesty where again in this clause it is bracketed with violence. It seems to me that the concept of a dishonest act is a separate one from a violent act, and a violent act is an offence in its own right. I think there is quite inextricable confusion in the way this is being presented.

The Hon. K.T. GRIFFIN: I would not say robbery with violence was an offence of dishonesty associated with violence if that was intended, but I agree with the point made by the Hon. Mr Gilfillan.

Amendment carried.

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

Page 3, lines 33 to 37—Leave out all words in these lines and substitute:

— an offence against section 169, 170, 171 or 172 of the Criminal Law Consolidation Act 1935 (breaking and entering, etc.) where—

- the intended felony is an offence of dishonesty (not being an offence of violence) involving $25 000 or less or an offence of interference with, damage to or destruction of property involving $25 000 or less; and
- the defendant is not alleged to have been armed with an offensive weapon or in company with a person so armed.

This amendment seeks to redraft the section so that, first, the limitation in relation to the offence of violence is put in; secondly, the general monetary limit in relation to the offence of dishonesty is maintained consistently throughout the classification; and, thirdly, it is not necessary to specify section 173 as that section can be dealt with via other general classification provisions.

The Hon. K.T. GRIFFIN: The amendment deals with sections 169, 170, 171 and 172 of the Criminal Law Consolidation Act. The Bill itself included section 173, which deals with larceny in dwelling houses. I am not opposed to the amendment, but I wonder why section 173 is to be deleted. I agree that it should be deleted, but I wonder why. The Attorney had one view in the Bill, but he now comes up with an alternative.

The Hon. C.J. SUMNER: Section 173 is deleted because it is larceny from a dwelling house, which comes under the general offence of dishonesty. Therefore, it is not needed in the specific section.

The Hon. K.T. GRIFFIN: Is it necessary, as a matter of drafting, to include 'breaking and entering, etc.', in the amendment?

The Hon. C.J. SUMNER: The heading to section 171 in the Criminal Law Consolidation Act refers to 'housebreaking, etc., with intent to commit a felony'.

Amendment carried.

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

Page 3, lines 38 and 39—Leave out all words in these lines.

It is unnecessary to specify the obvious, namely, that what the Controlled Substances Act says is a minor indictable offence is a minor indictable offence.

Amendment carried.

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

Page 3, after line 41—Insert subsection as follows:

(3a) For the purposes of the above classifications an offence will be taken to involve a particular sum of money if that sum represents—

(a) the amount or value of the benefit that the offender would have gained through commission of the offence; or

(b) the amount of the loss that would have resulted from commission of the offence,

assuming that the offence had been successfully completed and the offender had escaped detection.

The question how or by what means the sum of money involved in the commission of the offence should be judged for the purposes of classification is not an easy one. The Bill as drafted merely referred to the sum that the offender stood to gain. A variety of people in the consultation process thought that this phrase was too vague and could be open to unhelpful interpretation. This amendment seeks to give guidance as to the sum with reference to which the classification will be made.

Amendment carried.

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

Page 3, line 43—Leave out 'characterising' and substitute 'classifying'.

This is a drafting amendment.

Amendment carried.

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

Page 3, line 44—Leave out 'characterised' and substitute 'classified'.

Amendment carried.

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

Page 4—

Line 3—After 'charging the offence,' insert 'then, subject to subsection (6a),'.

Line 7—After 'charging the offence,' insert 'then, subject to subsection (6a),'.

After line 9—Insert—

(6a) A defendant may, in accordance with the rules, challenge the classification of an offence in the complaint or information charging the offence and for the purposes of such a challenge the above presumptions do not apply.

The purpose of these amendments as a package is to make explicit provision for the accused to challenge the classification of the offence by the Crown. An accused person charged with an offence which is classed in the indictment as, say, a minor indictable offence, may wish to argue that the offence alleged is actually an allegation of a summary offence, because the accused wishes to take advantage of the virtues of summary trial in the Magistrates Court.

Equally, a person accused of what is classed by the police as a summary offence may wish to argue that what is alleged against him or her is an allegation of an indictable offence, because he or she may wish to take advantage of a trial by jury. In short, the accused may wish to argue that the offence classification is either allegedly too high or too low. Explicit allowance should be made for this in the legislation. As all have recognised, although what is being dealt with in this legislation are procedural rights and not substantive rights, sometimes these procedural rights can touch upon fundamental civil liberties issues. This is one way of accommodating change by being sensitive to safeguards over the exercise of those rights.

The Hon. K.T. GRIFFIN: I do not object to the provisions. I just draw attention to the fact that, if there is no clear definition of an offence of dishonesty, that will itself involve some dispute under this proposed subsection (6a). It is important to give the accused a right to challenge allegations made in the complaint, particularly in relation to an issue which might have the effect of allowing a trial by jury or denying it.

Amendments carried.

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

Page 4, lines 15 and 16—Leave out subsection (8) and substitute:

(8) If the Act under which an offence is created classifies an offence in a manner inconsistent with this section, that classification prevails.

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clauses 9 to 23 passed.

Clause 24—'Limitation of time.'

The Hon. K.T. GRIFFIN: The Opposition vigorously opposes this clause. It seeks to make as a general rule a provision that a complaint may be issued in 12 months from the date of commission of the offence, rather than the current six months. Obviously, that will apply to a wide range of offences, including traffic offences, summary offences under the Controlled Substances Act, summary offences under the Boating Act—a multitude of offences where no specific time limit is allowed within which prosecutions may be taken. Six months has been the period for many years—probably many decades, I would suggest—and I see nothing in what has been presented to the Parliament that would justify an extension to 12 months, a doubling of the time period within which complaints must be issued. Six months means that, in summary offences, the law enforcement agencies or Government departments that have detected an offence must get their act together and issue the proceedings within six months of the date of the offence.

That applies to the police, inspectors under the Boating Act, consumer affairs issues and local government bodies. It is an outrageous proposition that local government councils, for example, should be able to take 12 months to issue a parking ticket summons or a summons under the Dog Control Act up to 12 months after the date of the offence, when the recollection of the event is not clear and when, after that period of time, it might be reasonable to expect that no further action is to be taken. This provision will allow sloppiness on the part of agencies, whether local government or State Government. It will not enhance the progress of matters in the courts. It will allow delay rather than discourage it.

There are Acts of Parliament where a longer period of time is allowed for the issuing of a complaint or otherwise laying charges, but we take that decision in each case that comes before us. This is a blanket provision. Unless there is some special reason for extending the time within which complaints should be issued, this Bill provides that it may be 12 months. The Law Society actually stated:

This is inconsistent with the stated objective of the Act, namely, to expedite matters. Giving the prosecution longer delay of charge will not enhance efficient prosecutorial procedures.

I agree with those comments. The member knows that, for many years, I have had a very strong view that in most cases the time for issuing proceedings ought to be shorter, not longer. It does not matter what the resource implications are, be they police, councils or others bodies: they have had to live with six months for many years. There is no reason at all for them to be granted this extra six months, an increase of 100 per cent on the present time limit which will not, as the Law Society said, enhance prosecutorial procedures.

It will encourage delay. It will take the pressure off police and others who are required to investigate offences when they come to their notice, and it will militate against the interests of the citizen, more particularly because the memory of events surrounding a speeding, parking or dog offence will dim over a period of time and the prospect of an accused person gathering together witnesses will diminish. I believe it is very much in the interests of the citizen—

although it is not a basic right—to expect that, if an offence is committed, proceedings will be taken, if they are to be taken, within a relatively short period of time, and not dragged out from one Christmas to another.

The Hon. C.J. SUMNER: The Government believes that the proposition put forward is reasonable. I am advised that the time limit for parking offences under the Local Government Act is already 12 months, so six months is not a universal provision. The Local Government Act already allows 12 months with respect to parking offences.

I do not disagree with a lot of what the Hon. Mr Griffin said, but what needs to be borne in mind is there is now a much larger category of offences put into the summary area. That being the case, because there are now more serious cases that will be able to be dealt with by the Magistrates Court in its summary jurisdiction, it is important that there be this extension of time from six months to 12 months. Otherwise the public interest may not be served in some circumstances of a relatively serious case because the investigation of a particular matter may take some months in any event. As the time limit runs from the date of commission of the offence, and given the greater numbers of offences that are now included in the summary area, it could well be that a person could escape punishment because more than six months had elapsed from the time of commission of the offence.

I certainly agree with everything the honourable member said about getting on with prosecutions within a reasonable time, but it is worth remembering that, in the indictable offence area, there is no time limit whatsoever. Some of those offences can be relatively minor, as we have already pointed out. Given the structure of the Bill we are trying to create, and given there are now more offences that will be tried summarily, it is important that the period be extended from six months to 12 months.

The Hon. J.C. BURDETT: The Attorney has said that there are more offences now that can be tried summarily and that some of them are serious and complex. Where that is the case, I suggest that that extended period for prosecution ought to be set out in the special Act creating the offence. I do not think that the ordinary citizen, who thinks he may be accused of a traffic offence or the like, ought to be deprived of his right to be proceeded against, if he is going to be proceeded against, within a relatively short time. Just because there are more complexities and more offences that can be dealt with summarily, I do not see why that should take away the ordinary situation for the simple offence.

The Hon. K.T. GRIFFIN: I am pleased the Attorney does not disagree with everything I have said. We are on common ground in getting on with prosecutions. It is not a valid argument to say that many more cases will become summary and, therefore, because some of them might be serious, the general provision ought to be 12 months rather than six months for prosecution.

Those relatively more serious offences will be a mere handful of offences in the broad scheme of summary offences that will be affected by this time limit. Whilst one does have to balance the interests of the community with the interests of the ordinary citizen, it seems there is more likely to be disadvantage to the wider body of citizens who are likely to be prejudiced or affected by this than to the others who may be charged with those handful of relatively serious offences.

After all, they are summary offences, and they are being categorised now as summary offences. What worries me is that this will be a licence in a wide range of minor offences to delay taking prosecutorial action, if that were to be decided by the relevant agency as being an appropriate course of action. With six months, some who should have been charged probably have not been charged.

That has happened now, but I suggest that that is going to happen whether the figure is six, 12 or 24 months or whatever. It may be that it reduces the number minimally or marginally if it is 12 months rather than six months. In the public interest, it is reasonable to expect that action will be taken within six months on dog or speeding offences.

The Hon. I. GILFILLAN: I intend to support the shadow Attorney-General. I can see that there may be complications and I do not have enough knowledge to make a judgment on whether the Hon. John Burdett's suggestion is practical or whether, in the case of longer than six months, the action can be brought only with special leave of the court or whether we should consider nine months. We have left several open questions in the way we have been dealing with these Bills and, so it remains on the agenda, at least for review. I indicate my support for the shadow Attorney-General.

The Hon. C.J. SUMNER: That is okay for the moment, but I reserve my right to look at it again because there are some problems. I do not have an argument with much of what the Hon. Mr Griffin said but, given that there are more offences in the summary arena, there needs to be more flexibility in the six months than there has been in the past. I accept what the Hon. Mr Gilfillan has said, but we will examine it in our review period.

Clause negatived.

Clauses 25 and 26 passed.

Clause 27—'Procedure enabling written plea of guilty.'

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

Page 7—
Line 21—Leave out 'principal'.
Line 23—Leave out 'principal'.

These are drafting amendments.

The Hon. K.T. GRIFFIN: I support the amendments.

Amendments carried; clause as amended passed.

Clauses 28 to 34 passed.

Clause 35—'Power to adjourn.'

The Hon. C.J. SUMNER: I will not move the amendment on file in its present form, but will possibly come back to it later.

The Hon. K.T. GRIFFIN: I do have some reservations but I did not have time to address the amendment in detail. It was a matter of repealing the whole of section 65, which raised some questions about whether the powers expressed in that section were covered in other measures. It was an issue that I did not have time to address fully. If the Attorney is not proceeding with it but will look at it, hopefully we will have the answers later.

Clause passed.

Clauses 36 to 40 passed.

Clause 41—'Power to set aside conviction or order.'

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

Page 10, line 2—Leave out 'person against whom' and substitute 'party to proceedings in which'.

The clause as drafted in the Bill only permits a person against whom an order or conviction is made to apply to set aside that conviction or order. However, it is quite often the case that it is police who detect mistakes. The section is therefore to be amended to allow any party to the proceedings (which would include the police) to apply to set aside a conviction or order.

The Hon. K.T. GRIFFIN: The only question that comes immediately to mind is whether the court on its own motion can act to vary an application where it becomes aware of a particular mistake. It may have that inherent jurisdiction, or some other provision of the Act may allow that. On

occasions courts have had their attention drawn to particular matters by other than the police or the parties and it is a question of whether that is adequately covered or whether it ought to be part of an amendment such as this.

The Hon. C.J. SUMNER: We will look at the matter raised by the honourable member.

Amendment carried; clause as amended passed.

Clauses 42 and 43 passed.

Clause 44—'Orders to keep the peace.'

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

Page 11, line 9—Insert 'but may not rely on that evidence in confirming the order' after 'affidavit'.

I expressed concern in the second reading debate as to the point at which evidence given in the form of an affidavit may be used because section 99 (4) provides for two stages for a restraining order; first, an application which may be *ex parte* and, secondly, to confirm that order where it has previously been made *ex parte*. I simply wanted to ensure that the affidavit evidence was relied upon, not in confirming the order but only in the *ex parte* application. My amendment seeks to clarify that point.

The Hon. C.J. SUMNER: We may be able to do something on this matter, but I am not sure that the form of the amendment moved by the honourable member is satisfactory. Some concerns were expressed in debate that the Bill will mean that a person who is the subject of an order will not be able to cross-examine a deponent at a confirmation hearing. I am assured that that will not be the effect of the amendments proposed in the Bill as it stands. The new section 99 (4a) provides that an order may be made pursuant to subsection (4) on the basis of evidence given in the form of an affidavit. Subsection (4) contemplates two hearings: the first, which results in the order, may be made in the absence of the defendant. The second is the hearing to confirm the order. The new subsection refers only to the making of the order and hence refers only to the first of the two hearings. It does not, therefore, refer to the confirmation hearing. That is why I have moved no further amendment in relation to this matter.

The amendment moved by the Hon. Mr Griffin seeks to ensure that the provision in relation to affidavit evidence does not apply in the confirmation hearing. The principle behind it is quite understandable and is supported, as I have just made clear, but the form of the amendment moved is unacceptable. It would mean that, at a confirmation hearing, all the evidence would have to be heard all over again, even if there was no objection taken to its being admitted in affidavit form. That problem will need to be resolved, but perhaps it can be if we have another look at the honourable member's amendment.

The Hon. K.T. GRIFFIN: It is important to have some provision—either this or something similar—in the Bill to avoid the potential for confusion. I take the point made by the Attorney-General about the procedure envisaged under section 99 (4), but the point he makes could be overcome easily if my amendment were accepted and it was qualified, as part of the overall review that is to be undertaken, by some later amendment, which might allow for affidavit evidence to be used by consent. I have no difficulty with that. It is fair and reasonable, but I do not think that it has the effect of precluding reliance upon the evidence given at the initial *ex parte* hearing. Of course, if it was *ex parte* there would not have been any cross-examination anyway.

The Hon. I. Gilfillan: What does *ex parte* mean?

The Hon. K.T. GRIFFIN: It means without the attendance, or in the absence, of the other party. I suggest that as the principle seems to be agreed, the committee should accept the amendment on the basis that it might need some refinement when the Bill is recommitted.

The Hon. C.J. SUMNER: We will do that.

Amendment carried.

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

Page 11, lines 15 and 16—Leave out subsection (10) and substitute:

(10) The court may, at any time, on application by:

(a) a member of the Police Force;

(b) a person for whose benefit the order was made; or

(c) a person against whom the order was made,

vary or revoke an order under this section.

On reflection it is thought that granting the power to any interested person to apply to a court to vary or revoke an order to keep the peace is far too broad and might lead to interference in the process by those who have no genuine interest in the order. This amendment limits the power to make such an application to those directly interested in the order in question.

The Hon. K.T. GRIFFIN: I support that.

Amendment carried; clause as amended passed.

Clause 45—'Substitution of Part V.'

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

Page 12—

Line 6—After 'charges' insert 'of minor indictable or summary offences included in the same information'.

Line 9—After 'charges' insert 'of summary offences included in the same information'.

The current Bill is not clear about what happens in relation to summary offences which the prosecution seeks to try together with charges of one or more indictable offences. The position taken in the Bill is that the summary charges can be tried together with the indictable charges if, and only if, the charges are included in the information charging the more serious offences.

These amendments are moved to ensure that the legislation states clearly that, where that does happen, the summary offence or offences are committed to the superior court with the indictable offence and the more serious trial procedure applies to them.

Amendments carried.

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

Page 12, line 10—After 'minor indictable offences' insert '(but the penalty that may be awarded for an offence is unaffected by the fact that the offence is dealt with according to procedures applicable to offences of a more serious class)'.

This is a consequential amendment.

Amendment carried.

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

Page 12, lines 30 to 34—Leave out subparagraph (ii) and substitute:

(ii) the court may appoint a time and place for the defendant to appear and answer the charge and issue a summons requiring the defendant to appear at the time and place so appointed.

The form of the current draft speaks in terms of the issue of a notice sent to the accused in relation to the hearing. In order to eliminate extra forms and pieces of paper and steps in the proceedings, the amendment seeks to change the Bill so that the notice issued is in fact the summons.

Amendment carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 12.56 to 2.15 p.m.*]

PAPERS TABLED

The following papers were laid on the table:

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

Commissioner for Public Employment, Department of Personnel and Industrial Relations—Report, 1990-91.

By the Minister of Tourism (Hon. Barbara Wiese)—

Tourism South Australia—Report, 1990-91.
South Australian Meat Corporation—Report, 1990-91.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

History Trust of South Australia—Report, 1990-91.

QUESTIONS

SGIC DIVIDENDS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the SGIC dividends.

Leave granted.

The Hon. K.T. GRIFFIN: The suggestion in today's *Advertiser* that the Government should be paying compensation to SGIC and making a capital contribution in view of its poor performance and the fact that some sections of its funds have been materially disadvantaged by inter-fund loans and transfers raises questions about the compulsory third party bodily injury insurance fund. One of the areas that has been materially disadvantaged by inter-fund loans and transfers, and by investment policy, is the CTP fund, from which a number of substantial non-performing investments have been made.

The CTP fund is more affected by poorly performing investments resulting in low rates of return and poor investment returns than other parts of the funds administered by SGIC. Ultimately, of course, in relation to the CTP fund, where there is a deficiency or poor performance, it is the motorist who will have to pay through progressively higher CTP premiums.

In the Government Management sub-board report, tabled a month or so ago, the observation was made that the SGIC had reduced the deficit in the CTP fund from $119.6 million on 30 June 1986 to $36.6 million on 30 June 1990, and for the year ended 30 June 1990 the CTP fund reported an operating profit, before tax, of $45.913 million and identified an investment fund of $764.3 million. Notwithstanding the poor performance of the fund and the prospect that now there will have to be a contribution by the Government by way of compensation or capital injection for that year ended 30 June 1990, the CTP fund paid a dividend, or an amount equivalent to a dividend, to the State Government of something like $27.4 million. One has to raise the question how a dividend can be paid to the Government on a fund that is essentially contributed by motorists and not by anyone else. However, that is a fact that I do not think has yet been adequately addressed by the Government.

With the prospect of compensation being paid by the Government to SGIC, is the Attorney-General able to indicate how the Government can justify dividends being drawn from what is essentially a trust fund of money that ultimately belongs to the motorist? Is this a matter upon which he can obtain further information with a view to satisfying the concerns of a number of motorists that there will be increased third party premiums in the not too distant future, largely as a result of the poor management of the CTP fund?

The Hon. C.J. SUMNER: I think it needs to be borne in mind that compulsory third party insurance premiums have not increased in recent years; in fact, they have been held at quite reasonable levels. They were increasing rapidly at one point but, as a result of initiatives taken by this Government, the increase in compulsory third party insurance premiums has stabilised and remained stable for some years. The fact that CTP premiums have not increased for some considerable time needs to be stated and very firmly borne in mind. As to the other issues raised by the honourable member, I will examine the factual statements made by him to ascertain the situation, and I will also address the question of policy that he has raised.

MINISTERIAL STATEMENT: SAMCOR

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: Just over a year ago the State Government announced a major reorganisation of the South Australian Meat Corporation. The reorganisation followed a review of SAMCOR's operations, which the Minister of Agriculture released last year. At that time SAMCOR had recorded losses close to $1.7 million during the preceding year.

The triennial review of SAMCOR's operation was highly critical of existing management and it was clear that a new, strongly commercial emphasis was necessary to turn the company around. The Minister believed that a new board of management with the right commercial skills needed to be appointed. The Minister is pleased to report that the action taken last July is beginning to show results. This year SAMCOR has recorded a profit of $350 991 with an accumulated profit of $786 494 after special and non-recurring items being taken into account. The Chairman of the board, Mr Ken Dingwell, believes this profit can and will be improved next year.

It must be acknowledged that major work force restructuring is being undertaken and the role of SAMCOR's employees has been an important element in this turnaround. Although SAMCOR has much hard work in front of it, it is clear that its new direction is one of sensible and profitable commercial management. The Minister believes SAMCOR provides an excellent example of a business being turned around by the employment of a competent management team, willing and keen to run an organisation that brings real profit back to South Australia.

MINISTERIAL STATEMENT: SCRIMBER INTERNATIONAL

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: During examination of the South Australian Timber Corporation in the Committee stage of the Appropriation Bill last Tuesday evening, the Hon. Legh Davis noted that the Auditor-General had indicated the audit of Scrimber International had not been completed and he asked whether that had yet been done.

Officers of the South Australian Timber Corporation advised me, in the Parliament on 29 October, that KPMG Peat Marwick had undertaken the audit of Scrimber International as a contractor to the Auditor-General. However, it has since been confirmed that the Auditor-General terminated these arrangements in 1990 and his own staff completed the work in 1991. The Auditor-General is the appointed auditor of the South Australian Timber Corporation and its investment entities, and how this work is undertaken is entirely at his discretion. Staff of the Auditor-General's office have confirmed that the audit of Scrimber

International has been completed and the accounts, together with the report of the auditor, will be issued shortly.

STATE THEATRE COMPANY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about the State Theatre Company.

Leave granted.

The Hon. DIANA LAIDLAW: The State Theatre Company's 1992 program announced last Friday comprises seven plays—a reduction from nine last year—with two productions to come from interstate: Jim Sharman's new play 'Shadows and Splendour' produced in conjunction with the Royal Queensland Theatre Company, and David Williamson's play 'Money and Friends', which will arrive in Adelaide in May after touring all State theatre companies. The Artistic Director, Mr Simon Phillips, acknowledges that the program next year will be lighter, with more comedies and less new and experimental work.

In the State Theatre Company's Annual Report for 1990-91, tabled by the Minister on 8 October, the General Manager, Mr Robert Love, highlights the significant change in the company's source of revenue since its inception as a statutory authority in 1972. He states:

> Government funding is now at its lowest level in real terms in 18 years. Total grants reached a peak in 1978 at $1.22 million in real terms, stabilised throughout the remainder of the 1970s and the early 1980s and have been declining rapidly since 1985. In real terms only in 1973 and 1974 did the company receive less Government funding than it did in the year ended 30 June 1991.

I note that last year the company incurred a deficit of $82 000 compared with a surplus of $142 000 the previous year, and that this year the proposed grant of $1.62 million represents a further cut in real terms. Mr Love goes on to state in his report that the likelihood of further reductions in Government funding will pose great challenges in the coming years, 'if South Australia is to continue to have a theatre company able to undertake the risks of new and challenging work, mount large scale classics and epics and, throughout, maintain production quality and excellence'.

Mr Love's concerns, coupled with the fact that State Theatre Company's 1992 program offers only seven plays and a limited number of opportunities for the company itself to perform, appear at odds with the Minister's stated wish in response to my question of 28 August on the arts review that 'funding cuts not result in cuts to programs or the product that reach the public'. I ask the Minister:

1. Is she aware that, as recently as three weeks ago, the State Theatre Company was still planning a program of eight plays, not seven as announced last Friday, for 1992 and has now eliminated one local production by a local playwright due to reduced levels of State Government funding and early warnings that the grant from the Australia Council may also be frozen?

2. Does she consider that the 'rapid decline' (as cited by Mr Love) in Government funding to the State Theatre Company since 1985 has influenced the decision to essentially put the play producing section of the company 'on ice' for almost half of next year until the company comes together in late May for rehearsals for *A Midsummer Night's Dream*?

The Hon. ANNE LEVY: The arts budget has not been reduced for this year, and I am sure that, if the honourable member examined the budget papers and all the Estimates Committee hearings, she would be aware of that.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: You have asked your question. It is now for you to listen while I answer. The overall budget for the arts, as I was saying, has not been reduced this year. The grants which are given to different companies, such as State Theatre, State Opera and so on, are determined by the Arts Finance Advisory Committee, which uses its discretion as to what funds are needed by the particular statutory authorities and other large companies which, although not statutory authorities, receive general purpose grants. It was the Arts Finance Advisory Committee that recommended the grant for State Theatre, State Opera and other such companies for the previous year.

It would certainly reject any suggestion from the honourable member that State Theatre is not achieving and has not achieved excellence. I am sure that any subscriber and, indeed, anyone who attends any performance of State Theatre will attest to the excellence of its productions and the superb job which it does in contributing to the cultural activity in South Australia.

The Hon. Diana Laidlaw: When did I suggest—

The PRESIDENT: Order!

The Hon. Diana Laidlaw: I have never said—

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order. The Minister is quite right: the question has been asked, and she is entitled to answer it under the same conditions as applied when it was asked—silence.

The Hon. ANNE LEVY: Thank you, Mr President. The fact that the company will not be coming together until May next year I understand is largely due to the fact that the Artistic Director, Mr Simon Phillips, has been invited to produce an Australian play on Broadway. This is a considerable credit to Mr Phillips. I am sure that anyone who has appreciated his magnificent productions in Adelaide will be just as delighted as I was when I heard the news, but not surprised in the slightest that this recognition of his talents should occur. We are absolutely delighted that he will be producing this play on Broadway, and wish him well for his time away from Adelaide while undertaking this production.

The decision to permit him to go to Broadway to undertake this work was granted by the board of State Theatre Company, and it is to that board that he would have applied to be able to spend between two and three months in New York undertaking this activity. I am sure that the board, like I, recognised this as a considerable vote of confidence in Mr Phillips and would have been delighted to accede to his request to be able to undertake this work. I am quite sure that the production which results will be a great success and will bring considerable credit not only to Mr Phillips but also to the State Theatre Company which employs him.

I am not aware of any cuts in funding which the Australia Council may be making to State Theatre. The Australia Council does not consult with State bodies, ministries or advisory committees before making its own decisions in these matters.

No approach has been made to me or to any State officer regarding any decision that the Australia Council may or may not be making. I point out that State Theatre has achieved greatly at the box office in recent years, as have many of our companies. We are delighted that they do get this recognition from the public of South Australia and, equally obviously, the more they can achieve at the box office themselves the less reliance they have to have on Government funding and, consequently, the more is available in terms of Government funds to go to other groups and organisations in the South Australian community.

Certainly, we wish to stimulate artistic activity right across the community. We are very proud of our State Theatre

Company and what it has achieved but we also want to have cultural activity not limited to the flagship companies but to support artistic activity right across the community so that all members of the community have opportunities to take part in and benefit from such cultural activity.

The Hon. DIANA LAIDLAW: I desire to ask a supplementary question. When the Minister has had time to look at the questions I asked and the answers she gave, will she bring back at some stage replies to the questions I actually asked—neither of which she attempted to answer?

The Hon. ANNE LEVY: As I understand it, under Standing Orders Ministers answer questions in any way they think fit. I have given great detail about the State Theatre and, if there are any factual matters that the honourable member has raised in her questions or in her non-stop interjections, I will certainly undertake to check on those matters.

SCHOOL CLOSURES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Education a question about school closures.

Leave granted.

The Hon. R.I. LUCAS: Earlier this year the Education Department released the Western Suburbs Primary Schools Review which recommended the closure of a number of schools in the western metropolitan area. One of those recommendations was that either Croydon Primary School or Kilkenny Primary School would close by the end of 1992 through the device of an amalgamation on one of the sites. Since then both school communities have been pushing their case for their school to remain open.

They were assured by the Minister of Education and his departmental officers the decisions would be taken on national economic grounds and only after proper consultation. About three weeks ago Croydon Primary was visited by the Prime Minister who involved himself in discussion about the school's future. In the last week both the Prime Minister and the Premier have now written to the school.

Parents have informed me that the letter from the Premier to the principal of Croydon Primary makes the specific promise that Croydon Primary School will not close. These parents from Kilkenny Primary School are obsolutely furious that another political deal on school closures has been done without proper consideration of the educational costs and benefits. Senior departmental sources have confirmed that it is almost unprecedented for the Premier to become involved in the decision making of school closures.

The Hon. L.H. Davis: He'll become involved in anything at the moment, even with Elle McPherson.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Exactly, I make no comment about the Premier's involvement with Elle McPherson: it is an out of order interjection. In fact, senior departmental sources were even unaware that such a decision had been taken. My questions are:

1. Will the Minister release a copy of the letter from the Premier to the Principal of Croydon Primary School?

2. Who took the decision that Croydon Primary would not close and, in particular, did the Western Suburbs Primary School Review Team recommend to the Minister that Croydon Primary should not close?

3. What involvement did the Premier and the Prime Minister have in the discussions about the future of the school?

4. Does the Minister now accept that any pretence that these school closures are being done on rational educational grounds has now gone and that it has really become a question of which school can organise the best deal for itself?

The Hon. ANNE LEVY: I will refer those numerous questions to my colleague in another place and bring back a reply.

RURAL PLANNING REVIEW

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister representing the Premier a question about a rural planning review.

Leave granted.

The Hon. M.J. ELLIOTT: At the time that the planning review—otherwise known as 20-20 Vision—was announced I, amongst others, was critical that it was concentrating on the metropolitan area and totally ignoring the rest of South Australia. Many things are happening in country areas at the moment that are causing concern. The latest in a long list was in a letter from the Mid-North Local Government Region Incorporated, expressing concern about a proposal to close the Barossa Family Day Care Office.

This office is located in Nuriootpa and is the latest of a number of offices proposed to be closed and, in fact, closed in the Barossa area. In a letter written to the Hon. D.J. Hopgood by Bob Hart, Secretary of the region, he makes the following points:

> The transfer of Government resources from the regions and their increasing centralisation in the metropolitan area is a worrying trend since it denies social justice to the rural population, namely principles of equity (a fair distribution of resources), access (to services and quality of servicing), participation (of communities in Government decision-making), and equality of rights. Lack of opportunity and accessibility of using a service has far greater negative consequences in the country than is the case in the city by virtue of distance and inconvenience.

It is often said in country areas that the city bureaucrats do not understand what is happening in the country, and that widely held belief is probably justified.

A number of things are happening that will have dramatic impacts in country areas. Currently, an area health review is under way which suggests, for instance, that all hospital boards be replaced by central boards. In one case, the Riverland will have board headquarters at Murray Bridge, and Kangaroo Island will be relying on a board based on the mainland. We have already seen the closure of several country hospitals. There have been closures of Family and Community Services offices around the State.

There is now under way within the Education Department what is known as a landscaping project. Schools were excited because they thought there would be trees planted but they found out that landscaping had to do with the distribution of resources between schools and the bottom line seems to be as we see in the metropolitan area school closures and amalgamations, etc. Of course, we have the ongoing saga of closure of country railway lines.

