LEGISLATIVE COUNCIL

Tuesday 17 November 1992

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Animal and Plant Control (Agricultural Protection and Other Purposes) (Immunity from Liability) Amendment.
Appropriation,
Botanic Gardens (Miscellaneous) Amendment,
Commercial Arbitration (Uniform Provisions) Amendment,
Criminal Law Consolidation (Application of Criminal Law) Amendment,
Police (Police Aides) Amendment.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Transport Development (Hon. Barbara Wiese)—

Annual reports 1991-92:
Food Act 1985
Freedom of Information Act 1991
Soil Conservation Boards
South Australian Meat Corporation
Government Adviser on Deregulation—Report of Small Business Inquiry and Statutory Licence Review.
Random Breath Testing in South Australia—Operation and Effectiveness 1989-91

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

South Australian Film Corporation—Annual Report 1991-92.

By the Minister of Consumer Affairs (Hon. Anne Levy)—

Commissioner for Consumer Affairs—Annual Report 1991-92.
Department of Public and Consumer Affairs—Annual Report 1991-92.

STATE BANK

The Hon. C.J. SUMNER (Attorney-General) brought up the first report of the Royal Commission into the State Bank of South Australia.

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

That the report be authorised to be published.

Motion carried.

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

Leave granted.

The Hon. C.J. SUMNER: This report is the first of a series of documents providing a detailed analysis of the circumstances surrounding the financial problems of the State Bank of South Australia. What must be understood from the outset is that this report does not establish who was responsible for those losses. The Royal Commissioner, the Hon. S.J. Jacobs, AO QC, himself accepts and acknowledges this. In his concluding commentary, he says that:

> ...it is not part of the current inquiry on the first term of reference to assign blame or apportion responsibility for the disaster that overtook the bank.

In this report, the Commissioner examines the relationship between the bank and the Government. However, despite the extensive nature of the report, the full story of the problems of the State Bank will only be known when the Royal Commissioner has reported on his second and third terms of reference and the Auditor-General has reported on the causes of the failure, which may well involve conclusions with respect to the responsibility of the bank's officers. Notwithstanding this, the Commissioner legitimately comments that:

> The saga of the State Bank is thus seen to be a story of inappropriate relationships and an unsatisfactory quality and level of communication between the Treasurer and Treasury; between the Treasurer and the bank; between Treasury (including SAFA) and the bank; between the board of the bank, its Chief Executive Officer and its management; between the Reserve Bank and the bank; and between the Reserve Bank and the Government.

He closes his report by concluding that:

> All these players played a part in the ultimate tragedy.

The Government shares the view of the Commissioner and, doubtless, the people of South Australia that the story of the bank is a tragedy for this State. And I want to make it absolutely clear that the Government accepts that there has been an unsatisfactory level of communication and cooperation between the bank and the various arms of Government, within Government and between the Reserve Bank of Australia and the Government.

Even when the full picture has been revealed, disagreement is certain to remain over who was principally responsible and how the problems may have been avoided. The views of the Royal Commissioner and the Auditor-General will be there for all to judge, as will be those of the Government, the Opposition and the other interested parties.

At this point, however, it is important to emphasise that we only have a part of the picture, and it would be unfair and inappropriate for a final judgment to be made until all reports have been completed and made public. But there is a more important imperative facing this Government and, indeed, the Parliament, the bank and the people of South Australia than a preoccupation with the history of the bank's problems—that is the need to use the lessons of the past to ensure that difficulties such as those experienced by the bank can never again happen in this State. The Government will not shrink from that task.

On the day that the Hon. Lynn Arnold became Premier less than three months ago, he pledged himself and the Government to rebuilding the economy of this State and making the difficult decisions needed to meet the challenges ahead. This report intensifies the Government's resolve to meet that task.

Much has been instigated to reform the relationship between the bank and the Government since the magnitude of the bank's problems became clear. As the Commissioner's report indicates, more will be required.

Before turning to specific issues addressed in the Commissioner's report, it should be clearly understood that no corruption or impropriety is asserted against the Government or its employees. Unlike Royal Commissions in Western Australia and Queensland, there is no evidence demonstrating any systemic malpractice within Government. The notion of a sinister 'SA Inc.' is implicitly rejected.

Evidence before the commission does not disclose any deliberate attempt by the former Treasurer or any other member of the Government to withhold the discovery of the bank's difficulties from the Parliament or the people of South Australia. This is in stark contrast to the Commissioner's findings that from early 1989 the bank appears to have embarked on a process of misleading the Government about its financial position.

It will be clear to all who read this report that the former Treasurer has been strongly criticised for the general approach he adopted in dealing with the bank. He has been criticised for an 'arm's length' approach which gave undue emphasis to the commercial independence of the bank and insufficient emphasis to the exposure of the Government through the statutory guarantee, while from time to time involving himself in particular issues and expressing support, despite inadequate knowledge, for decisions taken by the bank. Put bluntly, while often severely criticising the bank management, board and Treasury, the first report also assigns to the former Treasurer responsibility for a failure to scrutinise and control the bank more closely.

Of course, a more detailed and substantial consideration of the role of the board and management of the bank will follow upon the completion of the Commissioner's second and third terms of reference and the Auditor-General's inquiry. While the Commissioner criticises the role of the former Treasurer, he accepts that, having regard to the way in which the bank was established and the circumstances in the early years of its operation, the former Treasurer's policy of dealing with the bank was justifiable until at least early 1989.

It is also clear there was a fundamental failure by those responsible for the bank to act competently and to bring to the Government's attention appropriate matters of concern. This latter omission was, of course, compounded by the bank's deliberate misleading of the former Treasurer. This fundamental failure made it all the more difficult for the former Treasurer to realise the need for a change of approach by him.

The Commissioner refers to a public comment by the former Treasurer that he was 'let down' by those in whom he placed his trust and confidence. The Commissioner concludes that that statement is undoubtedly valid with respect to the board and the bank's former Chief Executive Officer, Mr Tim Marcus Clark. The former Treasurer made it clear when the bank's difficulties were discovered that the 'buck' stopped with him. The proper conventions of Government have been met and discharged by the resignation of the former Premier and Treasurer as the responsible Minister. There has been no failing identified at a broader, 'whole of Government' level or Cabinet level.

The report contains firm criticism of Treasury. The substance of the criticism is that, while the role of Treasury of necessity was controlled by the policy established by the former Treasurer, the Commissioner nevertheless concludes that Treasury could have and should have seen, and in some cases did see, things which were a cause for concern, but either failed to bring them to the former Treasurer's attention or failed to do so with sufficient firmness. In general terms, at the stage where Treasury had concerns about the bank, the Commissioner concludes that it should have clearly advised the former Treasurer of those concerns.

In relation to the broad findings, the Government accepts that there were deficiencies in the communications between the former Treasurer and Treasury. The Government would anticipate that the Commissioner, in reporting on his second and third terms of reference, would consider the practical difficulty of reconciling the commercial independence of the bank and close scrutiny by Treasury. Many of the Commissioner's findings and criticisms are predicated on his interpretation of the role, responsibilities, obligations and powers of the Government established by the State Bank of South Australia Act 1983.

Having considered those features of the Act as against the responsibilities of the board and management of the bank, the Commissioner concludes that the legislation permits a commercially-independent bank and a vigilant and well-informed Government to co-exist. If that view is correct, and to the extent this meant that the Government was justified in taking an even mildly interventionist or active role, then this Parliament—and by that I mean the Government and the Opposition—seriously misunderstood what they were enacting in 1983. The substance and tenor of debate in this House and in another place were directed at ensuring that the new bank would operate as a commercially-independent entity free from Government interference. At that time, any Government involvement in the affairs of the bank was seen as unwelcome and unwarranted intrusion.

The Commissioner comments that the former Treasurer's 'hands off' policy was a fair interpretation of the will of Parliament and, indeed, the will of the people. Comments during debate on the State Bank Act by Liberal members in this Parliament make clear their support for a 'hands-off' policy. For instance, the honourable member for Light said it was 'not on' for a Government to seek to interfere unnecessarily into the affairs of the bank. He said such interference would not occur under a Liberal Government. The existence of a Government guarantee did not serve to displace or mollify that view. Such a guarantee had operated with respect to the former institutions and, in particular, with respect to the former Savings Bank of South Australia the guarantee did not create a sense of active responsibility for close supervision. It is true that in the 1980s circumstances changed and in the light of those changes we now know that there are greater attendant risks associated with guarantees of this type in a deregulated environment. This report, written as it is with the benefit of a historical perspective, will no doubt cement this view as part of the common wisdom. However, that was not the prevailing view at the time.

The Commissioner criticises the approach taken in selection and appointment of members of the board. While it is now possible to say without fear of contradiction that the board did not effectively manage

the bank, the decisions taken at the time of selection were well within the bounds of reasonable action. As conceded by the Commissioner, the initial appointments were justifiable on the basis of maintaining continuity with the former institutions and recognising and preserving the bipartisan political support for the bank.

Later appointments were predicated on the generally accepted view that there should be no rapid turnover of memberships because of the 'long learning curve' for new appointees. While the Commissioner criticises the structure of the Board following these appointments, he concedes these people brought with them significant personal qualities and skills.

Although the Board obviously failed in its responsibilities, it would have been difficult to criticise most of the appointments at the time they were made. The inaugural directors were Professor Hancock (a Professor of Economics and Vice Chancellor of Flinders University), Mr Lew Barrett (a prominent businessman and Liberal appointee to the old Savings Bank), Mr W Nankivell (a farmer, university graduate, former Liberal MP and Liberal appointee to the old State Bank), Mr R Searcy (a chartered accountant and Liberal appointee to the old Savings Bank), the Hon D W Simmons (a former Labor Minister with financial qualifications), Mr D Simmons (a lawyer, director and consultant to several large private companies and a Liberal appointee to the old Savings Bank) and Mr K Smith (the Director of State Development).

The other original director was the Chief Executive Officer, Mr Tim Marcus Clark, who was recommended for appointment by the Merger Advisory Group. This group involved Mr Barrett, Mr Adrian McEwin (a Liberal appointee to the old Savings Bank), Professor Hancock, Mr Maurice O'Loughlin (now a Justice of the Federal Court and a Liberal appointee to the old State Bank), the General Manager of the old Savings Bank (Mr Peter Simmons) and, the General Manager of the State Bank (Mr Peter Byrnes), together with the Government representatives, Messrs Barnes, Guerin and Kowalick. This group engaged a firm of 'head hunters', Spencer Stuart and Associates, who identified Mr Clark as a possible Managing Director.

It must now be obvious to all South Australians and is confirmed by this report that one of the major errors in this whole saga was the appointment of Mr Clark to the position of Managing Director. The former Treasurer had no involvement in this. Subsequent appointments to the board also were all justifiable at the time. They were Mr Bakewell (a former senior public servant and Ombudsman), Mr Rod Hartley (a businessman who became Director of State Development), Mr Tony Summers (a local businessman who was Deputy Chairman of the Adelaide Festival of Arts) and Mrs Molly Byrne (a former Labor MP who replaced Mr Don Simmons.

Later Mr David Simmons became Chairman and Mr Bert Prowse (the former Under Treasurer) was appointed to the Board. The role of these people will be further explored in term of reference 3. On the specific issue of the possible appointment of the Under Treasurer to the Board, the Commissioner dismisses the former Treasurer's reasons relating to the perception that this would have impaired the Bank's independent commercial status.

The Commissioner's comments are noted, but do not appear to address a principal consideration which taxed the then Treasurer's mind. The former Treasurer was concerned that the appointment of the Under Treasurer to the Board might compromise his independent advice to the Government. Put simply, the concern was that if appointed to the Board the Under Treasurer would necessarily be involved in decisions on, for example, acquisition and profit plans, and then as Under Treasurer would be required to render advice on those issues. This clear conflict appears to receive little attention in the report and remains a dilemma to be resolved.

While the Commissioner did not ultimately agree with the view of the former Treasurer, it must be recognised that such a view was clearly within the range of appropriate responses and one that has received some approbation elsewhere. In this context, it is relevant to note that the view of the former Treasurer appears to be consistent with a recommendation of the Royal Commission into Commercial Activities of the Western Australian Government that an officer of a department administered by a Minister should not be on the board of a statutory authority answerable to that Minister.

Mr President, the underlying theme of the report is the failure by the management of the bank, especially the Chief Executive Officer, and the Board to discharge their collective responsibilities. Each chapter of the report contains numerous instances of decisions made by management or the Board on an inadequate basis or with inadequate consideration or which seem, making every appropriate allowance, to be plainly wrong.

As I mentioned earlier, there is also a significant finding that the bank appears to have misled the Government by withholding significant information, by not bringing to the attention of the Government matters of significant concern, and by giving to the Government inappropriate and unreasonable reassurance on matters of concern raised by the Government. It is in that context that the responsibility of the former Treasurer and Treasury for what ensued must be considered.

Mr President, the reality is that there is a fundamental problem confronting Government when it establishes a statutory corporation to be governed by its own Board and with its own management, particularly when that corporation is a substantial entity in its own right and conducting a business which requires particular skills and expertise. The ordinary workings of Government are premised on the principle that the responsible Minister and the relevant Government department must and will rely to a considerable degree on those who have direct responsibility for the operations of the statutory corporation to act competently and responsibly, and to draw to the attention of Government matters of concern.

This reliance is not total. Usually, there are other safeguards on which Government relies. In the case of the State Bank, these supervisory agents and institutions were the private, external auditors and the Reserve Bank. Regrettably, these safeguards also appear to have failed. The Auditor-General will examine the adequacy of the audits. Mr President, the implications of the report extend beyond the State Bank. The report has ramifications for entities conducting business on behalf of the Government

that expose the State to significant financial risks through a guarantee or other form of indemnity. It highlights the fact that, despite the existence of normal checks and balances, risks exist if those charged with the conduct of such business activities do not exercise those activities competently and in a responsible manner. The experience of the State Bank demonstrates that, whatever the difficulties may be, the Government cannot in the future allow the State to be exposed to a risk in this manner by an entity which has the commercial independence which the State Bank had.

The Government accepts that the report demonstrates that in the case of an entity the size of the Bank, and one which exposes the State to risk to the degree that the Bank did, there must be closer scrutiny whatever the cost may be. The Government accepts that in the light of the Commissioner's report this issue must be addressed as a matter of urgency.

Mr President, it must not be forgotten that the Government already has taken major steps to reform the way the Bank operates. Of fundamental importance in this regard is a significant reduction in the State's exposure to risk. The new State Bank has been given a clear mission statement. Its goal for the future is to become a commercially-based regional bank, offering major benefit to the people of South Australia and shunning the culture of unrestrained growth the Commissioner concludes it relentlessly pursued during the 1980s. Much progress has been made in achieving this goal.

In focusing on the Bank's core activities, Myles Pearce, Day Cutten Pring Dean, Executor Trustee, Oceanic Capital Corporation Ltd and United Bank Ltd in New Zealand have been sold. International operations have been reduced, including closure of offices in Hong Kong, Chicago and Los Angeles. Primarily as a result of these reductions overseas and interstate, Bank Group staff numbers have been cut by 34 per cent, from 5787 at 30 June 1991 to 3827 at 30 June 1992. However, the Bank remains a major employer in South Australia. Other reforms include:

- A restructuring of the State Bank Board and management.
- A significant upgrading of the Bank's reporting requirements and the flow of information between the Bank and the Government.
- The attendance of the Under Treasurer, or his representative, at all Board meetings.
- The instigation of regular meetings between senior Bank and Treasury officers.
- A move by the Government to take full control of the majority of the Bank's non-performing assets, thereby putting the profitable core operations of the bank on a much sounder basis.
- A major restructuring of the Bank's retail operations.
- The absorption into the Bank of Beneficial Finance and Ayers Finniss.

Mr President, criticisms in the report of the manner and circumstances in which capital was provided to the Bank must, and will, be addressed. With respect to the capital base of the Bank, 1 can advise the House that whatever might have been the position in the past, the current capital structure has been considered in detail by the Reserve Bank, which accepts it as being in full compliance with its requirements.

As advised in the State Budget, the Bank is in a position where it has substantial excess capital and before the end of the financial year the Government will carefully review the amount and form of that capital. Comments by the Royal Commissioner will be taken into account at this time. The Government Management Board currently is reviewing the operations of SAFA and to the extent that it sees fit will also comment on SAFA's relationship with the Government.

Mr President, the experience of the State Bank has made it abundantly clear that there is a need for the Government to set clear objectives, priorities and performance criteria for its Statutory Authorities. These objectives must be well defined and understood so that boards and management can get on with the job of managing while also accepting responsibility for the performance of the statutory authority.

The Government will introduce into Parliament next week a Public Corporations Bill to ensure that the duties of directors of public corporations are clearly defined and that the objectives, authority and accountability of the parties involved with a statutory authority such as the State Bank are well understood. This will enhance the accountability of both directors of public corporations and the Government.

The Government also has adopted a number of initiatives to ensure that public officials and employees of statutory authorities discharge their duties in accordance with the highest standards and in a manner expected by the community. An important move has been the promulgation of a Code of Ethical Conduct for public employees. Among other requirements under this code, public employees are obliged to perform their duties with professionalism and integrity, and efficiently serve the Government of the day and the people of the State. The obligation to conduct themselves with professionalism requires all public employees to render proper independent advice.

Mr President, under his second term of reference, the Commissioner will report on whether changes need to be made to the State Bank of South Australia Act. It is clear from this report that changes will be recommended. Indeed, the Government's own submissions to the Royal Commission on the second term of reference envisage amendments to the legislation. This stance, combined with the remedial action already taken and the Government's acceptance of its role in the events of the past, demonstrates the strong commitment this Government has to addressing in a meaningful and lasting way the issues raised by the Bank's difficulties. That commitment is unequivocal.

Mr President, the Government moved quickly to establish this Royal Commission and the inquiry of the Auditor-General. It did so because it wanted the fullest possible consideration given to both why the Bank encountered the difficulties it did and how similar problems could be avoided in the future. The Government expects a vigorous public debate to surround the release of this report.

The people of South Australia deserve a debate which concentrates on the substantive issues it raises, and places them in the context of the important reports still to be

received. My Government is committed to working in the interests of the people of this State to tackle those matters.

I call on all in this parliament to support that vital work.

QUESTIONS

STATE BANK

The Hon. R.I. LUCAS: My question is directed to the Minister for the Arts and Cultural Heritage. How much of the blame will the Minister, who was in Cabinet throughout the period of sustained parliamentary questioning of the State Bank, accept for the Government failures identified by the Royal Commissioner and, if the Minister accepts no blame, why does she reject the principle of collective responsibility?

The Hon. ANNE LEVY: I am not quite sure why this question is directed at me.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I am not quite sure why this question is directed at me, as I am one of the more recent members of Cabinet and was not present in Cabinet during the first five years on which the Royal Commissioner has brought down his findings. Certainly, I have been a member of Cabinet for the past 3½ years. The comments of the findings of the Royal Commissioner, as set out in his report, relate to the relationship between the Government and the bank and the bank and the Government. When the honourable member has had time to read the report he will see that the constant reference is to the relationship between the bank, the Treasury and the Treasurer, and that for a very large part of what he discusses there was no Cabinet involvement at all. I doubt whether the Cabinet is even mentioned in the Royal Commissioner's report, save in the matter of appointment of bank directors. I may be mistaken in this, as I have not had a chance to read the whole document very thoroughly, but from my reading of it I see no mention whatsoever of the Cabinet except, as I say, in the matter of appointment of directors of the State Bank, and the Royal Commissioner's comments on this whole matter are those which the parliament and the public of South Australia will be accepting.

SMALL BUSINESS

The Hon. BARBARA WIESE: I seek leave to make a ministerial statement on behalf of the Minister of Business and Regional Development.

Leave granted.