Decisions are coming from within departments headquartered in Adelaide. They are inflicted from above. The people involved appear to have no understanding of local impacts—either direct or indirect impacts—and there is also frustration in country areas that job opportunities are limited and that it is unusual for new industry to come into country areas. It is clear that there is a need for a proper understanding of what is happening in the country and for proper planning.

Therefore, will the Premier call for the setting up of a rural planning review following the pattern of the review working in the metropolitan area, one that will study service provision to country areas and also look at opportunities

for industries, etc. to go to the country? As to the specific problem that I raised today concerning the Barossa Family Day Care Office, will the Government ensure that there is proper consultation with the local communities to look at problems that will arise from the proposed closure?

The Hon. C.J. SUMNER: I will refer that question to the Premier and bring back a reply.

PRIVACY

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Attorney-General a question about privacy.

Leave granted.

The Hon. R.J. RITSON: At the beginning of my explanation the Attorney-General may feel that, because the matter is Federal, there is nothing he can do, but I ask him to bear with me for a moment and I will explain how I seek his assistance. I am in possession of a letter which emanated from the Government offices at 938 South Road, Edwardstown. The letter is to a constituent in receipt of the sole parent's pension. The department is conducting a review, as it should, into eligibility for the pension and I have little sympathy with people who cheat and take a double-dip the public purse. Having said that, I am extremely alarmed at the contents of the correspondence and I will go through it.

The first page is a covering letter which refers to the questionnaire that follows and points out that it may be necessary to ask further questions, depending on the answers supplied. It points out that if the questions are not answered within 14 days, there will be a suspension of the pension. The questions attached are as follows:

1. Does your ex-spouse have access to the children?

This woman has been divorced for some time. The questionnaire continues:

2. If so, does he come to your residence to pick up the children?
3. Has it been necessary for him to remain overnight?
4. If so, what was the reason causing him to stay?
5. To your knowledge has your ex-spouse remarried, entered a *de facto* relationship or has a lady friend?
6. If so, and if known to you, what is the name and address of his partner?

The former husband has in fact remarried and is in a stable marriage. It continues:

7. If the answer to 6 is 'Yes', do you know if his partner works or is in receipt of a social security benefit (please state which)?
8. If his partner works, if known to you please supply the name and address of her employer.

At this stage I wondered what on earth the department was doing inquiring into the affairs of a third party—a wife of another marriage. I also wondered how acutely this must have distressed my constituent. As members may or may not know, a recent loss of marriage, living alone and bringing up a child is the most distressing time in any person's life. Even if it is accepted that a beneficiary must be put under great stress in the interests of the public purse, I think that every woman in the community should know that, if she contemplates marriage to a divorced man or marries a divorced man, whether or not she realises it, her address, work status, employment and employer's business may be investigated, recorded and filed by the department without her knowledge. The questionnaire continues:

9. Do you go out with any male companion?
10. If so, how often?
11. Do you go out on a serious basis?
12. If so, how often?
13. If the answer to 9 or 10 is 'Yes', would you regard your relationship as a boyfriend or girlfriend relationship?
14. Do you go out with a variety of friends?
15. If you have a positive answer to questions 9, 10 or 13, what would you say is the future of your relationship?

I remind members of the covering letter, which says that more questions are to follow. The questions are not, 'What is your income from all sources? Do you receive any payment whatsoever in kind or by way of gift or free use of real estate? Where are your bank accounts held?' This comes about by the delegation of the authority of the Act to junior, minor or petty officials and, frankly, sometimes the arrogance and insolence of the Australian minor official knows almost no bounds and is exceeded only by that of the British Rail clerk.

I used to be a little bit indifferent to the plight of the widow, the deserted wife, the divorcee in the poor classes of suburb, but I now understand more fully what a demeaned and insulted class of persons they can be. My colleague, the Hon. John Burdett, relayed by way of anecdotal comment that, during the inspection of a constituent's house in this regard to ensure that it was not full of Queen Anne furniture, great weight was placed on the fact that the toilet seat was up. The fact that she had two sons acted as a partial defence. The point is that the principal Act entitles power to be delegated to ask any question which might be relevant to the payment of a benefit.

Finally, I make the point that it is a stupid arrangement because we have some stupid people at that level across Australia, albeit not all of them and perhaps not most of them, but there will be some stupid people.

The Hon. C.J. Sumner: Is that opinion or comment?

The Hon. R.J. RITSON: It is a fact, Sir. The point is that these questions are inappropriate, are offensive to women and demonstrate a lack of compassion. When an insurance company needs to know all about an applicant's health and the health risk, it provides a well-researched, well studied and well compiled questionnaire. It contains a lot of personal questions but is inoffensive. Each salesman is not empowered to ask the purchaser of that insurance anything that that salesman thinks might be relevant to the risk. A form has been carefully put together, is inoffensive and has stood the test of time. I seek the Attorney-General's assistance here, even though the legislation is Federal. The Attorney is clearly a man of compassion: I have known him now for 12 years. I believe that he has a heart.

The Hon. R.R. Roberts: Is that a fact or an opinion?

The Hon. R.J. RITSON: It is a fact. In this day of new federalism, with a compassionate man such as the Attorney, a man of great standing in the Labor Party who meets regularly with other Attorneys-General and with the Federal Attorney-General in particular, he ought to be at the head of a privacy push, particularly with regard to third parties such as new wives. At the next conference, he ought to raise this matter at the Government level to see whether he can have the Government institute a ministerially approved inoffensive but perceptive questionnaire.

The PRESIDENT: The honourable member is almost debating the question.

The Hon. R.J. RITSON: Yes, indeed, Sir, and I am on my second last word. I believe that his dedication and influence is enough to achieve a ministerially approved form of questioning and officers should not depart from that.

The PRESIDENT: What was the question?

The Hon. C.J. SUMNER: The question was whether I would take that up with my Federal colleagues. The answer to that simply is 'Yes'. I understand the concerns relating to privacy that have been raised by the honourable member in the explanation to his question and no doubt we will have an opportunity to debate those principles in a broader way later in this session of Parliament.

I assume that the purpose of the questionnaire that was sent by the Federal department is to try to ensure that the possibility of fraud in the payment of benefits is minimised. Of course, the question of such fraud is one issue that is of major concern, including, I suspect, to members opposite. Nevertheless, the issues raised by the honourable member are serious and undoubtedly they touch upon the privacy of individuals.

I will certainly raise the issues that he has referred to with my appropriate Federal colleagues and bring back a reply in due course. That reply may not, of course, come back as expeditiously as they usually do because of the necessity to deal with the Federal Government, but I will take it up with my Federal colleagues and let the honourable member have a reply in due course.

OFFICE OF FAIR TRADING

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about the Office of Fair Trading.

Leave granted.

The Hon. Anne Levy: Are we allowed to interject?

The Hon. L.H. DAVIS: Yes, go for it, but I do not think that when the Minister hears the facts she will want to. On Tuesday, in response to a question regarding a child's folding chair and the fining of the Kennellys of Park Holme of some $200 for having a chair which was deemed by the Office of Fair Trading to be unsafe, the Minister of Consumer Affairs defended the position in the strongest possible way.

The Hon. Peter Dunn: Vigorously.

The Hon. L.H. DAVIS: She defended that position very vigorously, notwithstanding the criticism of the fine from one of her colleagues, the member for Mitchell, Mr Paul Holloway. In her reply, she stated as follows:

> ... the folding chair to which he referred was put into the category in which it currently stands in 1985. Numerous warnings have been given to members of the public and to traders about the fact this folding chair is a dangerous product, particularly for children.

Further, bringing emotions into it, as one could easily do with a child's chair, she said:

> Late last year, a Queensland child lost its fingers with one of these chairs, and I will not be responsible for South Australian children being in the same position.

She further said:

> I can recall at least two occasions when either the Office of Fair Trading or I made public statements about these folding chairs. As I said, it has been an issue since 1985. I would expect traders who are selling children's toys to be aware of those issues.

She further stated:

> It is six years since this particular product was declared unsafe and not to be put on the shelves of South Australian stores.

That is an unequivocal statement if I ever heard one. Finally, she stated:

> At various times during the six-year period that information has been brought to the attention of the public and the traders.

Armed with that information, through Mr Kennelly who made inquiries of Toyworld, I went to Toyworld, which is a respected national chain, but it knew nothing about the Office of Fair Trading's decision until it heard about the fine some time earlier this year.

The Hon. Barbara Wiese: Who is this?

The Hon. L.H. DAVIS: Toyworld. To the best of its knowledge, that company did not have any written representation from the Office of Fair Trading, nor had there been any verbal representation to it. More importantly, I would have thought from the Minister's point of view the manufacturer had been totally unaware of any ban on or criticism of this chair until contact had been made by the store that had been fined. Immediately the manufacturer was advised of this fact—it is a Victorian manufacturer—it said that it was prepared to buy back any stock and to compensate the affected stores. The manufacturer is adamant, and I spoke to its representative today, that there had been no written representation and no verbal contact with the company in any way at all.

The Hon. Barbara Wiese: Ever?

The Hon. L.H. DAVIS: From the Office of Fair Trading—ever. The manufacturer was adamant about that fact. I would have thought that that is an extraordinary situation. If the Office of Fair Trading is saying, 'This chair is dangerous', the first thing it would do is bring it to the manufacturer's attention so that modifications could be made or it could be withdrawn. The point that has come out very clearly in my representations to the manufacturer is that this chair continues to be sold at major retail stores around Australia but, because of the problems it has experienced with the Office of Fair Trading in South Australia, modifications have been made to the chair. The manufacturer did not believe that modifications were necessary, but it has made modifications so that it can continue to sell it in South Australia, and my understanding is that those modifications have been accepted.

However, it denies completely the Minister's claims that a Queensland child lost its fingers with one of the chairs. In fact, the representative said what happened was that a woman in Victoria claimed that a child had lost a finger, and the company was concerned about that. It had its insurance company investigate the matter and it was found that the claims were fraudulent. I am very concerned that, on an examination of the facts, the Office of Fair Trading, on any fair judgment, would seem to have been found wanting because, if that office is doing its job, it would not only be making contact with the toy shops such as the Park Holme shop of the Kennellys, but it would also surely be making contact with the manufacturers and the distributors. In all those three cases, no contact at all was made.

The point that I made, as the Minister would be only too well aware, was that, when contact was made with the Kennellys, it was the first they heard about it. They had bought this as part of stock when they took over the shop only months earlier and they were hit with what I would deem to be a harsh and unconscionable fine of $200.

It is a very unsatisfactory state of affairs from the Kennellys' point of view and that of Toyworld and the manufacturer, and the Office of Fair Trading can hardly be seen to be doing a professional and effective job. My questions are: who provided the Minister with this information, which she repeated in the Council on Tuesday? Will the Minister advise whether the manufacturer of the deck chair was contacted by the Office of Fair Trading and, if so, when? Will the Minister advise whether the Toyworld chain was contacted by the Office of Fair Trading with respect to the defect of the deck chair and, if so, when? If the circumstances prove to be as I have outlined them in the Council today, will the Minister apologise to the Kennellys for this extraordinary miscarriage of justice and fair play and ensure that in future the Office of Fair Trading lifts its game?

The Hon. Diana Laidlaw: And return the money.

The Hon. L.H. DAVIS: And return the money. Well, the Minister knows—

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Obviously, I will have to seek a report from the Commissioner for Consumer Affairs about the detail that the honourable member has requested,

but I have been advised that the manufacturer of these products was contacted some years ago when these products were declared unsafe and, indeed, I know that the Toyworld company was contacted following the issuing of TIN notices to the Kennellys and at least one other Toyworld shop proprietor, because it was of some surprise to officers of the Office of Fair Trading that Toyworld did not seem to be aware of the circumstances.

So, I have been advised that since the TIN notices were issued, officers of the Office of Fair Trading have been in touch with the Toyworld Company to ensure that it is aware of the circumstances. That is the advice I have received. I would also expect that Toyworld was contacted in some way or another at the time that these chairs were found to be unsafe.

It may very well be that, if the Hon. Mr Davis has spoken to people in this company, they do not recognise the name of the Office of Fair Trading. I believe that a lot of people still think of the Office of Fair Trading as the Consumer Affairs Office, and it may very well be that they did not recognise what the honourable member was discussing with them. However, I am very surprised to hear the honourable member's report. I do not believe it to be accurate, based on the information that has been given to me, I am very happy to check that information. However, whether or not it is correct does not change the circumstances. The fact is that under the law as it stands the manufacturers and the retailers have an obligation to inform themselves about these matters.

I do not think that it is too much to ask of anyone who is in the toy business to keep track of the decisions that are made by Consumer Affairs Departments around Australia, because these assessments of products—the banning, the finding of products to be unsafe or the recalling of products—is not something that happens very regularly, so the list is not very long. It is their obligation, under the law, to ensure that they keep in touch with these matters, as one would expect from any professional in any field. So, whatever the circumstances here—and I believe my information is correct—it does not change the fact that the company, Toyworld, and the franchisees have an obligation in this area.

SGIC CROSS-SUBSIDISING

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister representing the Minister of Transport a question about cross-subsidising in the SGIC.

Leave granted.

The Hon. I. GILFILLAN: On 10 September this year I asked the Minister of Transport to give a firm undertaking that moneys collected by the SGIC for compulsory third party insurance (CTP) was not being used to cross-subsidise other less profitable operations of the commission. Last week in this place I received a prepared reply from the Minister which said in part:

> ... the Minister of Transport has advised that the CTP fund has not subsidised the operations of any other fund within the SGIC ...

However, in today's *Advertiser* a story appearing on page 3, written by Debra Read, under the headline 'Taxpayers may foot SGIC bill', stated:

> ... the Government Management Board report (GMB) discovered there had been *ad hoc* and uncontrolled transactions involving loans and the swapping of investments between funds.

Further, the report stated:

> ... the GMB report found SGIC had used inter-fund loans and transactions to improve the performance of other funds at the expense of the compulsory third party fund, resulting in a distortion of the accounts of various funds.

In addition, earlier this year, the SGIC's corporate affairs manager, Mr Russell Cowan, confirmed that CTP funds had been used by the commission in cross-subsidising activities.

The Hon. L.H. Davis: Although Mr Gerschwitz denied it.

The Hon. I. GILFILLAN: We will leave Mr Gerschwitz out of this; he is a rather testy individual. As reported in the *Advertiser* of 24 July by political editor, Rex Jory, Mr Cowan is reported to have said:

> We have had to fund areas like health funds and life funds from our compulsory third party and general insurance funds.

Obviously, that statement is in direct contradiction to the statement by the Minister of Transport that the CTP fund 'has not subsidised the operations of any other fund within the SGIC'. One wonders whether the Minister actually reads the paper and, if he does, why he does not follow through on these reports. Either Mr Blevins has misled Parliament or Mr Cowan and the Government Management Board have deliberately misled the public. My questions to the Minister are:

1. As it appears the Minister has misled Parliament by claiming no CTP cross-subsidy has taken place, will he apologise and correct the wrong information contained in his previous answer?

2. If not, how does he explain the glaring discrepancy that exists on the public record between his statement and that of Mr Cowan and the Government Management Board report?

3. How can the Parliament and the public have any confidence that cross-subsidising to the cost of the CTP fund will not take place?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply. However, as I understand it, one needs to examine carefully whether any transfer of resources between funds has been on a loan basis with interest charged and paid, or whether it may be a cross-transfer, which would obviously have an implication in terms of whether or not one fund has been subsidising another. However, I am sure the Minister in another place will be able to provide an answer to the honourable member's questions.

The Hon. I. GILFILLAN: As a supplementary question, has the Minister actually recalled the quote that I read from the *Advertiser* this morning? It stated:

> ... the SGIC had used inter-fund loans and transactions to improve the performance of other funds at the expense of the compulsory third party fund.

Does the Minister interpret that as meaning that it is to the economic advantage or disadvantage of the compulsory third party fund?

The Hon. ANNE LEVY: I think the honourable member's first reading of the quote will be in the question to which the Minister in another place will respond.

WORKCOVER

The Hon. PETER DUNN: I seek leave to make an explanation before asking the Attorney-General a question about WorkCover.

Leave granted.

The Hon. PETER DUNN: In response to a question I asked on 12 September about a shearer suffering from carpal tunnel syndrome, WorkCover has responded in a manner indicating to me that it does not understand the medical term or that it is trying to cover up a mistake. I am informed

that carpal tunnel syndrome develops over a long period and, as is indicated in the letter from WorkCover, is a secondary disability. The information from WorkCover states:

When an injury that could well be a 'secondary disability' occurs, it is very important that the farmer gets early medical attention for the injured worker and specifically asks both the injured worker and the treating doctor whether the injury is an aggravation of a condition that existed previously (from which there had not been a full recovery).

WorkCover must know that a shearer is unlikely to inform an employer of previous twinges that might develop into significant pain and, therefore, lead to a claim or to the shearer's visiting a doctor, having left the employer and not informed that employer that he was seeing the doctor. The information from WorkCover continues:

When it is established that the injury was an aggravation of a prior condition, the claim is excluded from a bonus/penalty calculation, but does still show in the costs of claims attributed to the industry to which the employer is classified. In the case of the claim of Mr Greenfield of Kialpa no symptoms were experienced by the worker prior to his employment.

That is not what I asked in my previous question. If the case of Mr Greenfield's condition was identified, as stated, as carpal tunnel syndrome, and therefore a secondary disability, he should not be liable to pay a penalty premium as is indicated. Therefore, my questions are:

1. How many cases of carpal tunnel syndrome or like claims have in the past caused employers to pay penalty premiums, and therefore exclude them from bonuses?

2. Will WorkCover change its definition of 'carpal tunnel syndrome' so that it is a secondary disability, or must employers ask all employees to disrobe so they can check for soundness of wind and limb in order to determine whether they have a primary unidentified disability which may develop into a secondary disability while working for the employer?

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

MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question about the South Australian Multicultural and Ethnic Affairs Commission.

Leave granted.

The Hon. J.F. STEFANI: Recently the Chairman of the South Australian Multicultural and Ethnic Affairs Commission wrote to media outlets advising them of the following, and I quote in part from his letter:

The South Australian Multicultural and Ethnic Affairs Commission is conducting a series of six lunch-time media forums between now and the end of 1992 as part of a program to promote greater understanding between all sections and levels of the media, the Aboriginal peoples and people of non-English speaking backgrounds.

The work of the media forums is coordinated by Marlow O'Reilly Public Relations and Communications Pty Ltd under the lead of their Director and Principal Consultant, Stephen Marlow. The forums are supported by a grant which the commission has received from the Commonwealth's Office of Multicultural Affairs as part of the National Agenda for a Multicultural Australia.

Members of the ethnic community have expressed concern to me about the lack of consultation on this matter and have questioned the expenditure of public money on such an exercise. They have reminded me that the Attorney-General himself, when acting as Minister of Ethnic Affairs, was very critical of the appointment of a public relations officer within the commission.

In view of these concerns that have been raised with me, my questions are as follows: who was responsible for choosing and appointing the public relations consultants? What was the criteria and the term of their appointment? What is the fee payable to the consultants? Was the decision approved by the commission at one of its formal meetings? Finally, can the Minister advise which community groups were consulted by the commission about this matter and what was their response?

The Hon. C.J. SUMNER: I would have thought that trying to involve the media in issues relating to multiculturalism is something that the honourable member would wholeheartedly support, and I assume that he does. However, as I am not aware of the particular details of this matter, I will refer them to the Minister and bring back a reply.

TRAINS

The Hon. DIANA LAIDLAW: Has the Minister for the Arts and Cultural Heritage a reply to a question I asked on 8 October about trains?

The Hon. ANNE LEVY: Yes. I seek leave to have the reply incorporated in *Hansard* without my reading it.

Leave granted.

My colleague the Minister of Transport has provided the following response:

1. The State Transport Authority (STA) is satisfied that the trial of the new method of operation of suburban railways has been successful. The STA is continuing to expand its network of licensed ticket sales outlets throughout the metropolitan area, with particular attention being given to sales outlets adjacent to rail corridors. A recent survey over a six week period showed that the percentage of passengers detected without tickets or with invalid tickets was less than 1 per cent.

2. Platform mirrors have been installed on all island platform stations and stations where curved platforms prevent unrestricted vision through the mirrors installed on the railcars; 88 platform mirrors have been installed and there is ongoing consultation with the AFULE to identify any other locations where platform mirrors may be required.

The STA has budgeted $134 000 for the supply and installation of platform mirrors including provision for replacement of damaged (vandalised) mirrors.

3. The STA is aware that Westrail has installed video cameras to assist its driver only operation and has corresponded with that organisation. A detailed inspection is being arranged to establish if such a system could be used to advantage in Adelaide. Cursory inspections to date indicate that the system or an adaptation of it could be useful in Adelaide.

4. A ticket vending machine has been installed at the Adelaide Railway Station and is programmed to sell single-trip and daytrip tickets only. Since commissioning the ticket vending machine on Sunday 15 September 1991 sales have averaged approximately 70 tickets per day.

PARLIAMENTARY COMMITTEES BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

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

Page 1, line 19—Leave out 'a day to be fixed by proclamation' and insert '1 March 1992'.

There is always some concern in relation to the open-ended proclamation date clauses of various Bills that go through the Parliament. My amendment seeks to set a specific date (1 March 1992) upon which the new committee system of the Parliament, should the Bill pass, will come into operation. Our thinking in relation to this matter is that this Bill potentially may pass today but, if it goes through various other processes, it may not be resolved until some time in November. We then come to the Christmas break and we do not resume until February. The period until 1 March 1992 may well allow the existing committees to serve out their current references so that the need for transitional provisions being used on a large number of occasions by various committees may be minimised, and there would, in our view, be a cleaner transfer from the current system to any new system.

We did toy with the view of suggesting 'no later than 1 March 1992' but, in the end and on balance, we felt that a period of approximately four months, or perhaps three months, depending on how long this parliamentary process takes, was a sufficiently short period but equally long enough perhaps to allow the current references to be served out and worked through by the current committees.

The Hon. C.J. SUMNER: The Government opposes this amendment. We agree that there should not be any undue delay in the bringing into being of this new committee system once it is approved, if it is approved, by the Parliament. I envisage that the new committee system, if it is at all possible, should be in place by the time we rise for the Christmas break, and that is the current intention of the Government.

If for some reason it cannot be done within that time, I would expect to do it on the first day Parliament resumes in February, but I am confident that, if this Bill passes this Chamber today, the message will be dealt with in the other place when it resumes the week after next. We will then meet a timetable to have the committees established before Parliament rises. I think that is desirable.

I have dealt with the question of transitional provisions in a separate amendment that I have placed on file. The new committees can easily pick up any matters that are currently being dealt with by existing committees.

The Hon. I. GILFILLAN: Taking at face value the assurance of the Attorney-General that the Government is eager to get the committees established as soon as possible, it does not appear necessary to support this amendment.

Amendment negatived; clause passed.

Clause 3—'Interpretation.'

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

Page 1, lines 22 to 25—Leave out all words in these lines and insert 'appointing House or Houses', in relation to a committee, means the House or Houses, as the case may be, by which members of the Committee are appointed,.

Essentially the amendment relates to a decision about the appropriate structure of the committee system of the Parliament, although I would not suggest we have the substantive debate about whether or not we have a fifth parliamentary committee until a subsequent clause. Irrespective of that decision, this amendment can stand or fall on its own. It does not indicate what the particular committees are or in what Houses and is more a general reference to the appointing House or Houses in relation to whatever committees the Parliament might agree to at any time. It is sufficiently general to stand on its own irrespective of subsequent decisions that might be taken by the Committee.

The Hon. C.J. SUMNER: The amendment is opposed. I am not sure that I can agree with the honourable member that we should not have the debate in principle on the question of whether there should be an extra committee at this stage. If the honourable member does not want to debate the substantive issue now, the amendment should be opposed. If he is ultimately successful in his main contention subsequently, we will have to recommit possibly to amend this clause. I invite him to have the substantive debate now. If he does not want that, I ask that the amendment be opposed.

The Hon. R.I. LUCAS: I prefer not to have the substantive debate on this amendment. If we are successful and the Committee decides to incorporate the extra committee then, if this amendment is lost, we can recommit and perhaps there will be a different view of the Committee at that stage.

Amendment negatived.

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

Page 1, after line 29—Insert paragraph as follows:
(ab) the Statutory Authorities Review Committee;.

This is probably the appropriate amendment on which to have the substantive debate about the appropriate committee structure of the Parliament. I see this as the critical question in the Committee debate on the Bill. Anyone who is interested in the powers of the South Australian Parliament and, in particular, in the future of the Legislative Council and what power and role it may evolve for itself over the coming years and decades, will find the debate on this amendment pivotal to that issue.

I know from the second reading contributions of members in this Chamber that there are a variety of views as to the appropriate role of the Legislative Council and, therefore, the appropriate role for parliamentary committees in the Legislative Council and in the Parliament. They range across the continuum. Some, such as the Hon. Mr Elliott and I have indicated publicly on a number of occasions that, if we had our preference (and this rarely occurs in the real world of politics), we would like to see separate committees for the Legislative Council and the separateness of the Houses.

At the other end of the spectrum are members such as the Hon. Mr Gilfillan, who has indicated by way of his first package of amendments that he is comfortable with the view that the whole parliamentary committee system should be comprised of all joint committees. His first package of amendments placed on file in this Chamber had no separate committees at all and was based on a structure of five joint committees of the Parliament. Over that spectrum, from the five joint committees proposed by the Hon. Mr Gilfillan to the other end of the spectrum, that the Houses ought to be separate and independent, we have a whole range of views in between.

There is the considered view of the Joint Parliamentary Liberal Party that we have a structure of two Lower House committees, two Upper House committees and one Joint House committee. Other suggestions were that there be one Lower House committee, two Joint House committees and one Upper House committee. Another recent suggestion was one Lower House committee, one Upper House committee and three Joint House committees. A range of other options have been floated as well, but they have been the four or five most discussed options both inside this Chamber and publicly as well concerning what the committee structure of the Parliament ought to entail.

The propositions now left before the Committee at this stage have narrowed down. In due course the Hon. Mr Gilfillan will place on the public record his current position as opposed to the original proposition that he put, that there be five Joint House committees of the Parliament. At this stage it would appear that the options currently on the table are the Government's and the member for Elizabeth's suggestion that there be one Lower House committee and three Joint House committees, with no separate standing committee of the Legislative Council included as part of this legislation, and the Liberal Party proposition at this stage of two House of Assembly committees, two Legislative Council committees and one Joint House committee.

Some of the key differences between the two propositions are, first, the fifth committee that the Liberal Party suggests be a statutory authorities review committee. There has been some suggestion that there is something inherently wrong in having a separate committee investigating statutory authority review. My public statements strongly disagree with that proposition. The suggestion made is that the Economic and Finance Committee in particular, but also some of the other standing committees, will be the appropriate committees for the oversight of statutory authorities and, in particular, the Government/Evans proposition suggests specifically that the Economic and Finance Committee will have oversight of statutory authorities by way of the clauses and subclauses under the functions clause of that committee.

There is specific reference there to oversight of matters concerned with the functions or operations of a particular public officer or State instrumentality, which is defined to include statutory authorities. So, the key oversight of statutory authorities under the Government/Evans proposal is to be with the Economic and Finance Committee, but I know that the argument being developed by the supporters of the proposal is that all other committees will be able to provide oversight for the various other statutory authorities within their purview. That model being offered is completely contrary to the model being adopted by every other Parliament in Australia in relation to the critical question of statutory authority review.

The Hon. C.J. Sumner: Victoria.

The Hon. R.I. LUCAS: Victoria has always had a Public Bodies Review Committee. I am now discussing not the question of joint or separate, but of whether or not we should have generalist committees providing oversight of statutory authorities or a specific committee. The argument being offered is that we should not have a separate committee because the four generalist committees should provide oversight.

The Hon. C.J. Sumner: The Economic and Finance Committee has specific reference.

The Hon. R.I. LUCAS: The Economic and Finance Committee has a specific reference, but those supporting the proposal of the Attorney-General and Mr Evans are arguing that not only will the Economic and Finance Committee provide oversight of statutory authorities but, for example, the Social Development Committee will provide oversight on whether or not we should have a Health Commission and the Environment and Resources Committee will have oversight of whether we should have a State Transport Authority. They may not be the arguments that the Attorney puts this afternoon, but the supporters of the proposal are arguing that it will not only be the Economic and Finance Committee but also the other committees. I agree with what the Attorney suggests, namely, that the aim the Economic and Finance Committee provides oversight for statutory authorities.

The point that I am making is that in every other Parliament—Victoria with its Public Bodies Review Committee, Western Australia with its Government Agencies Review Group and the Federal Parliament with the Government Finance Operations Committee in the Senate—specific committees have the specific responsibility of trying to get on top of this ever growing area of statutory authorities.

The experience in all other Parliaments is that we need over time to develop a body of expertise and experience in providing oversight for those statutory authorities and only with that experience over time will committees be able to get their teeth into the operation of these various standing Government agencies and statutory authorities. Generalist committees, doing a whole range of other things, occasionally applying their minds to whether or not a statutory authority is the best way to deliver a particular service, such as the State Transport Authority as opposed to a Government department or whatever, are not the best way to go. That is a powerful reason why this Committee ought to consider seriously a separate specialist statutory authorities review committee in the Legislative Council.

The second argument that I put in relation to the need for that committee and in opposition to the Government/Evans proposal is that the Economic and Finance Committee in effect is the committee that takes over the role of two big committees already. It takes over the role of the Public Accounts Committee, which has been one of the better performing standing committees of the Parliament, as most members would agree. It has gone in cycles, but in general terms it has been one of the better performing.

The Economic and Finance Committee takes over its tremendous workload as well as the workload of the Industries Development Committee. Admittedly in times of recession its workload may not be as great as it has been (although I am not privy to its operation). Nevertheless, it is an important committee and its workload can be onerous. Yet, the Economic and Finance Committee is to take on that responsibility also. It then takes on general responsibility for all finance and economic development in the State. It takes on all responsibility for regulation of business or other economic and financial activity. It then takes on the responsibility for statutory authorities review, in the words of the Attorney and others who support the proposition.

This is a committee comprised entirely of House of Assembly members of Parliament. I know for a fact that, in the case of the Public Accounts Committee, which meets on a Wednesday morning (as do most of our committees), many House of Assembly members have difficulty ensuring attendance at every meeting for the full period that the Public Accounts Committee sits. It may well be that others such as the Hon. Mr Roberts, who sits on the Public Works Committee, might be able to offer similar evidence in relation to the ability of some members to attend meetings of the Public Works Committee. That is not a criticism of House of Assembly members. They have a responsibility to their constituency. They have electorate offices and, if they are in marginal seats or seats experiencing tremendous social problems, there is a great call on the services of the local House of Assembly member.

The Legislative Council member, being closeted in Parliament House, is less susceptible to that high constituency workload experienced by House of Assembly members. It is a simple fact that in general terms the House of Assembly member will not have as much time to devote to committee work as the average Legislative Council member of Parliament. That is a fundamental point. If anybody thinks otherwise, they ought to have a long discussion with House of Assembly members, be they Liberal or Labor.

The Government proposition is putting that the Economic and Finance Committee will not only undertake the work of the PAC and the IDC, the economic and finance work and regulation of business work, but also provide oversight of, depending on one's definition, between 500 and 3 000 statutory authorities in South Australia. It is a physical impossibility for the Economic and Finance Committee to manage that sort of workload. It is a nonsense to suggest that that committee will be able to provide anything other than token oversight of the statutory authorities review area. The proposition we are putting to this Committee on this funadamental question is that a need exists for the Parliament to have a specific statutory authorities review committee with specific responsibility for looking at those hundreds or thousands of statutory authorities that exist in South Australia.

The Hon. L.H. Davis: SGIC may never have happened.

The Hon. R.I. LUCAS: That is a pertinent interjection. That is the argument in relation to why we need the fifth committee. Members are aware of why I believe the committee ought to be in the Council and I do not intend to go over those arguments again as I have been through them with various members and it is on record during the second reading debate. Nevertheless, I repeat those views in relation to why it ought to be in the Legislative Council.

The other fundamental question to this essential issue of structure relates to who controls the committees. I know that members in this Chamber have a strong view that the Government of the day, whether it be Liberal, Labor or Australian Democrat in the year 2364 (under Premier Gilfillan), ought not to be able to control the committee system of the Parliament.

If members in this Parliament believe that we ought to have a committee system to provide oversight by the Parliament of the Executive arm of Government, then they have to ensure that the Government of the day does not control or dictate the operations of that committee system.

The Hon. L.H. Davis: That is the very point of it.

The Hon. R.I. LUCAS: It is the very essence of the committee system of Parliament. The Attorney shakes his head and I accept that he is in government and he takes that particular stand. He will smile knowingly and say, 'Wait until you're in government; you'll change your mind.' Some members in this Chamber say that we must not allow the Government to control the committee system of Parliament. What I say to those members, whether they be Labor, Democrat or Liberal, is that the vote on this amendment and the consequential amendments is absolutely pivotal to that particular proposition.

I contend that we will see which members are serious about the belief that, in this Chamber, we want a powerful committee system and a powerful Parliament which can provide some check to the excesses of the Executive arm of Government. I will not go into those excesses because we all know them and we all have different views about them. However, we know they exist. We all complain that over the years the Parliament has been gutted, that it has no power, that resources are denied to members, and that it is difficult for Parliament to provide oversight of the excesses of the Government. That is why members with those views have said, 'Let us have a powerful parliamentary committee system.' The consequential amendments will show whether or not we as a Parliament are serious about that judgment.

The Hon. L.H. Davis: It is the moment of truth.

The Hon. R.I. LUCAS: As my colleague says, it is the moment of truth. The package will unfold from this amendment. What the Government is putting to us in this package of amendments, and what some members are indicating they might support, is the proposition of a four committee system of Parliament—none in the Legislative Council. First, it is proposed that the Economic and Finance Committee be a Lower House committee with seven members (and, as we all know, the other place is dominated by the Government) with a ratio of four Government members to the Opposition's three members.

Whether that fourth member happens to be the current Independent member for Elizabeth is another matter, but we are talking not about a committee system just for the next two years when the Independent member for Elizabeth might be in a position of some influence; rather, we are talking about fundamental decisions for Parliament, for the Legislative Council and for the committee system to take us through this century and into the next century. So there is Government control of the Lower House Economic and Finance Committee.

We then move to the three joint House committees. With this package of amendments, there will be Government control of all those committees. The Social Development Committee has only five members, even with the amendments.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Not under your amendments.

The Hon. C.J. Sumner: It should be.

The Hon. R.I. LUCAS: We are debating this matter this afternoon. The amendments on file in this Chamber provide for five members on the Social Development Committee. If the Attorney has other amendments, it makes it extraordinarily difficult for members to debate the Committee stage given that, at the last moment this morning (I make no criticism of the honourable member concerned), a whole package of amendments disappeared. With the agreement of the Attorney, we obtained a three-hour delay while we tried to consider the matter.

However, this package of proposals provides for a Social Development Committee of five members which is dominated 3:2 by the Government. These amendments therefore give the Government control of that second committee.

There are two other committees which, with the amendment suggested by the Attorney, will be six-person committees—three from the House of Assembly and three from the Council. Whilst it is not in the Bill, and I accept the fact that it cannot be in the Bill, it is likely that we might have three Government members and three non-government members on those committees. However, the Attorney's amendment gives the Chair of the committee, which is almost certainly to be a Government member, not only a deliberative vote but also a casting vote in the event of a tie.

So, what we have in this package, which has been arrived at by the Attorney and perhaps other members in this Chamber and in another place, is Government control of those two committees. If it is a 3:3 split, Government/non-government, the casting vote will be used and there will be a 4:3 vote. This proposition will give absolute, complete and utter domination by the Government of the day, whether it be Liberal or Labor, of the committee system of Parliament—all four committees will be absolutely dominated by the Government.

If I can use a colloquial phrase, one of the things that has got up the nose of the Government in the past two years was a decision taken by the Democrats and the Liberal Party in this Chamber to establish committees which more properly reflect the balance of power in this Chamber. I refer to the bitter debate we had in relation to five person

select committees of the Legislative Council—two Liberal, two Labor and one Democrat.

The Government did not like that because, whilst it had the Chair of the committee, it did not dominate and it could not control the operation of those committees. The Government's proposition, which was arrived at after discussions with others, is that Parliament's committee system ought to accept absolute domination by the Government. If that is the sort of committee system that members in this Chamber want, we might as well not have it. We might as well stick to 55 Legislative Council select committees. At least with current thinking, we have some non-government role in the committee system where there are three non-government members and two Government members. We might as well accept that.

I say to those members in this Chamber who have said publicly that they believe this Bill ought to be about providing oversight for the excesses of Government, that they want to support the powers of Parliament, and that they will achieve that aim through this Bill, they cannot do it by supporting an amendment proposed by the Attorney and others that provides that the Government of the day, Liberal or Labor, will dominate and control what goes on in every standing committee of the Parliament that will be established under this legislation, with the amendments that have been placed on the table.

Let us look at some of the propositions. We have discussed the deliberative and casting vote of the Chair of the committee. I have discussed with some members how things will be referred to the various committees, and I refer to clause 16, which provides:

(1) Any matter that is relevant to the functions of a committee may be referred to the committee—

(a) by resolution of the committee's appointing House or Houses;

(b) by the Governor . . .

or

(c) of the committee's own motion.

They are the three options. I have just referred to the option relating to the committee's own motion. As I indicated, if the votes of the committee are Government dominated, whether it is Liberal or Labor, then the Government controls what the committee decides will go to the committee. So, if the Government of the day says, 'We will not review SGIC', it will vote 4:3 on the Economic and Finance Committee, or, on the other committees, 3:3, with the casting vote, and thus prevent the committee from doing that. In relation to the question of the resolution of the committee's—

The Hon. I. Gilfillan: That can happen without the casting vote. You don't have to have the casting vote for that to happen.

The Hon. R.I. LUCAS: It will be doubly so with the casting vote.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: I accept the proposition made by the Hon. Mr Gilfillan. In relation to the resolution of the committee's appointing House or Houses, the advice that I have received from Parliamentary Counsel is that the resolution must be the exact resolution passed by both Houses to get something to one of these committees.

Let us say that the Legislative Council, with non-government control, said, 'There is absolute corruption going on in the SGIC at the moment; it is an absolute disgrace and it ought to be referred to the Economic and Finance Committee,' and passed a resolution to that effect. Unless that resolution were agreed to by the Government-dominated House of Assembly, it would not get to that committee. So, if there were no agreement of both Houses, even if there were absolute corruption in the SGIC, for example, the Council would not be able to get the issue to the committee, because the Government of the day—and let us take this Government—would not willingly agree to parliamentary committee oversight of something that would cause it problems. That is the essential reason why members in this Chamber have said, 'We cannot let the Government dominate the committee system of the Parliament.' It is the reason why members have been arguing about this committee Bill and trying to come to some sort of consensus or resolution that will allow proper parliamentary oversight of the excesses of Government.

The House of Assembly would not agree to that and, therefore, clause 16 (1) *(a)* would not enable us to get it there. The committee would vote 4:3 against it, in all likelihood, so it would not get there. Sure as eggs, the Governor, by notice published in the *Gazette*, on the advice of the Government of the day, would not refer it to the committee. So, how do we provide parliamentary oversight for these sorts of excesses?

The concern I have is that so much has happened in the past 24 to 48 hours, where the positions of members to whom I have spoken in confidence—and I will not break those confidences—have changed remarkably.

The Hon. C.J. Sumner: You should have spoken to me.

The Hon. R.I. LUCAS: You don't talk to me. In the past 24 to 48 hours—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I will happily talk to you. In the past 24 to 48 hours—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Well, if you would like a witness, we will have Mr Groom or someone. I indicated that at 9.15 this morning I became aware of a whole package of amendments that went out of the door in relation to one particular option for the committee system. As late as this morning I had discussions with another member in relation to that member's position on various amendments and so on.

I accept that it is very difficult for all members, and, in the past 24 to 48 hours, pressure has been applied. I do not want to overstate that sort of pressure; we are all putting our point of view strongly. It is not improper; we are all in it for what we would like to see come out of this Bill. So, I am not suggesting anything. However, because this debate has been called on in the past 24 hours of this sitting week, it is being suggested to members, 'Look, unless we get this thing through, the whole thing might lapse; we might lose it all. We have to grab what we can get.' I do not think that, in the rush to resolve this issue today, we are properly considering some of the fine detail that is absolutely critical to the question of whether or not we will have an effective committee system. I suggest to members that they vote to get us to conference, at least. In conference, the Independent members, the two Democrats and people of goodwill on both sides—Liberal and Labor—can sit down and try to resolve some of these critical questions.

The Hon. I. Gilfillan: Can you imagine a conference?

The Hon. R.I. LUCAS: I have been to some conferences.

The Hon. I. Gilfillan: They are hopeless; all they do is present predetermined positions.

The Hon. R.I. LUCAS: I accept that on occasions that might occur. However, there are people with goodwill in all three Parties and as Independents, who want to see an effective parliamentary system. The daggers are not drawn; we do want an effective parliamentary committee system. It is not a uranium Bill—

The Hon. I. Gilfillan: There are a lot of people who don't want to see it.

The Hon. R.I. LUCAS: There might be a lot of people, but the majority view being put in this Chamber on behalf of the Democrats, the Government and the Opposition is that we do want to see that. There might have been debates for and against the proposal, but they have been resolved. We have a Liberal position, a Labor position and a Democrats position which says that we want to see an effective committee system. I am just concerned that, because of the changes in members' views in the past 24 to 48 hours, we might not dot the i's and cross the t's, and we might let through a committee system which, I believe conclusively, is absolutely dominated by the Government of the day. The Government of the day could prevent, if it so chose, the oversight by any committee of a major problem or scandal within a Government agency or a Government department or, indeed, a reference for any sort of inquiry under the committee system.

The Hon. I. Gilfillan: The Committee stage allows dialogue; we are not making set speeches. I am looking forward to having a chance to explain on the record.

The Hon. R.I. LUCAS: I accept the Hon. Mr Gilfillan's view. I gather that his view is not set in concrete in relation to some aspects of this Bill and that, during this Committee debate, where the Attorney and I will present arguments, he will keep an open mind and vote accordingly. All I am imploring at this stage is that, because of the problems that I have identified, there be a majority in this Chamber at least to keep the debate alive, to get the Bill to conference and to allow good members with goodwill to sit down and try to resolve these questions to achieve the ultimate goal of an effective parliamentary committee system that provides oversight of the excesses of Government.

The Hon. I. GILFILLAN: It is important that I explain my position because, as the Hon. Rob Lucas pointed out, there has been a dramatic change to the amendments on file. It is important to emphasise that there is, I believe, genuine goodwill around this Chamber for the institution of the best parliamentary committee system that can be put in place. I emphasise the words, 'can be put in place'.

It is a very nice indulgence that any one of us could go right to the line with what we believe to be the ultimate committee system. Those who remember what I said during my second reading contribution will know that I believe that the ultimate system has separate dedicated committees in each Chamber. They could duplicate the work but that would not upset me. However, it is a fact of life that that is impossible. We do not have the resources; we do not have the people; and we are not likely to get the funds—even if we had no salary increase. So, there is no point in my hammering that right through the Committee stage, because, in the end, I certainly would not get my way and it is a fair chance that if I stuck out for that there would be no committee system.

There are a number of points in the Hon. Rob Lucas' very impressive contribution, and I pay due respect to him. It is a matter about which he is very passionate and it promises well that the committee system, in whatever form, can evolve to its betterment over time, particularly if the Leader has a more influential role in the legislation that changes it, as is possible. However, the fact is that there will be nothing to change if we do not establish a committee system.

I picked up the issue of Government control of committees. It is an embarrassment; it is an uncomfortable position to be in. However, I was not prepared to work with a 3:2 situation if we are to have joint committees. My preferred position under the parameters is the even numbers of 3:3.

Assuming that the Government of the day, be it Labor or Liberal, is entitled to have three of those members, we have a stand-off position in which, in those circumstances, with or without a casting vote, one would almost have the same opportunity to control. It is important that we take note of the suggestions which come up and on which we can act. There is obviously an obstacle that the Hon. Rob Lucas has pointed out, with motions coming to those committees. That may easily be solved by allowing the motion that comes before the committee to be moved by either one of the appointing Houses. I ask the Leader to ponder that suggestion.

I had advice from Canberra today that in all Senate standing committees the Chair has the deliberative and casting vote. So, we are not breaking new ground. I have not heard undue criticism or undue expression of the limitations of the way in which the Federal Government's committees work. Even if they are not perfect, and if this is not perfect, the scope is there for a mature substantial committee system to be put in place, and that is the main reason.

I have assessed the conversations I have had with many members in this Chamber who are deeply involved in this matter, and a couple of others from the other place. Obviously, Mr Martyn Evans has been playing a key role in it. It is my considered opinion that this five committee proposal, which I moved in my batch of amendments, would not be achievable or sustainable. Therefore, what do I do? Do I persist with that, as I said before, and pigheadedly determine that it is either that or nothing or, in the process of constructive conversation, realise there are options which, although not perfect, are workable and offer a very reasonable way of getting our first steps into the parliamentary system?

The Hon. Rob Lucas refers to 'rathers'. We all have our 'rathers', but 'rathers' are there for sharing and working out by compromise what is a proper formula to put in place. Members may have picked up from the amendments that there is the continued opportunity for either Chamber to establish its own standing committee. I doubt whether it needed to be in this Bill, but it is in the amendment which will clearly put it into the Bill. I would expect this Government—the same as I would expect a Liberal Government—to realise, with respect, that a standing committee established in either Chamber should be resourced. So, there is no obstacle in this legislation for the Hon. Rob Lucas and others who support it in this Chamber to establish a separate dedicated standing committee in this Chamber to deal with any matters they like.

I have thought at some length over the point made by the Hon. Rob Lucas about a dedicated statutory authority committee, but I am persuaded, at least in part, by the opinion of others to which he referred that much of that work will be dispersed amongst the other committees into the areas of portfolio interest at which they are looking. A substantial amount of work may not accumulate to justify the dedication of a committee purely for statutory authorities. I would suggest—and I float this idea—that, if we go down the path of establishing our own Legislative Council standing committee, it embrace a title wider than statutory authorities, such as, perhaps, Government Management—an area that really gives us this scope to be a review House.

There is no way that we will get this Bill through the Parliament at this time, but the opportunity is still there. The goodwill is here, and I speak for myself—it is here. I withdrew those amendments because I do not see any point

in my putting up in this Committee stage amendments which, on balance of conversation, I know will not be achievable. I believe I made this point in my second reading contribution, and my response will go on. I am not making one definitive speech—this is my attempt to help the creation of a parliamentary system which is achievable and amendable. In those circumstances, I look forward to further debate and moving through the Committee stage. However, I am not prepared to stand by the earlier draft of my amendments and put them up one by one, wasting the time of this Committee. That is why I am taking the time now to explain to the Hon. Rob Lucas that it was not a sudden—

The Hon. R.I. Lucas: Why is it wasting the time of the Chamber?

The Hon. I. GILFILLAN: Because I would be going through the farce of moving amendments which I knew were not achievable.

The Hon. R.I. Lucas: What happens if they pass this Chamber?

The Hon. I. GILFILLAN: I have absolutely no confidence that a conference structure of this Parliament, in my own subjective judgment, would achieve a committee system that would be acceptable. It was not a peremptory *ad hoc* decision to withdraw those amendments; it was made in good faith to expedite the work of this Committee stage.

The Hon. C.J. SUMNER: I thank the Hon. Mr Lucas for his contribution to the debate. As everyone is trying to put their own *bona fides* straight about this matter, I know that members heaped praise on me during the second reading debate for my enthusiasm to introduce a committee system, for which I thank them.

The fact of the matter is that I have been interested in improving the committee system in this Parliament since becoming Attorney-General in 1982. I will not reiterate what I did following that election but, if anyone is looking at longevity as far as attempts to introduce an improved committee system in the Parliament, and if we are looking at various credentials, I suspect that mine would have to come at the top, as I have been trying to do it since November 1982—unsuccessfully. The fact that it has been unsuccessful for virtually the best part of a decade means for some reason that it is not an easy process.

Anyone who has been involved in discussions or negotiations over that nine year period would know that it is not an easy process. It should be an easy process. It is regrettable that it has not been as easy as it should. Everyone knows that individuals have their own ideas, and Parties have their own ideas, but Parties are split. People have vested interests. Members currently on committees do not want them changed, and there is a reluctance in Government to have an upgraded committee system. I know there is a reluctance in the Liberal Party—but not with all members—to have an upgraded committee system. There is a reluctance in some sections of the Labor Party.

The Hon. J.F. Stefani interjecting:

The Hon. C.J. SUMNER: That is the fact of the matter. The honourable member knows that as well as I do. A number of Liberal members are opposed to this Bill, just as I know that, in a free vote, a number of others would be opposed also. It is not an easy process, but I have tried to get on with it. I think we have reached what is a reasonable solution. It is not satisfactory to everyone—I appreciate that. Nevertheless, it is there, and I believe that it is a vast improvement on the current situation.

I apologise for the fact that there was an oversight in my series of amendments, but I have corrected that with an amendment that I have just circulated. The six-member structure is to apply to all joint committees, not just to the Legislative Review Committee and the Environment and Resources Committee. It is also to apply to the Social Development Committee. That is picked up in the amendment that I have just tabled. I apologise; it was in the Notice Paper, but that was not a matter of substance, obviously.

The Government believes that the basic structure that it has brought forward should remain. That is, a House of Assembly Economic and Finance Committee will take over the role of the old Public Accounts Committee and the Public Works Committee. There is no question that it has a specific reference on statutory review—there is no shilly-shallying. There is a synergy, if you like, a common thread running through statutory authorities review, public accounts and finance, and to have expertise in that committee able to do that job is desirable.

I also take the point (and I think it is a valid one) that the other three joint committees will obviously look at statutory authorities that come within their own purview. It may be that in certain circumstances it would be better for the Economic and Finance Committee to do it, because it will be a more technical and financial sort of analysis.

On the other hand, it might be more appropriate for the Social Development Committee to look at a statutory authority because of general policy issues that might revolve around it. Clearly, there is the capacity for all the committees—the three joint committees and the Economic and Finance Committee—to look at statutory authorities and there is in particular the brief in the Economic and Finance Committee to do that.

I believe that the concerns about statutory authorities and their oversight has been met adequately in the Bill as put forward by the Government. Also, I would have to reject the notion from the Hon. Mr Lucas that there would be only token oversight of statutory authorities. I do not believe that that is the case. Where we have the capacity for four committees of the Parliament in various ways to oversee the activities of statutory authorities, I do not see how that can be considered token.

I turn now to the critical issue of who controls the committees, as referred to by the Hon. Mr Lucas. He said there is a strong view among some members that the Government should be a minority on the committees of the Parliament. I am sorry, but that is not a view which I accept and it is not a view which I reject just because I happen to be in Government at present. First, from a precedent point of view, if that is worth anything, certainly since I have been in this Parliament (and I suspect for decades or for even as long as there have been parliamentary committees in this Parliament) and even when the Legislative Council was 16 Liberal to four Labor, the Government by convention has had a majority of its Party on committees such as the Subordinate Legislation Committee and the Public Works Committee, etc.

Even where there were joint committees, there has always been a Government Party majority on those committees, as long as one can remember, irrespective of the composition of the Houses. That was a convention which this Parliament accepted. I then go on to other precedents. The Hon. Mr Gilfillan has just confirmed what I told him last week: every committee of this kind in the Federal Parliament has an inbuilt Government majority on it. Even in the Senate, and certainly in the House of Representatives, that is the case.

Of course, it is also the structure in the Victorian Parliament with the committee system that it introduced shortly after it came to Government in 1982. Perhaps I could just put in an aside and say in 1982 I should have introduced

a Bill similar to the one that was introduced in Victoria and not gone through what I thought was the decent thing to do at the time, that is, a consultative process through the joint select committee that we set up to look at the committee system. It is the sort of thing that, if one is going to do it, should be done in Government in your first few months, as with freedom of information. If you do not do it in the first few months, the enthusiasm to do it dissipates, but I am glad that it is revived now. Anyhow, that is an aside.

Victoria also has Government majorities, as has the Commonwealth. There is one reason that overshadows the points raised by the Hon. Mr Lucas as to why it is appropriate to have Government Party majorities on these committees. If one is involved essentially in witchhunts against the Government, fine, have a non-government majority. We are looking for cooperation between members of Parliament invoking goodwill and trying to get to the bottom of issues and getting decent policies for the State. However, if we have a totally confrontationist attitude between Government members of the committee and Opposition members, I am afraid that in my view we will not get the best results for the community.

The Hon. T. Crothers interjecting:

The Hon. C.J. SUMNER: If they are going to work constructively it is important—and I agree with the honourable member—that those committees cooperate with the Government. It does not mean that they cannot investigate things because obviously they can. Indeed, they have done so in the Federal Parliament, as members know. In fact, when I raised this matter last week with the Hon. Mr Gilfillan, I had just been speaking with none other than the Rt Hon. Ian Sinclair, a former Deputy Prime Minister, and, of course, a member of Federal Parliament for 30 years, and, indeed, a member to whom one—whatever one's views of his politics—would have to give some credence as a person who knows about the parliamentary system.

I am sure that he would not mind my saying this, but we were talking about this issue. He explained to me that in the Federal Parliament the Government Party has a majority. He said that, if you are going to get cooperation and decent decisions, and decisions that are capable of being implemented, there is no point in a parliamentary committee with a non-government majority coming up with recommendations which are off the planet and which the Government in no way is able to implement.

He also said that the notion of the casting and deliberative vote is a reasonable one, but he said it is not used often because committees try to get a constructive set of recommendations that obviously take into account the Government's point of view but also consider the position of the Opposition and the Independents, and get to the best solution on a policy issue for the community. Despite what the Hon. Mr Lucas said about so-called Government Party domination of the committee system, there is a valid reason for it to exist in that form. It can assist the process of getting decent decisions, rather than hindering it. It is not as if this Parliament is breaking new ground by getting Government Party majorities on the committees.

Finally, in any event, it has not been easy to put this package of committees together, and it is important that we do it. As I said, I believe it is in any event the right decision. Obviously, other issues will come up for debate in the Committee stage but this debate, as it has now gone on for an hour or so, has identified the main issues, and I hope that with the debate on this issue of the introduction of a statutory authorities review committee as a fifth committee (whichever way that goes), it will determine at least to some extent the rest of the debate.

The Hon. M.J. ELLIOTT: The Hon. Mr Lucas spoke with great passion. He not only sounded passionate but he also was passionate. I have discussed this matter with him on a number of occasions over many years. There is also no doubt that the Attorney-General is committed to a system of committees, and he has a track record to prove that. It is also true to say that unfortunately the position of both the Hon. Mr Lucas and the Attorney-General are not the positions held by all their Party members.

That creates a great deal of difficulty. I made it clear in the second reading debate that I had a preferred position for separate committees of the Upper House. I explained why I believe they should exist. It is important that if it is at all possible we have committees which review, and are independent of, Government. The Upper House fits that Bill, as it is the only democratically elected House in South Australia. The Lower House is not a democratic House.

The Hon. Peter Dunn: That's Dean Jaensch's view.

The Hon. M.J. ELLIOTT: I happen to share the view of Dean Jaensch very strongly. He is not alone—people such as Malcolm Mackerras and a wide range of other non-Party political commentators also share that view. It is certainly my view that Upper House committees are the way to go. The reality is, if we get into the real world, that certainly the Attorney-General will not be able to take his Party along with such a viewpoint. I am not even convinced that the Hon. Mr Lucas could take his Party the whole way. That is obvious by the Liberal Party's position, which is for some committees in the Upper House and some in the Lower House. The Upper House is denied any involvement in half the issues that will be covered by the committees.

The Liberal Party compromise is in fact a highly imperfect compromise because it shuts out the Upper House in the committee system in many areas. The particular compromise that it offers shuts out the Upper House from areas that I thought were vitally important to the State's future. The position that he put on behalf of his Party was highly imperfect, although I agree with the position that he started off with, namely, separate House committees. Not only was it imperfect but, at the end of the day, such a position would mean that the Lower House would fail. If insisted upon the whole Bill would fail and we would have no committees whatsoever.

It is a position that I have thought about long and hard. It was obvious at the second reading stage that my position was not the same as the Hon. Mr Gilfillan. If there was ever an occasion on which we were likely to divide in this place, it was over this committee Bill. We have no disagreement on fundamental philosophy, but we do have disagreement on perhaps structure and the way of achieving those philosophical objectives.

The question of committee control is an important one and one of which I became very aware with select committees. There is absolutely no doubt whatsoever that the control of committees by Government has been abused in the select committee system in the Upper House. I have been on at least three select committees where the Government used its numbers and abused them. It took the view that committees were set up for political purposes and from that point on the Government was deliberately obstructive on occasions.

Even more interestingly, each committee about which I am thinking justified its existence and looked at matters that deserved attention. The SATCO committee is an obvious one, as was the Christies Beach Women's Shelter committee and the Aboriginal health committee, which was not revived.

However, the numbers were abused. The Government was brought back to account because from that point on committees in the new Parliament were set up on a two, two, one basis, which in fact reflects the House. I argue that the issue here is not really Government control or otherwise but rather parliamentary control.

While we can present arguments against Government control, I do not think anyone would suggest that it would be reasonable in the current circumstances and composition of the Parliament that the Government should be an absolute minority, either. It is important that committees ultimately reflect the Parliament. If the Government does not control the Lower House or the Upper House, at that point it becomes unreasonable for there to be Government control of overall committees. However, the composition of the two halves of committees to be set up is in the hands of the separate Houses. Ultimately, it will become their responsibility.

It will also be patently obvious that, whilst the direction in which we seem to be moving is that the Government will have control of committees, Government control is not written into the Bill, but it is obvious, if we look at the numbers and composition of the Houses, that that will be the final position of any committee set up. Any Government that abuses the position and uses it to block proper investigation would find itself in a position, as did the SATCO committee, where members would withdraw and the credibility of the committee would be threatened. I expect that at any time a Government abuses its position will find Opposition Parties withdrawing and committees becoming non-functional with only three out of six members, thereby denying a quorum.

With joint House committees, as imperfect as they are and with all the reservations that I have about them, the current model before us is one which gives the Upper House access to all areas with the exception of the hard-nosed financial end. That is one area that appears to be denied the Upper House whereas the Liberal position offers Upper House committees but only in some areas. We will be in a position where, if there is misbehaviour or abuse of any majority that the Government may have, the committee could become unworkable if Opposition Parties ever threaten to withdraw. I hope that we never find ourselves in that position, but ultimately that possibility remains.

Members in another place would have to think carefully about the implications of a joint committee system for them. I am on a joint committee looking at parliamentary privilege, and it has met three times in six months.

The Hon. C.J. Sumner: That's not the fault of the House of Assembly.

The Hon. M.J. ELLIOTT: I have certainly been available. I am not sure who has not been available. Joint committees are hard to get together, and because of constituent work Monday and Fridays in sitting weeks are times when Lower House members try to return to their constituency. They need to be aware that these joint committees will meet regularly and will make great demands on their time. Upper House members will expect those committees to meet regularly.

I raise with the Attorney-General one matter and will be most interested in his response. Aside from the fact that we do not have a full set of Upper House committees, the major concern I have is that the Upper House is denied access in the financial area. There is one amendment on file that partially addresses that problem in that the Environment and Resources Committee now also looks to pick up development, giving the Upper House more access than it would otherwise have had on economic matters.

Will the Attorney indicate the Government's reaction to resourcing any committees likely to be set up in the Upper House—either standing committees of this place alone but set up outside this legislation or select committees? I believe that is certain to occur. I have a motion to set up a select committee to look at a few Government statutory bodies and I will be pursuing that, regardless of the outcome of this legislation. I would like to know the Government's position on resourcing of such committees because, as far as I am concerned, that is the major sticking point for me personally, namely, that the Upper House should not be hamstrung by lack of resources or from investigating matters currently denied by the structure of the standing committees proposed.

The Hon. C.J. SUMNER: The Upper House is not denied the capacity to investigate anything.

The Hon. M.J. Elliott: That is within the committee system.

The Hon. C.J. SUMNER: Within the structure there are certain matters which the House of Assembly has within its Economic and Finance Committee; that is true. However, I have said that in certain areas the other three joint committees could look at statutory authorities and, no doubt, could also look at the budgets and the finances of the areas that come under their individual jurisdiction. How this will work out in practice will obviously be a matter of discussion and negotiations between the committees and it will be a matter of how practice develops over the years. However, one would imagine that the Social Development Committee, which is responsible for health and education, would not just confine itself to policies in those areas but would also (and I think this is the member for Elizabeth's proposition) in appropriate cases involve itself in matters of finance.

So, I do not think it is true to say that the Legislative Council is totally excluded from those areas, but I agree that the House of Assembly does have a committee which has a certain brief and, to that extent, the Legislative Council does not have direct access to it. I will move an amendment later which will make clear what I have no doubt is the position anyhow, namely, that this Bill does not preclude either House establishing standing or select committees of their own motion outside this committee structure. As I say, I do not think there would have been any doubt about that but, if there was, we will clear that matter up by including this non-derogation clause.

Obviously, I have not been involved in a select committee for some time, but my impression is that the Government has not been backward in providing resources to the select committees. It may not have been quite the resources that the honourable member wanted, but research people have been provided and they have assisted the committees, as I understand it, reasonably well.

If the Council decides to establish other standing committees, of course that is a matter for the Council. I should hope that the Council would not just dash off and say, 'Well, that is Sumner's committee system. We are going to have our own.' I hope members give it a chance to operate and see how it works. I think that, if members are doing their job on the committees that are established by this Bill, they will have more than enough to do. I just hope that the Legislative Council will not decide, as soon as this Bill comes into effect, that it wants to have a number of standing committees of its own. However, if it does, there is nothing to stop it doing that and I have to make that quite clear; we make that quite clear in the Bill.

The question of resources for standing committees is a difficult one. I cannot stand here and say, 'Every committee

will get these particular resources, so many research officers, so many secretaries, etc.', but I am prepared to make the general proposition that, if the Parliament establishes committees, whether under this Bill, by way of select committee, or by way of individual House standing committees, then obviously resources have to be found to assist those committees. Once this Bill is passed, that is a matter that obviously the Government will be involved in, but I think it is also something that falls on the presiding officers.

I understand that the proposition that was floated last year of a budgetary allocation for Parliament, or a one-line appropriation for the Parliament, will be revived. Of course, a lot of issues have to be resolved in relation to that matter, but I think that would be a desirable course of action. I know that we have to decide which things come within that one-line appropriation and those which do not, but I think that, if we get to that one-line appropriation situation for Parliament, Parliament itself, totally independent of the Executive, can make decisions about allocation of resources. So, if a parliamentary committee is established on an issue that crops up and it needs resourcing, then the President is able to say, 'Yes, we have made savings this year in this area and we can divert them to providing those particular resources.' However, that is another debate.

I am not in a position to give specific chapter and verse about resources, but I am prepared to make the statement that I made. I will not repeat that statement: members are aware of it and I think that ought to be sufficient indication of the Government's position on the matter.