The Hon. BARBARA WIESE: In December 1991 Cabinet agreed to a small business inquiry and a statutory licence review to assess the regulatory impact on businesses in South Australia. The Government commissioned its adviser on deregulation to conduct the small business inquiry and submissions were invited from a wide cross-section of trade associations, industry and professional groups. In addition, a review was conducted concurrently by the Business Regulation Review Office to examine almost 400 State Government licences and assess their relevancy to modem business operations.

This review was in line with the Government's general regulatory review policies to streamline licensing procedures for small business in this State. The report states in its executive summary that:

> Business people are concerned that they have little opportunity to influence regulations affecting their businesses and as a result the cost impacts of new regulations are not adequately considered.

To overcome this, the report stressed the need for uniform treatment of licensing matters and the provision of a 'one-stop shop' for licensing, which members would know has been on the Government's agenda for some time, to be established immediately. Members would be aware that last week the Minister announced that a 'one-stop shop' business licensing information centre should be open by April next year.

The centre will provide information on regulations required for small businesses, as well as the necessary application forms, and will be run by the South Australian Small Business Corporation. According to the report, this initiative "would provide tangible benefits for the business sector in metropolitan Adelaide as well as in regional South Australia".

The Minister also announced last week Government plans to abolish almost 50 State business licences for reasons of anachronism, ineffectiveness or irrelevancy. The licences, many of which duplicate other regulations, cover most government agencies. Abolishing these licences is the first step towards reducing costs to the community and to Government agencies, and to removing much of the red tape. The Government is also considering the abolition of another 15 State business licences, and negotiations are continuing with the relevant Government agencies.

Another recommendation in the report which is being considered by the Government is the implementation of a master licence system, which would enable businesses to apply for one licence to replace all others. Some small businesses need up to 20 licences to operate in this State, and a master licence system would be a major step forward in streamlining licensing procedures in South Australia. A pilot project for a master licence system is already in place in one other State, and the Government is committed to assessing the feasibility of implementing a pilot scheme in South Australia.

The report covers four major areas: taxation; workplace regulation; licensing; and the administration of regulation. But, before decisions are made on the bulk of the recommendations, the Government will seek responses from all interested groups and individuals on the matters raised in the report. For instance, there is, division in the community over the deregulation of shopping hours, and the Government will be seeking a consensus approach to this and a number of issues affecting small business in this State.

The Arthur D. Little report highlighted the need for a more attractive business climate in South Australia to be achieved through such measures as a streamlining of regulations. The report of the small business inquiry and statutory licence review makes similar recommendations, and the Government looks forward to the community's

response. Copies of the report are available for $10 from the Business Regulation Review Office on the 8th floor of the Grenfell Centre in Grenfell Street. Copies of the individual licence assessment reports are also available for $2. I tabled the report earlier today.

STATE BANK

The Hon K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the State Bank Royal Commissioner's report.

Leave granted.

The Hon. K.T. GRIFFIN: In the very limited time that I have had to scan some of the report—

The Hon. C.J. Sumner: Didn't we give it to you at 10.30?

The Hon. K.T. GRIFFIN: No: that was for the Leader of the Opposition. In the limited time that I have had to scan the Royal Commissioner's report, I note that there are a number of references to Government involvement. I point particularly to paragraphs 4 and 4.1 on page 19, where it is stated:

> The Government sought to portray the bank, and the bank desired to be publicly portrayed, as a commercial entity at arm's length from the Government, but from the very beginning there was from time to time Government involvement and influence in the policy and decision of the bank with the ready acquiescence of the bank.
>
> 4.1 The Government on some occasions sought to derive political advantage from such involvement.

Again, in paragraph 5.3 on page 20, there is a reference to the involvement of the Executive Government in the appointment of members of the board. On page 58, there is a reference to the regular consultation being:

> useful to keep the Government informed on how well the bank was doing, but the Government should not impose particular constraints or demands on the bank.

Later on the same page, it is stated:

> In spite of its hands-off policy, the Government considered that certain issues that were publicly or politically sensitive, or likely to be so, ought to be drawn to the Government's attention in advance.

Again, on page 392, it is stated:

> Both the Government and the bank lost sight of the bank's statutory charter and their respective statutory obligations.

I expect that there are a number of other specific references where the Government is identified as having responsibilities, and I would suggest that that is not necessarily the Treasurer alone but the Government. Although the Minister for the Arts and Cultural Heritage talks about there being no reference to Cabinet, I think it is quite clear that reference to the Government is to the Executive Government of South Australia.

My questions to the Attorney-General, as a member of that Government, are as follows. As the third most senior Minister in the Government and the chief law officer of the Crown throughout the period of the Bannon and Arnold Governments, when there has been continual questioning in Parliament on the State Bank, as well as in the public arena, how much of the blame for the Government failures identified by the royal commission does he accept? If he accepts no blame, why does he not accept that there is a principle of collective responsibility as a Cabinet member that all are responsible?

The Hon. C.J. SUMNER: The notion of collective responsibility is one which is governed by convention on what happens in the political arena and in the Parliament. The honourable member may be interested to know that the Western Australian royal commission into the commercial activities of Government in that State did address to some extent the principles of collective responsibility. It stated:

> The allocation of ministerial responsibility, both individually and collectively, is for the Parliament to exact and for the electorate to judge, not for this commission to pronounce upon.

The Commissioner then goes on to talk about not confusing the operation of the convention of collective responsibility with the task that they had in hand, which was to look at the issues of improper conduct. In this case, there are no questions of improper conduct, but they make quite clearly the assertion that the allocation of ministerial responsibility is for the Parliament to exact and for the electorate to judge. So, it is a question for honourable members to determine that matter. I do not know, as this is a matter based on convention, where a whole of Government has received a report and resigned on the basis of that report. I do not know where that has occurred anywhere where the conventions relating to the Westminster system operate. It may be that it has happened occasionally in the long history of Westminster Parliaments, but I cannot turn one to my mind.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: No. I make that point because it does depend on convention, as it does depend basically on the political process; it is not a situation, in my view, where the whole of Government should resign. As I said, I do not know of any circumstances where that—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Just a minute—has occurred. The fact of the matter (and this report clearly demonstrates it) is that, as to responsibility—and while the Commissioner does not say he wants to attribute responsibility—the concentration in the report is on the actions at the political level of the former Treasurer and at.. the Government level on the actions of the department, the Treasury Department and, in particular, the Under Treasurer. Where there are references throughout the report to the Government, they are usually in that context, with some exceptions, I accept. However, that is the fact of the matter in this report; it concentrates very heavily on the responsibilities of the former Treasurer.

The former Treasurer has resigned, and I think that, in terms of the conventions involved in this area and generally, it means that he has taken the political responsibility, as he ought, for the administration of his portfolio. Leave aside the question of whether the Premier and Treasurer should in fact be in the same portfolio—personally (and I have believed this for some time) I do not think they should be in the same portfolio—but that was the view taken by the former Premier: he kept both those—

The Hon. L.H. Davis: Have you told John Bannon that?

The Hon. C.J. SUMNER: I am not going to go into what I told him or didn't tell him. The fact of the matter, Mr President, is that that has been my—

An honourable member: You were his policy adviser.

The PRESIDENT: Order!

An honourable member: That's what he said.

The Hon. C.J. SUMNER: Well, we'll see, Mr President. I am not going into that.

The Hon. R.I. Lucas: What was that?

The Hon. C.J. SUMNER: I am not going into that. Whatever my relationship with Mr Bannon might or might not have been, it is not the subject of debate at the moment, Mr President. What I do say is that the proprieties in this area, which I think are fairly clear, are that the Minister responsible should resign. Whatever general blame is apportioned to the Government because of the policies that flow is a matter that has to be determined by the Parliament and the electorate in the context of the report and information that has been handed down.

Members I think should take into account—and I would have thought this should be relevant to the whole Parliament, and not just members opposite: I address it to them but also to . our other colleagues, the Australian Democrats, and other Independents in the House of Assembly—that this is the first report. The way the Royal Commission inquiries were structured is that all these reports were to be brought down together. The Royal Commissioner was supposed to report after receiving the Auditor-General's report, which was to be made public at the time that it was given to the Royal Commissioner, and he was going to go on then and report overall on terms of reference one, two and three at the one time.

That obviously would have given a much clearer overall picture of the situation, and I think—and this is the point I am making about whether this matter should be dealt with by the Parliament at this stage—it would be unfair to deal with this matter in terms of condemning the Government as a whole without having that whole picture.

In fact, I would go so far as to say (and this is no real fault of anyone's) that this report coming out in isolation as it has is unfair to those people whom it principally concentrates on without getting the whole picture.

That has occurred for all sorts of reasons that we are aware of: the Auditor-General has taken much longer about his report than was anticipated, and the Royal Commissioner had an illness which slowed down his report. So, the original timetable for the report got thrown askew. But it has had this effect of the first report coming out, and the Government didn't want to back off from that; we wanted the reports out as quickly as possible. That is still our view, but it has meant that this report has come out in isolation from the other reports which were supposed to feed into the Royal Commissioner's final report.

The Hon. R.I. Lucas: He has established the facts.

The Hon. C.J. SUMNER: He has established the facts in that area. The fact is that it is only part of the story. Mr President: there is an Auditor-General's inquiry going on, which as you know has now lasted almost two years. By the time he reports it will, I believe, have lasted two years: he is supposed to report at the end of February, and he is looking in great detail at what happened in the bank and he is looking at the responsibility of directors.

Part of the problem at the moment with the Auditor-General's report is that the directors, when they got some sniff of what the Auditor-General was looking at, headed off to the Supreme Court to try to get extensions of the natural justice process from the Supreme Court and were successful in it.

They are entitled to do that, but I make the point that it is quite clear from that action that the directors are the subject of further inquiry by the Auditor-General, and obviously they have taken legal action to ensure the national justice process. So, that needs to be taken into account. If you are talking about a debate and apportioning blame and the Commissioner in his report says that all the parties he mentions there have to take some responsibility, the reality is that in fairness I think to the Government, probably to Mr Bannon, probably to the Under Treasurer and to the officials in Treasury, we ought, before we go into a heavy condemnatory mode, await to see the rest of the report.

Mr President, I make those two points about responsibility. It is a matter that has to be resolved in the political process. It will no doubt be an issue at the next election, and the Liberals and other Parties are perfectly entitled to make that point at the next election. In so far as the public of South Australia—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Sure. In so far as the public of South Australia agree with you, presumably you will have some favourable response at the polls next time around. But that is still to be determined. There is a political response; and there is a parliamentary response, which I have addressed.

The fact is that, if you want to look at it, first, the report concentrates very much on the former Treasurer and the Treasury Department, and the Government as a whole is not picked up in any comprehensive sense. The second point—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You heard what I said; I am not going to repeat it.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am not going to repeat what I have said, Mr President.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order. The Hon. Attorney-General.

The Hon. C.J. SUMNER: I am not going to repeat what I said. He can read what I said tomorrow when it is printed up by *Hansard.* The second point I make and emphasise is that I believe it would be unfair for final judgments to be made on this matter before those final reports are brought down.

The Hon. DIANA LAIDLAW: My question relates to the State Bank Royal Commission and is directed to the Attorney-General. Was the member for Ross Smith, the Hon. John Bannon, provided with a copy of the Royal Commissioner's report prior to 10.30 a.m. today and, if so, when? Was the report also provided to Tim Marcus Clark and the State Bank Board at the same time?

The Hon. C.J. SUMNER: The report was provided to the member for Ross Smith at the time it was received

from the Royal Commissioner on Friday. From the time it was received from the Royal Commissioner and delivered to the Government it was made available to the Government: Cabinet Ministers were given copies and some copies were made available to Treasury officials, the Crown-Solicitor and the Solicitor-General. A copy was made available to the member for Ross Smith at that time. The availability of the other reports was as I have outlined in the Council today, although I think—

The Hon. Diana Laidlaw: One-sided.

The Hon. C.J. SUMNER: It is hardly one-sided.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMMER: Just a minute; I am answering the question. Yesterday I believe Mr Prowse got a copy because of the fact that he was involved in it very heavily, and counsel for the parties, including the directors and Mr Marcus Clark, were able to get the report at 10.30—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Just a minute. I am not sure about that. What they couldn't do was make it public or publicly discuss it.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I am not sure. Anyhow, the fact is that counsel for those individuals were given the report at 10.30. I think that is a perfectly reasonable procedure, Mr President.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order. He has the chance to ask questions in the proper manner.

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, as the Leader of the Government in this Council, a question about the Royal Commission report.

Leave granted.

The Hon. M.J. ELLIOTT: In the ministerial statement made by the Attorney at the beginning of Question Time he said, 'The notion of a sinister SA Inc is implicitly rejected.' On page 140 of the Royal Commission report in relation to the East End Market Company Limited, following a few remarks which noted that the price paid per share by BFC was $4.12 as a against a year high of $3.20, the report says:

> No analysis of this joint venture was carried out by Treasury nor sought by the Treasurer. The Treasurer was reportedly anxious only that the development should proceed without further delay. The structure of the joint venture was very complex but the total outlay by BFC in the way of equity investment in and loans to the joint venture company was more than $30 million.
>
> There is no evidence at all that either Mr Ruse or the Treasurer was aware of the outlay when Mr Ruse sought and obtained the Treasurer's oral consent. We now know that the proposed development did not proceed and proved to be one of the tentacles around the neck of BFC, slowly strangling it to death and materially contributing to the downfall of the other joint ventures.

On page 179 of the report, in relation to the Remm development, the Commissioner states:

> The highlight of this significant year was the bank's decision to become the lead financier for the Remm Myer development. As Mr Paddison remarked at the time, 'We have just bet the bank on this one.' As will appear, that comment was close to the literal truth. The Return development is an illustration of how ill-defined and unsatisfactory the relationship between the bank and the Government had become. Mr Bannon insisted throughout that the decision to finance the Remm development as lead financier was a hands-off commercial decision of the bank, a view faintly echoed by Mr Clark. However, bank management and the board saw it as a project to which the Government was fully committed or which at least had the strong practical but not necessarily financial support of the Government.

On page 191 of the report, in relation to Dr Lindner, who was from the Special Projects Unit in the Premier's Department, the Commissioner states:

> Dr Lindner was doing all he could to ensure the project would proceed, including running a brainstorming session with representatives of the State Bank in July 1988. It is plain that the Government was anxious for the project to take place if it could be made commercially feasible, and the desire of the Government, if humanly possible, to get the development to go ahead must have rubbed off on the bank management during their frequent contact with Government officers during this period. Commercial feasibility is, however, a loose concept. Despite Treasury's initial concerns and the views expressed by Dr Lindner to the Premier that anticipated revenue would support finance costs only to the extent of some $100 million less than the projected cost of the project, Dr Lindner was instructed to pursue avenues for the project to proceed. His memorandum to Mr Emery of 11 July 1988 indicates that the Treasurer was anxious for a concession or rebate package for the project to go to Cabinet despite the concerns then expressed, as recorded by Dr Lindner on the part of the State Bank, that there was a real risk of loss. From 18 to 21 July 1988, Mr Prowse, by minutes to the Treasurer, expressed Treasury concern at Government participation, and expressed a desire to discuss with the Treasurer the commercial viability of the project, which he described as under severe question, noting that it was only the State Bank which was really serious as a potential financier.

On page 193, with respect to SGIC's involvement, the report states:

> Mr Gerschwitz and Mr Kean were obviously motivated in the face of adverse management advice to commit SGIC to a put option proposal in order to facilitate the transaction happening rather than purely commercial reason. That motivation, which is reflected in the SGIC board resolutions, stems from a desire to assist the State Bank to package a proposal that would not otherwise have been possible, partly to demonstrate that South Australian institutions could finance such a project and partly because it was perceived as desirable for the project to happen in South Australia. SGIC, as a State instrumentality, was doing its part.

If the Attorney-General insists there was no sinister SA Inc., would he concede that South Australia had a non-sinister SA Inc., perhaps SA Inc. by way of cosy blindness?

The Hon. C.J. SUMNER: I am sure that the point made in the ministerial statement was that, despite considerable attempts over the past few years to build up in some quarters the notion that the royal commission was going to expose an SA Inc. of the type that existed in Western Australia, the report has found nothing of the kind. In so far as there were some Government-owned agencies and the Government cooperating to achieve development, I do not shy away from that, provided it was being done properly, with the objective of getting

development and investment in South Australia. I do not see that as something that should be criticised in principle. Perhaps the manner in which it was carried out could be well criticised and, in relation to some developments, Remm, obviously—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Yes, it has been criticised, that is, in the way it has been carried out. However, the principle of Government-owned companies, statutory authorities or the Government cooperating to try to get desirable development in South Australia cannot be criticised. What can be criticised, and obviously it has been, is the way in which it is carried out. Quite legitimately, the ministerial statement drew attention to the fact that, despite the public impression created in the past few years about the possibility of an SA Inc. similar to WA Inc., the reality is that there has been no such thing.

The Hon. M.J. ELLIOTT: By way of supplementary question, I ask whether the Attorney-General will concede that there was coercion by the Government, particularly the Treasurer, to carry out projects that would not have been carried out on a commercial basis.

The Hon. C.J. SUMNER: The Royal Commissioner has reported on that, and the honourable member can form his own judgment. There was encouragement, but it is going too far to say that there was coercion.

The Hon. L.H. DAVIS: Since receiving the Royal Commissioner's report, has there been any discussion between Ministers or their staff with the Prime Minister, members of the Prime Minister's staff, the ALP Federal secretary or other Federal ALP members or their staff about the contents of the report prior to 2 p.m. today, and, if so, when and with whom? Was any part of the report faxed or communicated to the Prime Minister, members of the Prime Minister's staff, the ALP Federal Secretary, other Federal Labor members or their staff prior to 2 p.m. today, and, if so, when and with whom? If the Attorney-General does not know the answer to those questions, will he take them on notice and provide information to the Council at a later date?

The Hon. C.J. SUMNER: I have not been involved in communicating the matter to anyone at the Federal level.

The Hon. R.I. Lucas: Someone else might have.

The Hon. C.J. SUMNER: I suppose so, but I am not quite sure what the point of the question is. I will have to take the question on notice, but I am not aware of any discussions.

The Hon. K .T. GRIFFIN: I direct my question to the Attorney-General. Why was the condition imposed on all counsel at the royal commission that they must sign an undertaking not to discuss the report with their clients before 2 p.m. today? Does the Attorney-General agree that, in the light of the availability of the report to the member for Ross Smith, Mr Prowse, Treasury officers and others, the condition imposed on counsel was unfair?

The Hon. C.J. SUMNER: The point about this question and the one asked by the Hon. Ms Laidlaw is, I think, in response, that I thought we were going out of our way in being cooperative about ensuring that all people who were concerned about it had reasonable notice of it before it became public. Apparently, Mr President, we have failed in that, in the eyes of the Hon. Mr Griffin. If that is the case, I am sorry. But we actually went out of our way to try to ensure that everyone was informed as far as they could be. The Opposition was provided with copies at 10.30 and the media was provided with copies at 10.30.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I do not think it is unreasonable for Mr Bannon to have had it on Friday.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Mr Bannon happened to be Premier and Treasurer at the time and until three months ago he was in Government. He was directly and vitally concerned, probably more than anyone else, in the report.

The Hon. R.I. Lucas: What about Prowse?

The PRESIDENT: Order! The Hon. Mr Lucas will come to order.