The Hon. R.I. LUCAS: I want to clarify the Hon. Mr Elliott's position. I understand that he does not support the Liberal Party proposition for two Lower House committees, two Upper House committees, and one joint committee. I think he has made that clear. However, this vote on the establishment of a statutory authorities review committee does not have to tie itself to that model proposed by the Liberal Party of two, one, two. This vote can comfortably fit with an honourable member who had a view that he did not want to disturb unduly the Government/Evans proposal, that is, he wanted to support one Lower House committee and three joint committees, so he leaves that understanding between the Government and Mr Evans, but an honourable member could vote for a statutory authorities review committee to be established in the Legislative Council without doing damage to that particular understanding or arrangement.

As I understood the Hon. Mr Gilfillan (I will need to check the words tomorrow in *Hansard*, and he will correct me if I am wrong), he said he was a person of goodwill and that, soon after this Bill went through, members in this Chamber could agree to establishing outside this Bill a committee, perhaps a statutory authorities review committee, or perhaps a Government management committee. I have talked before about the Senate Committee on Government Financial Operations which Peter Rae made famous back in the 1970s and 1980s and which provided oversight of statutory authorities in a magnificent way; it also did some work on the Stock Exchange and other financial areas as well. I understood the Hon. Mr Gilfillan to say that, outside this Bill, this Legislative Council could, with people of goodwill like Mr Gilfillan and others, make that sort of decision.

I understand that the Hon. Mr Gilfillan says he is not prepared to do that within the framework of this Bill, but outside this Bill, as a person of goodwill, he is prepared to look at the matter. However, I do not understand the logic put forward by the Hon. Mr Elliott. If one is prepared to establish a committee in two weeks time outside this Bill, why not do it as part of this Bill and as part of an overall committee system for the Parliament? My question of clarification to the Hon. Mr Elliott is that, accepting that he opposes the Liberal Party proposal for two Lower House committees, two Upper House committees and one joint committee, what is his position in relation to leaving the Government/Evans proposition of one Lower House and three joint committees and supporting that part of these amendments that would just establish a fifth committee in the Council?

In that case, the Evans/Government, perhaps Gilfillan, deal, whatever it is, has been left and is not touched and he can support that, but there is a proposition of just adding the fifth committee. I do not understand the logic that would say that in a couple of weeks we can establish another committee outside this.

The Hon. C.J. Sumner: You can, but it does not mean you are going to.

The Hon. R.I. LUCAS: I agree with that. The Attorney has said he does not support that. If Mr Gilfillan, Mr Elliott, and the Liberal Party in two weeks time in private members' business establish a standing committee on statutory authorities review, or Government management or whatever it is, then, as the Attorney says, we have the power to do it. I do not understand the logic of why we do not do that now as part of the overall oversight of the Bill.

The Hon. I. Gilfillan: It will not go through Parliament. I just want to say it again, because you might have missed it in my earlier comment.

The Hon. R.I. LUCAS: Again, I say to Mr Elliott that I do not accept that. I accept that the Hon. Mr Gilfillan believes it will not go through but, as I have said to the Hon. Mr Elliott privately, and I say part of it semi-publicly now, I do not accept that judgment as to what might happen in conference.

I am not as pessimistic on this issue about what might occur at conference. No-one can say with absolute certainty, not even the Hon. Mr Gilfillan, that if the Hon. Mr Elliott supported the fifth committee in the Council and left the Government/Evans position untouched, it would not go through.

If the Hon. Mr Elliott supports this proposition and opposes all the other Liberal propositions and it goes out of this Council as one Lower House committee, three joint committees and one Upper House committee, and if we eventually get to conference and the Hon. Mr Elliott is concerned that things are not going the way he wants them to go, I give a public undertaking that, with no bitterness or recrimination from me, he can change his mind and go back to supporting the proposition of one Lower House committee and three joint committees. Then, outside the ambit of this Bill, we can discuss separately establishing a fifth committee of the Council.

In relation to supporting this amendment, the Hon. Mr Elliott has all the options open to him. He can adopt the position of his colleague, the Hon. Mr Gilfillan, at conference or after conference. It may well be that we are all moved as a result of what I hope will be a productive working arrangement in conference to a consensus between all Parties on this issue. Whilst I accept that the Hon. Mr Elliott will not support the Liberal position of two Lower House committees, two Upper House committees and one joint committee, what is his position in relation to adopting the Government/Evans/Gilfillan position but supporting the fifth committee in the Legislative Council to enable us to get to conference in the next week or two?

The Hon. M.J. ELLIOTT: Whether it happens under the Bill or within this Chamber by way of another motion, I

would be most surprised if, in a couple of weeks, we do not have some form of committee looking at statutory bodies. I already have a motion before this Chamber dealing with at least four such bodies and there is no likelihood that I will withdraw that motion with the passage of this Bill. There are matters that I believe the Council should look at. As a part response, I believe that there will be some sort of committee, either standing or select, that will look at some, if not all, statutory bodies.

I want to turn the question around. First, in an attempt to understand the situation, can the Attorney tell me why the Government believes that it is so important that the Economic and Finance Committee should be a committee only of the Lower House and not a joint committee? Why did the Government not entertain any committees of the Upper House alone? If the answer to my question is based on a matter of cost, what is the Government doing about the provision of cars to the Chairpersons of some committees as a means of saving money? The Democrats' view has been that committee work should not be remunerated; we made that clear during the second reading stage. However, at the very least, there is a Liberal amendment to reduce the payment to members, which will obviously save money. So, if it is a question of cost as far as Upper House committees are concerned, quite a deal of money could be freed up, one way or another, to cover that problem.

The Hon. C.J. SUMNER: Members may not agree with it, of course, but, whatever one says, it is a political reality that the House of Assembly guards what it sees as its pre-eminence in matters of Government finance. It is true that statutory authorities, as such, are not matters of Government finance. However, the Government felt that within the constraints of a four committee structure—and I have never had a brief to go outside that basic four committee structure—it was most appropriate for a review of statutory authorities to be placed within the terms of reference of an Economic and Finance Committee, which will take over the functions of the Public Accounts Committee.

Members may disagree with the House of Assembly's view of its role in public finance, but it is a view that is very strongly held, at least by some members. It arises from the fact that the budget is introduced into the Lower House and that the Upper House cannot initiate money Bills or money clauses. Members may say that that is a load of bunkum. Fair enough; they are entitled to say that. However, I am saying that it is a very strongly held view that the House of Assembly has a particular role in the area of Government finance. Governor's messages are necessary on financial matters and money Bills must originate in the House of Assembly.

Of course, there is also a strongly held view—again members may not totally agree with it—that the Legislative Council does not have a completely equal role in the area of money Bills. Further, it is believed that encouragement ought not to be given to the Legislative Council to involve itself in the budget to the extent that it can come under attack in the Legislative Council with all the attendant problems of blocking Supply and the like, if one goes to the logical conclusion. One may not agree with any of that; all I am saying is that it is a strongly held view. I do not think it is a view based just on political expediency. It is a view held strongly by a large number of members in the House of Assembly. The fact that the Public Accounts Committee was established with only House of Assembly members reflects that view.

So, that is the political reality which, according to my brief on this parliamentary committee system, I have had to live with: a structure of four committees with public accounts in the Lower House. Within that context it seems sensible to include statutory authorities review in the public accounts financial review area. I think it is logical. Undoubtedly, it would be possible to have a separate statutory authorities review committee but, as I said, the Government wanted to contain the system to four committees for reasonably good reasons. However, the fact of the matter is that, whichever way one looks at it, there is now a committee system which covers the whole of the Government's operations from A to Z, a committee system which has not only Government members but also Liberal Opposition members and which, obviously, will have Independent Labor members and, one assumes also involve the Democrats.

That is the answer to the honourable member's question. He may not agree with it or with the views of the House of Assembly, but that is the explanation that has been given for the four committee system—three joint committees and one dedicated House of Assembly committee—which the Government has proposed. The honourable member may wish to continue with his motion about the SGIC, the State Bank and all the rest of it, and we can debate those matters when the time comes—he is free to do so—but I hope that the Council will not, in a fit of pique, decide to set up a standing committee into statutory authorities immediately this Bill is passed. The Council may wish to take that course of action at some stage in the future if it is considered that the existing committee system is not operating satisfactorily, but I hope it will not take that action immediately. I genuinely believe that, once this Bill passes, it should be given a chance to work. Select committees are another issue, but I hope that the standing committee structure will be given a chance to work once it has been established.

The Hon. M.J. ELLIOTT: With respect to the question of costs and savings, I know that the matter of vehicles has been raised and that that has some impact on whether or not extra committees are set up because the resourcing of committees is expensive, particularly in relation to cars. Has the Government considered what it will do about the provision of things such as cars?

The Hon. C.J. SUMNER: It is obvious that, under the structure of the Government's scheme, the *status quo* will remain as far as emoluments and cars are concerned.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Yes.

The Hon. M.J. Elliott: So, no perks will be taken away?

The Hon. C.J. SUMNER: The honourable member can describe it as he likes. All I am saying is that there is a *status quo*. There are four committees at the moment, and those committees have been differentiated by the Parliament—not by the Government—under the Remuneration Act. The Parliament has differentiated between the existing four committees and the additional remuneration and assistance that they receive by way of cars. The latter part is not provided in the Remuneration Act, but the first is, and that is a fact of life. The Government is not suggesting that members be paid more or that they should get more benefits or anything like that. The Government's position on these matters is basically to retain the *status quo*. If at some time in the future members want to do something else, that will not be my concern.

The Hon. Diana Laidlaw: They should not have a car and they should not be paid.

The Hon. C.J. SUMNER: All I am telling members is that that is not the history of the cars.

The Hon. Diana Laidlaw: It is a new start, isn't it?

The Hon. C.J. SUMNER: It is substantially a new start, but I am afraid that one can never ignore history in these matters.

The Hon. R.I. LUCAS: I am still not clear, given that we are voting on the statutory authority review committee, whether the Hon. Mr Elliott is prepared to indicate support for a model that would have one Lower House committee, three joint committees—which is the position of the Government and the member for Elizabeth—and an additional committee in the Legislative Council to ensure that, at least potentially, we would have a chance of getting to conference where many of these matters could be further explored.

The Hon. M.J. ELLIOTT: I have no particular fear about going to conference, but I do not see any point in going to a conference that will not achieve anything. It is patently clear to me that the Government will not be able to find the resources to pay for an extra committee and that it will not support it. When you go to a conference—

The Hon. Diana Laidlaw: Most people compromise.

The Hon. M.J. ELLIOTT: Yes, you are seeking some sort of a compromise. But what is the compromise? Either we will have the committee or we will not: no other compromise is involved. It is patently clear that as far as this Bill is concerned there will not be such a committee; so, going to conference would be a waste of time.

If a whole lot of issues were likely to be on the table and among those issues was this one, it may be something that remains as a compromise. This is the only issue I am aware of that will be outstanding at the end of the day which could even force us to a conference. Quite frankly, you do not have a compromise of half a committee: you either have one or you do not. It would be a waste of time to go to such a conference.

The Hon. R.I. LUCAS: I thank the Hon. Mr Elliott for at least giving a response. All I can say is that in my nine years in this Chamber I have violently disagreed with some contributions from possibly the Democrats and most certainly from members of the Labor Party, but I do not think I have ever been as disappointed by a position put by any member in this Chamber as by the position put this afternoon by the Hon. Mr Elliott in relation to this Bill. I know his views in relation to the Bill but I will not indulge in vitriolic comment or vent my spleen, as much as I might be tempted.

I have never been as disappointed with a contribution as I am with that particular contribution. I do not want ever to hear the view being put that Liberals are herded along to vote in a particular line, or that Labor members are locked into a vote, and that the Democrats are free to vote any way they wish on particular issues. As the Hon. Mr Elliott has indicated publicly, he has a different view on this issue from that of the Hon. Mr Gilfillan. It is not the sort of issue on which people will run around saying that the Democrats are split. His own Leader said in his second reading contribution that this matter should be treated as a matter of conscience.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: I did not say anything. There is nothing in *Hansard.*

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I will leave it at that but, after that contribution, I will not be able to accept in the future that anyone with integrity from the Democrats can say that the Democrats have more ability to vote their own way, with their own conscience, than have members of the Liberal Party or Labor Party. I am bitterly disappointed, but I will not say any more about that. I will respond to three or four issues briefly as a result of the Attorney-General's comments before we vote on this pivotal issue, now that we know the numbers are not with us at the moment. In relation to Government control of committees, I indicate that the Liberal Party's position was not that the non-government Parties would dominate the committees. That was not our position.

Let me refresh the Attorney's memory and those of other members on that issue. We recommended that the two committees in the House of Assembly, out of the five, be seven-person committees, and obviously they would be Government dominated because the Government has the numbers in that place. It would control its two committees in the House of Assembly. The joint committee would be truly an equal number committee, with three representatives from each House, but without the extra device of the second vote for the Chair.

With respect to the two Upper House committees, we recommended that one of them would be a committee of five which we saw as being similar to our select committees, reflecting in our view the balance of the numbers in the Legislative Council, with two Liberal, two Labor and one Democrat. We bent over backwards to have a balance on the committee. So, there were committees with Goverment control and committees where the control was split. With respect to the fifth committee in the Legislative Council, we toyed with the idea of its being a five member committee, non-government controlled, but we want to show that we were not trying to rip the control of everything out of the hands of the Government. Let us have a balance—

The Hon. C.J. Sumner: But you just made a passionate speech about Government control.

The Hon. R.I. LUCAS: I am talking about balance. In relation to the fifth of six committees, there would be equal power, with either three Labor and three Liberal or three Labor and three non-government members.

The Hon. C.J. Sumner: You said that you had a strong view that the Government of the day should not control the committee system.

The Hon. R.I. LUCAS: Exactly, and that is still my position. The Government's position is that all four committees be controlled by the Government, and I accept that that is the Government's position. What we have put—and I do not want it misinterpreted—is not that the Liberal Party and the Democrats control all five committees but that there be a balance and the Government not be able to control all five committees.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: Exactly; as my colleague says, in the spirit of compromise. The Government would have controlled those committees in the Assembly; in the Legislative Council there would have been non-government control of one, perhaps, and an absolute sharing of power on the other; and the Joint House Committee would have been a sharing of power. That was the proposition we put. It certainly cannot be construed in any way that we wanted to rip away complete power from the Government. We wanted, in the spirit of compromise, to have a balance.

The Attorney indicated that the convention in this place had always been that there was Government control of committees. Well, that is not the case. If the Attorney goes back to the early 1970s, and I suspect to the late 1960s as well, and looks at the only true joint committee that we have in this Parliament—the Joint Committee on Subordinate Legislation—he will see that during that whole period it had three Government and three Opposition members. I am not an expert on Standing Orders, and I was trying to work out whether or not the Chairperson had two votes. Joint Standing Order 6 states:

> The Chairman of the committee shall be entitled to vote upon every question, but when the votes are equal the question shall pass in the negative.

I could not find a reference to the Chairperson having a second vote, but that is not a key question.

The Hon. C.J. Sumner: That hasn't been the case since I've been here, anyway.

The Hon. R.I. LUCAS: The Attorney has been here for perhaps 15 years.

The Hon. C.J. Sumner: More.

The Hon. R.I. LUCAS: The Attorney claimed that we were seeking to rip asunder a convention that there was always Government control of committees. What I am saying to the Attorney and members—for purely academic purposes now given the positions—is that that is not the case. Going back longer than the Attorney's brief period in this Parliament, when one looks at 100 or 150 years (or whatever it is) one will see that in the only truly joint committee of this Parliament, the Joint Committee on Subordinate Legislation—because the Public Works Standing Committee and the Public Accounts Committee were established by statute; they are not parliamentary committees in essence—that was not the case.

I indicated in my second reading contribution and will repeat, that I believe that the committee system has two roles, and one is the cooperative, consensus-seeking, policy-building role that the Attorney talked about, and I support that. I indicated that I thought committees like those that dealt with prisons, drugs and child protection would fit that mould very well. The Attorney said he believed that if that was the goal for the committees there should be Government control. But there is another role, and that role is the parliamentary oversight of the excesses of Government. There are Governments that do not want committees poking their noses into embarrassing scandals or whatever, will not release information and refuse to answer questions, and sometimes the only way the Parliament can get answers is to establish a committee.

The Hon. C.J. Sumner: This doesn't stop you from doing that.

The Hon. R.I. LUCAS: It might not, but I am saying that there is a dual role for all committees. I do not accept this argument and never have. I know that some members of the Labor Party have tried to dismiss some of our select committees on the basis that we are destroying the role of the committees because they are political, but I completely reject that argument. They might be political in the mind of members opposite but, in the context of trying to get answers to information where Government and Ministers refuse to give them, sometimes the only way the Parliament can get to the bottom of an issue such as the Timber Corporation is to establish a committee and use its powers.

The Hon. C.J. Sumner: You can still do that.

The Hon. R.I. LUCAS: I am talking about the committee system of the Parliament. You were arguing that we should have a Government majority on these standing committees because if we really wanted the role of the committees to be served—that is, this consensus-seeking, policy-building role of the committees—we needed the majority. What I am saying to the Attorney is that that is one role of the committees; there is another role, and that other role is not served at all by Government control of all committees. There should be a mix and a balance.

I conclude my earlier comments about the problems in relation to joint committees. The Hon. Mr Elliott summarised that with his own experience on the joint committee that has met only three times in six months. For the reasons to which I have already referred, I fear for the future in relation to some of the committees, and I believe it will be to the cost of proper parliamentary oversight of the excesses of the Executive and it will be to the eventual cost of those in the Legislative Council who would like to see an evolving and powerful role for the Legislative Council, and particularly its committee system.

The Hon. L.H. DAVIS: I rise briefly in support of what my colleague the Hon. Rob Lucas has said. The Statutory Authorities Review Committee is a concept that has been consistently advocated by the Liberal Party both in Government and Opposition over the past decade. The Australian Democrat members and some Government members would recognise from their practical experience the importance of scrutinising statutory authorities, the agencies of Government. Most members of this Council in recent years would have served on a committee that has examined statutory authorities. The Hon. Mr Elliott served on a committee that looked specifically at the South Australian Timber Corporation. There are currently recommendations for yet another select committee to look at the South Australian Timber Corporation. Indeed, the honourable member himself has a motion on the Notice Paper requesting the formation of a select committee to examine the interrelationship between SGIC, the South Australian Superannuation Fund and the State Bank.

The practical problems that we face with select committees are numerous. First, they are not serviced adequately by research officers; secondly, there are many of them; and, thirdly, because they are focusing on only one aspect at a time, they are not as efficient as, for instance, the work of the Public Accounts Committee, which may have several inquiries running at once. If ever we have a year in which to reflect on the importance of a statutory review committee, surely it is in 1991, when we have seen the financial fiasco of the State Government Insurance Commission and the continuing saga of Scrimber.

As I advocated in my second reading contribution, I argue strongly that, if we had a statutory authorities review committee, the problems of SATCO could have been minimised and arguably the State Government Insurance Commission would not be in the parlous state in which it now finds itself.

When the Australian Democrats were founded about 15 or 16 years ago, that Party came into political existence with the slogan 'Let's keep the bastards honest.' I suppose the bastards being referred to were the Government, in the broader sense of the word, and the bureaucracy. What the Hon. Robert Lucas and others are advocating is that Parliament in recent years has become the play thing of the Government of the day and Parliament's importance and stature has been downgraded. The committee system, when properly implemented, brings some integrity back to the parliamentary system, particularly if in this Council it is given proper recognition and if a proper balance is accorded to it.

It seems that this is the moment to grasp an opportunity that we should not let slip. I am appalled to find that this opportunity is not being grasped, that the opportunity is slipping by to introduce a system which will 'keep the bastards honest'. I am appalled to think that we may well be facing a parliamentary committee system in which the very things that have been exposed this year, such as the operations of the SGIC and the South Australian Timber Corporation, will not be allowed to be discussed, researched, investigated, prodded and exposed—because the parliamentary system will be the plaything of the Government in another place because the numbers will not be there. The Statutory Authorities Review Committee, as suggested in this amendment, residing in the Legislative Council would certainly reflect the views of the Council. The very nature of the Legislative Council means that invariably the num-

bers will be finely balanced. For the past nine years this Council has been very finely balanced. I think that generally that will be a political fact of life. Taking that into account, I would have thought that the members of this House should recognise that the Statutory Authorities Review Committee should reside in this House.

This is not a Government Bill; it is a Bill which allows each House to determine its place in the system of committees. I believe that the Council is about to abdicate its responsibility in that process, that it is giving way and losing the power and the independence for which it has striven for so long. I am disappointed to hear the trend in this debate. I am particularly disappointed that in the year of 1991, in these tumultuous times, where we have seen Government agencies exposed for inadequacies in proper financial management and for ineffective and inefficient control, these defects are going to remain unprodded, untouched, because of an inadequate parliamentary committee system. I find it depressing that certain members have chosen to think the way that they have about this matter. I hope that some reconsideration can take place when we come to the vote on this important measure.

The Hon. C.J. SUMNER: I hope to conclude what has now been a quite lengthy debate. I simply reiterate that there is a very broad definition of statutory authorities in the Government's Bill. It is accommodated within the Bill, very specifically and very clearly in the Economic and Finance Committee.

The Hon. L.H. Davis: That is the wrong place. It is ridiculous.

The Hon. C.J. SUMNER: Well, it is there, and Liberal Party members will be on it. In current circumstances, Opposition members will be on it. Secondly, I emphasise that if over the years Government Party members on these committees, whether Liberal or Labor, do not play the game the system will be brought into disrepute and it will be changed. There is nothing more certain than that. Whoever is on the committees, whether Liberal Government members or Labor Government members, will have to try to do the right thing as far as their obligations are concerned. If they do not, the committees will not work, the system will be brought into disrepute and it will be changed. I think that Government members—and I make that general statement, whether Liberal or Labor—will have to bear that in mind when they come to deliberate and to do their work on these committees.

The third point I make is to come to the defence of the Hon. Mr Elliott.

The Hon. M.J. Elliott: I will do that myself in a second.

The Hon. C.J. SUMNER: I thought I was going to conclude. Do you want me to support you?

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: It is all very well for the Hon. Mr Lucas to attack Mr Elliott because of his attitude in this matter, but all members—including the Opposition and I—must keep in mind the main game, namely, to get in place a working committee system of the Parliament. The system that the Government has put forward will provide comprehensive coverage of all aspects of Government activity including statutory authorities. Members opposite may not be happy in every regard with what has been put forward. I may not be happy with everything that has been put forward in this Bill because, obviously, there have been debates within my own Party, Cabinet and Caucus, with companies having to be made to get to this position.

The Democrats obviously have taken the view (and I think quite rightly—and I include the Hon. Mr Elliott in that) that the main game is to get in place a decent committee system. Members may not agree with it in every respect, but it will be infinitely better than the current hotchpotch system that we have in place. If we look at it in those terms, the position taken by the Hon. Mr Elliott and the Hon. Mr Gilfillan is perfectly tenable.

The Hon. M.J. ELLIOTT: The system we have now reached—presuming that it is passed by both Houses (and we have some way to go in Committee, although we have a fairly clear picture)—is that we will have a system of committees which will cover all areas and be accessible to this Chamber in all areas. Had the Government offered anything less than is currently being offered, my position would have been different. However, with the amendments that have now been tabled, we have reached the position where I am as confident as I can be that the committee system will work. If it fails to work I would personally withdraw my support from it. If it did not work I am sure that the Opposition would do the same thing. There is a great deal of pressure on the Government not to abuse the committee system, because the withdrawal of the support of non-government Parties would make it collapse immediately, as all committees would lack, with the exception of the one in the Lower House, a quorum. So, it has to work. It is important to get a committee system, as long as it has a possibility of working.

It is my feeling that any proposals beyond those currently before us will lead to the Government's dropping the whole Bill. I am not sure that that would be the Attorney's position, but I suspect that there have been sufficient compromises within his own Party and that he has dragged them as far as he is likely to drag them. In those circumstances, we are in a 'suck it and see' situation.

My greatest concerns about the structure of the committees have been resolved, except for one concern. My ideal position is that the Upper House have a system of its own. It will not get that, as it is not on offer within this Bill. It is a matter not of being pragmatic but of being realistic: there is a clear distinction between the two. If the Government had offered anything less than we have here, I would have voted differently from my colleague, but at this stage we have something which has a real chance of working and which is a damn sight better than having nothing at all.

The Hon. R.I. LUCAS: As I moved the amendment, I get the right of reply, not the Attorney, even though he has moved many of the amendments. One of the points that the Hon. Mr Elliott made was that the original Liberal proposal locked away too much of the proportion of the committees from Legislative Council access. I think that if one looks at the fact that originally we were suggesting that three committees out of the five would have Legislative Council members on them (that was 60 per cent, compared with the Government's proposition, which the Hon. Mr Elliott is about to support and where the Legislative Council members would have access to three out of four, or 75 per cent), one would see that proposition.

I want to place on the record the fact that the proposal I last put to the Hon. Mr Elliott was in effect the new position, providing for one Upper House, one Lower House and three joint House committees. In other words, members of the Legislative Council would have access to four out of five of the committees, or 80 per cent of the committees would be accessed by members of the Legislative Council. One can therefore argue that that proposition would have given members of the Legislative Council, such as Mr Elliott, even more access to committee work—four out of five—than the three out of four contained in the current proposition. That is the only technical point I wanted to place on

the record. We have had our debate and let us have our vote.

The Hon. L.H. DAVIS: I want to ask one question of the Hon. Michael Elliott with respect to a statutory authority review committee. Does he not believe that a statutory authority review committee, as proposed by the Hon. Rob Lucas, would work more effectively than the economic finance committee, as proposed by the Government, which committee would take on board the Public Accounts Committee, which meets on a weekly basis, the Industries Development Committee, which meets very regularly in more buoyant economic times, which has the additional function of business regulation and which has as well the role of the statutory authority committee? At a time of crisis in so many Government agencies, can the Hon. Michael Elliott explain how that would work?

The Hon. M.J. ELLIOTT: I thought it was quite clear. I think the committee as proposed would be wonderful but, in the real world, we will not get it.

Members interjecting:

The CHAIRMAN: Order!

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, 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, T.G. Roberts, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Pair—Aye—The Hon. J.C. Irwin. No—The Hon. R.R. Roberts.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 1, line 30—Leave out 'and Resources' and insert 'Resources and Development'.

This can be a test of the Government's proposition regarding the Environment and Resources Committee which, under the Government's amendment, would become the Environment, Resources and Development Committee. The Legislative Council, in debate and in private discussions, was concerned that, with the terms of reference of the Economic and Finance Committee dealing not just with matters of finance, Government structure and statutory authorities, but also economic development (despite the House of Assembly's views about Lower House committees being involved in public accounts), if we were talking about general economic or State development, the Legislative Council legitimately has a role in that area; that is, even accepting the House of Assembly's views about public accounts, which honourable members here may not do. But, even accepting that public accounts and matters of Government finance should remain in the Lower House, the complaint was that economic development was the exclusive responsibility of the Economic and Finance Committee, that the Legislative Review Committee, in which the Legislative Council is involved, should deal with legal matters, social development, health education and the like and that the Environment and Resources Committee should deal with environment, planning, land use and transportation.

There was no role for Legislative Councillors in what one might call economic development, State development, industrial development and the like. The Government has attempted to meet that concern by my amendment and the consequential amendments by giving the Environment and Resources Committee a jurisdiction in the area of development. Subsequently, I will add a new term of reference to what will then be the Environment, Resources and Development Committee as follows:

Any matter concerned with the general development of the State.

Obviously, that is very broad, and it is intentionally so. That term of reference should more appropriately be placed in the Environment Resources Committee because a lot of what that committee will do in the area of planning, land use, transportation, resources—which includes mining, no doubt—and the environment, will at least have a development aspect. The environment is generally seen to be counter development, but it need not be. Those matters do have a development focus.

It seemed logical to include general State development in the terms of reference of that committee. That would allow the Legislative Council to have some input into the committee system in the area of general State development. The proposition has been put to me that that committee might want to look at issues relating to the development of the State, and they are quite broad. It may want to look at macroeconomic issues, whether the State should concentrate on agriculture, manufacturing, mining and so on. I suspect that the way the committee will work in practice will be to relate its development brief to one or other of the matters mentioned, but it need not.

However, from the Government's point of view, it is an accommodation by the Government to views expressed by the Legislative Council during the second reading debate to enable the Council to have a role on a committee which does or can deal with issues of development. There will be an overlap in jurisdiction between the Economic and Finance Committee and this Environment, Resources and Development Committee, but that is not a problem because, obviously, overlaps will occur in a number of areas with the rest of the committee system. That will have to be sorted out by discussion between the committees as to what priorities are given.

The Hon. I. GILFILLAN: I was concerned that the Legislative Council not be excluded from the opportunity in the committee system to look at the general macrostructure of the State. Without beating around the bush, my preferred position would be that economic development be part of the workload of the Legislative Council's involvement in the committees. I am content that this window allows the Legislative Council access to certainly most, if not all, the areas that I would like to have seen embraced in the committee's terms of reference.

The wording of the legislation is wide and generous, and it will then be up to the committee to choose how widely it interprets it to see what matters it feels it can handle. I would be surprised if some matters that were dealt with by the dedicated Assembly committee were not duplicated—that would not worry me. This is an important amendment to the Government's Bill. I have only one misgiving—and only experience will show it—in relation to one committee finding itself more overloaded than the other. I am also convinced that not very far down the track this Parliament will realise that we do need more than just the four committees if we are to do the work properly. However, for the time being, it certainly seems appropriate that state development fits in this committee. I support the amendment.

The Hon. M.J. ELLIOTT: This amendment is one of two changes that make what was an unacceptable package an acceptable package with some reservations. As the Hon. Mr Gilfillan noted, there were reservations on our part about the fact that economic development related matters were denied access to the Upper House in terms of involvement. This change allows it. What is more important is that

a subsequent amendment ensures that this House has equal involvement in terms of the numbers. This means that the Government line is not necessarily the line that will predominate. This is one of the changes that enabled me to support a Bill that I could not otherwise have supported.

The Hon. R.I. LUCAS: Under the functions of the Economic and Finance Committee, that committee has the power to inquire into any matter concerned with finance or economic development, and I emphasise the words 'economic development'. Yet we now have this amendment moved by the Government, with the agreement of the Hon. Mr Gilfillan, referring to any matter concerned with the 'general' development of the State. Given the precise use of words by the Attorney in these matters, clearly there is a distinction between this committee looking at general development and the Economic and Finance Committee looking at economic development, given that they are both in the same Bill. The Attorney has tended to talk about 'general' development being 'economic' development. Will the Attorney explain the distinction between 'general' and 'economic' and why he has chosen, given his explanation, not to use the term 'economic development' but, rather, the term 'general development'?

The Hon. C.J. SUMNER: Because I thought the Legislative Council would not like to be confined by the words 'economic development' and 'general', as I am sure the honourable member would concede, is a broader term.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Obviously it is a matter for the committee to work out what its terms of reference mean in precise terms. However, I did say that there would be some area of overlap between the Economic and Finance Committee and the Environment, Resources and Development Committee. Realistically, one would expect the Environment, Resources and Development Committee to look at development in the context of issues that it has in other parts of its terms of reference. I mentioned that the environment and development are important issues. The resources of the State and how they are used—including agriculture, of course, which is another important aspect of development, planning, land use, and transportation—are all important aspects of the development debate. So, that is what I would expect to occur, because I think that if the committee spreads itself too widely it will not be effective. However, members will form their own interpretation of what 'general development' means. It is obviously a broad brief.

The Hon. K.T. Griffin: Broader than 'economic'.

The Hon. C.J. SUMNER: One would argue that it also includes economic development. One could say that looking into issues of environment involves economic development as does looking at planning. It is logical for these matters to be included in the terms of reference of an Environment Resources Committee if the Legislative Council is to be involved in that area, and the Government accepted the argument put forward by members in their second reading contributions. So, it will be for the committee to give effect to that term of reference. Where conflict arises, it will be up to the chairpersons of the committees to talk to each other and to resolve the question of priorities. As I say, it is broad. It would enable the committee to look at a wide range of development issues, although I hope these will fall more in the macro area rather than looking at micro issues relating to particular firms which, of course, formerly would have been dealt with by the Industries Development Committee but would in future be a matter for the Economic and Finance Committee. I expect that most cases would relate to its other terms of reference, but I make it quite clear that that need not be the case.

The Hon. PETER DUNN: It is provided in the Bill that the committee can instigate its own direction. The committee can now consider development matters. I agree that that is a very reasonable idea. For instance, the Roxby Downs issue could have been looked at by this committee in its early stages.

The Hon. Diana Laidlaw: And Wilpena.

The Hon. PETER DUNN: Yes, developments in respect of tourism around the State will, obviously, be looked at, but does the Attorney anticipate that the committee will have the ability to investigate a particular project, such as a new harbour or a new fishing venture, under its own powers without reference from outside?

The Hon. C.J. SUMNER: The question of references is dealt with later in the Bill, but quite clearly matters may be referred to the committee on its own motion. That is made clear in clause 16. It is a matter of deciding what particular issue the committee wants to look at and whether it fits within the terms of reference. If it does not, I suppose a challenge could be mounted, but obviously the terms of reference have to be drafted in general terms. If either House felt that a committee was going off on a tangent and not performing within its terms of reference, the matter could be brought back to that House and motions passed. Obviously, any matters concerned with resources of the State—that clearly involves fishing, agriculture and mining—would come within the jurisdiction of this committee.

The Hon. I. GILFILLAN: This may not be directly related to this discussion, but I indicate that, in response to a matter raised by the Hon. Mr Lucas, I have instructed Parliamentary Counsel to draft an amendment to provide that either House—

The Hon. C.J. Sumner: Which matter?

The Hon. I. GILFILLAN: The matters with which a committee can deal.

The Hon. C.J. Sumner: Do you want to go on with this?

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Gilfillan has the floor.

The Hon. I. GILFILLAN: I think that you at least, Mr Chairman, would realise that, if a committee is to discuss and deal with certain matters, it is appropriate that either House independently have the right to determine what those matters will be. Perhaps members are not aware of the actual clause that deals with the priority of business.

Members interjecting:

The CHAIRMAN: Order!

The Hon. I. GILFILLAN: I am introducing this matter—with some difficulty, I might add—because a discussion appears to be going on about matters with which a committee can deal. I believe it is important that the matters with which a committee deals—

Members interjecting:

The CHAIRMAN: Order! The Committee will come to order. The Hon. Mr Gilfillan has the floor.

The Hon. I. GILFILLAN: I think members understand the point I have been discussing.

The Hon. R.I. LUCAS: I think that was a wonderful little cameo from the Hon. Mr Gilfillan.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I guess it bears tangentially on the matter we are discussing, although not directly.

The Hon. C.J. Sumner: I don't know why he raised it.

The Hon. R.I. LUCAS: I was being kinder.

The CHAIRMAN: Order! The Committee will come to order.

The Hon. R.I. LUCAS: Perhaps the Hon. Mr Gilfillan was giving us notice, given the pending dinner break, to chew over his amendment.

The Hon. C.J. Sumner: No, he didn't mean it.

Members interjecting:

The Hon. R.I. LUCAS: I think it is on the *Hansard* record.

The CHAIRMAN: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: Could I indicate on this tangential matter that I would like to look at what the Hon. Mr Gilfillan has drafted.

The Hon. C.J. Sumner: So would I!

The Hon. R.I. LUCAS: And I certainly would not like to vote on it on the run. I would like to consider the drafting that the Hon. Mr Gilfillan is looking at. I hope he will agree to giving us as much notice as possible of the drafting, subject to Parliamentary Counsel's having to eat, and that we would not vote on it straight away, but consider it in due course.

The Hon. I. Gilfillan: You recognise the point you raised?

The Hon. R.I. LUCAS: I recognise the Hon. Mr Gilfillan's genuineness in trying to meet the point I made earlier. I would like to consider his drafting and consult with my esteemed colleagues on this side before we vote on the matter. If I could ask the Hon. Mr Gilfillan for that courtesy, it would be appreciated.

I was puzzled by the difference between the terms 'general development' and 'economic development'. As the Attorney has indicated, he interprets 'general' to mean economic and any other development as well. Frankly, I do not know whether it adds too much to the existing functions of the committee. Clause 9 *(a)* (ii) is extraordinarily wide, given the definition of 'resources'. Almost every example given by the Hon. Mr Dunn and the Attorney, in relation to what might be construed as 'general development', macro issues, could have been done in relation to that provision anyway. For those reasons, the Liberal Party has no violent objection. We do not believe that it adds much to what already exists but, if the Hon. Mr Gilfillan and the Attorney are comforted by it, if it is part of the agreed position, we would not stand violently in the way of the majority in relation to this matter.

Amendment carried.

[*Sitting suspended from 5.55 to 7.45 p.m.*]

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

Page 2, lines 8 to 12—Leave out all words in these lines and insert definitions as follows:

'Presiding Member', in relation to a Committee, means the person appointed to be the Presiding Member of the Committee:

'Presiding Officer', in relation to a House, means the Speaker of the House of Assembly or the President of the Legislative Council:.

This is not the world's most earth-shattering amendment, but it is my view that 'presiding officer' ought to refer to what we know as the Presiding Officers—the Speaker and the President—and that we should not confuse the chairs of the committees and call them presiding officers as well. As I indicated in my second reading contribution, I preferred the word 'chairperson', but Parliamentary Counsel said that that was foreign to parliamentary language and that we would be establishing a world first if we inserted that expression in the Bill.

An honourable member: Why not?

The Hon. R.I. LUCAS: I said, 'Why not?', too. As the Attorney would know, non-lawyers do not take on the combined legal knowledge of Parliamentary Counsel. Their compromise suggestion was 'presiding member'.

The Hon. C.J. SUMNER: The Government accepts the amendment.

Amendment carried.

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

Page 2, lines 13 to 22—Leave out all words in these lines and insert definition as follows:

'public sector' means the operations and activities of the Government of the State and its officers, employees and agencies and the operations and activities of statutory authorities:.

In my view this amendment is not consequential on the earlier debate because it leads on to the discussion about the appropriate definition of what the public sector is and what, in my view, statutory authority should mean, and it therefore impinges on the definitions in the Bill as to what are public officers, public sector operations, State instrumentalities and statutory authorities.

After discussion with Parliamentary Counsel, it was my view that there was a lot of unnecessary verbiage about the Economic and Finance Committee function, and I will refer to that because it is a related matter. Under clause 6 *(a)* the Economic and Finance Committee is to oversee:

(ii) any matter concerned with the structure, organisation and efficiency of any area of public sector operations or the ways in which efficiency and service delivery might be enhanced in any area of public sector operations;.

When one looks at the definitions in the Bill one finds that the definition of 'public sector operations' basically means all public officers and State instrumentalities, and that really means all public officers, statutory authorities and administrative units of the Public Service. It is a very wide definition, as one would expect, of what a public sector operation is. Then clause 6 *(a)* provides:

(iii) any matter concerned with the functions or operations of a particular public officer or State instrumentality or whether a particular public office or State instrumentality should continue to exist or whether changes should be made to improve efficiency and effectiveness in the area.

I cannot see the difference in substance between subparagraphs (ii) and (iii) as they seem to cover virtually the same areas. I refer especially to the definition of 'public sector operations' and 'State instrumentality'. This relates to the next matter where I have a strong view that the definition of 'statutory authority' needs amendment. I note that the Attorney is not contemplating such an amendment, unless he contemplates supporting my package. I see the definition of 'public sector operations' fitting in neatly with the definition of 'statutory authority' and getting rid of the concept of 'State instrumentality'. These two definitions are confusing. I think 'statutory authority' will cover significant bodies that we do not want to cover. When that is all added together to the definition of 'public sector operations', we have a problem not only in respect of excess verbiage in the functions of the Economic and Finance Committee but in understanding the difference between subparagraphs (ii) and (iii).

The Hon. C.J. SUMNER: I cannot see the point of the amendment. The Bill was drafted after a period of consultation, including consultation with the member for Elizabeth, and the definitions of 'State instrumentality' and 'public sector operations' and so on were cast in the widest possible way. If the honourable member believes the definition is too restrictive, he can point out where it is too restrictive and we can address it. He might find the definitions less elegant than he would like to see, but that is not sufficient

ground for wholesale changes to them. The definitions as introduced are broad enough to pick up all public sector operations that the Bill is designed to encompass and I cannot see any rational reason for changing them.

The Hon. I. GILFILLAN: I considered redefining 'statutory authority' when there appeared a chance of having a dedicated committee to deal with that so it would embrace everything. I am not sure that this is not an exercise in semantics now because the committee that will look at statutory authorities will also look at all these others. Does the Hon. Mr Lucas see his amendment being a substantial improvement on the wording of the Bill or is it related to having a standing committee specifically dealing with statutory authorities?

The Hon. R.I. LUCAS: I concede that I have not won that debate. This is a distinct and separate argument. My more substantive problem relates to the definition of 'statutory authority'. What is the difference between subparagraphs (ii) and (iii)?

The Hon. C.J. SUMNER: I think what it does is particularise what this committee is able to do. There was concern about whether or not there was coverage in the Bill of statutory authorities. Perhaps clause 6 *(a)* (ii) is broad enough to include statutory authorities.

The Hon. R.I. Lucas: It is, is it not? Public sector operations is defined as all of those things.

The Hon. C.J. SUMNER: Sure. However, we knew that the honourable member had a particular view about this, we knew that the Australian Democrats had a view about it and we knew that the member for Elizabeth had a view about it, and we felt that it was important to ensure absolutely that the statutory authorities were covered, so that there could be no dispute about it or suggestion that somehow or other we were trying to avoid the scrutiny of statutory authorities.

Amendment negatived.

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

Page 2, lines 25 to 39 and page 3, line 1—Leave out all words in these lines and insert definition as follows:

'statutory authority' means—

(a) a body (whether incorporated or unincorporated) that is established by or under an Act and—

(i) is comprised of or includes, or has a governing body comprised of or including, persons or a person appointed by the Governor, a Minister, or an agency of the Crown;

or

(ii) is subject to control or direction by a Minister;

or

(b) a public officer appointed under an Act by the Governor, a Minister or an agency of the Crown;

but does not include—

(c) a member or officer of Parliament or a body wholly comprised of members of Parliament;

(d) a court or tribunal or a member or officer of a court or tribunal;

(e) a council or other local government body or a member or officer of a council or other local government body;

or

(f) a university or a member or officer of a university or university body:.

This involves the substantive issue that I want to debate and involves this notion about what on earth a statutory authority is. I think that the Attorney has been through the second reading contribution that I made, but I want to highlight the key features. The first is that, in relation to paragraph *(c)* under the definition of 'statutory authority', which provides that: 'statutory authority means a body corporate that is established by or under an Act and . . . is financed wholly or partly out of public funds'. Does the Attorney-General agree with the interpretation that, if Adsteam or some private company was to receive a small export development grant from the Commonwealth Government or the State Government of $1 000, or whatever, and it is a body corporate established under the Companies Act, or whatever it is called, and is financed partly out of public funds, it could be defined as a statutory authority, and therefore this standing committee of the Parliament, with the powers of the Parliament, would be able to provide oversight? This could apply to a company like Adsteam, Coles-Myer, Clipsal or any private sector company that might have received a small export development grant or public funding in any way.

The Hon. C.J. SUMNER: I take it from what the honourable member has said that to some extent he is in fact attempting to confine the definition of statutory authority. I suppose the Government should not complain about that. But I dare say it is open, on the definition of statutory authority, for such organisations to be included. I think it would depend on what was the definition of 'is financed'. So I suppose that interpretation might be open under the current definition.

The Hon. R.I. LUCAS: It has never been the intention of any State Parliament of which I am aware to provide oversight by a parliamentary standing committee of the operations of private sector companies that might receive a very small grant from Government, for example, for export development or something like that. I cannot swear to it but on my recollection of the Public Bodies Review Committee in Victoria and other standing committees, it has certainly never been the intention, nor should it be, that, in this case, the Economic and Finance Committee—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: Yes, and they should not. Therefore we ought to agree with the amendment that I moved. Small bodies that might receive a grant from, for example, the Department for Family and Community Services or the Department of Recreation and Sport—bodies such as the Glenelg or West Adelaide Football Clubs, Meals on Wheels, Lions or Apex—might get a small grant such as $500 to upgrade a back lawn or (from Recreation and Sport) put on a small program; potentially they would be bodies corporate established under the Associations Incorporation Act which have been financed partly by public funds or Government departments and which, under this definition of 'statutory authority', would be covered under the purview of the Economic and Finance Committee of the Parliament. If the Parliament said that it would conduct a review of the Glenelg Football Club—

The Hon. I. Gilfillan: If it said 'substantial amount' would you have any objection?

The Hon. R.I. LUCAS: We looked at including the word 'substantially'. The problem we had is that organisations such as the South Australian Jockey Club or the Royal District Nursing Society receive many millions of dollars in public funds and would comply with that definition of substantial public funding also.

The Hon. K.T. Griffin: The Royal Flying Doctor.

The Hon. R.I. LUCAS: Yes.

The Hon. I. Gilfillan: It has to be addressed. I am not sure that your amendment does not hose them all out.

The Hon. R.I. LUCAS: It was our view that 'substantially funded' did not solve the problem, so in the end, to cope with this, we took it out but accepted, on the advice of Parliamentary Counsel, that we still have the power under that functions alteration clause of the Parliament to, in effect, in agreement with the House or Houses, refer a matter involving an organisation such as the South Austra-

lian Jockey Club to the Economic and Finance Committee for review. It was the advice of Parliamentary Counsel that (depending on how the clause ends up), if the Parliament and the committee decided that there is a problem in the South Australian Jockey Club and that it ought to be investigated, it could still be done under that functions alteration clause.

We think that that is covered. It is possible to do that with this amendment without having to bring within the purview of the Act private companies, minor community bodies, football clubs or anyone else that really does not belong within any definition of 'statutory authority' and may feel threatened if they were so defined and felt that the Parliament had established a committee to provide oversight. In those two areas I am arguing that I think the definition is currently much too wide—wider than anyone, even, I suspect, Mr Evans—really understood when he—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: It is all in relation to paragraph *(c)*. The two examples were private companies and community organisations such as football clubs and anyone who gets a small grant from the Government. That is the first area where I think it is too wide. I want to argue the converse about the second area, where I believe the definition is much too restrictive, and that is a substantive part of this amendment as well, namely, statutory authorities. I am arguing in two directions about statutory authorities. One is that paragraph *(c)* catches too many bodies it should not catch. The other aspect is that the definition which provides that a 'statutory authority' means a body corporate that is established by or under an Act is much too restrictive, because literally hundreds of statutory authorities are not bodies corporate. They are unincorporated bodies, such as advisory councils, and so on, that we are locked into.

There are a number of bodies, such as the Engine Drivers' Board under the Boiler and Pressure Vessels Act, the Classification of Publications Board, a number of the classification of salaries boards, teacher registration board, and a whole range of bodies which we all understood to be statutory authorities. Some of us have made fun of them in the past and asked what they really do and whether we still need them, but they are not bodies corporate; they are unincorporated statutory authorities established by statute, but they are not bodies corporate. The way this definition is drafted, there are literally hundreds of these committees, such as the State Manning Committee, the Guardianship Board, Nurses' Board, Pastoral Board, Primary Producers' Assistance Committee, Road Traffic Board, Central Inspection Authority and the Industrial Safety, Health and Welfare Board.

An honourable member interjecting:

The Hon. R.I. LUCAS: Yes. What we are saying is that there is a whole range of statutory authorities—

An honourable member interjecting:

The Hon. R.I. LUCAS: Of course they are not, because the definition provides that statutory authorities are bodies corporate. These bodies are unincorporated bodies; they are not bodies corporate. So, the definition we are suggesting is that 'statutory authority' means a body, whether incorporated or unincorporated, that is established by (etc.). In that way we are seeking to pick this up so that the committee, now the Economic and Finance Committee, can look at some of these obscure committees that have been on the statutes for decades. Who knows what some of them have been doing? They may well have been doing wonderful things, but I suspect that many of them are moribund and ripe for being reviewed, and perhaps recommendations could be made that they be wound up; they no longer perform a useful function.

I know that those people who are active in the area of statutory authority oversight would be very concerned to think that we are saying we intend to provide oversight for this whole area of statutory authority review when we leave a great chunk of statutory authorities out of the definition. So, it is really for those three substantive reasons that I believe we need—

The Hon. I. Gilfillan: I don't think clause 6a (3) embraces these oddities.

The Hon. R.I. LUCAS: Is the Hon. Mr Gilfillan speaking about the definition of 'statutory instrumentality'?

The Hon. I. Gilfillan: I was suggesting that definition of that clause there would enable this committee to look at that.

The Hon. R.I. LUCAS: 'State instrumentality' is defined as an administrative unit of the public service. I guess it depends on how one defines an administrative unit. '"State instrumentality" means an agency or instrumentality of the Crown and includes: *(a)* an administrative unit of the public service; and *(b)* a statutory authority.' My argument is clear that, under the definition of 'statutory authority', they are clearly not covered. The question is whether they could be defined as an administrative unit of the public service. No doubt—

The Hon. K.T. Griffin: That is under the Government Management and Employment Act.

The Hon. R.I. LUCAS: My advice was that they were not covered and that we needed to alter the definition of 'statutory authority' to ensure that we got proper oversight.

The Hon. C.J. SUMNER: I do not quite see where the hiatus is under the present definition, because 'State instrumentality' is referred to in clause 6 *(a)* (iii), which is the clause dealing with statutory authorities. 'State instrumentality' means an agency or instrumentality of the Crown and includes an administrative unit of the Public Service and a statutory authority. 'Statutory authority' means a body corporate established under an Act. I am not quite sure what that means.

The Hon. R.I. Lucas: Are you saying that the unincorporated statutory authorities are administrative units of the Public Service?

The Hon. C.J. SUMNER: Not necessarily, although some of them may be.

The Hon. R.I. Lucas: What about the Teachers Registration Board under the Education Act?

The Hon. C.J. SUMNER: That is probably an instrumentality of the Crown. How does the amendment cover that particular matter?

The Hon. R.I. LUCAS: In this definition I am moving:

'statutory authority' means—

(a) a body (whether incorporated or unincorporated) that is established by or under an Act.

The Teachers Registration Board, for example, is established under the Education Act. The only way that bodies like that would technically be covered by the current definition would be either as an administrative unit of the Public Service—and I cannot see how it could be argued that the Teachers Registration Board came under that—or as an agency or instrumentality of the Crown.

The Hon. C.J. SUMNER: I understand that the honourable member's amendment with regard to the definition of 'statutory authority' does two things. It deletes the words 'is financed wholly or partly out of public funds' to overcome the problem that an organisation might receive a small Government grant and be picked up within the definition, which is not considered to be appropriate.

Secondly, it ensures that the possibility of unincorporated bodies that may not be agents or instrumentalities of the Crown are picked up, provided that they are either subject to control or direction of the Minister or have governing bodies comprised of or including persons or a person appointed by the Governor, a Minister or an agency or instrumentality of the Crown. On that basis, I cannot really object to the amendment, although Parliamentary Counsel tells me that there is a need for some minor tidying up of the functions in clause 6 *(a)* (ii) and (iii), which the honourable member is happy to do. However, we may have to reconsider that clause at the end of the day to tidy it up.

There is a fail-safe mechanism in the Bill in that the functions of the Economic and Finance Committee are to do certain things but also 'to perform such other functions as are imposed on the committee under this or any other Act or by resolution of both Houses'. For instance, it could be asked why the public Economic and Finance Committee ought not to have some jurisdiction over bodies that have received Government funds.

The Hon. I. Gilfillan: It can of its own motion.

The Hon. C.J. SUMNER: Yes, I know, but I am wary of my clients in this matter, as members would probably know. Basically, they do not want the Bill narrowed in an unacceptable form. The question really is: why, if a body is receiving funds from Government, ought it not be the subject of deliberations by this committee? I am not so horrified by the proposition that a body that is financed wholly or partly out of public funds should not come within the purview of a committee. One of the terms of reference of the committee is to deal with matters concerned with finance or economic development. Clearly, that does not apply exclusively to Government. That means the committee could look at, for instance, the building society industry, any matters of economic development, the banking industry—

The Hon. R.J. Ritson: Or the Fly-fishers Association.

The Hon. C.J. SUMNER: Yes. I am not as worried as the honourable member about the fact that the legislation is broad enough to pick up bodies financed wholly or partly out of public funds. It would be peculiar for the committee to launch an investigation into a body that—

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: Sure. To be fair, we have had problems in Government. The Hon. Mr Stefani has on a number of occasions raised the question of the Port Adelaide Housing Cooperative, which has received Government funds. In those circumstances, it might well be appropriate to have the committee look at those organisations.

The Hon. R.I. Lucas: Can't you do so under that last clause that you talked to?

The Hon. C.J. SUMNER: I can, but it has to be referred there. I do not see why the legislation needs to be restricted in the way that the honourable member has argued. I guess that as a Government member, I should accept what the honourable member is saying. However, as the honourable member knows, my clients who are involved in this matter have a very keen interest in this Bill, and they will study every word to ensure that it is what was intended. I need more convincing, and I would like members opposite to answer that question: what about such a body such as the Port Adelaide Housing Cooperative or a similar body that gets public funds, where there are allegations of bad administration within that organisation? It strikes me that a good way for the Parliament to look at it might well be through a committee such as this.

The Hon. K.T. GRIFFIN: I feel very strongly about this because I think the focus of the Bill is public administration. The way to get at the housing cooperative is for the committee to investigate the way in which the department administers the scheme that finances bodies such as this, and these bodies can be summoned under the inherent powers of the committee to give evidence. That may well be evidence about, on the one hand, the way in which the department is administered and failed to undertake audits and, on the other hand, the way in which the money has been expended. Ultimately, that has to come back to the Government in the way in which it disburses money, the way in which it ensures that there is accountability for the money that is disbursed and the auditing functions of the Government agency or department.

The Hon. T. Crothers: What about something like the *Failie*, which is part Government funded and part funded through sponsorship? How do you see that, because you could be bringing such an enterprise within this legislation, as well as the fact that malfeasance on its part might be picked up in other Acts? What say you to that?

The CHAIRMAN: Order! That is a fairly long interjection. The honourable member can enter the debate in the normal manner.

The Hon. K.T. GRIFFIN: If there is malfeasance, that warrants a police investigation. I appreciate the honourable member's question by way of interjection. It could be the *Failie* or independent schools, which all receive State capital funding, as well as Federal Government funding, which has very stringent requirements. Audits are carried out and schools are accountable individually or through, say, the Catholic Education Office. There is generally a provision in the terms of the grant or the legislation that enables full disclosure of accounts, records, papers and entitlements and a requirement for audit by the Government agency administering it. So, a range of mechanisms are generally already in place to deal with this issue.

It seems to me that, whilst there is an aspect of public finance, the focus of the Bill, if one looks at the definition, is the State instrumentality or statutory authority. It is all related to the administration of Government, Government agencies or Government bodies. If they are going to pay out money to an independent school or to the *Failie*, mechanisms should be in place at the Government end that will allow proper investigation by the Government agency. If there is a concern about the *Failie* and other recipients of grants, the focus has to be, first of all, on the Government agencies.

The Hon. T. Crothers: From where do you recover money if malfeasance is found? Would you say: which money has been spent? Has it been the Government's money or the money raised by the public?

The Hon. K.T. GRIFFIN: With respect, I think that is a different issue.

The Hon. T. Crothers: It's tied up with it.

The Hon. K.T. GRIFFIN: It is tied up with it, but it is not a question of recovery. This is a question of investigating public administration in that very broad context. If there is a problem with an organisation that has received Government funding, initially the Government agency has to be held accountable. In the course of an investigation of such a situation, the committee has the power to summons and gain access to information. However, the term 'public funds' does not relate only to State Government funds; in my view, it can extend to Federal Government funds, because they are public funds also.

Again, in all my experience with the funding of bodies by Government, at least in theory and in structure, there is normally a proper structure for accountability. Whether or not that is administered is the responsibility of the Government administrative agency where the auditing and account-

ability functions are maintained. So, it seems to me that it is perfectly proper for the parliamentary committee to focus upon public administration, but to give this committee initial access to all of these bodies that receive funds is, I think, taking the question of public administration too far. However, it does not prevent investigation under the general term of reference to which the Hon. Mr Lucas has referred or by way of summons as part of an investigation of the administration of a Government agency.

The Hon. C.J. SUMNER: The Government's policy is to agree with the amendment of the Hon. Mr Lucas in so far as it clarifies the definition and includes the bodies to which he referred and about which there may be some doubt at the moment. However, the Government will not agree to his amendment in so far as it deletes the words 'is financed wholly or partly out of public funds'. Unless members want to debate the matter further, I suggest that those who support that position vote against the Hon. Mr Lucas's amendment. I am having an amendment drafted that will accommodate the first part of his proposition, and I will seek to recommit the clause after we have been through the rest of the Bill to insert the words that will overcome the Hon. Mr Lucas's problem about possible deficiencies in the definition as far as the public sector is concerned.

The Hon. R.I. LUCAS: I am happy with that procedure. In relation to subclause *(c)*, I do not know the exact corporate status or otherwise of bodies such as the South Australian Commission for Schools and the Independent Schools Board. The current definition would certainly cover the South Australian Commission of Catholic Schools, the Independent Schools Board and a whole variety of like agencies in addition to the others that have been mentioned. I will not repeat the argument now, but I think it has never been and should never be the intention that companies that might get a small grant of $500 out of a $5 million financing arrangement should qualify under the definition of 'statutory authority' and therefore be subject to investigation and inquiry under the wide powers of a parliamentary committee. There have been examples. Adsteam may not be one of those, but perhaps smaller sized companies that have offended members of Parliament—

The Hon. C.J. Sumner: This committee structure is not just about the public sector.

The Hon. R.I. LUCAS: Equally, it is not about investigating Adsteam over a small amount of money. I accept the point that the Attorney is making, in part, but I would have thought that, equally, it is not about investigating a company that has a very small grant and where this particular provision is used as an excuse.

The Hon. C.J. SUMNER: The functions of the Social Development Committee include any matter concerned with the arts, recreation or sport. So, under the terms of reference of that committee it could, presumably, investigate the South Australian National Football League. In my view, the honourable member's amendment in that respect is based on a misconception about what the committees are there to do. They are not just there to look at public sector activities, but at activities in the broad sense of the word.

The Hon. R.I. LUCAS: The point I make to the Attorney is that only one of the four committees that we are discussing has a specific responsibility to look at 'any matter concerned with the functions or operations of a particular . . . State instrumentality or whether a particular . . . State instrumentality should continue to exist . . .' This particular function of the Economic Finance Committee is to determine whether any of the statutory authorities should continue to exist. The other committees are not specifically charged with the responsibility of whether Adsteam or some small company somewhere else, which is defined as a statutory authority, should continue to exist or otherwise.

The Hon. C.J. Sumner: Use a bit of commonsense.

The Hon. R.I. LUCAS: Clearly, in relation to that I can see the Attorney's argument, but take the example of a community organisation such as Meals on Wheels, Apex or Lions receiving a small Government grant. What we are saying in the Economic and Finance Committee is that there could possibly be an investigation of Meals on Wheels or the Royal District Nursing Society or the Royal Flying Doctor Service to see whether they should exist because, under this definition, they would be a statutory authority.

The Hon. I. GILFILLAN: I accept that the intention of this drafting is fine. I do not have any problem with that.

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: I am talking about the drafting in the Bill. When one gets to refining the language a little more precisely than we have, it is a bit hard to describe the Glenelg Football Club, if that is one of the entities embraced, as a statutory authority.

The Hon. K.T. Griffin: That's what the definition says.

The Hon. I. GILFILLAN: I know that. I am just making the point that the pedantry in the wording is awkward. All these things come by definition as statutory authorities, but the intention is fine. If it is to be recommitted—

The Hon. C.J. Sumner: No, only in a small way.

The Hon. I. GILFILLAN: I follow that, but I am making the point that I believe that these entities which are receiving public funds should be embraced in a generic area, as this Committee can, if it so chooses. It is not obliged to do so. It will only be under its own motion or a motion from either House, but in the fullness of time we will realise that the language used in this draft is a little odd.

The Committee divided on the amendment:

Ayes (8)—The Hons L.H. Davis, Peter Dunn, K.T. Griffin, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

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

Pairs—Aye—The Hons J.C. Burdett and J.C. Irwin. Noes—The Hons Anne Levy and R.R. Roberts.

Majority of 1 for the Noes.

Amendment thus negatived; clause as amended passed.

Clause 4 passed.

Clause 5—'Establishment of committee.'

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

Page 3, after line 12—Insert subclause as follows:

(1a) At least three members of the committee must be persons nominated by the Leader of the Opposition and at least three must be persons nominated by the Premier.

There is a concern that the committees do not give an indication that Governments of the future, perhaps of ill will, might not use their numbers, if they have them in substance—

The Hon. C.J. Sumner: Come on.

The Hon. R.I. LUCAS: The Attorney can speak for himself now, but we are establishing a committee system for ever and a day. It is not a silly point because the Public Works Standing Committee legislation contains a provision which, although it does not outline the membership, ensures that its membership comprises not only Government members but members from at least the two major Parties.

This amendment seeks to do exactly the same thing in relation to these committees to ensure that any future Governments of ill will, of whichever persuasion, cannot be tempted to stack the committees with the significant majority of their own without there being at least appropriate

representation of the non-government parties, in this case, in the House of Assembly.

The Hon. C.J. SUMNER: The Government opposes the amendment. This matter should be left to the Houses to determine. In such circumstances, negotiations occur, which is as it should be. It is a committee of the Parliament and the Parliament should determine the outcome of the membership of the committee. I do not envisage the circumstances arising that have been outlined by the Hon. Mr Lucas. It is a common theme in his amendments, but the Government opposes it.

The Hon. I. GILFILLAN: I oppose the amendment as I do not see that it achieves anything in the long run.

The Hon. R.I. LUCAS: Although we do not know the proposed boundaries, the redistribution is likely to result in a substantial number of marginal seats and a future Liberal or Labor Government could win with a substantial majority of 31 to 16 or 30 to 17 seats. In a landslide, one Party could get 55 or 54 per cent of the two-Party preferred vote at an election. Would a Government of Labor persuasion say that the numbers on a committee should be four to three or that they should reflect the dominance of numbers in the House of Assembly so that there would be a five to two split?

The Hon. C.J. SUMNER: I appreciate the honourable member's confidence in a Labor landslide at the next election. Unless the Opposition became a complete rump, say, three or four members—and in the current political outlook, that would probably happen only where another Party such as the Democrats or another independent group obtained representation in the Assembly, in which case they may have a claim to be represented on the committee—if it was a straight Liberal-Labor split 31 to 17, I have absolutely no doubt that the Economic and Finance Committee should be split four to three.

Amendment negatived; clause passed.

Clause 6—'Functions of committee.'

The Hon. R.I. LUCAS: The amendments that I have on file were consequential on the amendments that have already been decided by the Committee so I do not intend to proceed.