The Hon. C.J. SUMNER: Mr Bannon was involved more than anyone in the outcome of the report and obviously had an interest in it. I do not think there is anything wrong with providing it to Mr Bannon when it was provided to him. Essentially the report was about the political process, the political side of the problems relating to the State Bank and the reporting arrangements, and I make no apology for having made it available to Mr Bannon and to other people in Government. I make no apology for having made it available to Mr Prowse yesterday, as I think it was made available to him. If the 10.30 restriction that was placed on counsel was too restrictive, I guess I have to wear that. We certainly were not trying to be restrictive; we were trying to be as open as we possibly could. The fact is that counsel had it at 10.30. They had ample opportunity to read it and ample opportunity, as they have now, to discuss it with their clients, and they have ample opportunity, I am sure, to prepare statements on behalf of their clients. After all, the former Premier and Treasurer happens to have given up his job over this—and maybe he should have in the light of this report. He accepts that.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I have not heard a bank director or the managing director or anyone else coming out and taking any blame for this fiasco. All they have been doing is sitting in the royal commission trying to defend their indefensible position. The fact of the matter is that Marcus Clark and members of the board, half of whom were appointed by the Liberal Government way back in the 1980s—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The question was asked of the Attorney-General. The Attorney-General would be better to address the Chair.

The Hon. C.J. SUMNER: Yes, I agree, Mr President; they should not upset me by asking unreasonable questions. The fact of the matter is that the former Premier and Treasurer has resigned. Obviously in the light of this report he should have. I have not heard one squeak out of any of these other people about taking responsibility for what went on in the bank and what I can hope is that the Government through Mr Bannon has accepted the responsibility, by resigning—

The Hon. R1. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order.

The Hon. C.J. SUMNER: What about the rest of them? Not a squeak out of Marcus Clark, who was paid three times more than the Premier, and the board gave him a bonus in 1989—a $50 000 bonus. Marcus Clark received $50 000 extra for good works.

Members interjecting:

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

The Hon. C.J. SUMNER: What a ridiculous—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The question has been asked and in response the Attorney will address the Chair. I ask other members to stop the interjections. If they want to hear the answer I suggest they keep quiet.

The Hon. C.J. SUMNER: The fact of the matter is that we have not heard one word out of any of these people about any responsibility. Not one of them has said anything about their responsibility.

Members interjecting:

The Hon. C.J. SUMNER: The former Premier and Treasurer has. He has resigned. He has given up his political career. He has been criticised in this report quite strongly. I have no problem with having made the report available to him.

The Hon. R.I. Lucas: And Prowse?

The Hon. C.J. SUMNER: Nor Prowse, either. I have absolutely no problem at all. As far as the others were concerned, it was made available to their counsel—

The Hon. R.I. Lucas: They could not talk to their advisers.

The Hon. C.J. SUMNER: I have said that if it was too restrictive, I am sorry. What we were trying to do was make it as open and available as possible. I repeat: the former Premier and Treasurer resigned. He has taken responsibility. Not one of these other people has—Simmons hasn't, Marcus Clark hasn't, Searcy hasn't—

The Hon. R.I. Lucas: And the Government hasn't.

The Hon. C.J. SUMNER: The Government has, Mr President, through the resignation of the Premier and Treasurer, in accordance with the responsibilities and constitutional conventions which apply. But none of these other people have said anything at all. It is quite clear to anyone who knows anything about it, and all I can hope is that when the Auditor-General's Report comes down and when the Royal Commissioner finally reports on term of reference 3 there is some analysis of the role of these people in the bank's loss.

REMM-MYER PROJECT

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about the Remm project as referred to in the State Bank Royal Commission report.

Leave granted.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Lucas is very verbal today.

The Hon. R.I. Lucas: It is a very verbal sort of a day, Mr President.

The PRESIDENT: Order!

The Hon. I. GILFILLAN: On page 310 of the royal commission report, under the heading 'Remm Project' there is an analysis of the Remm Project as it related to the bank and I quote:

It is also significant that, in the course of negotiations to discharge the SAFA guarantee Mr Paddison, on 31 August 1989, said that SAFA would be looking at a substantial loss on its 'investment' in the light of the radically revised estimates for the project. That general picture was conveyed to the Treasurer by minute of 18 September 1989.

At about the same time, questions concerning the project were raised in Parliament. The Hon Ian Gilfillan, on 5 September 1989, expressed concern about the bank's exposure to Remm, the East End Market and other projects in Adelaide. He asserted that the bank's exposure to Remm of $500 million was likely to result in significant loss, because projected income would be much less than that previously anticipated, and because completion value would be less than cost. He then asked in the public forum of Parliament a question which might properly have been asked in private by the Government in August 1988: 'Why does the Government believe it has been impossible to interest other investors in the project?'

On 28 September 1989 he put a question on notice directed to similar topics, and asking for details of the bank's exposures to Remm, the bank's exposure to Remm, NSC (National Safety Council), East End Market, Hooker Corporation (Henry Waymouth Centre and Australis Centre), Equiticorp and Chase Corporation. Mr Gilfillan also asked—

and I point out that this is in bold type—

'Does the State Government have an overriding responsibility for the operations of the State Bank Group through the State Bank Act? Does the State Parliament have a right to know of and/or question the operations of the State Bank Group?' Those very pertinent questions were never answered.

Ironically, and perhaps unfairly in the light of subsequent events, Mr Gilfillan was sued for defamation by the bank, and the terms of a settlement were provided to the Government by letter of 5 October 1989, despite the bank's undertaking not to publicise the terms of the apology contained in the settlement agreement.

I encourage honourable members to read this item further. The Commissioner goes on to say that the bank continued to be exclusively exposed to the project, and the estimated cost in March 1989 was $600 million. Further, the report states:

Despite all this, the bank, by letter of 8 September 1989, provided to Mr Prowse a response to the question Mr Gilfillan had asked about the difficulties of syndication, a response that must have been deliberately disingenuous;...Neither the Treasurer nor Treasury should have been satisfied with those remarks, even on what was then known. In the event, as will appear later in this chapter, the cost escalated, the value diminished because assumptions about an appropriate capitalisation rate and the anticipated rental revenue were no longer realistic and the bank stood to lose a very substantial sum on the project. It had made no provision for that prospective loss.

I remind the Council that on 5 September, when I asked the question, the Attorney-General said about me:

He has now come into this Chamber and apparently made a whole lot of assertions about the State Bank but has ignored the

fact of the successful record of the State Bank over the past few years.

The report continues as follows:

The Hon. I. Gilfillan: Should they not be criticised?

The Hon. C.J. SUMNER: No, you can criticise, but you referred to serious risk and massive losses.

The Hon. I. Gilfillan: Indeed.

The Hon. C.J. SUMNER: The honourable member says, 'Indeed'.

The Hon. I. Gilfillan: Potential massive losses.

The Hon. C.J. SUMNER: The honourable member now refers to potential massive losses. Apparently, the honourable member now suggests that there should not be investment by the State Bank and it should not invest in South Australia. He has made a lot of assertions.

I should like the Council to remember that the Commissioner has informed us that on 5 October the Government was informed by letter of the settlement of my defamation action against the confidentiality clause. I asked a question on 24 October relating to the bank and, in answer to that and the matter of my defamation action, the Attorney-General said:

The honourable member is entitled to ask questions. I do not think he is entitled to defame the State Bank, its General Manager or others outside this place although, technically, he may be entitled to within this place—

The report continues as follows:

The Hon. I. Gilfillan: How do you know I made comment about the General Manager?

The Hon. C.J. SUMNER: Well, I didn't know whether you were talking about the State Bank, the General Manager.

The Hon. I. Gilfillan: I think you have been well briefed.

The Hon. C.J. SUMNER: I have not been briefed. I was referring to the State Bank, the General Manager, the board or other officials of the State Bank. If the honourable member defames these people outside the Chamber, they are entitled to take whatever action they think appropriate in the circumstances.

In the light of this information and of the statement by the Royal Commissioner, I ask the Attorney-General the following questions:

1. Does he acknowledge that I was, indeed, right in my assertions and anticipation of substantial loss by the State Government in its involvement with and exposure in the Remm group—

An honourable member interjecting:

The Hon. I. GILFILLAN: Among others, but specifically I am asking that.

2. Will he indicate to the Council whether, as the Commissioner indicated, he had been informed by the bank by letter on 5 October of the terms of settlement of my defamation action?

The Hon. C.J. Sumner: If I was informed? You asked whether I was informed?

The Hon. I. GILFILLAN: It's on page 311, at the top. It talks about the Government: you are part of the Government, are you not?

The Hon. C.J. Sumner: That is not what he said: he said 'the Government'.

The Hon. I. GILFILLAN: I remind the Attorney: 'The terms of settlement were provided to the Government by letter on 5 October 1989.' One assumes that 'the Government' means more than just one person.

The Hon. C.J. Sumner: It does not mean that every bit of correspondence to the Government is circulated to every other member of the Government.

The Hon. I. GILFILLAN: I did not make that assertion. I am purely asking an innocent question whether the third most senior Minister in the Government was aware that the letter was sent to the Government. The Attorney is perfectly free to say 'No', in which case he virtually disqualifies himself from what was Government information.

The Hon. C.J. Sumner: I wanted to check whether he said me or the Government.

The Hon. I. GILFILLAN: The Attorney has page 311: as far as I have read, he is not mentioned by name in this document. While the Attorney is embracing those questions, there is also the question on the bottom of the previous page, the question that I quoted, 'Does the State Government have an overriding responsibility for the operations of the State Bank through the State Bank Act?'—a very relevant and pertinent question, the Commissioner says, which begs this point: is the responsibility for the default of the State Bank to be loaded on the shoulders of only one member of that Government? Does the Attorney-General understand by this question that the Commissioner has put in his report that he is implying that the whole State Government—not just one person but the full team—has an overriding responsibility for the operations of the State Bank group through the State Bank Act?

The Hon. C.J. SUMNER: I thought that it was fairly obvious that the Government has an overriding responsibility. The next question is: does that mean that, because this report is brought down, the whole Government must resign? That is clearly not the situation. I have addressed the question—

The Hon. I. Gilfillan: Who mentioned resigning?

The Hon. C.J. SUMNER: I have just dealt with the question of collective responsibility and I have said, and think that it is in accordance with what I read out from the Western Australian Royal Commission report, that the question of responsibility is a matter to be sorted out in the Parliament and in the electorate. I have not heard of a Government's resigning in such circumstances as this when a report has been brought down. What has happened and what is clear is that the Premier and Treasurer, the Minister centrally responsible in this area, has resigned. He has paid the political price. That is absolutely in accordance with the traditions of the Westminster system of government.

It is obvious that the Government has an overriding responsibility for the operations of the State Bank group through the State Bank Act, although the way that is expressed in the context of the Act as it was passed is, to some extent, looking at the matter from hindsight, because it was quite clear—and everyone accepted—that it should be at arm's length; that it should operate independently and commercially.

In fact, in answer to the question that the honourable member asked on 5 September 1989, I said that. The answer to the first question is 'Yes'. The answer to the second question is that I have no recollection. I understand from what he said that I said in answer to a later question from the honourable member that I said at that time that I had no recollection of the terms of the

settlement being made available to the Government. If the honourable member wants to press it, I will go back and check my files and have a royal commission into it, but I certainly have no recollection of having received that confidential information or letter.

I do not know who in Government received it but, if we did, clearly we should not have, if the bank had given an undertaking of confidentiality; although I suppose if you take Mr Jacobs' view of life to its logical conclusion there would not have been anything wrong with the bank's making available that letter to the Government, if you take the view that the Government is responsible for the actions of the State Bank. What use the Government might make of that letter is another question, and I do not know that it was used against the Hon. Mr Gilfillan in the Parliament or anywhere else by the Government. He may be able to tell me: I do not know. On Mr Jacobs' view of life, perhaps there was nothing wrong with the bank's making the letter available to Government, Mr Jacobs being of the view that statutory authorities, such as the State Bank, should be under the control of a Minister.

Nevertheless, as far as I am concerned, I have no recollection of having received that letter, or any notification of the terms of the settlement of the honourable member's defamation action, and I have dealt with the question of responsibility. Obviously, the Government has the overall responsibility for the operation of the State and its instrumentalities. This report dealt very comprehensively with issues relating to the responsibility of Government. In the overall sense the Government is responsible; that is quite right. The question is, however, how that responsibility is determined in practice. It is determined in practice by the resignation of the responsible Minister in circumstances such as this, and that has already occurred.

The Hon. I. GILFILLAN: A substantial part of my question was to get the Attorney-General to acknowledge the justification of my criticism of the involvement with Remm. I am not sure whether he did answer that in a monosyllabic way, but in the light of the fact that the aspersions were cast that it was an irresponsible question, out of context and inaccurate, I would expect a little more than one word.

The Hon. C.J. SUMNER: If the honourable member would like me to apologise, I will; I am quite happy to apologise in the light of the findings of the royal commission report. I answered the question: yes. That was your first question.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I have even gone further now. The fact is that the honourable member asked questions in September 1989. He was spot on. The questions should have been taken more seriously by those within Government who were responsible for looking at them. I am extremely concerned that they were not taken seriously.

The Hon. M.J. Elliott: Does he get his money back?

The Hon. C.J. SUMNER: Did he have to pay up, did he? I will not go into that.

Members interjecting:

The Hon. C.J. SUMNER: I hope he does not expect me to pay. The fact of the matter is that he did have a question. I would, however, make the point that, although he was spot on on this occasion, there have been a number of other occasions where the honourable member has made comments where he has not exactly been spot on.

The Hon. I. Gilfillan: Don't be small minded.

The Hon. C.J. SUMNER: I will not be small minded, no.

The Hon. I. Gilfillan: Those questions were never answered.

The Hon. G.J. SUMNER: I agree, and that is wrong. The honourable member was entitled to an answer; the fact that he did not get an answer is unsatisfactory and he should have got an answer to it. He happened to be raising some good points. This is a matter of philosophy, but I think that the adversarial system that operates in our Parliament tends to get us into locked-in positions, and from my own point of view my answer indicates that, certainly, I was not aware at the time of the extent to which the State Bank was in difficulties; and at that particular time, towards the end of 1989, neither were a lot of other people, including the board, including the managing director and including the Treasury.

REPLIES TO QUESTIONS

LOCAL GOVERNMENT RELATIONS

In reply to Hon. J.C. IRWIN (21 October).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has advised that the person working on this brief is Mr Matthew Goode, LLB (Hons) LLM, a Senior Legal Officer in the Attorney-General's Department, who is an Alderman and former Mayor of the Town of St Peters and co-author of the recently-published book Council Meetings in South Australia.

The work should be completed by early 1993 and the earliest time at which legislation could be introduced would be at the recommencement of the current session following the Christmas - New Year break. However this work is intended to be complementary to the work being done by the Local Government Association on local government "constitutional" provisions. Recommendations on the "interest" provisions are likely to be dealt with as part of a broader package of reforms which, following a process of consultation and negotiation, should result in draft legislation in the latter half of 1993.

DRUGS

In reply to Hon. I. GILFILLAN (10 November).

The Hon. ANNE LEVY: In response to Mr Gilfillan's three part question in the Legislative Council concerning drugs at Yatala Labour Prison is as follows:

Question 1.

Can the Minister detail what methods are currently used to prevent drug supply and use within prisons in general, but Yatala Labour Prison in particular? The-strategies established to reduce the supply and provide detection of drugs at Yatala Labour Prison are utilised in all prisons within the correctional system. These include:

• Use of the Department's Dog Squad in the detection of drugs.

• Staff surveillance is used in all aspects of prison operations. The surveillance of visits assists in reducing the introduction of contraband.

• The searching of prisoners, their property and locations within the-prison is designed to detect contraband. Visitors suspected of concealing contraband may also be searched.

• Visitors who breach prison regulations may be restricted in their visits or banned from visiting any prisoner.

• The urine sampling of prisoners, based on staff suspicion, has been in operation since March 1992. Random sampling will commence in early 1993.

• A position of Police Liaison Officer was established in 1990 to provide a link between the Department and the Police, particularly in the area of criminal investigation.

• The physical design of prisons is such that the entry of contraband is restricted.

• The Department is currently reviewing procedures to establish the bonafides of visitors; to provide for the inspection of professional visitors and staff bags, and the development of a system to better collate and analyse various data and information within the system.

Question 2.

How many cases of drug transfer and what quantities of drugs have been recovered as a result of prison visits in the past two years?

• In 1990/91, there were 227 incidents of drugs and drug implements recorded at Yatala Labour Prison. In 1991/92, this figure rose to 566 incidents.

• This figure reflects the effectiveness of the drug detection strategies outlined in Question 1.

• This increase in detection and reporting of drug related incidents is a tribute to the diligence of the staff at the prison.

• Over this two year period, 12 incidents were detected as part of the visit process.

• Without a detailed. search of Yatala's records it is not possible to provide the exact quantities of drugs recovered.

• However, the vast majority of drugs detected are in extremely small quantities, and in a number of cases, are only referred to as a "trace".

Question 3.

Will the Minister, as a matter of urgency, undertake an investigation to determine the operation of the alleged drug ring and bring back a report to Parliament?

An investigation into allegations of drug trafficking in Yatala Labour Prison has been underway since September this year. The information received could not be substantiated at this time, however the Police were made aware of this matter.

On 14th October 1992, the Hon I. Gilfillan discussed this matter with Director of the Department of Correctional Services.

On 27th October 1992, the Executive Director received a telephone call from the Hon I Gilfillan concerning the developments of his previous information, and the Hon I Gilfillan indicated that he wanted to make a public statement on the matter. The Hon I Gilfillan was advised that a public announcement would be likely to prejudice the investigation. Furthermore, the Police were advised on this date of the Hon I. Gilfillan's information.

It is my understanding that Police investigations are continuing.

ROTAVIRUS PROJECT

In reply to **Hon. J.C. IRWIN** (14 April 1992).

The Hon. BARBARA WIESE:

1. $7 029 81 1 (to 31/03/93)

2. No overseas financial assistance has yet been obtained for the Project. However, discussions are continuing with 2 major overseas potential sources of funding.

WOOLSTORE SITE

In reply to **Hon. J.F. STEFANI** (10 September).

The Hon. C.J. SUMNER: The Premier has provided the following response:

1. Selected agents have been briefed to market the property. There is little interest in large vacant redevelopment fringe CBD sites such as this property in the present depressed Sydney market.

2. A "needs only" dialogue exists between the liquidator and Bank/Beneficial and no specific instructions have been given to the liquidator.

3. Yes. Litigation against the guarantor, Axis limited (a Japanese based company), is underway. The first step of judgement in the Commercial Division of the Supreme Court of NSW has been achieved. The registering of the judgement in Japan to enable the Bank/Beneficial to hopefully recover Axis Japanese assets is a time consuming process and it will be 1993 before the next step of registering the judgement in Japan is achieved."

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 601.)

The Hon. K.T. GRIFFIN: Rarely, if ever, have the people of South Australia seen such nervousness from an incumbent Government that it votes one way in the House of Assembly and, as I understand it, is proposing to vote in an entirely opposite way in the Legislative Council on important legislation. Rarely, if ever, have the people of South Australia seen such a cynical manipulation of the political process. The Premier is either so desperate to get WorkCover off the political agenda prior to the next State election to remove the significant concern of employers about the scheme and its operation and to soften their criticism of the scheme, or he is desperate to avoid election defeat if the Speaker of the House of Assembly holds true to his word. The Premier has tried to make a good thing out of his dilemma but I would suggest that the people of South Australia can see through what he is doing.

One can speculate that the Premier had a quiet word to Mr Peterson, urging him to get the matter sorted out because he would not be able to get it through his own Party and retain the support of the trade union movement. The Speaker sticks his neck out (or so it seems) and, without giving anyone an opportunity to consider his amendments, crashes them through the House of Assembly. Then the Speaker issues his threat, which I must say is somewhat unclear, to bring down the Government at a time of his choosing if Trades Hall does

not support his scheme. At least, that is one version. Another is that if any part of his scheme is amended in the Legislative Council he will call all bets off. We have seen that the Trades Hall has written to the Speaker and indicated that it does not support the amendments which he moved. We are not clear whether in fact he really means all bets will be off if the Legislative Council does amend the scheme.