The Hon. L.H. DAVIS: The Economic and Finance Committee is, arguably, the most important committee from the point of view of the taxpayers of South Australia. With the Economic and Finance Committee, the measure seeks to wrap up in one committee the existing Public Accounts Committee, which is presently a House of Assembly committee, and it seeks to incorporate the Industries Development Committee, which consists of one member from each side of each House together with a representative of Treasury. In addition, the committee will be given the power to examine the effectiveness and efficiency of statutory authorities, to review possible sunset legislation and also to examine any matter regarding regulation of business or other economic or financial activity.

That is a massive set of functions for one committee. The Australian Democrats and the Government should recognise that, as this committee is presently structured, it will not work effectively. Let me give the Attorney-General a real-life example, a practical example. I have been a member of the Industries Development Committee for many years. In economically buoyant times it will meet quite often and will take evidence from applicants for Government financial assistance. As the Attorney knows, that evidence is received in confidence, and financial assistance is given to many people. This includes companies based in South Australia, sometimes interstate and indeed sometimes overseas. More often than not that evidence is brought together at very short notice, and sometimes the committee has to meet quite urgently.

It is quite feasible that with major submissions the committee may take evidence over more than one or two weeks. More often than not, time is of the essence in relation to that committee's deliberations. I foreshadow the very real possibility that, in a time of economic buoyancy with financial packages still in vogue, one month could be wiped out quite totally with a series of meetings, to administer what is now the function of the Industries Development Committee. Immediately that would put on the back burner any consideration of statutory authorities, for example a review of the SGIC. It would put on the back burner any review of sunset legislation or of public accounts.

When one looks at clause 6 *(a)* (i), we see that the committee is given the power, the mandate to look at any matter concerned with finance or economic development. This committee is a monster. It is impractical and it will bog down in its own mess, having been given separate and disparate functions. Not only that, these functions, as we have already decided, are going to be purely the responsibility of the House of Assembly. I just cannot believe that the Australian Democrats have abdicated responsibility in this important area. So, my question to the Attorney is—taking on board that practical example of the Industries Development Committee receiving applications that have to be dealt with urgently—how can he expect this committee to operate effectively with its numerous and disparate functions? I argue very strongly that it will simply not work.

The Hon. C.J. SUMNER: The Hon. Mr Lucas interjects that Mr Evans may be on it and he will do a lot of the work. That is probably right: he probably will. It depends on how the committee system pans out in operation. It has been put already that the other committees, the Social Development Committee in particular as well as the Environment, Resources and Development Committee, will obviously have some role in looking at the activities of the authorities that deal with health, education, agriculture and so on. It is a matter of how over time the operation of the committee structure works out. I do not have a problem. Mr Evans has indicated an interest in this committee and does not think there is a problem. In fact, he expressed a view (and I do not think he will mind my repeating it) that he did not think that, under one structure being looked at, it would have enough to do. There is room for a difference of opinion on this topic.

All I can say is that the Hon. Mr Davis is entitled to his opinion. The committee structure, if passed, will have two years to operate before the next election. We will see how it operates. If the honourable member's Party achieves government after the next election, the first Bill it could introduce would amend the committee system if members opposite think it has not functioned. Obviously, if we are returned to government and the committee structure is not working satisfactorily, we will examine it, although, if we do, I hope that I have nothing to do with it.

The Hon. L.H. DAVIS: I put on the public record that I do not believe there is another parliamentary committee at Federal or State level with such far-reaching functions as the committee we are now debating. I do not believe it will work and I do not believe that the Attorney-General really believes it will work. I put that on the public record.

Clause passed.

Heading.

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

Page 3, line 35—Leave out 'and resources' and insert ', Resources and Development'.

This was debated earlier.

Amendment carried; heading passed.

Clause 7—'Establishment of committee.'

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

Page 3, line 38—leave out 'and Resources' and insert ', Resources and Development'.

We debated this amendment previously.

Amendment carried.

The Hon. R.I. LUCAS: Has the Attorney-General given any guarantee to either the Hon. Mr Gilfillan or the Hon. Mr Elliott that the Government and he will support their nomination to this committee, should it be established?

The Hon. C.J. SUMNER: The subject of who is on the committees is a matter that will be resolved in due course.

The Hon. R.I. LUCAS: I think that is a reasonable question. The Attorney has been locked away for some time. He has rejected the provisions that the Liberal Party has sought to move in relation to balance; clearly, there has been some form of negotiation or arrangements—some might call it a deal. I think it is a fair question for the committee to be advised as to whether he has given a guarantee to the Hon. Mr Gilfillan or the Hon. Mr Elliott in relation to positions on the committee. The Democrat position has changed significantly in the past 24 to 48 hours and, while I have only been in Parliament some eight or nine years, I am aware of what goes on behind closed doors. I make no stinging criticism of the Attorney-General; I just ask the question: has he given a commitment to the Democrats in relation to a position on this committee?

The Hon. C.J. SUMNER: It is not a question that I intend to answer in the context of this debate. We are dealing with the committee structure and, in due course, the membership of the committees will have to be dealt with by the Houses.

Clause as amended passed.

Clause 8—'Membership of committee.'

The Hon. R.I. LUCAS: I think the Attorney's amendment is to increase the membership to six. This is in part consequential on the structure that the Liberal Party envisaged for the committees and, given that we have lost that argument, I do not intend to proceed with the amendment.

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

Page 4, line 2—Leave out 'five' and insert 'six'.

This amendment increases the number of members on this committee to six and puts in place the structure which is now the Government's proposal for this committee system, namely, that of the three joint committees. There will be six members, three from each House, with the Chair to have both a deliberative and a casting vote. I think we have canvassed the reasons for that in general debate.

Amendment carried.

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

Line 4—Leave out 'two' and insert 'three'.

This ensures that three members must be from the Legislative Council. The original proposal was that only two would be from the Legislative Council.

Amendment carried; clause as amended passed.

Heading.

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

Page 4, line 7—Leave out 'and Resources' and insert ', Resources and Development'.

Amendment carried; heading passed.

Clause 9—'Functions of committee.'

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

Page 4—

Line 9—Leave out 'and Resources' and insert ', Resources and Development'.

After line 16—Insert subparagraph as follows:

(iv) any matter concerned with the general development of the State;

These amendments give effect to the revised terms of reference of the now Environment, Resources and Development Committee and include a reference dealing with the general development of the State, which has already been debated.

Amendments carried; clause as amended passed.

Clauses 10 to 13 passed.

Clause 14—'Membership of committee.'

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

Page 5, line 17—Leave out 'five' and insert 'six'.

The concern that I had at the outset of the debate was Government control of committees. The package of amendments that the Attorney-General laid before the Committee left the Social Development Committee with only five members: three from the House of Assembly and two from the Legislative Council. The purpose of the amendment is to increase the membership of the committee from five to six so that there are equal numbers on the committee from the House of Assembly and the Legislative Council and balance between the two Houses and between the Government and non-government members.

Amendment carried.

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

Page 15, line 19—Leave out 'two' and insert 'three'.

Amendment carried; clause as amended passed.

Clause 15 passed.

Clause 16—'References to committee.'

The Hon. I. GILFILLAN: I move:

Page 6, line 1—After 'the committee's appointing House or Houses' insert ', or either of the Committee's appointing Houses'.

This amendment picks up the observation by the Hon. Rob Lucas that a matter for a joint House committee to consider in the original draft would need to be consented to in virtually identical terms by both Houses. I do not believe that anyone in this Chamber would support that as a requirement or restriction. This amendment will enable either House, by passing the appropriate motion, to ensure that the joint House committee can deal with the matter.

The Hon. C.J. SUMNER: The Government opposes this amendment.

The Hon. R.I. LUCAS: The Liberal Party supports the amendment.

Amendment carried; clause as amended passed.

Clause 17—'Reports on matters referred.'

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

Page 6, line 14—After 'priority' insert ', so far as it is practicable to do so'.

My series of amendments relates to the priority that the committee ought to give to the various functions it has. This amendment indicates that the committee, in carrying out its functions, should give priority so far as is practicable to do so, first, to the matters referred to it under any other Act; and, secondly, to matters referred to it by its appointing House or Houses. We would delete 'matters referred to it by the Governor' and indicate that the committee should 'then deal with any other matters before the committee in such order as it thinks fit'. So, the committee could give priority to matters of its own motion or matters referred to it by the Governor, but that would be a decision to be taken by the committee.

The Hon. I. GILFILLAN: I have a similar amendment; therefore, I support the amendment. It is just a matter of quibbling as to whether 'as far as is practicable' really has any significance in the way the committee would exercise its priority. I do not see priority as an injunction, but I have no problem in accepting the wording of the amendment.

Amendment carried.

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

Page 6, lines 17 and 18—Leave out all words in these lines and insert 'and then deal with any other matters before the committee in such order as it thinks fit;'

I have already argued the case for this amendment.

Amendment carried; clause as amended passed.

Clauses 18 to 22 passed.

Clause 23—'Presiding officer.'

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

Page 7, line 40—Leave out 'Officer' and insert 'Member'.

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clause 24—'Procedure at meetings.'

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

Page 8, line 2—Leave out 'Officer' and insert 'Member'.

This amendment is consequential.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 8, lines 5 to 11—Leave out all words in these lines and insert 'Four members of a Committee constitute a quorum of the Committee'.

The Hon. R.I. LUCAS: As I understand it, this is just a tidying up of a rather more verbose way of saying the same thing. If there is a committee of seven and six, as we now have them, the quorum would be four anyway. I think that is what we are doing with this and, therefore, I support it.

Amendment carried.

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

Page 8, line 15—Leave out 'Officer' and insert 'Member'.

This amendment is consequential.

Amendment carried.

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

Page 8, line 16—Leave out all words in this line and insert 'has, in addition to a deliberative vote, a casting vote in the event of an equality of votes'.

This gives effect to the policy of the Chair of all committees having a deliberative and casting vote.

The Hon. R.I. LUCAS: I treat this as a matter of substance. We have gone to the barricades, as far as the Parliament recognises that, on only two issues in the Committee. From my point of view, this is an important issue. We have had the substantive argument before. As I said, certainly on my quick reading of the Standing Orders for the one true current joint standing committee of the Parliament—the Subordinate Legislation Committee—I could not see a similar provision, but I stand to be corrected on that.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: My colleague, the Hon. Mr Burdett, says that that is correct: there is not a provision. There is certainly no way that one could argue, as the Attorney sought to do earlier, that there is a convention in relation to these committees that there is Government control. As I said earlier, back in the 1970s the Subordinate Legislation Committee had a three-three split between the Government and the non-Government Parties without this particular provision, which gives an extra vote to the Government. Whilst that has changed now, certainly the Government and the Attorney cannot argue that this is on the basis of a long-standing tradition of our Parliament. It is part of this argument in relation to Government control of the committee system and I indicate my very strong opposition to this provision.

The Hon. I. GILFILLAN: I do not think any member believes that I support Government control of the committees as an effective intrusion—

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: Those guffaw-type interjections just show how irresponsible the attitude is. We have a Senate precedent in which the Chairperson of those standing committees has both deliberative and casting votes. Where are the Liberal Party's screams to amend that legislation? There is no murmur. The fact is that the legislation does stipulate which Party or which individual will actually chair the committee. The Bill is silent—

Members interjecting:

The CHAIRMAN: Order!

The Hon. I. GILFILLAN: It is silent on the matter. If we assume that it is a divided three to three situation, with the Government holding three, the actual control of that committee is virtually in the hands of the Government or the other group, if it chooses to be uncooperative or distructive to the work of the committee. The potential is there. The fact is that I have experienced stand-offs in select committees with six members. They virtually kill the operation of the committee, so the casting vote, which is not—

The Hon. R.I. Lucas: It forces them to compromise.

The Hon. I. GILFILLAN: What does?

The Hon. R.I. Lucas: A stand-off. If you give the numbers to one Party it just crushes the other side with its numbers. That is the only way you are resolving it. You say that the vote is three all, and then because there is a draw, one side—

The Hon. I. GILFILLAN: I hope that these committees do not reach the point where we are actually playing a game of who wins and who loses, because if the Government gives it casting vote—

An honourable member: They will. You're naive if you don't think they will.

The Hon. I. GILFILLAN: Obviously, the Opposition is more intent on making noise than listening. The three non-government members could leave the meeting and stymie the proceedings. Nothing could happen. There would be no quorum.

An honourable member interjecting:

The Hon. I. GILFILLAN: You have just passed four as a quorum. Haven't you been attending to what is going on? It is all very well to scream about giving the chair a casting vote. I would not do that because it is not what I prefer. However, I do not see it as a great hurdle which means that if we give the chair a casting vote the committee system as we see it will disintegrate. If members were prepared to look at the situation objectively, they would see that that would not occur. The potential exists to have a three-all vote. Perhaps the Legislative Councillors would prefer having a two to three or a three to four vote, so that the Democrats were in the minority and there would be an odd number of members on the committee. This is not my preferred position. The whole thing involves an area of compromise. I would not include this clause, but I do not regard it as an enormous stumbling block as far as the effectiveness of the Committee is concerned.

The Hon. R.I. LUCAS: That is breathtaking and extraordinary. The Hon. Mr Gilfillan is saying that he does not agree with the Chairmen of these joint committees having a casting vote.

The Hon. C.J. Sumner: Have you ever known something with which you don't agree?

The Hon. R.I. LUCAS: Yes, but I don't belong to a Party which says that we have the complete freedom, as do the Democrats, to vote willy nilly.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: I accept that on occasions members of the Liberal Party are able to vote according to their conscience and against the dictates of the Party.

The Hon. C.J. Sumner: Like us.

The Hon. R.I. LUCAS: No, you'd get kicked out of the Party.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Yes, you do, unless it concerns abortion or something like that. I know we are getting away from the subject—

The CHAIRMAN: Order! We are straying from the subject.

The Hon. R.I. LUCAS: It was because of an interjection from the Attorney, Sir—but the point is that the Hon. Mr Gilfillan, although he does not agree with the Attorney-General's proposition that the Chair should have a casting vote as well as a deliberative vote, says that he will support it. He says that he does not agree with the Government having control of committees but he will give it to the Government by allowing a fourth vote on a six-member committee. The Hon. Mr Gilfillan cannot have his cake and eat it too.

The Hon. L.H. Davis: If he has, he will!

The Hon. R.I. LUCAS: I guess that is an appropriate interjection from my colleague: the Hon. Mr Gilfillan is having his cake and eating it too.

The Hon. L.H. Davis: He is having his lentil soup.

The Hon. R.I. LUCAS: He is having his lentil soup as well—

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

The Hon. R.I. LUCAS: It is a nonsense for the Hon. Mr Gifillan to suggest that he does not believe in these things but that he will vote for them, when the arrangement that he might have come to with the Attorney in relation to some other matters does not hang together. Surely this is not the essential part of the whole arrangement—or perhaps it is, I do not know; only the Hon. Mr Gilfillan would know that.

This is an extraordinary piece of logic from the Hon. Mr Gilfillan to seek to justify his vote on this issue in the way in which he has just sought to do. The Hon. Mr Gilfillan tried to argue—and this is as close as he has come to any form of logic—that there are problems with a three to three split vote on the committee. I concede that there is a problem with such a split on the committee. We have had this situation on Legislative Council select committees, and it forced the six members of the Legislative Council to sit down and compromise further.

The Hon. C.J. Sumner: And you didn't like it, so you changed the system.

The Hon. R.I. LUCAS: We did not like it?

The Hon. L.H. Davis: We did not change the system.

The Hon. C.J. Sumner: You did, to say that the vote was three to two.

The Hon. R.I. LUCAS: We properly reflected the balance of the committees.

The Hon. C.J. Sumner: And the system didn't work.

The Hon. R.I. LUCAS: No, in that case the system did work. It took a much longer period than it ought to have done. It took 18 months or two years to get there, but in the end that matter was resolved. The Hon. Mr Gilfillan is saying that if you have a three to three split vote it is resolved by giving one side the extra vote. In effect, there is no force to compromise in any way by sitting down to further discuss it. The deadlock is broken by somebody crushing the numbers with the extra vote. In relation to the three to three split, some things are stopped, but on other occasions, if the Government of the day wanted to do certain things, there has been a blocking majority from the non-government side. It can work both ways.

I accept some of the examples that the Hon. Mr Gilfillan can offer. Equally, he would have to accept on the other side, that with a three to three split, it works both ways. I do not intend delaying proceedings further. In his own way, the Hon. Mr Gilfillan has justified his position. It is a significant issue, and we oppose it very strongly.

The Hon. J.C. BURDETT: I will refer to an area that I do know, namely, the Joint Committee on Subordinate Legislation, which is to be the Legislative Review Committee. In the past it has consisted of four Government members and two Opposition members, which is a fairly substantial majority for the Government. Since the last election, the member for Elizabeth has held one of the Government positions, and there have been occasions when the committee has been split three to three. I make no apology for saying this, because it is in the minutes and the minutes, being tabled in this Council, are public property.

We have had occasions recently when the vote has been split three to three, and the motion has passed in the negative. That was not the case previously when it was four Labor, two Liberal. I would hate to see this situation departed from. In a committee of this kind, it seems to me to be quite improper that the Chairman should have both a deliberative and casting vote. It is not like the situation of the Legislative Council itself where, in only a few circumstances, the President has a vote at the deliberative stage. In a small intimate committee such as this, it seems to me to be proper that the Chairman should have a deliberative vote but not a casting vote. If the committee is split, the motion should pass in the negative. It seems to me to be quite contrary to past practice, logic and reason that—

The Hon. C.J. Sumner: It's not.

The Hon. J.C. BURDETT: It is not contrary to past practice because past practice in the Subordinate Legislation Committee has been that the Chairman has had a deliberative vote only.

The Hon. C.J. Sumner: There has been a Government majority on the committee, no matter who has been in Government, for the past 15 years at least.

The Hon. J.C. BURDETT: I am saying that, since the member for Elizabeth has been on the committee, there have been a number of occasions when there has been a split vote, when he has voted with the two Liberal members. That has happened on several occasions, and that is as it should be.

The Hon. C.J. Sumner: That's not the point I am making.

The Hon. J.C. BURDETT: It is the point I am making though.

The Hon. L.H. Davis: It is the point Mr Burdett is making, and it is relevant.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: It is relevant. When we are talking about whether there should be a casting vote as well as a deliberative vote, I am saying that there should not be. When it breaks up that way, that is the way it should go, and it is proper that the motion should pass in the negative.

The Committee divided on the amendment:

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

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

Pairs—Ayes—The Hons Anne Levy and R.R. Roberts. Noes—The Hons J.C. Irwin and Bernice Pfitzner.

Majority of 1 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 25 and 26 passed.

Clause 27—'Minutes.'

The Hon. K.T. GRIFFIN: There is provision in clause 18 for the committee to make reports and interim reports and for the reports that are made to be tabled in the appointing House or Houses. However, clause 27 provides:

A committee must ensure that full and accurate minutes are kept of its proceedings.

What does the Attorney believe is likely to happen to the minutes? Will they be retained by the committee well into the future? Are they to be tabled in the respective Houses? Of course, select committee minutes are tabled when the report is tabled. There may be an occasion when the Economic and Finance Committee in considering matters presently considered by the Industries Development Committee might want to keep matters confidential.

The Hon. C.J. Sumner: The Industries Development Committee is not a committee for this purpose.

The Hon. K.T. GRIFFIN: But in situations akin to that where there are matters of confidence the committee might not want to table the minutes. What will happen to the minutes, because it is not dealt with specifically in the Bill?

The Hon. C.J. SUMNER: It is a question of the interpretation as to what 'full and accurate minutes' means. If it means all the discussions of members being taken down as minutes, it would not be appropriate for that to be tabled because part of the process of reaching a decision in such a committee is that the deliberations are secret. In those circumstances I do not think the minutes should be tabled. If it means what currently happens with select committees, and that constitutes full and accurate minutes, I believe that the minutes ought to be tabled unless the committee decided that there was something in relation to evidence taken in camera and the like. It does not say that the minutes are to be tabled. It leaves it up to the committee, which is probably the best course of action.

I would anticipate that the presiding members of the committees would meet when this goes through and discuss common protocols and procedures about how to deal with issues, and one could be the tabling or otherwise of minutes. My preference would be for minutes to be tabled in the same form as select committee minutes. If a committee decided to take down verbatim everything said in private discussion, it would not be acceptable to table that record. I do not think that will happen. We start from a standpoint that full and accurate minutes means what is currently the practice of select committees.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: Yes. If it means what is currently the practice of select committees, I have no problem with the minutes being tabled, but there may be exceptions.

The Hon. K.T. Griffin: It may need amendment in the future if there is difficulty with implementation.

The Hon. C.J. SUMNER: It may be necessary at some stage, but I do not foresee a major difficulty.

Clause passed.

Clause 28—'Privileges, immunities and powers.'

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

Page 8—Leave out this clause and insert new clause as follows:

Privileges, immunities and powers

28. (1) All privileges, immunities and powers that attach to or in relation to a committee established by either House attach to and in relation to each committee established by this Act.

(2) Without limiting the effect of subsection (1), the powers of each committee include power to send for persons, papers and records.

(3) Any breach of privilege or contempt committed or alleged to have been committed in relation to a committee or its proceedings may be dealt with in such manner as is resolved by the committee's appointing House or Houses.

There was considerable debate whether the committees should have powers of a royal commission and, if so, what powers. The Public Accounts Committee has the power of a royal commission generally, and the Government wanted the committees to have substantial powers at least to ensure that they could carry out investigations properly, which is why reference to royal commission powers was included in the clause. Opposition from some members opposite was probably based on two grounds, namely, that Parliament should be master of its own destiny in those areas and should not be guided by another Act of Parliament or, as I think would happen under royal commission powers, submit itself to adjudications of the Supreme Court in certain circumstances in reference to some of the powers of a royal commission. Others thought that the powers were too draconian.

On reflection, I think it is reasonable to delete clause 28 and to rely on the traditional privileges of the Parliament, which can be quite draconian if they are used to their fullest. Everyone knows what those powers are and they know they can be used—although it would only be in exceptional circumstances, I imagine, that the Parliament would decide to use them. However, the Houses of Parliament could summons a person who refused to attend. That person might be critical to the examination or investigation of the committee, and if the refusal continued I think the Black Rod would then be called on to require the attendance of the person and would have to call in aid, presumably the police, to get the person before the House.

Obviously it could be in controversial circumstances, if we were down to that situation. The Houses of Parliament use their powers very sparingly, but the powers do exist. They are extensive, and at least if they are needed to be used they can be. My amendment deletes all reference to royal commission powers but reaffirms that the committees do have the privileges, amenities and powers of the Houses of Parliament, that the committees have the power to send for persons, papers and records, and that any breaches of these privileges or contempt committed by non-attendance, or what have you, has to be reported back to the appointing House or Houses and it would be the appointing House or Houses that would determine in what way to deal with that breach. I think that is a good structure.

The Hon. R.I. LUCAS: I indicate my support for the amendment. I had on file notice that I would be opposing this clause, so I certainly agree with that part of what the Attorney has said, for the reason that I outlined in my second reading contribution, some of which the Attorney has reiterated in his contribution. The Attorney has moved one step further and seeks to insert a new clause, and I indicate our support. As I said, I do not intend going over the arguments which I outlined in detail in the second reading debate, but I want to comment briefly on two matters. First, I refer to the provisions in new clause 28 (1) and (2). I think these are re-statements of what we would all know to be the current situation in relation to a parliamentary committee, anyway. I certainly do not have any objection to those provisions.

As has been explained to me, I think new clause 28 (3) does introduce an interesting new element into this debate, and this is the question of what do we do when a joint committee lays a complaint in relation to contempt of Parliament. The situation is clear with a Legislative Council committee, where, if someone is in contempt in relation to that committee, the Legislative Council makes the decision, and, equally, the House of Assembly makes its own decisions. However, with a joint House committee it is an interesting question as to what you do. The suggestion that

is being offered here I think is a sensible one. Before looking at this amendment, I wondered whether we would perhaps have to have a joint sitting of both Houses, like we do for the nomination to fill a casual Senate vacancy, and whether we would have to drag someone before that joint sitting to mete out punishment. I guess we would then have an argument about which Clerk or parliamentary officer would be the one to send or carry the person off to gaol. I do not know who would have precedence in the matter of protocol. Certainly, it would be most untidy.

The suggestion here is interesting and innovative. From discussion with Parliamentary Counsel, my understanding is that, basically, by a motion of both Houses—and both would have to agree—either one of the Houses would pursue the matter. So, it may well be that a resolution would go through both Houses that the Legislative Council would pursue the matter of contempt and that we would drag the person involved before the Legislative Council, or it may well be that we would decide that the House of Assembly ought to do it, or it could be left open. The other alternative, of course, may well be that it would be decided to have a joint sitting, under some formalised arrangement.

That is probably unlikely. I would have thought that the sensible option would be to pass the resolution as intended in this provision and either of the Houses could pursue the contempt. I congratulate the Parliamentary Counsel on its innovation and indicate my support for this drafting.

The second matter upon which I want to touch briefly—although it is not for resolution today—is that in the interesting debate that I have had with Parliamentary Counsel and parliamentary officers in relation to what are the powers and privileges of the Parliament and the Legislative Council, I learnt a little bit (not as much as others in this Chamber have learnt). I learnt that this Parliament has unlimited powers in relation to contempt in that, if we find someone guilty of contempt, we in fact detain them at our pleasure for an indefinite period until they expunge the contempt of the Legislative Council. That lasts until the Parliament is prorogued. We could do it again if we wished then for another four-year period.

This is a debate which the Attorney and others may well be negotiating already in the Joint Committees on Privilege where, as in the Federal Parliament, the Parliament ought to have powers, when there is contempt of Parliament, for meting out punishment perhaps not so great as an indefinite detention. I understand that the Federal Parliament has the power to gaol someone for a period of one, three or six months or a specified rather than unspecified period. It also has the power to fine someone an amount of $1 000, $10 000, $1 million or whatever. I am not saying that that is the solution, but I will be more interested in the debates of the Joint Committee on Privilege and this will be a matter that we will have to address further down the track. I do not think that in this case we do any damage to that debate in the future—it is for another day. It is an important issue that this Chamber and the other will have to address in the not too distant future.

The Hon. R.J. RITSON: I have a quick question to the Attorney-General concerning the existence or otherwise of any claim of privilege on behalf of the Executive. I have no memory of any direct collision between a select committee and a Minister but there have been situations where Ministers have made statements around the traps that they will certainly not attend a particular committee and have their department inquired into. I am not aware of any constitutional crisis that has tested whether Ministers of the Crown can claim Executive or Crown privilege and refuse to deal with the committees or appear before them. I understand a body of law exists, which requires people more learned than I to understand, that deals with the relationship of the Crown to the courts. Will the Minister indicate what would be the situation in the case of a Minister's refusing to attend before or cooperate with a committee of the Parliament on the grounds that there was some sort of Crown privilege?

The Hon. C.J. SUMNER: This clause 28—the new clause dealing with privileges, amenities and powers of the committees and who would deal with any issue arising in relation to them—does not purport to be a code dealing with all aspects of this issue. So, clause 28 (3) deals with the appointing House or Houses considering any breach of privilege or contempt in the face of one of these standing committees. However, it does not deal with how the appointing House or Houses would deal with that issue. That is something that would have to be resolved between the Houses. One proposition is that the House from which the presiding member came would deal with the issue, although I suppose both Houses could deal with it. Possibly, they could deal with it separately, possibly they could deal with it jointly; it is really left unsaid. Parliamentary Counsel informs me that their researchers have not been able to find anything in Erskine May or other Parliamentary practice books where this issue has arisen. As it seems to be historically unlikely that this will occur, perhaps we can leave it to a resolution at that time.

My own view would be—and it is probably subject to some dispute—that, as the privileges attach to the House, an individual House could deal with the breach of privilege or contempt issue. If there is a contempt in the face of the Legislative Council, we do not have to consult the House of Assembly as to how we deal with it. So, that would be my view, namely, that either House could deal with it. I think that would be a bit unsatisfactory, particularly if both Houses did deal with it and came to different conclusions as to what should happen. If it was such a politically charged atmosphere, the whole thing would have collapsed around our ears anyway and it would ultimately have to be resolved by the public at election time as to who was right and who was wrong, or it might indeed have to be resolved by the courts in those circumstances.

The Hon. I. Gilfillan: We could always lock up the offenders in the gym.

The Hon. C.J. SUMNER: Something like that. So, one would hope that, in the best of all worlds, one House would decide to take on the job of dealing with the breach of privilege.

The Hon. Mr Lucas's also raised the question of the unlimited powers of the House of Parliament to deal with breaches of privileges and contempt. That is a matter that should be considered by the Joint Committee on Privileges and established by this Council. I am sure that that committee will report soon, because it has been sitting for a very long time.

An honourable member interjecting:

The Hon. C.J. SUMNER: I think that is just not good enough, frankly. I am not on it, but I think that whoever is chairing it and whoever is the deputy chair should get on with it and get it fixed, because it is an important issue. The Houses have resolved to set up the committee and I think it would be useful that it be resolved one way or the other. That committee should not be allowed to languish and there is an obligation on the presiding officer of that committee, the deputy and its members to get down and clean up the thing one way or the other, as soon as possible.

I hope that happens. If it does, the issues raised by the Hon. Mr Lucas can be dealt with possibly in a similar way to the way it has been done in the Federal Parliament.

The Hon. Dr Ritson raised the question of Crown privilege. Again, there has been a tradition, in the select committees at least, that Crown privilege, by way of convention, has been observed as a legitimate claim on the part of the Crown. In particular, I refer to access to Cabinet documents and the like.

Although Crown privilege is being truncated more and more, it still operates before the courts to some extent. I think it probably operates in the Parliament more by convention than actual law. If the Parliament is supreme, one could argue that it is able to get access to those documents that might normally be covered by Crown privilege. However, I have not researched that point and I am not in a position to give any definitive response to it. On the one hand, we have parliamentary supremacy; on the other hand, we have some Crown privilege rights which undoubtedly exist before the courts and which it could be argued would exist before a standing committee of the Parliament. In any event, other than in the most exceptional circumstances, I imagine that the committees would abide by the general conventions which have been applicable in the past. I think that government could become almost unworkable if a committee decided it wanted to see all Cabinet documents that might relate to a particular issue. If it arises, it will have to be dealt with. We shall have to consider whether a Minister is in breach of a summons if he refuses to appear or to produce certain papers.

Without having researched it, what I have said is subject to my looking at the matter more carefully. I am sure there must be experience of this, because there have been committees in many Parliaments, including our own, where this issue has arisen. However, my own view is that certain conventions ought to operate in this area.

The Hon. R.J. RITSON: My experience of committee work in the past has been that, where a potential witness has expressed a desire not to attend or to cooperate, whether that person was a Minister of the Crown or a member of the general public, the committee has chosen as a first or last resort not to report the matter to the Council—probably as the path of least resistance or of capitulation—rather than to take on the political flak of testing and perhaps flexing the powers of the Parliament. The convention is not a convention, but rather an absence of precedent in regard to private citizens and Ministers of the Crown.

It is quite distinct from the question of Cabinet documents: it is just a question of general cooperation. As I said, Parliament and its committees have acquiesced rather than made decisions that could be described as being based on its recognition of the principle of Crown privilege.

With the inclusion descriptively of Government instrumentalities in this legislation, there may be increasing requests by committees to hear evidence from Government officers. There may also be an increasing incidence of direction by department heads to their officers not to attend or not to give certain evidence.

The Hon. C.J. Sumner: When have Ministers and department heads directed officers not to attend committees?

The Hon. R.J. RITSON: I said that may occur in the future. Naturally, we will not resolve this matter tonight. I am grateful to the Attorney-General for putting the degree of uncertainty on the record in case the Parliament needs to come to grips with this question in future.

The Hon. C.J. SUMNER: I was uncertain about the matter only while I was on my feet: perhaps I would be less certain if I had had the opportunity to research it. All I tried to do was point out the different views. There are precedents; committees of this kind have been operating in the Commonwealth arena for well over 15 years, and also Victorian committees have been operating. I am sure that precedents have been set from those experiences and that there are precedents from other jurisdictions which can be pointed to in dealing with these issues. In the final analysis, if someone does not attend, whether it be a Government official or a private citizen and so on, the committee will have to decide what action it intends to take in relation to the non-appearance of that person.

When new clause 28 (3) was drafted by Parliamentary Counsel, it was intended that, in the case of a joint committee, any issue of breach of privilege or contempt would have to be dealt with by both the appointing Houses; that is the interpretation they put on it. I thought that perhaps it could be done by either. If this subclause was not included, it probably could be done by either House. However, new clause 28 (3) makes clear that, if the House of Assembly appointed the Economic and Finance Committee, that House would deal with the breach of privilege or contempt: if it were the other three committees, both Houses would have to deal with the issue. Presumably, a report of the issue would have to be presented to both Houses, and there would be a resolution in one House seeking the concurrence of the other House as to how the matter should be dealt with. That is the intention of new clause 28 (3).

The Hon. R.I. LUCAS: But the resolution could be that one of the Houses would then drag the person before its bar to deal with the matter.

The Hon. C.J. SUMNER: I think it could be done that way, but that would have to be agreed to by both Houses before it happened. I am sorry if there is any confusion about that, but that is the intention. As I said, we are in a fairly esoteric area, and it is fairly unlikely that that will happen. However, I suppose it has happened in the past, and it is useful to indicate what is intended.

Clause negatived; new clause inserted.

Clause 29—'Members not to take part in certain committee proceedings.'

The Hon. K.T. GRIFFIN: In my second reading contribution I raised the difficulty that I foresaw with this clause. It provides that:

> A member of a committee must not take part in any proceedings of the committee relating to a matter in which the member has a direct pecuniary interest that is not shared in common with the rest of the subjects of the Crown.

It seems to me that that is somewhat limiting, because 'the rest of the subjects of the Crown' does not mean interests in common with other subjects of the Crown, either a substantial number or by some other description. It means all of them and it worried me that we might find, for example, that there is an inquiry by—

The Hon. C.J. Sumner: That is the formulation in the Standing Orders.

The Hon. K.T. GRIFFIN: I have a concern that it might have some unintended consequences by virtue of the breadth of the description.

The Hon. C.J. SUMNER: Our Standing Order 379 deals with select committees. It states:

> No member shall sit on a committee who has a direct pecuniary interest in the inquiry before such committee not held in common with the rest of the subjects of the Crown and any question of interest arising in committee may be determined by the committee.

So, it does pick up the words that have been in our Standing Orders for some considerable time.

Clause passed.

Clauses 30 and 31 passed.

Clause 32—'Coordination of committees.'

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

Page 9, lines 18 and 19—Leave out subclause (2) and insert subclause as follows:

(2) In discharging their responsibilities under subsection (1), the Presiding Officers of both Houses must—

(a) consult with the presiding members of the committees; and

(b) so far as practicable, give effect to any recommendations of the presiding member of a committee as to the staffing of that committee.

This amendment seeks to ensure that there is, as far as practicable, consultation with the presiding members of the committees and the Presiding Officers of the Houses, and that, as far as possible, the Presiding Officers of the Houses should give effect to the recommendations of the presiding members of the committees as to the staffing of those committees. It was the intention that a committee should, to a large degree and as far as possible, control the appointment of the research officer, or whatever staff might be attached to the committee, and that it would then be able to make a recommendation to the Presiding Officer who should, as far as possible, try to support that recommendation.

The Hon. C.J. SUMNER: The Government opposes the amendment. It believes that consultation is adequately covered.

The Hon. I. GILFILLAN: I share that opinion. I do not believe that there is any need to add extra qualifications to this subclause.

Amendment negatived.

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

Page 9, lines 20 to 23—Leave out subclause (3).

As I indicated in the second reading debate, I have a very strong objection to the notion that the presiding member of a committee may disclose to the Presiding Officers of both Houses evidence, proceedings or reports of the committee, notwithstanding that the matters to which evidence, proceedings or reports relate have not been reported to the House or Houses that appointed the committee. I do not intend to go over the debate again. That situation is and ought to be unacceptable. Both the Government and the Democrats have indicated support, so there is not much point in further debate.

Amendment carried.

The Hon. R.I. LUCAS: Will the Attorney indicate what guarantee or agreement he has reached with the parent of this Bill, Mr Evans, in relation to staffing of a committee? Has a commitment been made to the honourable member from another place that each committee will be provided with extra staff? Will additional staff be appointed to the Lower House committee and to the three joint committees, and what guarantees has he given Mr Evans on this matter?

The Hon. C.J. SUMNER: I will not go into the arrangement that may have been made between Mr Evans and me in relation to this or any other matter. Of course, the question of staffing will have to be looked at in budget context once the committees have been established, and it will have to be considered by the Parliament as a whole if we move to one line parliamentary appropriations. I think I answered an earlier question about resources and staffing asked by the Hon. Mr Elliott in relation to any committee or select committee that this Council might decide to set up independently. I will answer the Hon. Mr Lucas's question in a similar way. Clauses 32 and 33 deal with the provision of resources and officers. A committee can ask the Government for assistance or can appoint people on its own motion. Where a committee appoints people on its own motion, that will have to be done as part of the budget, and will have to be put to Parliament when the budget is considered.

It is fair to say that if these committees are established they will need resources to enable them to do their job. There is always a debate about whether or not resources are adequate, and the committees themselves and the Presiding Officers of the Parliament will know exactly what Ministers in charge of Government departments have to go through at budget time trying to get adequate resources to do the job. As soon as this Bill is passed, the presiding members of the committees will have to get together with the Presiding Officers of the Houses (the President and the Speaker) to look at existing staff arrangements and to decide what reallocation of staff might be needed. They will have to try to assess their need for resources in the future and they will have to prepare a submission to be considered in the budget.

I think that is sensible. That is the way it has to go. As I said in answer to the Hon. Mr Elliott's question, I am not in a position now to give a commitment that there will be three research officers for this committee or two for that, or a certain allocation of funds.

The Hon. R.I. Lucas: What commitment have you given Mr Evans?

The Hon. C.J. SUMNER: I am not going into what my discussions were.

The Hon. R.I. Lucas: Why can you give him commitments and not the Legislative Council?

The Hon. C.J. SUMNER: I am not saying whether I have given him a commitment on this topic.

The Hon. R.I. Lucas: But I'm saying that you have.

The Hon. C.J. SUMNER: You can say that if you like. I am not saying whether I have or have not, and the honourable member can speculate one way or the other. He can ask Mr Evans if he wishes. Mr Evans is not a member of this Chamber. I have had discussions with him, but I will not indicate the results of those discussions one way or the other as far as resources are concerned. I have outlined what will happen with resources. I think it is important for the Presiding Officers to get together as soon as possible and try to sort out what resources they will need, if they cannot cover it under existing numbers, although they may be able to. Obviously they will be able to use existing resources. The Government may be able to assist. There is a fair number of redeployees around at the moment, but generally they will have to be responsible for preparing a budget bid that will have to be considered at the time of the Appropriation Bill debate.

The Hon. R.I. LUCAS: I just think it is unsatisfactory from the Parliament's viewpoint that the Attorney-General gives commitments to other members of Parliament—

The Hon. C.J. Sumner: Hang on!

The Hon. R.I. LUCAS: I am saying this—you can deny it. In fact, you did not deny it. You said that you would not confirm or deny it. It is the Oliver North defence. I am saying that the Attorney-General has given commitments to other members of this Parliament, some in this Chamber and some in another Chamber, in relation to membership of committees, staff and resources. If the Attorney has given those commitments, as I say he has, he really ought to treat this Chamber with respect and let it know of those commitments. I know he probably cannot commit the Cabinet, but he has given undertakings to various people. He ought to indicate to this Committee what they are. This is Mr Evans' Bill with the assistance of the Attorney-General. We really ought to know where we are heading. What will the staffing be for some of these committees?

The Hon. C.J. Sumner: Adequate.

The Hon. R.I. LUCAS: Adequate. The Hon. Mr Hemmings, Mr Hamilton, the Hon. Mr Trainer and three or four other members I quoted in the second reading debate said that this system will not work unless more resources are given to it. The Attorney has said tonight that he hopes to get all this up and going by December this year, I think. The next budget is not due until next September. We have almost 12 months to wait, and the best the Attorney can say is that they will all have to get together and work out whatever they need. The current Public Works Committee has one officer; the Public Accounts Committee has one officer. Potentially those officers could go on. I do not know what is the understanding with Mr Evans, but it affects those officers. I presume that those officers have an interest in what goes through this Parliament and what arrangements have been arrived at between the Attorney and other members. They might be interested in knowing what their future will be. That is one of the reasons we asked the question. I do not know whether they have been told that they have a place in the sun under the new committees.

The Hon. C.J. Sumner: Who?

The Hon. R.I. LUCAS: The current staff of the Public Works and Public Accounts Committees.

The Hon. C.J. Sumner: It is up to the committees.

The Hon. R.I. LUCAS: The answer of the Attorney is that there is no guarantee but that it is up to the presiding members—whatever they decide. What will happen with the new Social Development Committee? There is no current committee whose staff will continue. Are we saying to that committee what the Attorney is saying, that we will argue this out in the next budget process, in August next year? Perhaps we might find a stray public servant who has been redeployed from one area and top them up in the Social Development Committee. Clearly the Attorney will not be more forthcoming, and I place on the record my disappointment at that. Given the fact that the Attorney and Mr Evans have got what they want in relation to this committee system, we ought to know, as I indicated before, on such critical issues as staffing and membership, the direction in which Mr Evans and the Attorney would like to take us.

Clause as amended passed.

Clause 33 passed.

Clause 34—'Office of committee member not office of profit.'

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

Page 9, line 33—Leave out 'Officer' and insert 'Member'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 35 passed.

New clause 36—'Power of Parliament to establish other committees.'

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

Page 9, after line 37—Insert new clause as follows:

36. This Act does not limit or derogate from the power of either House or both Houses to establish committees in addition to the committees established by this Act.

This new clause ensures what I think is clearly the case in any event, that the passage of this Bill does not limit the powers of either or both Houses establishing other committees, whether select or standing.

The Hon. R.I. LUCAS: This new clause really says nothing, therefore we do not oppose it. Frankly, it was a sop to the conscience of the Democrats in their position to support one Lower House Committee and three joint committees. In effect, it provides that maybe at some stage we could establish a committee in the Upper House. That has always been and always will be the case. This new clause does not say anything, but if it makes people feel better so be it.

New clause inserted.

Schedule.

The Hon. R.I. LUCAS: The amendment I have on file to the schedule is consequential and I withdraw it. It was predicated on the basis of the five committee structure. We were hoping, with good grace, to assist the Government in financing it, together with some other suggestions. But I am afraid that it has died a natural death in other parts of the Bill.

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

Page 11—Leave out 'Environment and Resources Committee' wherever occurring and insert in each case 'Environment, Resources and Development Committee'.

Amendment carried.

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

Page 11, at the end of the schedule—Insert:

PART III

TRANSITIONAL PROVISIONS

(1) A matter that was the subject of inquiry by a former committee may, if that committee had not completed its inquiry or reported on the matter before the commencement of this Act, be referred to a committee under this Act.

(2) Where a matter is referred to a committee as referred to in subclause (1), the committee may continue and complete the proceedings and consider and report on the matter under this Act as if all the evidence given in respect of the matter before the former committee had been given before the committee under this Act.

(3) In subclauses (1) and (2).

'former committee' means—

(a) the Joint Committee on Subordinate Legislation;

(b) the Public Accounts Committee;

(c) the Parliamentary Standing Committee on Public Works.

The amendment means that matters before the Joint Committee on Subordinate Legislation, the Public Accounts Committee and the Parliamentary Standing Committee on Public Works can be taken up and continued by the new committees.

The Hon. R.I. LUCAS: The current workload of the Industries Development Committee is not transferred to the new Environment and Finance Committee, even though it is meant to take over from the IDC.

The Hon. C.J. SUMNER: No. The IDC will continue to operate under the Industries Development Act. In order to keep the number of committees to four, we have provided that the IDC will be comprised of two members nominated by the Economic and Finance Committee, but in all other respects the IDC Act governs what that committee does. The schedule amends the Industries Development Act in that way so that that Act continues to govern the operations of the Industries Development Committee.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: No. No transitional provision is necessary because the committee continues under its existing Act.

The Hon. R.I. Lucas: But in a different form.

The Hon. C.J. SUMNER: No it will be in exactly the same form.

The Hon. R.I. Lucas: But it will have fewer members.

The Hon. C.J. SUMNER: No. There will be the same number of members. The members may be different but there will be the same number. So, it is not a problem.

Amendment carried; schedule as amended passed.

Title passed.

Bill recommitted.

Clause 3—'Interpretation'—reconsidered.

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

Page 2—

After line 12—Insert definition as follows:

'publicly funded body' means any body that is financed wholly or partly out of public funds.

Line 34—Leave out 'corporate' and insert '(whether incorporated or not)'.
Line 36—Before 'has a governing body' insert 'is comprised of or includes, or'.
After line 37—Insert 'or'.
Line 39 and page 3, line 1—Leave out all words in these lines.

This deals with the issues that we discussed earlier about whether or not the definition of statutory authority should include a body corporate or a body that is unincorporated as well. We agreed to that in the amendment. This amendment gives effect to that in a redrafted manner. It also deals with the issue of whether the Economic and Finance Committee should have the power to examine bodies financed wholly or partly out of public funds. That issue of principle was agreed to, but there was a drafting anomaly, because that category of body, those financed wholly or partly out of public funds, were defined as statutory authorities and, under clause 6, the committee could have examined whether they should continue to exist or not. It was considered that that was a bit of an artificial situation, to have those bodies categorised as statutory authorities when, clearly, they might not be statutory authorities. So, the amendment to clause 6—and I am talking now to both clauses 3 and 6—combined with the amendment to clause 3 re-expresses the powers of the committee. It continues to make it clear that it has the capacity to cover publicly funded bodies but does not categorise them any more as statutory authorities.

The Hon. R.I. LUCAS: Obviously the Liberal Party supports the broadening of the definition of statutory authority to include unincorporated bodies. As I indicated in my second reading speech and during the Committee stage of debate, this extends the oversight of the Economic and Finance Committee over a broader range of statutory authorities. We support that. We remain fundamentally opposed to even the redrafted version of 'publicly funded body', as being a body that potentially would still be scrutinised by the Economic and Finance Committee. The situation would still remain that, if a company, like Santos, with financing worth hundreds of millions of dollars, received, say, a $500 grant from the Federal or State Government, the Economic and Finance Committee could subject it and its officers, with all the powers of the Parliament, to scrutiny, with the provisions that are available to that committee.

Equally, in relation to the community organisations that I highlighted before, even on this redrafting they would still potentially be subject to the scrutiny by Government of their operations. Sometimes members, even Ministers, take a set against a particular community organisation or company and will use whatever device at their means to pursue it, whether it be a women's shelter, a community organisation or whatever. This will allow members, if they can so mobilise the numbers and get support on these committees, in effect to provide the great powers of the Parliament and scrutiny through this Economic and Finance Committee on any community organisation, even if just .01 per cent of its funding and financing is by way of some form of Government grant from public funds. There would still have been problems if it had been financed wholly or substantially out of public funds because, again, organisations like the Catholic Commission for Schools or the Independent Schools Board would still have been covered.

However, at least it would have excluded some other agencies. Our Opposition remains. We divided in Committee on the 'statutory authority' definition which, in essence, is this amendment, so we will not divide again. By taking the decision not to divide does not mean that we have in any way been attracted to this redrafting or that we would support it. We still strongly oppose it. Under my attempted definition I sought to exclude our universities in South Australia, on the basis of the respect for the academic freedom and independance that we have traditionally given to them. However, the Government and the Australian Democrats have supported subjecting the University of Adelaide, Flinders University and the University of South Australia to the oversight of the Economic and Finance Committee.

The Hon. C.J. Sumner: They have been covered under the Social Development Committee, anyhow.

The Hon. R.I. LUCAS: No. They are under the specific oversight and tremendous powers of the Economic and Finance Committee, which can recommend that they cease to exist and such other provisions along those lines. We have a situation now—something which we have opposed—

The Hon. C.J. Sumner: You're trying to water it down.

The Hon. R.I. LUCAS: The Attorney is arguing by way of interjection that it is proper and appropriate that universities are subject to the oversight of the Economic and Finance Committee.

The Hon. C.J. Sumner: They are covered, anyhow.

The Hon. R.I. LUCAS: Well, they're not.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: That is not a statutory authority review committee function under social development.

The Hon. C.J. Sumner: What about education?

The Hon. R.I. LUCAS: It might talk about education but not about making judgments on their efficiency. There was a vitriolic debate in this Council and in another place about the oversight and independence of the universities on the question of health sciences review. We had the Government, through the Hon. Mr Rann, attacking the Liberal Party for wanting to have a committee which examined the mergers that were occurring to see whether they were doing a good job and achieving the benefits that they were supposed to achieve. On that issue we were attacked left, right and centre by the Government, which said that we were threatening the independence of the universities. With the support of the Democrats, the Government and the Attorney-General think it is appropriate that the three universities in South Australia should be subjected to the oversight of the Economic and Finance Committee. There are one or two members on the forerunners to the Economic and Finance Committee who have longed to get their hands on the universities.

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

The Hon. R.I. LUCAS: I will not name them. I will trade you; you tell me what you have agreed with Gilfillan and Evans and I will trade you. There is a view from some—a minority—that they ought to get stuck into the universities and, in effect, that is what has occurred as a result of this amendment. So, we remain strongly opposed, but we will not divide, as we have already divided previously in the Committee.

The Hon. I. GILFILLAN: I support the amendment, but I am a little uneasy about the revised wording of line 36. In discussion with Parliamentary Counsel I was advised that commas appropriately placed will make sense of a sentence which I still find rather cumbersome. I am not certain whether that sentence does hang together and, having gone so far, I would prefer not to pass the clause it until I am content that that sentence is correct.

The CHAIRMAN: By way of explanation, we have made a clerical change and inserted a comma after the word 'including' in the amendment. There is also a comma in the Bill after 'including'.

The Hon. I. GILFILLAN: In that case, I believe it does make sense, and I support it.

Amendments carried; clause passed.

Clause 6—'Functions of committee'—reconsidered.

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

Page 3, line 25—Leave out 'or State instrumentality' and insert ', State instrumentality or publicly funded body'.

Amendment carried; clause as amended passed.

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

That this Bill be now read a third time.

The Hon. R.I. LUCAS (Leader of the Opposition): Now that we have reached the end of the Committee stage, I want to place on record my views and those of the Liberal Party on what now comes out of the Committee and parliamentary debate. Sadly, a great opportunity for reform for the Parliament and the Legislative Council has been lost. For those who wanted to see something great for the Legislative Council, it is a shame. It has been a tragedy for those who would have liked to see a powerful committee system evolve, part of it controlled and operated by the Legislative Council.

We know that various deals have been done. I believe that some members have been bluffed by members in this Chamber and in another Chamber as to what might have occurred if certain things did not eventuate here today. It is a shame, as I indicated to the Attorney, that the arrangements or understandings that he has entered into with various members could not be placed on the record this evening. I believe that now that we have nine paid positions for Legislative Council members, the understanding is that two of those nine positions will be for the Australian Democrats. Therefore, I presume that four will be for Government members and perhaps three will be for members of the Liberal Party. The Australian Democrats in this Chamber have two members out of 22, but they will have two of the nine paid positions of the Parliament. In effect, they will double their relative voting strength within this Chamber.

It is fine to say, as the Democrats have on occasions, that they oppose pay increases, but, of course, they accept the pay increases. They say that they oppose payment for these committee positions, but, of course, they will accept the paid positions that will be part of this arrangement. They will be able to say to the community, 'We would have done it for nothing.' But, of course, they know that will not be the circumstance. In my view, although the Attorney will not come out and say it, when push comes to shove and we see who goes on to what committees, the Australian Democrats will take two of the nine Council positions on those committees.

I am disappointed that, whatever arrangements have been made, they have not been laid on the table so that we and the public may know what has been organised. It is up to individual members in this Chamber to negotiate. Some members might criticise that, and that is fine. However, I think there ought to be a fair cop as to what the arrangements ought to be for all members in this Chamber in relation to the Bill. That is not the major point. My bitter disappointment about all this is not in relation to how the positions in the end are carved up—that is a minor matter—but that a great opportunity for reform has been lost by this debate and by the arrangements that have been entered into. I think that is the substantive point.

For those reasons, what we have before us at the moment is not and will not be an improvement on current arrangements for the reasons that the Hon. Mr Elliott and others were quite open about in the Committee stage. There are great difficulties with joint committees. There are great difficulties in getting members of the House of Assembly to devote time to these joint committees. As the Hon. Mr Elliott instanced, the committee of which he is a member has had only three meetings in six months because they cannot get House of Assembly members to attend. I am not criticising them, because they have great responsibilities in their electorates, but that is the problem confronting Joint House committees.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I can only quote the experience of the Hon. Mr Elliott who is on the record as to who he blames for that.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: You are not on the committee. You indicated that you were not on the committee and did not know much of what was going on in relation to it. The Hon. Mr Elliott is on the committee. He has placed on the record where he sees the problem; he quite clearly indicated it. Members do have other responsibilities. That committee has met only three times in six months. I know that the WorkCover committee had problems for months and months. Now and then it gets a bit of a spurt on.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: That has been going for a year, as I understand it. There are those sorts of problems. We have not improved the committee system. What we have done is pandered to the ego of Mr Evans. He wanted to be seen as the saviour of the Parliament; he wanted to be seen as the great performer. Rightly or wrongly, he took the view an arrangement had been made with the Government. I am not saying whether he agreed with our proposition (and let me give him credit by at least saying that I do believe he wanted to see a Parliamentary committee system)—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I give credit to Mr Evans for wanting to see a powerful Parliamentary committee system. More than that, he wanted any Parliamentary committee system to be got up and going. He wanted a result, and he wanted it done by the end of this year so that the Evans committee system could be up and going so that he could say that he had achieved this great reform. One of the great frustrations of the Independents is that, when they stop the Government introducing new legislation, for example, the Education Act and so on, the public does not know about it and the media do not write about it. The Independents are frustrated that they do not get publicity for some of the things they achieve behind closed doors.

In areas such as this the Independents are able to say that this is what they have achieved in the Parliamentary arena. However, there might have been much better suggestions—perhaps not the Liberal Party's. We strongly advocated a system; there may well have been others. We wanted this matter to go to a conference so that we could sit down with Mr Evans, the Hon. Mr Sumner, Mr Gilfillan, Mr Elliott and anyone else and hammer out a sensible consensus that builds on the strengths of all of it. However, we have not been able to reach that position because of the understandings and arrangements involved in getting the Bill through both Houses of Parliament. This legislation is not an improvement, and we strongly object to the third reading of this Bill.

The Hon. M.J. ELLIOTT: I must respond to what was clearly a calculated insult, and an unnecessary one at that. Any suggestion that we will be bought to do favours for the Government is demonstrably false. It is the same sort of accusation you people tried out when we were given some staff so that we could do our job properly. The Government complained time after time when we set up committees,

which it said were political. How many times have we been accused of being political by the Government when committees have been set up that are embarrassing to it? We supported a committee on SATCO, which proved to be embarrassing, on the Christies Beach women's shelter, which proved to be embarrassing, and so on.

We will not be bought: we will not do favours. That was a calculated insult, and Mr Lucas knows as much. There is no way known that we will be bought out, and our performance in this place has proved that time and time again. The Hon. Mr Lucas knows damn well what he was offering to us in relation to support for his amendments.

Members interjecting:

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

The Hon. M.J. ELLIOTT: If that sort of insult is to be thrown out, then that deserves to come back. I will leave that as it is. This Bill is a great improvement on the present situation. We do not have a standing committee system at present which covers all the areas of Parliamentary responsibility. It is a very definite improvement. There is no doubt that I was on the record of preferring upper House committees, but that was not on the table, and we were not going to get it.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: We know where the numbers are in the Lower House; we know that we would not get it. I have been to conferences with members of the Liberal Party and they go to water almost every time.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: They are the biggest bunch of wimps I have ever seen.

Members interjecting:

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

The Hon. M.J. ELLIOTT: We are now looking at a standing committee system. It is quite clearly not the one I wanted, but it has been dragged sufficiently in the right direction that it is worth supporting and not throwing out. That really became the ultimate choice. I think we have to suck and see this system to see whether it will work. If the Government abuses its numbers, I have already made clear in this place what I will do. There is no question that the Government will still face hostile committees from time to time. It may face it in relation to SGIC and other matters, if the Opposition gets around to supporting the select committee.

The Hon. L.H. DAVIS: The Australian Democrats have shredded the role of the Legislative Council in their support of this Bill tonight. They have abdicated any role for the Legislative Council in economic and financial affairs. The Council has no power to refer any matter of an economic or financial nature to a committee that is established in another place. The only power we will have from here on is to establish a select committee.

One can imagine the sort of support that a select committee will have with these standing committees in place. It is quite absurd to think that an economic and financial committee of another place, with five separate functions, will be able to cope effectively with those functions. For the Australian Democrats to ignore the very reasonable and logical amendment of the Liberal Party in setting up a statutory authorities review committee—a specialist committee—to look at what is the most critical area of Government, encompassing the SGIC and those other Government agencies—

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: What is that if it is not an economic and financial problem? Is not the problem of SGIC economic and financial?

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: Quite clearly, the Hon. Mr Gilfillan has not understood the nature of the argument, because one would imagine these standing committees would at least have research support and capacity and backup, which is not always associated with select committees of this place, as he would well know. I find the whole exercise a shambles and quite disgraceful. The Economic and Finance Committee will be a bottleneck; it will be impractical and unworkable.

For the Legislative Council to have no power in economic and financial matters is absurd. The Australian Democrats have not attempted to argue that because there is no argument on this matter. Their mouths might open and shut, but nothing sensible comes out of them on this matter. At the third reading stage I record my distress at what we have done. We have wasted an opportunity to do something worthwhile to take us through this important decade.

The Leader of the Government has said that we have waited for 10 years to put a decent parliamentary committee system in place. We are still waiting, because tonight's result has not put a decent parliamentary committee system in place. I think it has been an opportunity wasted and it will be a decision that we will regret in future years.

The Hon. I. GILFILLAN: It is sad to hear the denigration of this committee system by the Opposition. It has been put forward so forcefully that I suppose we can expect that none of the members of the Liberal Party will actually sit on any of the committees. They may feel that the system is so ineffective that it does not deserve their support. I think that would be a shame because, apart from the fact that we have certainly coloured the debate with some political polemic, for the first time committees have been set up in this Parliament with a total and complete range of terms of reference that will enable ordinary members of this place and of the Assembly, with well-resourced capacity, to look at matters that this Parliament has been unable to look at.

It is a major reform. I believe that if we are prepared, as I think we will be when the dust settles, to work these committees diligently, we will find aspects that should be amended and adjusted. However, I ask the Opposition, which feels so hard done by by this Bill, to acknowledge that the other place is much more resistant to the sort of idealistic standing committee review structure that we in this alleged House of review have.

The Hon. C.J. Sumner: You aren't kidding. The people who sunk it between 1982 and 1985 were members of the Liberal Party in the House of Assembly—that's what happened.

The PRESIDENT: Order!

The Hon. I. GILFILLAN: With your indulgence, I will accept the interjection; I would like to embrace other members, because I do not think that the Liberals would be the only culprits. It is not hard to find a distinct lack of enthusiasm in that other place—

The Hon. J.C. Burdett interjecting:

The Hon. I. GILFILLAN: I am not sure what Mr Burdett's interjection was, but whatever it was—

An honourable member: Out of order.

The PRESIDENT: Order! All interjections are out order.

The Hon. J.C. Burdett: I said that the Democrats have been bought off.

The Hon. I. GILFILLAN: In that case, it is alleged that anyone who serves on any committee has been bought off

and that, therefore, none of the members of those committees have any integrity. That is a fatuous and insulting observation. If it is argued that the Democrats should not serve on these committees, is it the opinion of those who feel that way that the individual Democrats in this place should be discriminated against? I leave that question in the air. The issue is: what will provide the best service to the people of this State through the committee structure.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: The procedure of appointing members to the committees lies ahead of us. It has not been done.

The Hon. L.H. Davis interjecting:

The Hon. I. GILFILLAN: Questions are being begged right throughout the Parliament. I refer not only to this Parliament but to Parliaments to come with different parties being in power. These accusations are short-sighted. We are setting up a structure that will be in place well past the time when all members here have left this place.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: The structure will have been changed if we can get people in this place who have enough vision to accept constructive amendments instead of this negative, carping condemnation of what is a realistic reform.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan has the floor.

The Hon. I. GILFILLAN: Over the cacophany of senseless interjections, I indicate my support for the third reading of this Bill. I repeat: it is not a perfect situation, but it is a start. Members of the Opposition, as well as members of either place, are perfectly free and able to move amendments in due course to improve the situation in the fullness of time, and I hope that will happen.

The Hon. C.J. SUMNER (Attorney-General): Much disappointment has been expressed in the last few minutes about a number of people and issues. I, too, will express my disappointment at those remarks. What we are voting on here is clearly a significant improvement of the committee system in this Parliament. Any member who cannot see that has obviously not read the Bill or followed the debate. The accusation from the Liberal Party that no improvement has been achieved is totally and completely rejected and is patently wrong. We have seized an opportunity for significant reform of the Parliament. Comments of the Hon. Mr Lucas and the Hon. Mr Davis were churlish in the extreme. Use of words such as 'disgrace' simply do not accord with reality.

The Liberal Party is now involved in the ultimate cop-out. Having had a Bill presented to this Parliament and debated over a long time, with the Hon. Mr Lucas being on the record day in and day out over many years supporting an upgraded committee system of the Parliament, he gets the opportunity to improve the committee system of the Parliament and is now about to engage in the ultimate cop-out and vote against the third reading of this Bill. It is a significant improvement. It will be seen to be a significant improvement, and the Liberal Party will deserve to be condemned by all people genuinely interested in parliamentary reform for opposing what is undoubtedly a significant amendment.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I have been trying to achieve some reform of the committee system of this Parliament, as I have said, since 1982. Members opposite have in their churlish behaviour given me no credit whatsoever for persisting with that aim, but that reflects on them more than it does on me. I genuinely tried to get a committee system going between 1982 and 1985. One of the biggest mistakes I made in my parliamentary career was to establish a joint select committee of the Houses to examine that issue. What I should have done, given that the Government came into power with a commitment to do that, was to introduce a Bill and get it out of the way.

As soon as it got lost in the joint select committee, it got nowhere, and it got nowhere for one particular reason: while there was some support for it in this place, particularly from the Hon. Mr DeGaris and the Hon. Mr Lucas, who supported it at times, as I have said, the fact of the matter is that the Liberal Party in the Lower House hardly cooperated with the committee at all. Submissions were requested, but it did not put in a submission. The meetings were interminable; they got nowhere. The responsibility for sinking that proposal rests fairly and squarely with the Liberal Party, and the Liberal Party is again about to vote against this serious attempt to reform the committee system of this Parliament.