The Premier then goes cap in hand to the ultimate power brokers, the unelected State council of the Labor Party, pleading to allow the ALP Legislative Councillors to vote differently from the way in which their colleagues voted in the House of Assembly and to vote against Party policy. The fact that they may do that is extraordinary in itself because the Legislative Councillors in the Labor Party have never exercised any independence and have always been bound by the Caucus decisions, for to cross the floor against the Caucus decision is political death. We can see who really runs the Labor Party agenda—the power brokers on South Terrace and not the elected representatives.

The Hon. T.G. Roberts: Which lot of power brokers?

The Hon. K.T. GRIFFIN: It is not your group because your group does not have the numbers.

The Hon. T.G. Roberts: That means that South Terrace doesn't run it.

The Hon. K.T. GRIFFIN: Not half! The Premier, Mr Arnold, is reported to have gone to the State Council of the Labor Party last Thursday evening and threatened that if Labor had to go to an election before Christmas the Labor Party would be decimated. That is only half the truth. If there was an election prior to Christmas it is true that on the public opinion polls the Labor Party would be defeated. He made a great play of this but what he did not say was that there was no prospect, and I repeat, no prospect of a State election before Christmas.

The Hon. Diana Laidlaw: So he deceived them?

The Hon. K.T. GRIFFIN: isled them by half truths. In fact, the Speaker had intimated that it would be at a time of his choosing and likely to be some time next year if he were required to exercise and act upon the threat which he had made.

There was just no way, on the program set for consideration of the Workers Compensation Bill, that an election would occur this year. Then, when the Hon. Mr Gilfillan went to jelly at the knees in the face of a possible earlier election, he forsook his former positions on WorkCover reform and gave the Government the guarantee that it wanted. He had done that prior to the ALP State Council meeting, so there was no real risk from the Hon. Mr Gilfillan that he would rock the ALP boat.

The other factor which needs to be taken into consideration is that the Speaker would not have been relevant if some part of the Bill was referred back to the House of Assembly by the Legislative Council. If an amendment was made in the Legislative Council, it would go back to the House of Assembly. In the House of Assembly it could be agreed to, but that would require the support of the Speaker, or not be agreed with, and in that event it may have ended up at a conference.

If the Speaker acted in accordance with his threat, he would have opposed the amendment regardless of its merit, but the Bill would not necessarily fail at that point. At a conference the options would be canvassed and, presumably, the Speaker would be part of that and, if there was no agreement, the Legislative Council would then have to decide whether it no longer insisted upon its amendments or lay the Bill aside. Given the publicly expressed attitude of the Hon. Mr Gilfillan, there was no possibility that the Bill would have been laid aside in the Legislative Council.

So, we see that the threat which the Premier made to the State Council was something of a hollow threat and was a half truth about what the situation really would be if amendments were made to the Bill. So, quite conveniently, by a significant majority, the State Council made a decision that would allow We Legislative Councillors on the Labor Party side to vote differently from their colleagues in the House of Assembly, and would allow them to vote against their entrenched Party policy.

In consideration of the Bill in Committee, we are now likely to see the Labor Party Legislative Councillors voting against their Party's policy, as I have indicated, and the policy of the unions.

The Hon. Diana Laidlaw: They have got a conscience.

The Hon. K.T. GRIFFIN: Well, one would hope that they have got a conscience, but I would suggest—

The Hon. T. Crothers: Obviously you haven't read the Minister's addendum to our policy. You're in absolute ignorance of that, aren't you?

The Hon. K.T. GRIFFIN: Maybe it is an addendum of convenience. I suppose that is something like a marriage of convenience: whatever suits the mood of the day. It must surely hurt the Hon. Mr Weatherill, the Hon. Terry Roberts, the Hon. Ron Roberts and the Hon. Mr Crothers—staunch unionists—to vote for something which is against not only their Party's policy position, regardless of the addendum which might be attached to it, but also their respective unions. Undoubtedly they will be squirming in their seats, and I suggest that their attitude will come back to haunt them on many occasions, even after they have ceased to be members of this Parliament. If they vote against Party policy, as I said earlier, in the normal course that would have been political death, and they may well have been out of this Parliament much quicker than they previously would have expected.

Workers compensation legislation has long been part of the law of South Australia. The philosophy underlying such legislation has always been that workers should receive some compensation in the event that they are injured in the workplace, regardless of whether the injury is caused by the fault of the employer, is the fault of no-one or even is the fault of the worker.

Until 1986, South Australia had a tandem system with a no fault compensation scheme on the one hand and common law rights on the other. The object was to ensure that, where an employee was injured as a result of the negligence of the proprietor or another worker, or there was an unsafe system of work, the injured worker had rights to pursue on the basis that the person who was at fault should pay. Where no fault could be attributed to the employer, then the safety net was provided.

Mr Lew Owens has criticised the concept of laying blame for injuries at work. However, he ignores the principles of negligence which have been developed over

the past 100 years and more and which are designed to ensure that no person should suffer loss as a result of another's careless or wilful acts and that damages should, as far as it is possible to do so, put a person suffering loss in the position he or she would have been in but for the negligence. That is not always possible to achieve with a monetary entitlement, but at least that is the philosophy of the courts and the law when dealing with negligence claims, whether they be negligence claims relating to accident or to professional conduct, or whether it be medical or legal practice or other forms of negligent acts or omissions.

The objective of the court is to try to ensure that the person who is at fault carries the responsibility and that the person who suffers loss, through no fault of his or her own is, as much as it is possible to achieve, put back in the position he or she would have been in but for the negligent act or omission.

The Hon. T.G. Roberts: Make sure you've got a good lawyer.

The Hon. K.T. GRIFFIN: It may be a good lawyer, but you can also get settlements without good lawyers. With the 1986 scheme, fault took a lower priority, and the no fault scheme provided quite generous benefits with little, or at least inadequate, surveillance, and common law rights (that is, rights based on negligence) were limited to a right to recover non-economic loss and, even then, up to a maximum fixed in the Act, of 1.4 times the prescribed sum. At that time, rights were removed, but with the agreement of representatives of employers and employees. In return for the removal of those rights, other benefits were put in place.

The current scheme is fraught with difficulties: benefit levels are higher here than in any other part of Australia, and the costs to employers are higher also. Ultimately, those costs will be passed on to the consumer and other members of the community. I note that the Minister of Labour Relations and Occupational Health and Safety in another place made some observations on the size of those costs to employers, asserting that they were relatively small. However, what he did not address, and what he did not acknowledge, was that all the costs, whether they be from WorkCover, increased charges or other costs, all have a cumulative effect and affect the competitiveness of an employer but, more importantly, ultimately they are paid by the community at large.

While traditionally workers compensation no fault benefits were less than what the worker would otherwise have been able to achieve in pursuing an action at common law, the workers compensation legislation had in no way impeded workers' access to the common law courts. I can appreciate that employers were concerned at the way common law claims seemed to explode out of all proportion. There was certainly an emotive reaction, as well as a business reaction, to that.

Even now, I think employers have an unrealistic focus upon the common law claims which are permitted to be made under the legislation, without recognising that the cost to the whole scheme is negligible compared with the costs of other benefits, as well as the cost of the administration of the Act. If South Australian business is to complete, however, its costs must be low.

On the other hand, one has to ask the question whether on both sides it is equitable than an employer who has an unsafe system of work as a result of which injuries are caused to a worker should not accept some responsibility over and above the WorkCover scheme for long-lasting consequences of his or her neglect. A quadriplegic or paraplegic who might be a young man or woman, deprived of significant enjoyment of his or her life and prospects for advancement and prosperity, by reason of a negligent act or omission of an employer, may find himself or herself on the scrapheap of workers compensation.

It always seems to me to be basically unjust that through no fault of the injured worker the situation can arise where in fact there is negligence on the part of the employer. Mr Lew Owens, the Manager of WorkCover, in a recent submission, said that this WorkCover scheme is essentially a no-fault scheme. Mr president, it is now but it was not so until 1986. What he does not address, however, is the human problem when he argues for the abolition of all common law rights. There are varying points of view in relation to common law rights, and I will certainly touch upon those in the course of this speech.

At this stage I want to outline the position which the Liberal party will take during the consideration of this Bill in the Legislative Council. First, we will seek to split the Bill to remove the provision abolishing common law. In conjunction with that is a provision for an increase in certain lump sum amounts. Because of the requirement of Standing Orders, I will be seeking only to split off that part of the Bill which seeks to abolish all common law rights and, during the Committee stage, will seek to remove those other parts of the Bill which relate to some compensating lump sums.

We seek to do this with a view to referring the abolition of common law rights to the joint select committee considering the WorkCover scheme to enable proper consideration of the issue. There are competing points of view about common law and we believe that they ought to be examined by the select committee. We would expect that if this was successful the select committee would report by the resumption of the session in February 1993.

Secondly, we will seek to reduce the amounts of weekly payments to something more in line with the weekly payments payable in other States of the Commonwealth and as an incentive to return to work. Thirdly, the removal of journey accidents to and from work is a priority. Why should an employer who has no control over a worker on his or her way to or from work have any responsibility for what that worker may or may not do on those journeys and whether or not the worker on his or her way to or from work acts responsibly or otherwise?

The fact of life is that the employer has no control either in fact or in law with respect to that worker. Therefore, one has to ask why should there be compensation for such journey accidents on a no-fault basis.

Even though there may be an opportunity to recover from the compulsory third party bodily insurance scheme where a motor vehicle is involved, that I would suggest is no reason to justify the inclusion of journey accidents in this legislation; nor, I should suggest, is it any justification for them to have been in the legislation for

some years. Certainly the Liberal Party has endeavoured to remove them over the past few years, but without success.

Fourthly, we will seek to revamp the second year review process to reinforce the original intention of the 1986 Act—a proposition, I remind members of the Council, which was a recommendation of the WorkCover select committee but which has not been adopted by the Government through its Minister who was on the select committee and agreed to it or by the Government generally.

Fifthly, in our view the provision for assessment of a lump sum to compensate for loss of earning capacity which is referred to in clause 10 of the Bill should be reviewable. In fact, all decisions of WorkCover should be reviewable because, unless they are reviewable, it tends towards being unaccountable for the actions which it takes. It is the same in the legal system generally. If you have a tribunal or court which is not accountable to any other body and its decisions are not reviewable, it can become outrageous in the application of its discretions, not be subject to any independent scrutiny and does tend towards the creation of unjust situations. The decision—that is, whether or not to make an assessment of a lump sum—should be reviewable in our view.

Sixthly, the proposal to require employers to pay weekly payments and then to recover them from WorkCover by a process of claim, and if they do not make a claim then to be penalised for that, is objectionable. WorkCover is in the place of an insurer, and I submit to the Council that it must pick up responsibility for payments by way of indemnifying the employer of an injured worker. It is just not credible or reasonable for WorkCover to seek to act other than in good faith. An obligation as to behaviour is imposed on all insurers, and in fact that is the way in which WorkCover established under the legislation ought to be operating.

Seventhly, a delegation to exempt employers to exercise powers under new clause 42*(a)* and *(b)* in relation to the payment of some lump sums is of little effect if WorkCover is to hold the whip hand, and we will be seeking to remove WorkCover's dead bureaucratic hand with respect to these powers. It is only then a short step, if this provision is not amended, to giving WorkCover what it has been seeking for a long time—that is, a greater level of control over exempt employers who employ a significant body of the workforce and who do in fact administer their responsibilities under the Workers Rehabilitation and Compensation Act more efficiently and effectively than WorkCover.

Eighthly, the power to disclose information about an employer is similarly objectionable. In conjunction with that it must be said that the existing confidentiality provisions of the Workers Rehabilitation and Compensation Act prevent information flowing to employers and are detrimental to a return to work by injured workers. Why should an employer effectively paying the bill for an injured worker be obliged by law to provide employment but be denied information which will assist in understanding the worker's problem and enable employer involvement in rehabilitation?

The proposition, as I indicated, to allow the disclosure of information about employers, which might not be a situation that arises through any particular fault, is in my view objectionable, and we will seek to amend that out of the Bill.

Ninthly, wherever WorkCover has an obligation to reimburse employers for amounts which employers incur in relation to injured workers, we will seek to provide a mandatory 14-day period within which the amounts must be reimbursed. There is adequate and substantial evidence that WorkCover does not promptly meet its obligations, and we believe that there ought to be at least some statutory requirement for it to do so.

At this point I should make several observations about the Hon. Mr Gilfillan. In the last session when a Bill to amend the WorkCover Act was before us, he took the view that he would only support amendments which had been approved by the select committee when we proposed amendments, some of which are similar to those which we will propose this time and which will result in reduced costs to employers. Now, according to press reports, he wants to back away from amendments which previously he supported and to support parts of the amended Government Bill which have not been considered by the select committee.

I expect that we will hear from the Hon. Mr Gilfillan as to how he rationalises that position. It may be simply that he does not want an election, and in that event is obviously running scared. South Australia deserves a new broom and, while the Hon. Mr Gilfillan may argue that the last thing South Australia wants is an election, I suggest that he is not in touch with the ordinary people in the community or with business, because that is the first thing that they all want: a dramatic change in direction and a focus upon action and prosperity rather than inaction and a descending cycle of poverty. That is the concern of all South Australians. They certainly do not see any prospect of development with the current Government and the substantial majority of South Australians want a change.

I want to direct attention to some specific issues. I recognise that a number of arguments will be put during the Committee stage because essentially this is a Committee Bill, but some other matters need to be addressed, particularly in relation to issues such as common law. In dealing with the common law issue and in seeking to refer that to a select committee, the Liberal Party is not saying that it is totally opposed to its abolition. What it wants to see is justice, particularly for workers injured as a result of the fault of the employer. On the information that was provided to the Opposition, it appears that the Peterson package will not ensure justice. There are arguments for and against common law rights. One firm of lawyers has written to me, as follows:

> Although there are compelling arguments that, particularly if benefits are to be substantially reduced, common law rights ought to be available for the severely disabled as they are under the New South Wales scheme, we can see no justification for permitting all workers access to common law, particularly given that the lump sum benefits payable under the Act are relatively generous.

On the other hand, another firm of lawyers makes a contrary point, as follows:

> If a person suffers injuries as a result of the clear negligence of another person, he should be entitled to damages for the pain and suffering, etc., which the person has been put through.

Likewise, if a person suffers an injury through his own stupidity (negligence) at home, it would be inappropriate that he receive damages for his own 'negligence.

That lawyer says that, if common law rights are to be limited in relation to injuries at work, they should similarly be limited in other areas of endeavour, but I suggest that is another issue that has to be addressed at a later time. If that is to occur, one has to address not only injuries to persons but also issues of liability, whether it be in the accounting, legal or medical field, as to whether there should be any limitation of liability. Such a change would be a radical step and would require very careful consideration. I know that accountants are presently proposing some limitation of liability for negligent acts and omissions, particularly because in the corporate arena claims may exceed $1 billion, being damages sought for negligence.

There is a dispute as to the benefit which might flow from the abolition of common law. According to some advice given to WorkCover, the view is expressed that the annual reduction would be about $5.5 million and that legal costs might be reduced by about $2 million. Of course, there are some higher figures and there are some lower figures. There is no doubt that there would be some savings but, later, I will raise one issue which would have the effect of significantly reducing legal costs.

There has been an exchange of views between WorkCover and the Law Society in relation to the common law question. In a letter to members of the Legislative Council on 3 November 1992, the Law Society attached two case studies which demonstrated that, with the abolition of common law, there would be at least two instances where a worker would suffer. One concerned a boilermaker with a back injury, and that person would be some $20 000 worse off. A charge nurse with a hip injury would suffer a reduction in benefit of something like $11 000 if the legislation were passed. The Law Society makes some other observations in relation to the way in which the Bill will operate in relation to lump sums, and perhaps I should read some aspects of that letter, particularly in relation to capital loss sums. With respect to lump sums being net of Federal tax, the Law Society says:

The Law Society has seen nothing to suggest that the Commissioner of Taxation will not regard such payments as being income in the year in which payment is made or that the Department of Social Security will not regard such sums as being ones from which benefit adjustments might be made. No worker should accept or receive such a capital loss sum without detailed legal and financial advice. These are but general examples to indicate the present problems, lack of clarity, widespread effects, and the extremely complex nature of the Peterson amendments. They are of such importance that the legislation in its present form must be taken away from the concerns of individual and Party politics and referred to the select committee for study and consideration.

Subsequent to that, the WorkCover Corporation published a commentary in relation to lump sums and common law. WorkCover disputed the view of the Law Society and suggested that the calculations in relation to the two examples that were given by the Law Society were not accurate. There was a further response from the Law Society and it would be helpful to refer to that in some detail. In relation to common law, the Law Society states:

I find it interesting that Mr Owens does not consider it the role of WorkCover to advise those who are receiving benefits of the limited time constraints that are in common law actions should the legislation be proclaimed. This is typical of the lack of general concern for workers. The common law rights also have another interesting impact. The effect of these changes is to have those negligent employers subsidised by those employers who are not negligent. The bonus penalty scheme is irrelevant to this situation as it relates to claims, not fault.

It is appropriate at this point that I make a comment which is mentioned in the attached paper to Mr Owens' letter about the role of the legal profession. The only way in which the legal profession can become involved in WorkCover is when workers are dissatisfied with the determinations made by either the corporation or review officers, or where there is a dispute over a common law action. In all these cases, the remedy is in WorkCover's hands. If WorkCover made proper and correct decisions in its assessment of cases, there would be no legal involvement at all. However, it has been the experience of the community as a whole that WorkCover's decision-making processes in recent years have left a great deal to be desired and the only way in which proper decisions can be obtained is by taking legal action. The growth of review officers, who now number 17, is a clear indication of the inability of WorkCover to make correct initial decisions.

I should also mention a very disturbing aspect which has emerged since the Peterson amendments have passed. Whilst there is a period of six to 12 months grace before liability at common law is extinguished, no such period of grace relates to assessments pursuant to section 43(3) of the existing Act. The effect of that decision means that, unless a determination is made by the corporation prior to the promulgation of the legislation, the determination for permanent disability is to be made under the new Act and not under the old Act. Thus workers stand to lose significant amounts of benefits if their claims are assessed under the new Act.

It has become increasingly apparent that WorkCover in recent months has not been making determinations, with the consequence that the affected workers will receive substantially less than if the determination had been made now. I am aware of one case where WorkCover had indicated a determination in the order of $37 000, which was accepted by the worker but which nevertheless it has refused to pay the worker. He is now in the process of taking the matter before the review officer in order to get payment. I understand WorkCover's defence, that no determination has actually been made.

If that is actually happening, if WorkCover is deliberately delaying the settlement of claims on the basis that this legislation will be passed and that it will therefore be able to reduce its liability, then that is an unconscionable position of WorkCover and it ought not to be tolerated. I must say that, if that is the consequence of the Bill that has passed through the House of Assembly, honourable members opposite ought to have a close look at it. I cannot believe that they would sit by and allow claims which have been made under the existing law to be settled for less than that by virtue of the amendments which are made in the Bill that is now before us. Such an approach would be the most objectionable form of retrospective legislation. I would hope that in responding to this the Government will give some careful consideration to this issue.

There are a number of other matters upon which WorkCover has commented with respect to employer payments. Mr Owen says, and I quote:

The comments on the impact on employers have failed to take into account several provisions of the proposed legislation and have wrongfully labelled it a Peterson amendment, when in fact it is a Government amendment which was in the Bill debated and passed by both Houses of Parliament earlier this year and which was considered and endorsed by the select committee. First, any employer can apply to WorkCover to be exempt from the requirement to pay the worker if it would be unduly burdensome or otherwise unreasonable to do so.

Secondly, the legislation allows for the Government to prescribe any other circumstance in which an employer is not required to comply. This could be used to exempt classes of employers if that is later found necessary or desirable, to avoid individual claims for exemption; for example, shearers, casual workers, seasonal workers etc.