Nothing is perfect in politics, as the Hon. Mr Gilfillan and the Hon. Mr Elliott have pointed out. Even the Hon. Mr Lucas is required sometimes to vote for things with which he does not agree. That is the nature of the system. From time to time we are required to compromise to achieve a result. In this case, the compromises, which have occurred both within the Labor Party, in discussions with Mr Evans and in discussions that have led to a resolution in this place, have all had the ultimate aim in mind—the noble motive of getting to a better parliamentary committee system. There is absolutely no doubt that that is what we have achieved.

There is now a serious obligation on all members to ensure that the committees work effectively. When I say 'all members', that includes members of the Government Party as well. I believe it also means that Ministers have a responsibility to make the committees work. If they do not, if we all do not try to make the committees work, the system will be a failure. It will be discredited and will have to be amended. If the Liberal Party feels, as it apparently does (although goodness knows what its reasons are), that this system is not satisfactory, it will be able to go to the next election with a proposal in relation to the committee system. When it gets into government—if it does at some time in the future—it can implement its policy, just as I attempted in 1982.

Finally, I think that a lot of unnecessary insults have been hurled at the Australian Democrats by the Liberal Opposition on this occasion. The Democrats were operating from noble motives in attempting to get an improved committee system in place and, rather than be insulted by members opposite, as they were during the course of this very lengthy debate today, they should have been congratulated on their constructive contribution to achieving this result.

As I said, I think the personal insults hurled at the Democrats were totally unnecessary. I believe that they have absolutely nothing to be ashamed of in relation to this matter because, unlike the Liberal Opposition, they have kept the main game—to get an improved committee system of the Parliament—in mind. We have undoubtedly achieved that. For the Liberal Opposition to vote against the third reading is nothing more than a churlish cop-out.

The Council divided on the third reading:

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

Noes (8)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, Diana Laidlaw, R.I. Lucas (teller), Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons Anne Levy and R.R. Roberts. Noes—The Hons K.T. Griffin and J.C. Irwin.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

LAND TAX (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 October. Page 1287.)

The Hon. L.H. DAVIS: The State budget was introduced on 29 August 1991 by the Treasurer (Hon. J.C. Bannon). On page 7 of the budget speech the following comment is made:

> Over successive years . . . there have been representations from industry and small business groups for the Government to smooth annual fluctuations in land tax receipts by linking revenue growth to CPI movements. Proposals of this kind were taken up most recently in submissions to the 1990 Land Tax Review.
>
> The Government has decided to respond to these concerns by restricting land tax receipts in 1991-92 to the same nominal amount as was collected in 1990-91—that is, to an amount of $76 million, which is a reduction in real terms. This will be achieved through an adjustment in the top marginal rate of tax. For land ownerships where the site value is in excess of $1 million, the marginal rate will be increased from 1.9 per cent to 2.3 per cent on the excess above $1 million.
>
> The Government has also decided that land tax receipts in 1992-93 and 1993-94 will be kept at/or below increases in the consumer price index. This should provide a firm foundation upon which industry can plan for the next three years.

When I read that I was intrigued for two reasons. First, the Government had managed to maintain the collection of land tax at $76 million, which was a small reduction in real terms, and that contrasted sharply with the collapse in land values in the central business district and other areas where site values are determined for land tax purposes.

Secondly, I was intrigued by the sleight of hand that was associated with the Treasurer's statement that in fact the Government was responding to concerns by restricting land tax receipts in 1991-92. Nothing could be further from the truth. The Government has increased the scale for properties with a site value of more than $1 million from anywhere between 13 per cent to 21 per cent at the top end for properties with a site value of $100 million for example. That is true if the site value has remained unchanged or altered marginally over the past 12 month period. I was so concerned—

The Hon. Barbara Wiese: That is highly unlikely, as you well know.

The Hon. L.H. DAVIS: The Minister, who unfortunately strays into areas about which she knows little, has unwisely interjected 'highly unlikely'. I will disabuse her of her ignorance in a minute with some actual real life examples that will show how inaccurate and unknowledgable she is in this area. I was so concerned that I immediately recognised the implication of this and on 30 August I contacted the Land Tax Department to inquire about the number of buildings with a site value in excess of $1 million.

The officer later rang back to say, according to my note, 'I am sorry, although that information is available, you have to take that request to the Minister's office.' So, I took the request to the Minister's office. It turned out to be not the Minister of Lands but the Minister of Finance. I contacted Wendy Chapman, who is Ministerial Assistant to the Minister of Finance, Frank Blevins. This was in the first two or three days of September. I relayed the request to her, and a day or two later she rang back and said that she was sorry but the request had to be in writing. So, with some annoyance, I then faxed immediately the following request:

> 4 September 1991
>
> To Wendy Chapman, Ministerial Assistant to the Minister of Finance.
>
> Dear Wendy,
>
> I was surprised to hear that my verbal request for information must now be made in writing. There is some urgency about the material, which must be readily available, given the adjustments to land tax in the 1991-92 State budget. I would be pleased to receive by the end of this week details of the number of buildings within and without the Adelaide central business district with a value in excess of $1 million for land tax purposes and the number of buildings in aggregate with a value between $1 million and $4.99 million for land tax purposes. . .
>
> Thank you for your assistance.

Within a couple of weeks I had not received a reply. I rang and they said that they would look into the matter. In the meantime, the Premier had been asked a question about this during the Estimates Committee hearings. It was just a simple question about how many properties there were with a site value in excess of $1 million. In reply to Mr Stephen Baker, the Treasurer stated:

> As at 1 September 1991, 11 113 properties and 877 ownerships were affected by the land tax rate, attributable to properties with a site value in excess of $1 million.

Of course, my question was rather more complex than that, because, as I have already stated, the greater the site value of buildings, the greater the increase in the land tax that is applicable, given an unchanged site value over a 12 month period. I am still waiting for an answer from the Minister of Finance's office, although I rang them a few days ago saying that the matter was urgent. So, in two months the Minister of Finance has been quite unable to answer my simple request, the details of which must be available, given that the State Government has budgeted a figure for the increase in land tax that will flow from site values in excess of $1 million. That is the sort of shoddiness, slackness and arrogance that we have become used to from this Government. But on such an important matter that impacts on so many hundreds and, arguably, thousands of small businesses and land owners, I think this is the height of arrogance and indifference.

The Minister of Consumer Affairs and Minister of Small Business has said that she does not believe that there are many people affected by an increase in site value in the current year. Let me tell the Minister that within a few weeks, maybe even a few days, thousands of land tax bills will flood South Australia, and those bills will reveal some very unexpected site values, which will come as a shock to the land owners, and perhaps more particularly to the tenants. I have done some work on this already. As members would know, the site values are set as at midnight on 30 June, and that work is done in the preceding months, and the valuations, of course, are determined on the level of sales that have taken place in the locality. As I said when I previously spoke on this matter I do not envy for one moment the Valuer-General in his task. But the fact remains—and I think it is a fact agreed to by most of the people in the valuation area to whom I have spoken in Adelaide—that site values seem to go down much more slowly than they go up.

Let us take some examples for the benefit of the Hon. Ms Wiese, the custodian of small business interests in South Australia, to demonstrate just how out of touch she is, yet again. Let us take the first example, 33 King William Street, known to all honourable members firstly as the IMFC

Building and more lately Hooker House. As I mentioned last time I spoke, that had an increase in site value from $5.37 million to $6.085 million.

That was an increase of about 14 per cent but it flowed through to represent an increase in land tax of 36 per cent. Another example, which shows how particularly devastating this will be for small businesses and retailers in particular, is the City Cross in Grenfell Street, It runs from Grenfell Street through to Rundle Mall and houses 63 small retailers and businesses. The site value in 1990-91 was $29 million. It remains unchanged at $29 million in 1991-92. What is the impact in land tax terms? The impact is extraordinary. The land tax will go up from $543 000 to $655 000 in round terms—an increase of 20.6 per cent, which is at least five times the rate of inflation and probably five or six times the retail sales growth that those businesses are experiencing (in some cases more than that). It is an extraordinary increase. The Regent Arcade is another example—again a mall that has just undergone refurbishment and has an unchanged site value of $16.5 million.

I could cite other examples of a reduction in the site value of 10 per cent on buildings valued at greater than $1 million. I can instance examples of buildings along King William Street where a reduction in site value of 10 per cent which has resulted in a 7 or 8 per cent increase in the land tax for the current year because of the application of this increase in the land tax scale in the State budget. It is an immoral increase and hundreds of small businesses will be in for a rude shock when they receive their bills within the next few days. The retail traders of South Australia are understandably unhappy about this proposed land tax increase and the Executive Director of the Retail Traders Association of South Australia, Mr Peter Anderson, states:

> The retail industry, already reeling under the economic recession, will be a major victim of this legislation.

I am quoting from a media release dated 25 October 1991, and it continues:

> Retailers operate on high value commercial premises. Land tax increases of 20 per cent will occur in major suburban shopping centres and location and almost all retail properties in the city, irrespective of whether property values increase by 1 cent.

He gave examples, as I have given, of businesses in the city that will be hit. The press release continues:

> It is difficult to imagine how any Government could justify further crippling tax increases on retail businesses. With retail sales declining in real terms, these tax increases will lead to more unprofitability within the retail sector, with consequent job losses and business failures. Governments must recognise that tax increases of this magnitude are economically indefensible and counter-productive.

Mr Anderson anticipated a strong backlash from retailers in the next few months as soon as people receive their land tax accounts or notices of increased rent or outgoings from landlords. Most retail tenants in major shopping centres are still operating on leases which were either entered into prior to November 1990 or which have been renewed under provisions entered into prior to November 1990. November 1990 is a critical date because at that time an amendment to section 62 *(b)* of the Landlord and Tenant Act came into force. That precluded landlords from passing on the impact of land tax to their tenants. But, even for those retailers who are protected by section 62 *(b)*, landlords are able to indirectly pass on land tax by building the cost into the total rental figure. One could argue that in a depressed rental climate that would not occur, so we have the absurd situation of two identical shops in the same location attracting different aggregate levels of outgoings.

In one case, one will be paying land tax and the other will not be. So, the increase in the rate on properties in excess of $1 million will certainly have a real impact on major retailers and major shopping centres. I think it is discriminatory to increase land tax for small businesses ultimately just because they happen to be in a building which is worth more than $1 million. This increase in the rate at the high level of site value certainly does compound a number of the anomalies and inequities in the land tax rating system which were acknowledged through the State Government's Land Tax Review report in mid-1990. So, it is immoral and certainly economically indefensible. We are not only talking about retailers; we are also talking about small businesses operating in buildings such as at 33 King William Street.

Also, there is a sting in the tail for this Labor Government which obviously has not thought through the full implication of this increase in land tax, because it does not only affect shops, offices, factories and warehouses: it also affects homes. Yes; it also affects people's living places, because in many Labor-held seats such as Norwood and Salisbury we find large numbers of non-strata flats, which will have an aggregate site value of more than $1 million and, straight away, those tenants will be trapped with a minimum 13 per cent increase in land tax. As I always do, I have checked my facts carefully, and I stand by what I am saying. I have spoken to real estate agents who are familiar with rental properties and they confirm that, whilst certainly the majority of flats now have strata titles, there are a number that do not have strata titles. It does not require much mathematical skill to realise that, if there are, say, a minimum of 15 units selling at, say, $70 000 a piece, the site would immediately have a value of $1 million, and that would attract an increase in land tax.

So, it does not impact only on retailing and offices; it clearly impacts on flats in Labor-held areas such as Norwood and Salisbury and some of those western and northern suburbs. It also impacts on retirement units in the eastern suburbs. The Hon. Terry Roberts would be familiar with some of those units which have been put up for retirement homes and in the downturn have not been sold but are let out. It does not take many luxury units in the eastern suburbs to make an aggregate value of more than $1 million. They too have been trapped by this legislation.

The final category of people who have been entrapped by this Government—desperate to claw money from any source to meet the bare coffers and the financial fiasco associated with the State Bank—are the landowners themselves who have empty buildings, who are being buffeted from pillar to post by the economic downturn and who now cop an increase in land tax as well. It is also pertinent to note that the Building Owners and Managers Association of Australia has been very angry at this. The South Australian BOMA Division President, Mr John O'Grady, issued a press release earlier this month, as follows:

> The land tax exercise is cynical in the extreme because the property sector will be made to appear the villians while having to bear yet another outrageous tax increase at the hands of Government.
>
> The property sector in this State and throughout Australia is not represented by the rapacious landlord, but, in fact, the property sector is owned and controlled by millions of individual investors in insurance policies and superannuation schemes.
>
> The Government is intent on placing a further tax burden on the citizens of this State. Talk about squeezing blood from a stone.
>
> The people of this State can only bear so much financially before these crippling tax burdens act as a disincentive against further business activity and investment in South Australia.

Of course, the outrage can at least have some impact on the Government in the sense that separate notices of deter-

mination of site value, while they are no longer issued by the Valuer-General's office, can be objected to. A person who is dissatisfied with a valuation of land may object to the Valuer-General either personally or by post. I would certainly encourage people who do not believe their site valuation is fair to object. I have said before and I say again that the Valuer-General has an extremely difficult task, but I have had several examples given to me of site values which are hard to justify given the severe economic downturn in the market place. It is not uncommon to see 20 to 30 per cent decreases in real estate property values in the commercial sector.

It is also true to say that land tax in other States has come in for a caning. In Western Australia, where there is also a Labor Government, landlords and tenants are up in arms at the State Government's decision to increase land tax. The Chamber of Commerce and the Building Owners and Managers Association there have mounted a public campaign to the point where I understand that the Western Australian Government has put on hold any increases in land tax for which it had budgeted.

It is also ironic to see that in Queensland, where the Treasury coffers had been left in very good shape by many years of non-Labor Administration, the Government is actually reducing the maximum land tax rate from 2.1 per cent to 1.8 per cent. The Queensland Treasurer has said that this will effectively provide a cut of between 10 per cent and 14.3 per cent in the lower rates of tax, providing an exemption for retirement villages and also widening the exemption available to religious and charitable bodies. That is extraordinary. Here, religious and charitable bodies are still copping land tax. I am a member of the board of a charitable organisation that is paying $5 000 or $6 000 a year in land tax, which is absolutely iniquitous.

The Liberal Party is doing something highly unusual: it opposes this land tax legislation. We are opposing land tax legislation which sees the money value of land tax collections in 1991-92 remain unchanged at $76 million. The Government says that, if the scale had not been increased, $8 million would have been sliced off that bill. We believe that $8 million should be sliced off that bill because small businesses and land owners in South Australia which are subject to land tax should not be made to pay for the problems which the State Labor Government has brought upon itself. It should be remembered that land tax collections in South Australia have doubled in just five years from $38.5 million in 1985-86 to $76 million in 1990-91.

We all know the diminution of property values which has occurred over the past two or three years. The Government cannot have it both ways. If it can grab with both hands all the benefits of increasing site values in much greater collections of land tax, then it should be prepared to accept that when site values diminish in an economic recession—the one that we all remember we had to have—it should be prepared to accept lower returns and cut its cloth accordingly. We argue very much against the land tax Bill. I foreshadow that we will give practical effect to the Government's State budget commitment of limiting increase in 1992-93 and 1993-94 to no more than the rate of inflation in those years. I give notice that I have on file an amendment to that effect. I imagine that the Government would accept my amendment as reasonable, given that it gives legislative effect to that promise.

The Hon. M.J. ELLIOTT: What the Liberal Party seeks to do by opposing this Bill is an unusual occurrence. I am not sure whether it has occurred in this place before.

The Hon. L.H. Davis: Yes, it has: FID.

The Hon. M.J. ELLIOTT: This is potentially the second time that a budget Bill could be defeated. It is an unusual occurrence, and it is something that would have to be done in the most extreme circumstances—and I certainly would not rule out the possibility of a budget Bill being defeated. However, that would have to be in exceptional circumstances. The Hon. Mr Davis first approached me last Friday and asked me—

The Hon. L.H. Davis: Not true: it was earlier than that, much earlier than that.

The Hon. M.J. ELLIOTT: Do you think it might have been Thursday? It may have been Thursday.

The Hon. L.H. Davis: It was Tuesday.

The Hon. M.J. ELLIOTT: I think it was Thursday or Friday. In any event it was a relatively short time ago if one considers that the budget was presented close to two months ago. Given that the honourable member was suggesting that a budget Bill should be thrown out, his lobbying effort should have started much earlier. Last week was a sitting period. Quite clearly, a host of things had one occupied during that time. There was simply not the time for me to do the necessary depth of research required to make such a grave decision. Despite that, I was sorely tempted to support the move, and I would flag that to the Government and hope that it takes note.

It is quite clear that the land tax system does need an overhaul. Certainly, last year complaints were made about the impact of this system on small businesses, particularly those that were in high value properties. It is worth noting, though, that in real terms the Government's receipts from land tax will decline. Under the Liberal Party's proposal, there will be a loss of $8 million, and perhaps in real terms it will be somewhat more than that. That is not an inconsiderable amount to take out of a State budget, and members opposite would be the first to scream if another country school, country hospital or some other service went as a consequence. In the real world, cuts would have to be made somewhere else to enable that money to be compensated for.

I have acknowledged that the Liberal Party is talking about real issues; they are issues which deserve consideration and which the Government must face before its next budget. I do not believe that we will see significant increases in land values over the next 12 months. So, I do not believe that we will see landowners and, subsequently, people who may be renting those properties, significantly affected in the next 12 months. However, there is certainly a potential time bomb. It is for that reason that the issue absolutely must be addressed. However, I am not prepared to defeat this budget Bill at this time.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Scale of land tax.'

The Hon. L.H. DAVIS: The Liberal Party opposes this clause, which seeks to increase the land tax rate applicable to buildings with a site value in excess of $1 million. I do not want to elaborate on the comments that I made in my second reading contribution, but I want an undertaking from the Attorney that he will provide the information that I sought two months ago from the Minister of Finance. I regard that as a fairly ordinary performance on the part of the Minister of Finance. In addition to the information that I have requested about buildings with a site value in excess of $1 million, I would also be interested in the Attorney providing, in due course, information about residential properties with a site value in excess of $1 million. That information may or may not be readily available. I am

happy, in view of the lateness of the hour, to have that information provided at a subsequent time.

The Hon. C.J. SUMNER: I undertake to provide the information on behalf of the Minister of Finance to the honourable member by letter, if that is satisfactory. The Opposition's proposal will remove the rate increase proposed by the Government on site values of more than $1 million, which is part of its 1991-92 budget strategy. The removal of this rate will impact adversely on the estimated revenue of $76 million for 1991-92 by an amount of approximately $8 million. In 1990-91, $76 million was collected, so there has been no increase in the overall take. If the clause is defeated, only $68 million will be collected. That is a significant impact on the budget and cannot be contemplated.

The Hon. M.J. ELLIOTT: The Democrats support the clause as it stands for the reasons that I gave when I supported the second reading. As important issues are involved, I would like to reiterate my request to the Government that it examine the whole land tax question before the next budget. I do not think it is good enough to simply promise that there will be no further increases. Clearly, there are some discrepancies in the way the land tax system works generally, but by deleting this clause in real terms there will be an effective drop in land tax of 25 per cent—a significant impact on a budget that is already overstretched, admittedly by the Government's incompetence, but that is another issue.

The Hon. J.F. Stefani: We have to pay for its incompetence.

The Hon. M.J. ELLIOTT: The fact is that the money is not there. Which school or hospital would Mr Stefani like to see closed? Ultimately, that is the choice.

The Hon. L.H. Davis: You said earlier that if you had more time you would support it.

The Hon. M.J. ELLIOTT: What I said was that if I had more time, I may have supported it. It is very easy for the Liberals to take this position because I suppose they were confident that we would not support them. They are the very people who, if we knocked out a budget Bill while they were in Government, would scream blue murder.

The CHAIRMAN: I put the question: That it be a suggestion to the House of Assembly to leave out clause 3.

The Committee divided on the question:

Ayes (7)—The Hons J.C. Burdett, L.H. Davis (teller), Peter Dunn, Diana Laidlaw, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (8)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Pairs—Ayes—The Hons K.T. Griffin, J.C. Irwin and R.I. Lucas. Noes—The Hons Anne Levy, R.R. Roberts and T.G. Roberts.

Majority of 1 for the Noes.

Clause thus passed.

New clause 3a—'Special rebate for 1992-93 and 1993-94':

The Hon. L.H. DAVIS: I move:

Page 1, after line 16—Insert new clause as follows:

Insertion of S. 12a

3a. The following section is inserted after section 12 of the principal Act:

12a. (1) The Treasurer must, during each of the financial years 1992-1993 and 1993-1994, as soon as practicable after the rates of land tax that are to be applied under this Act for the particular financial year are, in the opinion of the Treasurer, fixed, on the recommendation of the Under-Treasurer, by notice in the *Gazette*, make—

(a) an estimation of the total amount of land tax levied under this Act in respect of the preceding financial year (and that amount will, for the purposes of this section be designated as 'LT_1' for the particular financial year);

(b) an estimation of the total amount of land tax that will, on the basis of the rates of land tax that are to be applied for the particular financial year, be levied under this Act in respect of that financial year (and that amount will, for the purposes of this section, be designated as 'LT_2' for the particular financial year); and

(c) an estimation of the rate of inflation (expressed as a percentage) that is expected to apply for the particular financial year (and that rate will, for the purposes of this section, be designated as 'R1%' for the particular financial year).

(2) If, on the basis of a notice published under subsection (1) in respect of a particular financial year, the following is true:

$LT_2 > LT_1 + (LT_1 \times R1\%)$,

a taxpayer is entitled to a partial remission of land tax in respect of that financial year equal to X% of the land tax that would, but for this subsection, be payable.

(3) In subsection (2)—

'X' means an amount (expressed as a percentage) published by the Treasurer in the notice under subsection (1), determined as follows:

$$X = \frac{(LT_2 - (LT_1 + (LT_1 \times R1\%))\ 100}{LT_2}$$

(4) For the purposes of this section—

(a) an estimation of total land tax levied under this Act must be made to the nearest multiple of $100 000;

(b) the rate of inflation will be based on an estimation of changes in the consumer price index (all groups index for Adelaide); and

(c) any percentage will be expressed to one decimal place (rounding up or down to the nearest such decimal place).

(5) An estimation or determination of the Treasurer under this section may not be challenged or called into question in any legal proceedings.

This complicated looking clause gives legislative effect to the Government's commitment made both at the time the State budget was introduced on 29 August and again in the second reading explanation, namely, that land tax receipts in 1992-93 and 1993-94 will be kept at or below increases in the consumer price index. We have simply introduced a formula to give effect to that commitment, to enshrine it in legislation, so that the Government honours its promise. This Government does not have a record of honouring its promises, and it is appropriate to make sure that that occurs.

To give an example, if a site value for land was, say, $80 million and it increased in value to $90 million, but inflation on that $80 million should have meant that the site value would have increased only to $84 million, then land tax will be paid only on that $84 million and not in excess of that amount. That is the practical impact of the formula. I have worked through that closely with Parliamentary Counsel and am satisfied that it works. I recognise that it is a complex matter, but we have endeavoured to draft an amendment which gives effect to the Government's commitment and with which it feels comfortable. Accordingly, I urge members to support the amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment. It has already given a commitment in the second reading explanation that receipts for 1992-93 and 1993-94 will increase by no more than the estimated increase in the consumer price index for each of those two years. The Minister of Finance reiterated that commitment during debate in the House of Assembly. I would expect that if the Government breached that commitment members would have a very good election issue.

The Hon. M.J. ELLIOTT: The Democrats will not support the amendment.

The Hon. L.H. DAVIS: Suggested new clause 3a recognises that the Valuer-General publishes a valuation of site values in June, and the calculation would be based on those site values and an estimate of the inflation rate for the

forthcoming financial year which, of course, is what the State Government does already in drawing up its budget for presentation to the Parliament in August. So, I am satisfied that the mechanics that we have in place in this amendment are practical.

How will the Government seek to give practical effect to its promise contained in the State budget and again in the second reading explanation? How will it keep land tax receipts in 1992-93 and 1993-94 at or below increases in the consumer price index? Is it seeking to apply a formula similar to the one which we are now debating and which has the impact of limiting all properties to a land tax increase no greater than the rate of inflation; or is it looking to have a global view of the total land tax take, which may well mean that some people will be paying well in excess of the rate of inflation on their individual land holdings, with other people paying much less?

The Hon. C.J. SUMNER: We cannot say precisely. It depends on what happens to land values, obviously. But, the commitment is that the overall take from land tax will not increase by more than the consumer price index in each of the two years I have mentioned. In fact, in real terms this year there has been a reduction in the amount of land tax estimated to be collected: it was $76 million this year and $76 million last year in 1990-91. So, in real terms there has been a reduction in the overall land tax take. That is the commitment. How it will be implemented will have to await consideration in next year's budget and an assessment of the increase in valuations until it has occurred.

The Hon. L.H. DAVIS: I rephrase my questions. Will the Attorney-General advise the Committee whether the formula that is set down in the amendment is a possible option for the Government? In other words, does the Attorney-General accept that it is possible to construct a formula, such as the Liberal Party has, to achieve the objective that the Government has stated it wishes to achieve in 1992-93 and 1993-94, namely, to keep land tax receipts below the consumer price index?

Our model is arguing that no-one should pay in excess of the consumer price index for land tax in those years. That is one model, and that is the model we have recommended here. Does the Attorney-General accept that that is a possible option for the Government, or does he have reservations and believe that there are impracticalities about introducing such a scheme as this? Has the Government bothered to seriously examine the proposal that the Committee now has before it? Does the Government have a response to the suggested new clause?

[*Midnight*]

The Hon. C.J. SUMNER: We cannot say; it is as simple as that. We are talking about the overall take from land tax and that is the commitment. We are not getting down to applying it to individual taxpayers. I cannot take it any further than that. We have given the commitment we have given.

The Hon. L.H. DAVIS: I find it extremely disappointing and disconcerting that a Government, faced with a crisis of economic confidence in South Australia, with public statements from organisations such as the Retail Traders Association and the Building Owners and Managers Association, with a Bill that has been debated in another place about a month ago and with an amendment like this, has not bothered to even examine the proposition seriously. It says something about the concern the Government has about the problems that small business and land owners face with land tax bills.

I do not think we should understate this situation. I would have thought that a Government wanting to engender the confidence of the small business sector would do something about it. The Hon. Ms Wiese attacks the Liberal Party for being critical, destructive and negative. We come up with a positive proposal and the Government does not bother to respond. I find its ambivalence amazing.

Suggested new clause negatived.

Clause 4—'Fines for unpaid land tax.'

The Hon. L.H. DAVIS: The Opposition opposes this clause, which seeks to increase fines for unpaid land tax. Perhaps the Minister will take the question on notice and advise how much money was collected in 1989-90 and 1990-91 in unpaid land tax fines. What is the projected amount for 1991-92?

The Hon. C.J. SUMNER: The Commissioner of Land Tax says that if we can get that information, we will.

The Hon. L.H. DAVIS: The information must be available and I ask that it be provided.

The Hon. C.J. SUMNER: The undertaking is that, if we can get it, we will provide it. It is a computer-driven system, I am informed and, if the program permits it and if we can find it, we will provide it. We are not saying that we will not provide it. Based on the information provided to me by the Commissioner of Land Tax, if we can get the information, we will provide it for the honourable member.

The Hon. L.H. DAVIS: Is the Minister saying he is not sure whether or not the information is available? That is remarkable. The Government has introduced a clause to increase the level of fines but it does not know what fines it already receives. Is that what the Minister is saying?

The Hon. C.J. SUMNER: The Commissioner of Land Tax has said that he will provide the information if he can. I do not personally run that system, as the honourable member might realise. I am the Attorney-General, Minister for Crime Prevention and Minister of Corporate Affairs. My office is in the Natwest Building, which is some distance from the office of the Commissioner of Land Tax. So I do not actually specifically get down there and run the land tax office myself. I am not familiar with its computer system. I have done my best to answer the question within the knowledge that I have of the matter.

Clause passed.

Title passed.

The Council divided on the third reading:

Ayes (8)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, K.T. Griffin, Carolyn Pickles, C.J. Sumner (teller), G. Weatherill and Barbara Wiese.

Noes (7)—The Hons J.C. Burdett, L.H. Davis (teller), Peter Dunn, Diana Laidlaw, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons Anne Levy, R.R. Roberts and T.G. Roberts. Noes—The Hons K.T. Griffin, J.C. Irwin and R.I. Lucas.

Majority of 1 for the Ayes.

Third reading thus carried.

WHEAT MARKETING (TRUST FUND) AMENDMENT BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill has a twofold purpose. It provides for changes to wheat research funding as a consequence of the enactment of the Commonwealth Primary Industries and Energy Research and Development Act 1989 and it provides that a trust deed may be approved to enable local management of the money returned to South Australia after passage of the Commonwealth Act.

This matter has an interesting story. The United Farmers and Stockowners convinced the Government of the need to bolster existing funds for wheat research in this State. It was suggested that an amount be deducted from payments made by the Australian Wheat Board and that legislation was the most practical means of authorising those deductions. In due course, amendments to the State wheat marketing legislation were passed. Under that legislation, a rate of deduction was recommended each year by the United Farmers and Stockowners and any wheatgrower who chose not to participate could do so, provided he or she made his or her intention known to the Minister of Agriculture.

The Minister gazetted annually the rate of deduction and the total amount collected by the Wheat Board was paid into the Wheat Research Trust Fund established by statute. On the recommendation of the State Wheat Research Committee, money from the trust fund was then disbursed for research in South Australia.

This arrangement came to an end when the Commonwealth passed the Primary Industries and Energy Research and Development Act. After passing that Act the Commonwealth returned $4 066 000 to the State Department of Agriculture as the temporary custodian. The United Farmers and Stockowners had foreseen this development and proposed that a fund administered by trustees be established to absorb and make use of that considerable amount. The Minister of Agriculture concurred with this view and prepared a trust deed that provides appropriate guidelines for use of this money. The trustees appointed are three representatives of the United Farmers and Stockowners and one Departmental officer representing the Minister.

This Bill reflects these developments by making appropriate amendments to the Wheat Marketing Act 1989. A proportion of the money returned by the Commonwealth was for barley research. Since identical circumstances in relation to wheat also apply to barley, similar amendments are planned for the Barley Marketing Act 1947. However, it is proposed that these amendments will be incorporated in a more comprehensive Bill which will significantly update that legislation. I commend the Bill to members.

Clause 1 is formal. Clause 2 amends sections 3 of the principal Act by inserting the following definitions:

'the fund' means the South Australian Grain Industry Trust Fund established under the trust deed:

'trustees' means the trustees appointed in accordance with the terms of the trust deed: and

'the trust deed' means the trust deed approved under section 9a.

Clause 3 inserts sections 9a and 9b after section 9 of the principal Act. Subsection (1) of section 9a provides that the Minister may approve a trust deed that is made for the purposes of establishing and controlling the application of a fund to be known as the South Australian Grain Industry Trust Fund and for other related purposes. Subsection (2) provides that the Minister may approve any amendment to the trust deed and subsection (3) provides that the trust deed and any approved amendment to the trust deed must be promulgated by regulation. Section 9b provides that the fund is to be administered by the trustees in accordance with the terms set out in the trust deed and applied for the purposes set out in the trust deed.

Clause 4 amends section 10 of the principal Act by striking out from subsections (2) and (6) 'Commonwealth for the purposes of the Wheat Research Trust Fund' and substituting 'fund', by striking out subsection (7) and by striking out from subsection (15) the definition of 'the Wheat Research Trust Fund'.

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

ADJOURNMENT

At 12.11 a.m. the Council adjourned until Tuesday 12 November at 2.15 p.m.