Thirdly, the legislation proposes that regulations set the circumstances where interest would be payable on reimbursements. It is proposed that the regulations provide for the payment of interest if WorkCover is more than 15 business days late in paying properly submitted accounts. This proposal was considered by the board of WorkCover over 12 months ago when this provision was first included in the Government Bill. It has the support of peak employer organisations. This support recognises the benefits of maintaining the relationship between the employer and worker that will result from this proposal by requiring wherever possible the worker to collect their income in the normal way from their employer.

Fourthly, there is no provision at present in the legislation to allow WorkCover to pay interest to employers on overdue payments. This amendment will allow that to happen, and indeed will require it.

One of the objectionable characteristics of this Bill is that in a number of places regulations are to be promulgated which set criteria and which sets standards. We do not know what is to be in those regulations. For example, there is a provision in clause 7 (which amends section 36) dealing with proceedings before a review officer, and it provides that if, in any proceedings before a review officer that relate to a decision of the corporation under this section are adjourned, the review officer may, subject to subsection (4b), on such terms and conditions as the regulations may prescribe, order that weekly payments be made to the worker for the duration of the adjournment. The review officer is meant to have an independent discretion, but that is to be removed by regulations, and we do not know what is in those regulations.

It further provides that where, on a review, the corporation's decision under section 36 is confirmed, any amounts to which the worker would not have been entitled but for the operation of subsection (4) or (4a) may, at the corporation's discretion, but subject to the regulations, be recovered by the corporation. Again, it is subject to the regulations, and we do not know what is to be proposed in those regulations. Proposed section 42b deals with the power to require medical examination, and it may be a requirement by the corporation to require the worker to submit to an examination by a medical expert. Where the requirement is imposed by the corporation an application may be made by the worker within the prescribed period, in accordance with the regulations, for a review. Again, what is to be in the regulations and why should those regulations appear to control the review? There are a number of other provisions in the Bill which seek to regulate by regulation, which are not regulations on the public record. In relation to employer payments, the Law Society states:

Comments under this heading are mischievous and misleading. The issue is not that an employer can apply for reimbursement but that the reimbursement is not automatic but, rather, arises as a result of compliance with complicated regulations. As an example of the complexities, an employer can be required to make payments by the corporation but is only entitled to be reimbursed if he makes a claim within three months and in a form determined by WorkCover. Another example of naivety is the quotation that the legislation allows the Government to prescribe any other circumstance in which an employer is not required to comply. This could be used to exempt certain employees. The issue is not 'could', but is it going to be used in those suggested situations at all? Given the past record of the WorkCover Corporation, one can hardly seem them being willing to offer generous terms or exemptions.

The comments on interest payments also show a failure to read the wording of the legislation. Interest is only to be paid if the regulations so provide, and at the prescribed rate. Further, the legislation does not require that interest be paid but rather gives WorkCover the option to pay interest.

The Law Society goes on to say that none of these provisions would be necessary if WorkCover simply agreed to reimburse employers who paid weekly wages within, say, 14 days. In those respects, there are a number of matters of concern. In respect of the incidence of liability, another lawyer has written to make an observation similar to that of the Law Society, but stresses that the corporation is really in the position of an insurer. He says:

Employers have paid their levies to the corporation in good faith. Employers already have to pay the first week of income maintenance. The levies have been made in anticipation of the corporation deciding whether or not the claim should be accepted, and, if it is, making payments to the worker. I believe this proposal is principally a mechanism to enable the corporation to hold on to its money for longer and obtain the advantage of the money market in the meantime. Furthermore, this new proposal will clearly be an administrative nightmare.

I think the Law Society calculated that the cost to business of these clauses in the Bill will be something in excess of $100 million. There is only one other area that I want to focus upon. Obviously there is concern about legal costs and medical costs—I think to some extent unjustifiably so.

I do not think anyone would suggest that a person who is injured at work should be treated by other than someone who is properly medically qualified to deal with that injury and, if that occurs, one must recognise that no medical practitioner can say that something is black if it is white or white if it is black and must temper his or her judgment on the basis of his or her experience and the features of the injury that have become apparent to that medical practitioner. It is, therefore, a matter of judgment and, human nature being what it is, medical practitioners who believe they have ethical responsibilities will be cautious rather than bold.

Perhaps that is a criticism that WorkCover will make of some medical practitioners. I know that there is some concern, and probably justifiable concern, about medical

practitioners who over-service. The whole concept of over-servicing is a very difficult one to assess and upon which to set objective criteria. The other point I want to make in relation to medical practitioners is: what does a medical practitioner do when a patient turns up at the door of the surgery and says, 'I still have this problem'? Does the medical practitioner say, 'You've had 25 consultations in the past six months: I'm not prepared to give you another consultation on this occasion. Go away'?

It may well be that the medical practitioner will then be liable for unethical behaviour or perhaps even in some circumstances for negligence, if the symptom which is being reported and for which the medical practitioner is not prepared to consult because of the fear of over-servicing results in a damages claim for negligence, particularly if it results in some long-term disability. The same cannot necessarily be said for legal practitioners. One must recognise that the legislation is complex.

The very fact that we have had so many amendments before the Parliament since 1986 indicates quite clearly the complexity of the legislation; the fact that it is difficult even for lawyers to work their way through the maze of provisions and to deal adequately with each of the provisions is witness to that. The very fact that WorkCover claims officers make many mistakes, are slow to act in a number of cases and are tentative in others is also witness to the fact that there is a complexity about the scheme which, in many cases, will require the benefit of some legal advice. In that respect, there are a number of areas which can be upgraded and which could well significantly reduce the legal costs.

There are some simple and perhaps not so simple initiatives that could be taken. Mr John Fountain, who is a lawyer involved extensively in workers compensation matters, makes the following points: first, that dispute resolution involving employers ought to be more proactive. There ought to be meaningful discussions at an early stage involving employer and employee in conjunction with officers of WorkCover, rehabilitation providers, trade unions (where a trade union represents the injured worker) and doctors, and that there is a requirement, morally at least, for that early attempt to resolve disputes. There can be an improvement of WorkCover's role in the initial stages. The conduct of claims within WorkCover suggests that some upgrading would assist. Mr Fountain says:

> Indeed, a review officer recently told me that in one matter which he heard not less than four different claims officers appeared before him at different times on the one application for review; not an example of effective management. Such practices clearly increase the risk of wrong decisions being made. In line with this, review officers have also advised me that some of WorkCover's incorrect decisions are made simply because of a lack of understanding of some of the basic principles.

In this respect, Mr Fountain suggests that claims officers should not hesitate to ask for further information, not merely to send out a firm of loss assessors to carry out detailed investigation but for the claims officers themselves to become more actively involved in obtaining information. He makes the point that employers and doctors are always an important part of the process, and perhaps even more so in the stages before a claim is determined. He holds the view that it should be mandatory for the worker to provide a medical authority at the time of lodging his initial claim form, so that the employer should become more informed at an earlier stage and participate more actively in the early dispute resolution and return to work.

One area in which there is a significant cost in terms of legal expenses is in the resolution of disputes. Mr Fountain suggests that steps should be taken as a matter of priority to set the mechanism in place to enable all work injury disputes to be dealt with in the one jurisdiction. He states:

> In my view, that should be the civil courts which are already, on a day-to-day basis, dealing with large numbers of disputed personal injury actions. Those actions include motor vehicle accidents, public liability claims (for example, slipping and tripping cases at supermarkets and elsewhere), medical negligence cases and a range of others.

He proposes—and I have some sympathy with this—that an industrial injury jurisdiction be set up in the civil courts to subsume the functions of WorkCover review and the Industrial Court. He makes the point that there are frequently cases where duplication occurs, particularly where there is an application before a review officer and then the matter goes before the appeal tribunal. In some instances, a claim will go to the Industrial Court and a civil claim for common law to the civil courts, frequently with a duplication of evidence to be called and a duplication of attendances that could be overcome by a single jurisdiction. In that context, I reiterate the view that I have expressed on previous occasions, that it is improper for WorkCover review officers to be not only review officers but also employees of the WorkCover Corporation. Even if they may act independently, there is certainly no perception of independence.

Of course, one of the problems with reviews is that they now have assumed a significant status in the dispute resolution process, such that whereas previously they were intended to be administrative officers they are now very largely judicial or *quasi* judicial officers who have to hear all the evidence. Cases will now go for something like three to six days rather than being disposed of in something like a matter of hours. That arose largely from amendments to the legislation in 1988 and subsequently Supreme Court decisions which focus upon the legal position of review officers. In those areas, there is a potential for significant savings in the dispute resolution process, and in the way WorkCover handles claims and the way in which employers are brought in at an early stage to endeavour to resolve disputes at that point.

In conclusion, I want to say that there is large body of opinion about the way WorkCover operates. A lot of it is not complimentary; some is. There is no doubt that there are significant concerns, not only about the way WorkCover operates. Of course, it operates and is required to operate within a framework of legislation enacted by the Parliament, certainly not with wholehearted Opposition support but with Government and Democrat support, and I therefore make no criticism of the fact that it has a task to perform. What I do say, as a matter of principle, is that there needs to be some mechanism for independently reviewing the decisions taken by WorkCover in many areas. There does need to be a greater focus upon internal administration, rather than placing all of the blame for the increase in costs

upon lawyers, medical practitioners and other problems rather than focusing upon the legislation itself, the way the legislation is structured and on some aspects of WorkCover administration. There is effectively no competition in the way in which that occurs.

There will be some other matters to which I will refer during the course of the Committee consideration of the Bill when, as I have previously indicated, we will seek to move a number of amendments on important issues in the legislation, as well as endeavouring to split the Bill so that the Joint Select Committee on WorkCover can hear representations from all interested parties about the abolition of common law rights and, if they are to be abolished, what alternatives ought to be put in their place. There are concerns about the alternatives which purport to be put in place by this legislation. There are criticisms from a number of. bodies and persons which I have but which time does not allow me to read into the *Hansard,* however much I may want to do so. I will certainly refer to a number of those during the Committee consideration of the Bill. To enable us to get to that point, I indicate that we will support the second reading of the Bill.

The Hon. I. GILFILLAN: I support the second reading of the Bill, and in doing so I will briefly move through the major points which the Bill seeks to achieve and make comment—and I emphasise brief comment—on each point. Before doing that I would like to make the observation in *Hansard* that I am currently serving on a select committee which has been looking at WorkCover for nearly two years. Many of these matters have been discussed at length in the select committee, and virtually without exception they do have the concurrence of the select committee, although I must say that because of the timing the select committee has not put out formal reports dealing with these matters.

I refer, first, to limiting the eligibility of stress claims, The situation with stress in WorkCover has been the subject of almost lampooning where the incidence of the furry penis on a desk has been taken as a sort of textbook example of idiotic lengths to which the workers compensation system can be abused to provide compensation for what must only be regarded as very spurious claims of injury due to work related cause. The other aspect of this (and this has certainly concerned me) is that in the current legislation there is no attempt to quantify the degree to which work related causes contribute to stress identified trauma. The amending clause in the Bill provides:

> A disability that consists of an illness or disorder of the mind caused by stress is compensable if and only if—
>
> (a) stress arising out of employment was a substantial cause of the disability;
>
> and
>
> (b) the stress did not arise wholly or predominantly from—
>
> (i) reasonable action taken in a reasonable manner by the employer to transfer, demote, discipline, counsel, retrench or dismiss the worker;
>
> (ii) a decision of the employer based on reasonable grounds not to award or provide a promotion, transfer or benefit in connection with the worker's employment;
>
> or
>
> (iii) reasonable administrative action taken in a reasonable manner by the employer in connection with the worker's employment.

This amendment will need some determination to establish what effect the word 'substantial' will have in the first paragraph, so that stress arising out of employment will be a substantial cause of the disability. The other matters raised are removing the grounds for stress as caused by what one would argue are normal, procedural, disciplinary, managerial activities in a business place in employment. I believe very strongly that, for stress to continue to be a reasonable and respected cause for workers compensation claims, it needs to be defined in the way in which this amending clause attempts to do.

The next point I want to raise is employers making direct payments of income maintenance to claimants. The issue here is that, instead of WorkCover itself paying the wage compensation directly to the injured employee, the employer is required to do so. There has been some rather vociferous criticism and objection to this on the basis that it exposes an employer to quite an unfair cost which then is at the whim of WorkCover as to when and how it will be repaid. I would point out that there is a subclause which enables an employer to seek and get an exemption from this payment if it is considered to be onerous. More to the point, there is a clear indication from WorkCover that the regulations which will qualify this particular clause set out specifically how and when WorkCover should repay. I quote from a document that came from the Chief Executive Officer, Lewis Owens:

> The legislation proposes: . . . that the regulations set the circumstances where interest would be payable on reimbursements. It is proposed that the regulations provide for the payment of interest if WorkCover is more than 15 business days late in paying properly submitted accounts.

I believe that will be emphasised and affirmed by the Minister, and I will be seeking for that to be spelt out clearly in *Hansard,* because I believe that that is an essential part of the package where the employer is to be required to pay the wage directly to the injured employee.

The nature of the superannuation factor in salary package and in benefit to the worker will be disregarded from now on. That is one of the amendments in this Bill. There has been a lot of misunderstanding and sense of grievance about superannuation being included in the general calculations of levies when they are not paid out in the benefits. The fact is that it was provided so that the formula upon which the levies would be calculated, and therefore the contributions to individual employers, would be based on an even playing field. It just means that, by deleting it, the calculations will be adjusted to a different figure. From that point of view, I think it is desirable, because the ill will that this has caused by being in the current Act certainly makes it worth removing, and we we will do that by passing this clause.

Another clause seeks to remove compensation for damage to a motor vehicle when that occurs in an accident that happens when one is travelling to or from. I might say that the Democrats resist any pressure to remove travel to and from work as being compensable for employees, but this does not in any way militate against the wage compensation or the non-economic loss

compensation that would be payable to an injured employee.

A very significant amendment in the Bill is that related to the long-term payment to injured employees after the two-year review. I think it is worth while enumerating in a little more detail the reasons and background of the Democrats' support for this. Currently, at the point of the two-year review and in a stable situation, an injured employee would expect to have until retirement compensation equivalent to 80 per cent of the salary loss due to the injury. That involves the payment not only of the salary but also of the income tax that is applicable to that salary, and that income tax goes to the Federal Government.

I view the Federal Government with some disfavour with respect to this legislation; it refuses to take any responsibility for what to my mind is quite clearly an area of its responsibility, namely, the unemployment aspect of long-term injured workers who have a capacity to work and who are unable to get a job. So, it does not seem to me to be any injustice for the Federal Government to be required to forgo the income tax on these compensation salary payments.

To do that, the long-term injured worker needs to receive their salary in a lump sum form, which is defined not as salary but as compensation for loss of earning capacity. That is all very sound logic. The only technical trick is that the payment cannot be made on a weekly or, I believe, even on a specifically regular basis without it appearing to be just a counterfeit form of paying a salary, which obviously it is not. It has been tried in Victoria, and no-one as yet has challenged this aggregation of compensation into lump sums, which are then free from any income tax obligation.

This involves quite a significant saving to WorkCover; it does not put any hardship on the injured worker who receives exactly the same amount of money, so that amendment is eminently suitable.

There is a clause requiring medical examination of an injured worker by a medical expert nominated by the corporation, and I support this. Proposed new section 42b(l) provides:

For the purposes of this Division, the Corporation may, by notice in writing to the worker—

(a) require the worker to submit to an examination by a medical expert nominated by the Corporation;

or

(b) require the worker to furnish such information, relevant to the operation of this Division, as the Corporation thinks fit.

Then, there are some consequences if the worker fails to comply with this requirement. It is important to recognise that one of the concerns that I have heard from WorkCover is the abuse of medical attention—the abuse by certain medical practitioners (and we have had evidence to support this) who virtually run a racket—and I use the word advisedly—in being the soft touch for repetitious certificates that are at least not accurate and, it is alleged, deceitful, in claiming the degree of injury and the state of health of certain workers. So, I believe it is essential for the corporation to have this capacity in counteracting that, to a degree.

The next amendment that I would like to comment on relates to the removal of the capacity for common law limitation of employers' liability. I remind members that when the Bill to establish this Act was originally debated, it was very clearly touted and accepted by all that this was a no-fault system and that, to every extent possible, efforts were to be made to remove the involvement of litigation and lawyers attached thereto. Alternatives to the court actions which were so prevalent in the old system were a guaranteed wage replacement and a scale of compensation for non-economic loss, the latter of which was incontestable. It was and still is a fixed sum in schedule 3.

Unfortunately, arguments prevailed to allow limited common law action to continue with a ceiling and certain other qualifications—that if an injured worker chose common law they would not be able to take the option of a lump sum from the schedule. However, even with that there was growing use of common law by injured workers, who were encouraged, I believe, by lawyers who saw in it a reasonable form of augmenting their income.

I do not believe that the retention of the common law option in the Act has merit. Because of adjustments to the third schedule it is not necessary in relation to injured workers getting adequate compensation; and, because we have been so strenuous (certainly I have) in attempting to maintain the no-fault provision so that it does not matter to what degree an injured worker may be argued to have been responsible for his or her accident, that has no effect on the compensation; likewise, no degree of negligence or fault of the employer directly increases the amount of compensation that will be paid to the injured worker.

The way to deal with an unsafe workplace and a negligent and indifferent employer is through the Occupational Health, Safety and Welfare Act and other measures which will put pressure on employers to create the safest workplaces that are feasible. That is an ongoing aim of mine and others who are looking to increase the safety of workplaces. I do not believe that the retention of the common law in this Act does anything to aid that. I therefore support the removal of the common law option as is spelt out in one of the clauses of this Bill.

The Hon. Peter Dunn interjecting:

The Hon. I. GILFILLAN: It is nothing to do with me. I won't get caught with common law. The Hon. Peter Dunn interjects to say that he hopes I don't get caught. The only way I would be involved in common law to my advantage would be if I were an injured worker and I was suing my employer.

The Hon. Peter Dunn: You might be after the next election.

The Hon. I. GILFILLAN: Are you going to give me a job? I think we might leave that; the conversation is not moving very far along the track. I would like to comment on new section 112a, 'employer information', which provides:

The corporation may, as it thinks fit, disclose the following information in relation to any employer registered under this Act:

(a) the number of claims in respect of compensable disabilities made by the employer's workers in a particular period;

(b) the cost of claims in respect of compensable disabilities suffered by the employer's workers in a particular period;

(c) The nature of compensable disabilities suffered by the employer's workers;

(d) details of any remission of levy granted to the employer, or any supplement levy imposed on the employer under section 67.

This amendment is in place as a tool to put pressure, through embarrassment, on employers whom the corporation has assessed as not making adequate efforts to minimise accidents and create optimum safety in their workplace. I accept it as an amendment. I recognise that it is one of the amendments which has not been exhaustively discussed through the select committee process and which is viewed with some concern by employers and employer organisations which feel that it really is an unacceptable process where innocent employers could be severely embarrassed by publicity pertaining to this measure.

That leads me to comment that, in general, I find the Bill totally satisfactory. There are certain areas to which I personally would have preferred to give more thought or which I would have amended. However, because of the circumstances surrounding the treatment of this Bill that is not possible at this time.

However, let me emphasis that I do not believe there is anything in this Bill which is of such deleterious consequences that justifies us delaying it any longer. Part of the reason for my enthusiasm to pass this Bill is the desperate need of employers in South Australia for a reduction in levies. There would be a profusion of examples where we could show that the reduction in levies, which is spelt out in actuarial calculations in the introduction of these amendments, can have an immediate benefit to employers in South Australia.

Two examples that have come to my notice in the past couple of days I would like to mention. I have a friend who works for a company, and he talked to his employer about the potential effects of the reduction in the levy. The employer said that if the levy came down to 2.8 per cent he could put on two more people, and that he has the work for them. This employer has companies in both New South Wales and South Australia. There is a 4 per cent difference in the rates between the two: he pays $100 000 extra in South Australia for the workers compensation levy.

Another company has branches in South Australia, Victoria and New South Wales and has a base levy in South Australia of 7.5 per cent, in New South Wales of 2.6 per cent and in Victoria of 3.26 per cent. Total wages in South Australia are $1.26 million. The premium difference in New South Wales is $62 000 a year and in Victoria $53 732, and a drop in premiums would enable the immediate employment of more people.

I take these two examples as being typical circumstances, and with this reduction we would see a rise in employment and an increase in profitability of South Australian based businesses. Most importantly, we will not see any significant, if any, drop in benefits to injured workers. In fact, in schedule 3, which stipulates the actual lump sum compensation for non-economic loss, there is a general increase, because the base upon which all the percentages are calculated goes up.

Not only is there a general increase right along the scale, but also, and very properly and I think with appropriate sympathy, there has been a dramatic increase in the more serious level, the dramatic level of injury, where we have seen something close to a 50 per cent rise in the lump sum compensation.

The Bill has been touted as being draconian and having a savage impact on compensation available to injured workers. To that I say, advisedly, 'Rubbish'. It has also been touted that this Bill does not offer significant savings, first, to WorkCover and, through that impact, to levies.

The Hon. L.H. Davis interjecting:

The Hon. I. GILFILLAN: Rubbish. The calculations I have seen have shown clearly, and certainly to my satisfaction, that there will be a substantial cut in the levy rates available from the implementation of these measures.

The Hon. L.H. Davis: What do you think it is?

The Hon. I. GILFILLAN: The sums that have been quoted are 2.8 per cent as an average, and I accept that.

The Hon. L.H. Davis: The second reading makes no mention of savings.

The Hon. I. GILFILLAN: The honourable member says by way of interjection that the second reading explanation makes no mention of savings. I think there is a bit of confusion about the second reading, in that the Government was at that stage somewhat unwillingly introducing a Bill which it had opposed in the Lower House. I do not therefore believe that as much deliberation has been given to the second reading explanation as it was given in this place as there should have been.

It is fair for us to ask the Government to provide in the Committee stage what costings are available to it. I have seen actuarial calculations and I have no reason to doubt them. One of the questions that I think is as yet unanswered is how quickly the benefit of reduced levies will be passed to employers in South Australia. I urge the Government and the Minister to ensure that those benefits flow through immediately. It has been said to me that there could be a 10 to 15 per cent reduction effective immediately from the time of the passage of the Bill, with the substantial adjustment to levies taking place after 30 June next year.

The comment that I alluded to earlier that I was reluctant to look at relatively minor amendments in this Bill stems from the political circumstances that arose in the other place, where the Speaker took the extraordinary step of announcing publicly that, if the Bill returned to the Assembly and the indications were that the UTLC did not wish that the Bill pass, he would support moves to defeat the Bill and, having done so, he would then withdraw his support for the Labor Government and, at a time of his choosing—and I stress that phrase—he would cross King William Street to Government House and indicate that the Government no longer had the support of a majority of the House of Assembly.

The Hon. R.I. Lucas: Do you believe that?

The Hon. I. GILFILLAN: Yes, I believe it. I have no evidence to indicate that the Speaker is prone to untruths, false threats or false promises. Until there is irrefutable evidence to the contrary, the answer is 'Yes'. It is more significant than just a question of whether one believes the word of the Speaker, and that is why I emphasised the words 'at the time of his choosing'. If as I believe it is imperative for South Australian employers to receive the relief of the costs of the levies, it is therefore

essential that this Bill be passed and implemented as soon as possible. For even the most sanguine, if there were to be an election and a change of Government with all sorts of exciting and dramatic changes to WorkCover and levies, with Mr Peterson's statement, there is no guarantee of timing.

Members interjecting:

The Hon. I. GILFILLAN: The Opposition has thrown some doubt on whether he would follow through at all, so we could be left with an unchanged workers compensation system, at least until the next State election, which could be over 12 months. Anyone who has a conscience as to the real costs of business and employment in South Australia must realise that there is a very high priority for reducing the levies applicable to employers in South Australia.

The Hon. R.I. Lucas: What did you do earlier this year?

The Hon. I. GILFILLAN: Earlier this year?

The Hon. R.I. Lucas: Yes.

The Hon. I. GILFILLAN: I stood shoulder to shoulder with the Liberals. Some people might call that backing down.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: I am being questioned as to what the difference is.

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

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: The difference between earlier situations and this is that it is now quite clear that, if this Bill returns to the Assembly, it will be lost, and so would the close to one full percentage saving in levies be lost to the employers of South Australia, and apparently that is a burden that the Liberals are quite cheerful to carry in the manoeuvres for political advantage.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I gather that I must be striking a raw nerve.

Members interjecting:

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

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order. The Hon. Mr Gilfillan has the floor. I ask members to listen to him in silence.

The Hon. I. GILFILLAN: Thank you, Mr President. What I have to say deserves to be heard in silence. The Liberals are totally irresponsible in the way in which they are viewing this opportunity to cut costs for the employers in South Australia, a measure which I might say in other circumstances they call for stridently as a matter of dire urgency. In their limited ability for logic, even if this Bill goes down to the Assembly and is defeated, and we have the poised drama of the Speaker going across King William Street, what they have not considered is how quickly he will put at risk his position and the circumstances of office. It is at a time of his choosing.

The Hon. R.I. Lucas: So you don't believe him?

The Hon. I. GILFILLAN: No, I said it would be at the time of his choosing.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order! I ask members not to interject and to observe Standing Orders.

The Hon. I. GILFILLAN: I do not want to dwell too long on this point, because I have made it quite clear. I think the employers of South Australia would know who to blame for losing the advantage of reduced levies if the Liberal plot were allowed to proceed. Fortunately, the sound logic of the Democrats will ensure that does not occur. Therefore, it is very important to understand that the process of deliberating on amendments to WorkCover in the select committee which evolves through to considered amendments in the Parliament and into proper, wise adjustment of WorkCover, while ideal under most circumstances cannot be implemented under these circumstances because the cost to the employers of South Australia in holding up the reforms in this Bill is too high, and they are screaming out for relief. Having got that relief, there will—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I notice that the Hon. Mr Davis has his name down to speak later on, not now. He will come to order.

The Hon. I. GILFILLAN: By the time he gets his turn, he will not have much to say because he has said it all. That is the reason that I have deliberately restrained from moving amendments and that is why I have indicated clearly that we will not support any amendments. There is a famous second-year review amendment which, over the years, I have championed as being an important and essential reform. In fact, it was on that amendment that the Liberals and the Democrats stood shoulder to shoulder, and eventually the Bill was withdrawn. The time for us to indulge in those sort of delaying tactics is over, and the message that I am getting from many people, particularly employers in South Australia, is 'Please pass the Bill.' I have had a letter today from the engineering employers of South Australia. They do not advise that we tinker around with the Liberals' amendments or that we play games to cause chaos in the Assembly. They suggest that we should pass the Bill. That is what anyone who cares about employment in South Australia will do. They will not tinker around in a political world of unreality.

I believe that I have in my own simple way outlined the amendments which this Bill will introduce and have explained why we will not be moving or supporting any amendments, including the so-called split Bill move. To retain common law would I think be more complicated than the Hon. Trevor Griffin has outlined. Because of consequential amendments it would virtually ensure that the Bill would have to go back to the House of Assembly.

The Hon. R.I. Lucas: If there were a drafting error to the Bill would you support that amendment?

The Hon. I. GILFILLAN: That is one of those clever trap questions, I think. The point I want to repeat is that the Bill is patently an advantage to the employers in South Australia and I for one and the Democrats as a

Party will not put that at risk or delay its implementation for one day longer than we can help.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order.

The Hon. I. GILFILLAN: We will not be party to the sort of let's have power at any cost games and tactics that the Liberals will indulge in. The Democrats support the second reading and believe and trust that the Bill should be passed in its entirety so that there are no complications with its return to the House of Assembly.

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

AMBULANCE SERVICES BILL

In Committee.

(Continued from 12 November. Page 783.)

Schedule.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 4—Leave out 'for 12 months after the repeal of that Act' and insert 'until surrendered by the holder of the licence'.

At present the schedule provides:

(1) A licence in force under the Ambulance Services Act 1985 immediately before its repeal by this Act will, subject to this Act, remain in force for 12 months after the repeal of that Act.

There are currently eight fully-paid country services which have their own licences, in addition to the 64 country services. In the second reading explanation the Minister said specifically that this transitional clause had been included to:

...guarantee the stated intention that the Pill would not be used as a device to abolish the country independent services with existing licences.

So, according to the Government this measure is there to guarantee that this Bill would not be used as a device to abolish the country independent services with existing licences. My amendment simply seeks to enforce that guarantee as indicated in the second reading explanation as being the Government's intention. The fact is that the transitional provisions do not provide for that guarantee. They provide it for only 12 months after the repeal of the Act. As I say, that is not the intention as indicated in the second reading explanation. We have received considerable correspondence from the country services to which this transitional provision would apply, and they have reason to believe from the advice they have received—whether that is rumoured or substantiated, I am not sure—that after the 12 months it would be the intention of the Priory and others to see that their services were no longer independent but coming under the umbrella of the Priory and this new association between the Priory and the Government. That is not something that they want.

So, our amendment simply seeks to provide what the Minister has stated as being the Government's intention in respect to the country independent services, and that is, a guarantee of continued existence. I note that when the same amendment was moved in the other place the Minister indicated that it was not acceptable because it suggested that these licences would continue forever notwithstanding standards or breaches of standards.

That would not be possible by our amendment, unless the Minister does not believe that he is going to enforce the other provisions in this Bill, namely, those in clause 7, in terms of the conditions that a Minister may attach to a licence and, secondly, in respect of clause 8, concerning the revocation of a licence where the Minister believes that the licensee has contravened or failed to comply with the conditions of a licence. So, on our reading of this legislation, there are ample provisions for the Minister to control the standards of the licence if he or she sees fit to use the provisions contained in clauses 7 and 8, and any reference to standards in this provisional clause does not apply.

The Hon. BARBARA WIESE: The Government opposes the amendment. Existing licence holders are guaranteed 12 months extension in the Bill, and there is no reason to believe that they will not be renewed beyond that time, so long as they maintain standards. I understand that the Minister in another place has made it quite clear that the existing licence holders are guaranteed that period of time. But the Government wants to ensure that standards are maintained, and the mechanism being used in the Bill is the way the Government is doing that. The amendment moved by the Hon. Ms Laidlaw is virtually seeking to ensure that the organisations are licensed in perpetuity, regardless of standards, and the Government feels that that is inappropriate. As to comments made by the honourable member concerning rumours that may be abroad, I am advised that there is no intention whatsoever on the part of the Government or the Priory to take such action.

The Hon. M.J. ELLIOTT: Can the Minister indicate how many licences are currently in existence?

The Hon. BARBARA WIESE: There are currently seven licences in existence, held by the Royal Flying Doctor Service, the St John Ambulance Service, Orroroo and Districts Inc., St John Ambulance Service, Riverton and District Inc., Booleroo Centre and District Ambulance Service Inc., Jamestown and District Ambulance Service Inc., St John Ambulance Service Burra and District Inc., Peterborough and District Ambulance Inc.

The Hon. M.J. ELLIOTT: Will the Minister explain what cannot be achieved by exercising the powers that exist under clauses 7 and 8, which necessitate the transitional provisions, as they are currently worded?

The Hon. BARBARA WIESE: In the Government's view, the effect of the amendment being moved by the Hon. Ms Laidlaw would be to ensure that the terms and conditions of existing licences would be in place in perpetuity.

The Hon. M.J. Elliott: That is not quite the question I asked.

The Hon. BARBARA WIESE: No, it is not quite the question you asked: I am getting to that; I am taking it from this angle. It does not indicate that the existing licence would be subject to clauses 7 and 8, and what the Government wants to achieve is the ability to ensure that all these organisations that currently hold a licence are subject to appropriate review to ensure that standards are at a level that is appropriate; therefore it was deemed appropriate to have a 12 month period, which is

guaranteed under the existing legislation, to enable such an assessment to be made and a new licence to be issued which would be in accordance with clauses 7 and 8 of the new legislation.

The Hon. M.J. ELLIOTT: I am not convinced that clauses 7 and 8 cannot be used. It is possible that the wording the Hon. Ms Laidlaw is now using has a particular impact upon the transitional provisions and might have an impact on clauses 7 and 8, but I really asked the question from the other end: what is it that we want to achieve with this set of services, particularly, I suppose, the four or five small country services? What is it that the Government hopes to achieve by wording the current schedule in the way it has?

It seems to me that we could have had a quite simple transitional provision along the lines that 'all licences in force shall continue'. I should have thought that the Government then could have used clauses 7 and 8 to alter the conditions, if it felt that was necessary and, if it felt that those conditions were not being complied with, the licence could be revoked. I cannot see what problems the Government would have had with a position such as that. Without arguing whether or not the proposed amendment creates an additional complication, I am not convinced that the schedule as it stands is satisfactory or, indeed, necessary.

The Hon. BARBARA WIESE: It would seem that members are reading too much into the wording of this schedule. The schedule was worded in this way in order to provide continuity to those organisations that are currently licensed and to assure them that, on the passing of this new legislation, they would not be, in effect, disfranchised; that their right to operate would be continued. That was the purpose of this schedule.

The Hon. M.J. ELLIOTT: In those cases, people would have been far more satisfied if they had been told that their right to hold a licence would continue, subject to clauses 7 and 8. They feel understandably nervous about something that guarantees it for 12 months, when they look at the Blyth, McLaren Vale and Onkaparinga Hospitals and various others. Rightly, there is a great deal of nervousness in country areas about what is happening to various of their services. In this case, we are talking about services that I imagine are self funded, with which they are quite satisfied and which they perceive as being potentially under threat.

I have full sympathy with those concerns, whether or not the Government has any intentions. I would argue that the transitional provisions may have been worded better. Unless the Government comes up with an alternative, I will support the amendment of the Hon. Diana Laidlaw if for no other reason than to make sure that the issue remains alive. The Bill must go back to the House of Assembly, in any case, and may be subject to further review. However, that is my current position unless the Government has an alternative transitional provision which it feels solves the problem.

The Hon. BARBARA WIESE: I have just made some inquiries whether there is some ground for some sort of compromise wording here, but I am advised that to take the course suggested by the Hon. Mr Elliott, which would be to say that these conditions would apply subject to clauses 7 and 8, would simply defeat the purpose of the legislation with respect to licensing. One of the objectives of this new legislation is to move away from granting licences in perpetuity. The idea of this legislation is to provide licences for a fixed period of time, which enables the service to review the standards of organisations that have been licensed from time to time in order to ensure that a proper standard of service is being maintained.

Should it be the case that one of these organisations, for some reason or other, became very incompetent in the sort of service provided, if a licence had been granted in perpetuity, very little could be done about it. Some safeguards need to be built in for the benefit of the community and to ensure that proper standards of service are provided. It is not the intention to withdraw licences from any organisations that are currently licensed. As I understand it, the view is that these organisations are currently providing satisfactory services. There may or may not be a need to negotiate on some matters.

It is certainly not the purpose of this legislation or of the wording of this schedule to provide a vehicle for somehow or other getting out of the arrangements that currently exist. In fact, it would cost the ambulance services a lot to abolish one of these licences, so it is certainly not something that is considered desirable, but there does need to be a mechanism, as a matter of principle, which provides for a licence to be withdrawn if an organisation is simply not delivering the goods.

The Hon. M.J. ELLIOTT: Clause 7(2) provides:

> The Minister may, after giving the holder of a licence not less than one month's notice in writing, vary the existing conditions of the licence or attach new conditions to the licence.

As such, the Minister is in a position, as I see it, to review the way in which an ambulance is functioning and say, 'We are not satisfied with the service. Here are the conditions that we want you to abide by.' Clause 8 provides:

> Where, in the opinion of the Minister, a person has contravened, or failed to comply with, a provision of this Act or a condition of a licence, the Minister may, by notice in writing to the holder of the licence, revoke the licence.

So, the capacity to review and to make sure that standards are in place and enforced are all covered by clauses 7 and 8. I am not questioning the Government's motives; I am simply saying that I understand the nervousness that people in the country areas in particular have. I am not convinced that the wording of the transitional provisions are necessary; they do invoke suspicion. I am not attributing ulterior motives to the Government—I simply think that it is unnecessary. Once again at this stage, with no other alternative before me, I will support the amendment.

The Hon. DIANA LAIDLAW: With all due respect to the Minister, I became more confused as she sought to explain the situation than I was when I was first reading this, because it would seem to me that the licences we are talking about in respect to (1) and (2) are in fact to be referred to as a licence granted under this Act, which would mean that clauses 7 and 8 would apply, notwithstanding any guarantees that the Government would give verbally or by means of this transition clause.

I will not labour this issue. I would like to ask the Minister one further question of clarification. In the second reading speech the Minister referred to this transitional provision being inserted in the Act to guarantee the stated intention of the Bill. Where a lot of

confusion may have arisen is the fact that the Minister gave an unqualified guarantee and not a qualified guarantee, in a sense, because what is said in the second reading speech essentially reads as a blanket guarantee, and yet we do not find that in the actual wording of the schedule; that is where confusion has arisen in this issue. Because of that confusion the Liberal Party has sought to respond to the concerns of those who have a licence to operate these independent services. We have the numbers on this matter and, if necessary, it can be debated further between the Minister and the shadow Minister in another place or at a conference.

The Hon. BARBARA WIESE: I will not prolong the discussion because it is quite clear that the amendment will pass, but one new piece of information has come to me that I did not know previously: under the current legislation these organisations are licensed for only a 12 month period at a time in any case. The intention of the provisions in the schedule were to ensure that licences would remain in place during the transition phase, and that, when this new legislation is proclaimed in about the middle of next year, all of these organisations would be guaranteed a licence for at least another 12 months, by which time appropriate consideration would have been given to future arrangements under the various clauses of the Act and decisions reached as to what period of time would be appropriate for new licences to be in place.

As I understand it, the arrangement under the new legislation does not provide for any fixed period of time and it may be that a decision is taken to license organisations for periods longer than 12 months. But certainly it is not the view of the Government or the Priory that it would be appropriate to license people in perpetuity, and to pass this amendment would in effect achieve perpetual licences. That is considered to be undesirable.

Amendment carried; schedule as amended passed.

Title passed.

Bill recommitted.

Clause 6—'Licences'—reconsidered.

The Hon. DIANA LAIDLAW: I move:

Page 2, after line 18—Insert subclause as follows:

(1a) When considering an application for a licence under subsection (1) the Minister is not bound to take subsection (1)(b) into account in respect of an existing licence holder who does not, in the opinion of the Minister, provide ambulance services in an efficient manner.

This amendment arises from debate on clause 6 and amendments which I had moved to delete lines 15 to 18 in respect to granting a licence. I sought to ensure that when the Minister was assessing whether or not to grant a licence he or she did not have to take into account the likelihood of any detrimental effect on the ability, including the financial ability, of an existing licence holder to provide ambulance services of a high standard. My amendment was not carried but, during the course of debate on that amendment, the Hon. Mr Elliott made a number of statements which, upon reflection, the Liberal Party believes have some considerable merit, particularly as we did not win the other case.

The Hon. M.J. Elliott: The merit increased.

The Hon. DIANA LAIDLAW: Yes; the merit did increase considerably and, being pragmatic but also wishing to see the best in the provision of ambulance services in this State and to address our concerns about the potential conflict of interest matters in relation to the Minister (because he or she not only grants the licences but has also an involvement in them), we believe that we should move this amendment, which is really a credit to the Hon. Mr Elliott. It seeks to insert a new provision, as follows:

When considering an application for a licence under subsection (1), the Minister is not bound to take subsection (1)(b) into account with respect to an existing licence holder who does not in the opinion of the Minister provide ambulance services in an efficient manner.

So, the emphasis in this is on the efficiency with which the service is provided. If the Minister deems that it is sufficiently operated, then of course new subsection (1)(b) would remain intact, and that would mean that he or she could then consider the financial impact on the current licence holder of the application for a further licence. In the circumstances, we believe that this is a prudent, fair and equitable measure, and we thank the Hon. Mr Elliott for bringing it to our attention.

The Hon. BARBARA WIESE: The Government opposes this amendment. It is quite circuitous, and it is rather difficult to know where it is going. Clause 6 is a discretionary clause, which provides that the Minister may grant a licence if, in the Minister's opinion, the criteria in (a) and (b) are satisfied. Now we are being asked to add a third point, namely, that under the amendment the Minister would not be bound to take (b) into account, (b) being the possible detrimental effect on an existing licence holder, if the Minister thinks the existing licence holder is not providing an efficient ambulance service. The problem with this amendment is how we define an effective ambulance service.

The Hon. Diana Laidlaw: Surely, that will be taken into account when the Minister is deeming whether a licence is to be granted, anyway.

The Hon. BARBARA WIESE: There are those who would argue that any emergency service where employees sit around waiting for a call-out is inefficient but, if one is a member of the public who benefits from such a service by receiving ambulance attention within minutes, I suppose the answer would be very different. Just suppose for a minute that the honourable member's amendments were to be accepted: does she really believe that the duplication of resources and the creation of excess capacity that would flow from licensing a competing service is in the interests of efficiency? I suppose here I am addressing the arguments that the honourable member raised in debate earlier about the question of competition but, certainly, it is the Government's view that the issues that need to be taken into consideration by the Minister in assessing applications for licences are appropriately covered with the provisions that are contained in the Bill, and it is not considered that the Minister's ability is in any way enhanced by the proposed amendment, and the Government will oppose it.

The Hon. M.J. ELLIOTT: I believe that the proposed amendment picks up the concerns I raised previously. I made quite plain that I could not accept the original amendment to new section 6(1)(b), because I believed that financial ability was an important factor. I think that, as a rule of thumb, having two ambulance services

competing with each other will not create efficiencies and, generally speaking, would not be a useful thing. However, what the Minister would now do, before granting another licence, is ask the question: (a) is the ambulance service providing a high standard of service; and (b) is it doing it in an efficient manner? If it is doing those two things, and also having a detrimental effect on the financial ability of that service, it becomes very important, and a further licence application would be refused.

However, if on the other hand there was an application for a licence and the current service was highly inefficient (and of course, efficiency has to be defined in terms of ambulance services, not in terms of anything else so that people sitting around for long periods of time is an irrelevancy), and argued that it would be affected financially, it would not be a relevant argument to put forward. In such a case, I would expect the Minister seriously to consider the granting of another licence. I hope and expect that we will have one licence in areas that will be of high standard and efficient. In such circumstances, no other licences would be granted.

The Hon. DIANA LAIDLAW: I thank the Hon. Mr Elliott for his contribution and say that I was rather surprised to hear the Minister's response to this amendment. I would have thought that, in terms of assessing efficiency of an ambulance service, there would be international standards that would be appropriate for measuring efficiency and effectiveness. Response to call-out times is one such matter, and I think that should be at least one concern that the Minister takes into account. I do not have all those standards and measures here, but I should have thought that, for any service towards which the Government is providing funds (and the Minister has indicated earlier that one of the reasons she opposed new section 6(1)(b) was the Government's investment in this service), the Government would be most anxious to see that the taxpayers were getting the best value for money for every dollar spent.

So, I will not elaborate on this matter of standards and measures, but I am aghast to think that the Government would not have measures which it believes it could use for determining efficiency in ambulance services and which would see that the taxpayer's dollar was well spent.

The Hon. BARBARA WIESE: I do not want to prolong this, but I think the comments made by the Hon. Ms Laidlaw were rather surprising, too. She is aghast at my comments, but I am aghast at hers. We have debates like this every day of the week. How do we define efficiency? If one is a health professional, one will define efficiency in a very different way from the way in which an accountant would define it, and they are the very issues that are at the basis of these matters.

So, it is not unreasonable to question what 'efficiency' is meant to mean within the context of such an amendment. However, it would seem that both the Australian Democrats and the Liberal Party feel that this amendment is desirable and, if that is their view, obviously they can have their way with the vote in the Committee stage. However, the criteria as established by the Bill I believe to be perfectly appropriate as far as the Government is concerned, and I reiterate that we will oppose the amendment.

The Hon. PETER DUNN: The Minister's comments were not made in the nicest way; they were done sort of with her tongue between her teeth. I, too, could provide the very best service if I had enough money—and, as my colleague rightly pointed out, so could Telecom but, since Optus has come in, we have seen the fees coming down. As I pointed out in the debate at the end of last week, we are getting to a stage where the country cannot afford it. The increase has been 28 per cent since June. What else has gone up 28 per cent? What we are talking about here is efficiency, not the amount of money—

The Hon. L.H. Davis: The State Bank debt.

The Hon. PETER DUNN: That is what will happen if we keep going this way. If you are going to determine that someone cannot do it because they are not efficient, they will provide you with books that will determine that they will go under if we change the system. That is just not on. I think what the Hon. Diana Laidlaw has put is quite suitable for the determination of a licence. It should have nothing to do with the amount of money people get, even if the Government is involved. Maybe the Government is wrong. Has that ever occurred to the Minister? It has to be efficient or we will not have a service. I tried to point that out before: that, if the service is not less costly, particularly in the country, we will not have one, and then where do we go?

Amendment carried; clause as amended passed.

Bill read a third time and passed.

[Sitting suspended from 6 to 7.45 p.m.]

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 October. Page 523.)

The Hon. DIANA LAIDLAW: The Liberal Party supports this Bill, which facilitates changes proposed for local government accounting standards as a result of the new accounting standard AAS27, which is to come into effect from 1 July 1993. The new standard follows recommendations in 1988 by the Australian Accounting Research Foundation that the accrual basis of accounting be adopted by local government and that the financial reporting regulations and practices of local government be standardised.

There have been many criticisms of local government accounting practices over a number of years, and new standard AAS27 seeks to address those criticisms. They fall most appropriately into three categories. First, the existing reports have not been useful to ratepayers, elected members and other potential users, and, in general, the existing reports focus on a narrow range of stewardship supported by pages and pages of finely detailed financial information with little regard given to the purpose of the reports and their usefulness for financial and economic decision-making. The second criticism is that the information disclosed in the existing financial reports is incomplete, as all information regarding assets and liabilities is not disclosed. In some States, financial reporting is still done on a cash basis. Thirdly, the lack of standardisation in presentation,

accounting policies and accounting treatment both within and between States has meant that there is a lack of consistency in local government financial reporting. This has made it difficult to compare between councils and between States.

In recent times, much of the work done in relation to financial reporting by local government has been considered by the Australian Accounting Research Foundation, which issued a discussion paper on this subject in 1988. As I indicated earlier, the new standard seeks to remedy all those criticisms and it is the belief of local government in this State that it is ready and willing to support the standard. The standards that are being proposed for local government are currently applicable in the general business community.

Liberal members are keen to support local government and the Government in seeking to raise the standards in this field of accounting practice because we appreciate that, in other Bills that have passed through this Chamber, we have provided local councils with a much wider range of responsibilities for activities within their area, including entrepreneurial activity, and we believe that it is important that the local community is fully aware of what its council is undertaking on its behalf and what ratepayers' commitments will be following such activities. The Liberal Party recognises that this new basis for accounting standards will ensure that local populations are much better informed about what is going on within their council. I understand that, in some senses, local councils are the first in line for these new standards and it is proposed that State Government agencies and Federal Government agencies will be the next to follow. Today the report of the Royal Commission into the State Bank of South Australia was released and there is general concern about the accountability of many Government agencies in this State. It will be heartening when those agencies are required to report on an accrual basis so that we will all have a better understanding of what is going on.

The other point about the implementation of such standards is that local councillors will also have much sounder knowledge of what is going on within their council area. That is because the new standards will take into account assets and will record depreciation. I understand that the Stirling council employs an asset register, but it may be the only council to do so in this State.

The other matter that the Bill addresses concerns the qualifications required for auditors. This matter has been the subject of considerable debate within my Party and amongst others who are involved in auditing local government accounts. The Bill amends section 162 of the principal Act dealing with the appointment of an auditor by a council. It sets a date of 1 July 1996 as the expiry date for transitional provisions which are in the Act at present and which protect those persons who were acting as auditors of councils although they did not possess the qualifications deemed to be essential. Those qualifications were addressed by Parliament in the Local Government (Reform) Amendment Bill of 1991.

It is appropriate at this stage to look at a little of the history of local government auditors. Prior to the proclamation of the Local Government Amendment Act (No. 2) 1991, the Local Government Qualifications Committee used to assess the standard required for local government auditors. However, the 1991 Act repealed the requirement for certificates of registration or ministerial approval for all positions or officers in councils and required instead that auditors of local government hold a practising certificate from an organisation prescribed in the regulations. The standards used by the Local Government Qualifications Committee were a practising certificate from either the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants. The regulations following the 1991 Act prescribe those two associations.

The previous qualifications committee could also assess individuals who did not meet this requirement but, under the 1991 Act, this alternative process of assessing individuals no longer exists and, instead, Parliament inserted in the legislation an ambit claim protecting the persons who were acting as auditors of councils although they did not possess the qualifications deemed to be essential. The Liberal Party accepts the Government's proposal to put an expiry date of 1 July 1996 on those transitional provisions. However, it is recognised that a number of people are currently recognised under the Corporations Law to act as registered company auditors, and we believe that it is only fitting that these people should also be seen as able to audit local government accounts.

We therefore have an amendment on file proposing to amend section 162, to provide that a person who is a registered company auditor may also act as a local government auditor. I have spoken with members of the National Institute of Accountants in South Australia, the group which raised the concerns in relation to this expiry date, and they are satisfied that the amendment addresses the concerns of members at this time. I understand that there may be further negotiations between the Government and the national institute, to have the institute recognised in regulations, along with the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants. That, however, is a matter for the Government to deal with, if it so chooses, at a later date.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Or the LGA, but I understand they are also negotiating through Treasury to deal with this matter. So it may not be the Government; but I would have thought that, essentially, an officer from the Treasury, who may be negotiating this matter would also—

The Hon. Anne Levy: There is a Treasury representative on the Local Government Advisory Committee, but the majority are local government people.

The Hon. DIANA LAIDLAW: That is right, but there are considerable discussions between Treasury officers and the institute at the present time, and I suspect that the institute will also be further negotiating with the Local Government Accounting Standards Committee, and that would be appropriate. But for the Government to bring in a regulation on this matter will be a matter for negotiation between the Government, the Local Government Accounting Committee, the LGA and the National Institute of Accountants. In the meantime, the amendment that I have on file—and I note today that the Minister has the same amendment on file—will address

the concerns of a number of members of the National Institute of Accountants who are currently auditing local government accounts but who would have been disqualified as auditors because of this expiry date proposed by the Government to the transitional provisions.

So, while there has been a delay of one week in debate on this measure, the fact that both the Government and the Opposition have the same amendment on file in respect of this auditing provision suggests that that week's delay has been worthwhile, that it has been time well spent and that we have sought to accommodate the concerns, and legitimate concerns, of members of the National Institute of Accountants in relation to this Bill. I would indicate that my amendment which would seek to establish that a registered company accountant would be qualified to be a local government auditor does relate back to the Corporations Act, specifically section 1279—application for registration as an auditor or a liquidator and section 1280—registration of auditors. Section 1280 reads as follows:

Subject to this section, where an application for registration as an auditor is made under section 1279, the commission shall grant the application and register the applicant as an auditor if:

(a) the applicant:

(i) is a member of the Institute of Chartered Accountants of Australia, the Australian Society of Certified Practising Accountants or any other prescribed body;

(ii) holds a degree, diploma or certificate from a prescribed university or another prescribed institution in Australia and has passed examinations in such subjects, under whatever name, as the appropriate authority of the university or other institution certifies to the commission to represent a course of study in accountancy (including auditing) of not less than three years duration and in commercial law (including company law) of not less than two years duration; or

(iii) has other qualifications and experience that, in the opinion of the commission are equivalent to the qualifications mentioned in subparagraph (i) or (ii);

(b) the commission is satisfied that the applicant has had such practical experience in auditing as is prescribed; and

(c) the commission is satisfied that the applicant is capable of performing the duties of an auditor and is otherwise a fit and proper person to be registered as an auditor.

I indicated earlier that the accounting standards AAS27 that are being prepared for local government are standards that currently apply to the general business community. We feel that it is appropriate that in respect of auditors those that should be eligible for auditing local government accounts should also meet the standards that apply in the general business community, as noted in the Corporations Act.

Finally, I would note that there has been a recent study undertaken by the Trade Practices Commission on accountancy, issued in July 1992. That in part deals with auditing of State legislation. I note that they register some doubts about Acts imposing a strict requirement that a person be a member either of the ICAA or the ASCPA. That, again, is an issue that will be addressed by the Government, the Local Government Accounting Committee and the LGA, in assessing the associations that will be prescribed under the regulations of this Bill, and therefore is a matter for another day. But certainly the Trade Practices Commission is looking at the rescriptive regulation nominating just the Institute of Chartered Accountants and the Australian Society of Certified Practising Accountants as being the only appropriate people who can audit local government accounts.

In conclusion, I commend the Local Government Association on the extensive work that it has undertaken in recent months in terms of providing opportunities for officers of councils, for engineers and elected members to learn more about the new accounting regulations and guidelines for accounting standards. There have been training seminars in the metropolitan area and in the country areas since mid-October, finishing in the middle of this month—in fact, for elected members they finish on 24 November in Jamestown and Clare. I am not sure how well those have been attended.

I hope that the reports that I have received from people in the metropolitan area in regard to early training seminars are not reflected in relation to attendances in the country, because I have been advised that attendances in the city area were low. It would be disappointing if that continued to be reflected at future meetings, because what is being proposed here is of enormous importance to councils and to ratepayers in general. It is something that people associated with councils would be wise to understand and interpret at an early stage, because the changes to accounting standards will be quite radical in many senses and certainly will be comprehensive. I support the Bill and again I indicate that we have just the one amendment on file.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank the honourable member for her contribution and am glad that the Bill will have the support of all members of this Chamber. As the honourable member has said, this Bill introduces the AAS27 accounting standards, which have been worked towards for the past four years. There is a nationwide agreement that these accounting standards will become operative on 1 July next year, and legislation similar to that which is before us is being passed in all States of Australia. Quite apart from simplifying the accounting procedures for many councils, it will mean a standardisation, so that council accounts will be far more readily comparable one with another, and all will be using the same system.

It will certainly make life much easier for organisations such as the Grants Commission, which needs to examine the accounts of all councils before allocating its grants each year, and it will mean that there is a common system around the nation. I am sure that it will simplify things for councils, once they become used to the procedures. Currently, I understand, they need to complete about 25 different schedules to comply with all the requirements currently placed on local government accounts without those 25 necessarily conveying information to local communities in an understandable form that communities can make much use of.

The honourable member also mentioned the amendment relating to qualifications of auditors and, as she indicated, I have an identical amendment on file. In relation to this matter, I understand that there has been controversy, as members will recall when, last year, this matter was discussed in the Council, regarding the

prescribed organisations of which membership would be a qualification to be an auditor for local government. At that time, membership of the NIA was not prescribed and, in fact, is not prescribed anywhere in Australia as a qualification to be a local government auditor.

There have been numerous discussions with the NIA and, of course, many of its members are very highly qualified, but their entry qualification is less than that of the other two prescribed organisations, and it is felt that someone with only the most basic qualification for entry into the NIA is probably not sufficiently trained to be an auditor for local government, particularly as the responsibilities and budgets of local government are increasing and their budgetary procedures necessarily are more complex.

I know that there have been suggestions that the NIA might have a category 1 and 2 of membership or, in some way, indicate through a form of membership those who had tertiary qualifications, who could then be prescribed in the regulations. However, that has not occurred as yet, although I am sure that discussions will be continuing with the Local Government Accounting Committee, which is, as I indicated in an interjection, primarily made up of people from the Local Government Association with one State Government representative.

The NIA is not a prescribed organisation for a local government auditor in any State of Australia but, in several States, the qualification set out in the amendment does apply, and it would seem quite logical and in no way lowering standards to include that as a qualification for South Australian local government auditors, hence the amendment, which obviously will have the support of everyone in the Chamber.

Certainly, I welcome the introduction of this Bill. It is the final stage of a lengthy but very worthwhile process. As from 1 July next year, we will have a national system of accounting for local government, one which is more modem, which will be standard throughout the nation and which, I understand, is being very well accepted throughout local government. The honourable member indicated that she has been aware that some training sessions have been taking place. I understand that there has been a vast number of such training sessions, which have been enthusiastically attended by officers in local government throughout the State. A manual has been produced by the LGA with financial assistance from the State Government, which is a guide to the new accounting system.

I understand that this, too, has been very well received throughout local government in this State. I look forward to the passage of this legislation so that the preparations for the introduction of AAS27 can continue and that, as from 1 July next year, there will be a smooth transition to the new system, which will meet with the acceptance and, indeed, the applause of all sections of the local government community.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: The Minister noted in summing up that this Act is to come into operation on 1 July 1993. Is that for South Australia alone or was the Minister suggesting that this legislation will be in place in all States and territories and that these new accounting standards will apply from 1 July 1993?

The Hon. ANNE LEVY: As far as I am aware 1 July was certainly the aim throughout the nation. To achieve that every Parliament will need to pass the requisite legislation. As I understand it, it is certainly the aim that all Parliaments will have enacted the requisite legislation so that it can become operative nationwide on 1 July. While not all Parliaments have yet passed the legislation, it is expected at this time they will all have done so before that date.

Clause passed.

Clauses 3 to 6 passed.

Clause 7—'Substitution of Divisions V and VI of Part IX.'

The Hon. J.C. IRWIN: Could the Minister explain how the Australian Accounting Standards will replace or fill in the present local government accounting regulations? I would imagine that they will not totally replace the local government accounting regulations, or is that the intention, that the Australian Accounting Standards totally replace and make the present local government accounting regulations outmoded?

The Hon. ANNE LEVY: The existing regulations will be completely replaced by a new set of regulations under AAS27. These new regulations have been drawn up but are still being discussed around the nation. It is expected they will be finally agreed in all their details before very long and can then be issued as regulations under this new legislation.

The Hon. J.C. IRWIN: I understand the basis of having common Australian standards, and I totally support that, but does that give the body of local government in South Australia any room to move so far as, if you like, putting in some other dates? Subclauses (2) and (4), refer to budgets. Subclause (3) provides:

> A budget must be adopted by the council on or before the thirty-first day of August of the financial year.

Is that part of the Australian Accounting Standards which then flow on in? Can the 119 councils in South Australia pick dates on which to have their financial year? Is it June to June or the beginning of July to 30 June? Is that the standard which no-one can depart from, or can councils choose a calendar year, for instance, or a November to December year?

The Hon. ANNE LEVY: The accounting standards do not prescribe what is a financial year;, it is a method of accounting. Obviously, the accounting standard presumes a 12-month period. The actual dates chosen are determined according to the legislation in each State and in this State the budget must be adopted on or before the end of August. By convention in this State certainly 1 July to 30 June has always been used by local government, as indeed by State Government, as their accounting year, but the standards themselves do not specify dates.

The Hon. J.C. IRWIN: Then the regulations would go with our Local Government Act, so far as accounting regulations are concerned, and cannot depart at all from the Australian standard? In other words, the thirty-first day of August, and a budget must be adopted more than one month before the commencement of that year but does not produce a month at all. Presumably, those months could include May to August in which a budget

financial year could traverse. I am asking whether any flexibility is allowed at all for a council to choose within those months, if that is all the flexibility there is. Are there some differential months in which to call its financial year?

The Hon. ANNE LEVY: There is a difference between the regulations and the legislation. The regulations set out the accounting methods and procedures. It is the legislation itself which, if it wishes, will determine the financial year. In South Australia our Local Government Act does specify that the financial year is from 1 July to 30 June. So that while there is flexibility for councils as to the timing of adopting their budget, within limits, the financial year is set down by legislation. That need not be uniform across the nation, though I would be surprised if it were not uniform across the nation, but that is not part of AAS27.

The Hon. J.C. IRWIN: Some of us can remember the somewhat tortuous times in years gone by, trying to find out the ideal date for council elections and whether the new council should be responsible for an old council's budget, or whether the new council should be responsible for its own budget. We have been through that sort of thing in South Australia. The first Saturday in May had all connotations of football finals and other things that were part of that process. I can imagine that other States may have arrived at different timings.

The Hon. ANNE LEVY: May is not football finals; it is October.

The Hon. J.C. IRWIN: No, but there were times before when local government elections got into football finals or other major events that made it difficult. Other States would have been through those same connotations only with slightly different emphasis on different dates.

The Minister has answered to my satisfaction what I want to know on those points. Subclause (5) provides that a copy of the council's budget must be submitted by the council to any person or body prescribed by the regulations on or before a date prescribed by the regulations. Can the Minister indicate who the body or persons may be,. there being no Local Government Department now? For instance, is one of those prescribed bodies likely to be the Local Government Association itself?

The Hon. ANNE LEVY: Previously, a copy of the council budget had to be submitted to the Minister. It is felt that that is quite unnecessary at the moment, particularly in view of the new relationship between State and local governments. As I understand it, the only body that is expected to be prescribed at this stage is the Local Government Grants Commission, which has always had access to these budgets, anyway. If the LGA or any other body felt that it needed access to the 119 different budgets, it could always apply to be prescribed under the regulations, and the case would be determined on its merits. Certainly, 'any person' will include any local ratepayer, so that any member of a council's community quite legitimately has the right to examine the budget of their council.

The Hon. J.C. IRWIN: I do not wish to jump too far forward, but for the purposes of illustration I refer to clause 10, 'Amendment of s. 164—Reporting of certain irregularities.' Given the Minister's last answer, would she expect the Local Government Grants Commission to be the body to which irregularities will be reported, together with any audit of councils' books for the year? I know I have jumped forward a bit, but it fits in with what I am asking about what a prescribed body would be. In the old days, and in her time as well, when the Minister was administering a department with expertise to back her up in looking at these things, if an auditor reported an irregularity, she was bound to follow that up. However, now I presume it is to be a person or prescribed body, and she is suggesting that one of those bodies may well be the Local Government Grants Commission. Will that be the sort of the body to which an auditor will report irregularities for follow up, as well?

The Hon. ANNE LEVY: No, the situation will continue as it exists at the moment: if an auditor finds an*y* irregularity in council accounts, or if certain criteria are met in terms of debt to rate ratios, the auditor will still be bound to inform the Minister of this matter and, as occurred when I was Minister for Local Government Relations (not Minister of Local Government), if any such irregularity was reported to me, I would use the good offices of Treasury to seek advice on the irregularity and the financial significance of whatever the auditor had reported on, so that there was no question of the Grants Commission or any body like that being responsible for examining irregularities. That will continue as before: there will be a requirement to report it to the Minister, who will use the good offices of Treasury to examine the matter.

The Hon. J.C. IRWIN: My final question on budgets is in reference to subclause (6), which provides that the council must, as required by the regulations, reconsider its budget during the course of a financial year and, if necessary, revise it. If I recall the present regulations, a formula is set out for that, where the council must revise its budget, I think before Christmas, and then look at it twice more in the financial year. Will the new accounting standards be prescriptive to that degree, or will it be just as here, with the budget having to be looked at only during the course of the year and, if necessary, revised?

The Hon. ANNE LEVY: As I understand it, while the standard itself makes no reference to this matter, the regulations themselves will require the budget to be examined at least once during the period of the financial year. This will be part of the regulations.

The Hon. J.C. Irwin: Just once?

The Hon. ANNE LEVY: At least once.

The Hon. J.C. IRWIN: My final question on clause 7 relates to financial statements. The statements prepared for each financial year must be audited by the council's auditor. My understanding is that, because of the expense and time, auditors in the past or up until now have only been able to spot audit; in fact, they have not been able to do a total audit of every council every year. I might be wrong about that, but that is my recollection. Is the Minister's advice that, under the new Australian accounting standards, it would be much easier to audit a council's affairs, and therefore an auditor should be expected for a reasonable cost actually to audit the total of council's affairs for that financial year?

The Hon. ANNE LEVY: There will be no change at all in the situation where an auditor is required to audit according to the Australian accounting and auditing standards. These latter standards are not being changed. I

think all auditors use sampling and risk analysis techniques. This is certainly expected under the Australian accounting and auditing standards, but there will be no change at all in responsibilities of an auditor.

Clause passed.

Clause 8—'Amendment of s. 162—The auditor.'

The Hon. DIANA LAIDLAW: I move:

Page 3, line 27—After 'amended' insert—

—

(a) by inserting after paragraph *(b)* of subsection (3) the following paragraph:

(ba) a person who is a registered company auditor;;

and

(b) [The remainder of clause 8 becomes paragraph *(b)*.]

As I explained in my second reading contribution (and I will not elaborate again), we believe it is important that a person who is a registered company auditor and who is seen as appropriate under the Corporations Act to audit general company accounts should also be able to audit local government accounts. I notice that the Minister has the same amendment on file.

Amendment carried; clause as amended passed.

Remaining clauses (9 to 15) and title passed.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 806.)

The Hon. L.H. DAVIS: WorkCover is a recurring nightmare for the Government, as if it did not have enough nightmares. In April this year, just seven months ago, we debated at length extensive amendments to the WorkCover legislation and they failed to pass the Parliament, notwithstanding the fact that an all-Party joint House select committee had recommended extensive changes to the workers rehabilitation and compensation legislation which first passed the Parliament in 1986. We remember that in the second half of 1991 the Government wimped out of addressing WorkCover reform because of union pressure, because South Terrace was firing the shots rather than North Terrace calling the tune.

Let me reflect on the agonising, tortuous and debilitating debate of WorkCover since it was first introduced in South Australia in 1986—since the establishment of WorkCover Corporation, a statutory authority with a monopoly to oversee, administer and operate workers compensation in South Australia, replacing, admittedly, a private sector scheme which had significant disadvantages not the least of which had been a rapid escalation in premium rates for certain industry categories.

If we look at where we have come from and where we are going, we see yet again an example of a Labor Government determined to be a follower and not a leader. South Australia's workers compensation premiums are the highest in the land, still well over 3 per cent, running at 3.4 per cent to 3.5 per cent on average for industry, as against New South Wales, which has premiums on average of about half that level. We see a system which is out of control and which has been rorted to an extraordinary degree.

In recent weeks we have read in the papers that one in every two workers on the REM site—and we are talking about hundreds of them—were going out on a workers compensation claim. Have we had the Government standing up and saying that this is outrageous? Not on your life, because this Government is in bed with the unions, and the unions are squashing them in a legislative way. The Bannon Government, followed by the Arnold Government, has rolled over and let the union movement take over when it comes to workers compensation.

Let us look at workers compensation levies, which were 3.8 per cent until they were reduced to 3.4 per cent to 3.5 per cent as from 1 July 1992. The Government took great credit for that and grabbed a few cheap headlines, announcing this reduction in WorkCover levies. Of course, it did not say that the current rate of 3.4 per cent to 3.5 per cent is still higher than the 3.2 per cent average rate which applied for workers compensation until mid-1990.

One of the problems we have in South Australia is that only one Party really understands an immutable economic principle—that is, that without profits you cannot create pay envelopes; that if costs are too high you will close down businesses, prevent them expanding and see them not attracted to this State from interstate or overseas. We have had a tired Labor Government for 10 years and an Australian Democrat Party which, together, have ignored Liberal Party pleas to have a sensible taxation structure and sensible WorkCover legislation.

We see yet again in this legislation no attempt by the Government to outline the economic and financial consequences of the proposed amendments to WorkCover. This has been a continuing problem for this Council: to actually be able to assess and comprehend the financial consequences of legislation. As for the Democrats, who stand condemned for having supported the original legislation six years ago—this Aeroplane Jelly Party that wobbles on any serious legislation, this Aeroplane Jelly Party—

An honourable member interjecting:

The Hon. L.H. DAVIS: Yes, and when it is not into Aeroplane Jelly it is mainlining on lentil soup. It is a Party which simply does not understand what a small business is. It is hard for me to comprehend that statement, because the Democrats are a very small business themselves, are they not? They meet in a telephone box, and there is still plenty of room, and they generally reverse the charges.

The sad thing is that for six years 57 000 small businesses in South Australia have been forced to pay on average the highest workers compensation levies in the land. The important point which seems to have escaped the Australian Democrats is that 95 per cent of all employers registered under WorkCover Corporation are categorised as small businesses—they employ fewer than 20 people.

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: The Australian Democrat asks, 'What has this got to do with the Bill?' WorkCover

premiums are paid by small businesses. If a person starting up a small business from scratch looked at the option of New South Wales or South Australia for a location, and saw that it was a choice between a Liberal Government or a Labor Government, and an Upper House that is not controlled by the Democrats, that person would say, 'Gee whiz, I am going to save 1.5 per cent on my payroll with workers compensation premiums.' Let us not mess around with that fact. In South Australia, it is an additional 1.5 per cent levy on payroll. Workers compensation premiums are that much higher in South Australia.

The Australian Democrats, this Aeroplane jelly Party, are at least wobbling in the right direction on this occasion and they are supporting amendments to the legislation. To be fair, earlier this year they went part of the way in supporting the legislative proposals of the Liberal Party when this measure was last debated. The Australian Democrats say that they are shoulder to shoulder with the Liberal Party. As I said before, I am a bit uneasy about that. I suppose that I am more comfortable with the physical juxtaposition of the Democrats being shoulder to shoulder with the Liberals rather than their being right behind us. I am certainly much more comfortable with that. However, it is certainly not true to say that the Australian Democrats are shoulder to shoulder with us.

The Hon. J.C. Burdett interjecting:

The Hon. L.H. DAVIS: Yes, the Democrats might be shoulder to shoulder with us but they are walking in a trench; they are much shorter than we are. The Democrats will support only some of the amendments which my colleague the Hon. Mr Griffin has flagged will be moved during Committee. I remember with some chagrin when, earlier this year, the Liberal Party proposed a swag of amendments to WorkCover legislation which would have effectively reduced the WorkCover premiums in South Australia by at least 20 per cent—a dramatic reduction. It would have sliced it back from 3.4 or 3.5 per cent to 2.7 or 2.8 per cent, but the Australian Democrats could not see the wood for the trees. Admittedly, they supported two amendments which went some of the way towards reducing WorkCover legislation, namely, stress and the issue of the second year review. I accept that in that sense the Hon. Mr Gilfillan was shoulder to shoulder with the Liberal Party on that occasion although, as I said, he was standing in a ditch, and he did not go all the way with us. Sadly, when the amendments passed in this place and went back to another place they were rejected, and one has to ask where was the Speaker (Mr Peterson) at the time.

The amendments that we are debating tonight are very similar to the legislative measures that were addressed in this Chamber some seven months ago. The concerns that we articulated so publicly, so vehemently, so strenuously at that time did not meet with the approval of the Labor Party, the then Premier (Mr Bannon), the present Premier (Mr Arnold) and the Speaker. A funny thing happened on the way to the Parliament on this occasion. I will not speak about the circus, the comedy, the farce, which has accompanied the public and parliamentary debate about the WorkCover legislation. I just want to say that it saddens me, it distresses me, it makes my blood boil to see this hypocritical, weak, insipid, lacklustre Government bend and twist in the breeze according to what the unions dictate and, of course, what the Speaker demands. The political exigencies of the day mean much more to this Government than do the needs and the desperation of small businesses in South Australia. As one who has been in small business, as one who has close relatives in small business—

The Hon. T.G. Roberts: It started off as a big business.

The Hon. L.H. DAVIS: The Hon. Mr Roberts unwisely interjects and says that it started off as a big business, and he is absolutely right. So many businesses in South Australia started off as a big business and are now a small business. That is what they say about life under Labor. If one wants to operate a small business under a Labor Government, one should start off with a big business. That is what people say, and the Hon. Mr Roberts, as a member of the Labor Party, has recognised that point in his unwise, unwitting interjection.

The Hon. K.T. Griffin: Witless.

The Hon. L.H. DAVIS: A witless and unwitting interjection. It is extraordinary that this Government has had more twists and turns than the maze that is growing at Carrick Hill. The all-Party, joint House select committee, on which the Hon. Mr Gilfillan, the Hon. Mr Terry Roberts and I are representatives of the Legislative Council, has been meeting for nearly two years and made clear and unequivocal recommendations in a report to Parliament, which was tabled in April 1992. The two principal recommendations to which all members of the select committee agreed were to review the definition of stress and to amend the provisions relating to the second year review. That would have had a dramatic reduction on the premium rate and it could have been in place in April.

However, the Minister of Labour Relations and Occupational Health and Safety (Hon. Bob Gregory), Chairman of the select committee, tabled the report of the committee in another place and signed it, having agreed with the recommendations relating to the definition of stress and the amendment for the second year review. Yet, in the same breath, he tabled in the other place a Government Bill, which ignored those recommendations. It was an extraordinary about-face, schizophrenia in action. It was extraordinary. How could he do it? How could he put up his hand in the select committee and vote for those two important amendments yet, in the same breath, introduce a Government Bill? The Hon. Terry Roberts cannot interject on that because there is no story.

The Hon. T.G. Roberts: He didn't put his hand up.

The Hon. L.H. DAVIS: The honourable member is saying that the Minister did not put up his hand in the Cabinet.

The Hon. T.G. Roberts: You said in the select committee.

The Hon. L.H. DAVIS: He did put up his hand; it was a unanimous recommendation.

The PRESIDENT: Order! The Hon. Mr Davis will address the Chair.

The Hon. L.H. DAVIS: I am telling you, Mr President, that it was a unanimous recommendation from the select committee. The Hon. Terry Roberts, the Hon. Mr Gilfillan and I, representing this Chamber, signed a report on that basis. To tell the full story, I should

mention that Graham Ingerson, the member for Bragg, and I had a minority statement appended to that report which went further.

The Hon. I. Gilfillan: It was Atilla the Hun stuff.

The Hon. L.H. DAVIS: The Hon. Mr Gilfillan describes it as Atilla the Hun stuff. Again, that shows that the Australian Democrats are languishing in fantasy land because the recommendations that we proposed were not draconian. They were no different from what is mainstream workers compensation legislation in other States. As the Arthur D. Little report states, if the Hon. Mr Gilfillan has bothered to read that important document, it is not a matter of South Australia competing against other States; it is a matter of South Australia competing against the world.

That is where we are at these days in the economic debate, and it is about time the Hon. Ian Gilfillan knew that fact. When we find that in 1993 the standard of living in Singapore will surpass that of Australia, then it is time even for the Australian Democrats to put matchsticks in their eyelids. What we have in this legislation is yet another attempt, belatedly, to amend the WorkCover legislation, to reduce the WorkCover premiums. The second reading explanation makes no attempt to quantify what the reduction in levy rates will be, and I put on notice to the Minister in charge of this legislation that I would like, hopefully at the beginning of the Committee debate, a full and detailed explanation of exactly what the Government measures will mean in relation to each of the amendments. What is the financial impact? What is the benefit in relation to a reduction in levy rates from the measures proposed?

I find it extraordinary and unacceptable that the Government, with all the resources it has at its disposal, was unable to provide this information at the second reading stage. At least when the Liberal Party put its package of amendments together back in April 1992 we detailed the impact of every amendment, what the consequences of each amendment would be to the levy rate, and we did that because the Minister of Labour, the Hon. Bob Gregory, to his credit, gave people access to senor management in WorkCover Corporation to allow us to fully cost what our proposals might be.

If the select committee's proposals had been adopted back in April 1992 it would have reduced levy rates by between .4 per cent and .55 per cent—a significant reduction. Most of those savings would have come from the second year review provisions, which would have accounted for about .25 per cent. The amendments to section 30 provisions relating to stress would have amounted to .05 per cent—not very much, but it was significant in the sense that stress levels are growing at a rapid rate and indeed are accounting for some 30 per cent of all payouts of workers compensation in the public sector.

It is worth noting that stress in South Australia has reached an art form. Stress levels in the South Australian public sector are 28 times the level of stress claims in the New South Wales public sector and private sector combined—quite extraordinary. In fact, stress is such a little known phenomenon in New South Wales they do not even quantify it in their reporting. So the rorting that went on in the public sector and in the private sector is very much a by-product of the effect of the WorkCover legislation which this State has endured for six years. Of course, the sadness is that for most of the six years that the WorkCover legislation has been in operation employers in South Australia have been disadvantaged by paying premium levels well above those of their counterparts in other States.

So, I want to put on record the point that has already been made by my colleague the Hon. Trevor Griffin that the Liberal Party has had a coherent package to try to do something sensible about WorkCover legislation in this State. I find it unacceptable that, for instance, 25 per cent of all employers registered under WorkCover are paying a 7.5 per cent minimum levy rate. Of course, on top of that there are penalties, so many of them are paying more than 7.5 per cent.

The Liberal Party has indicated that in addition to the amendments proposed by the Government we will be looking at journey accidents; we will also be looking at overtime; and we will be looking at amending the benefit levels which currently operate. It is important to recognise that journey accidents account for only about 2 per cent of total claims costs but about 2 per cent of the total claims costs could be largely covered by compulsory third party. The advice is that probably 50 per cent of the journey accidents that are claimed under WorkCover could be recovered from the compulsory third party fund.

These are accidents over which employers have no control. Obviously it is an area which is subject to great abuse. Statistically, I would suspect that, if we look at the reporting of journey accidents, many of them will occur on weekends, involving things like sporting injuries. I have had many examples provided of situations involving journey accidents, such as people tripping over their pet dog as they went to the garage to get into the car to go to work, with these costs being picked up by workers compensation. Do people really believe that employers should be burdened with additional premiums to cover those accidents?

We have also proposed that overall payment of weekly benefits should be reduced, that 100 per cent for the first three months, 80 per cent for the next 12 months and 75 per cent thereafter would bring us in line with the New South Wales system, and in fact still leave us, as I understand, in a better position than New South Wales. One of the undoubted facts about our WorkCover system is that the level of benefit is so high it actively discourages people from returning to work.

The one fact that I must say is pleasing to note is that WorkCover's unfunded liability has been steadily reducing. It has come down from $134 million in 1991 to just under $100 million at the end of June 1992. Of course, given the target of having a fully funded scheme by 1995, one of the elements in that is proper administration of the scheme. In that, I believe that WorkCover administration under Lew Owens' leadership has made steady progress over the past two years in particular.

I commend its efforts. That is not to say that there are not still some problems within the administration of WorkCover, but there is no doubt, from the experience that I have had serving on the WorkCover select committee for the past two years, that the administration of WorkCover has steadily improved over that time. Of course, we should also recognise that, in the depths of an

economic recession, there has been predictably a sharp fall in the number of claims. Indeed, there has been a 5 per cent fall in full-time employment in South Australia over the past two years. So, it is not surprising that the funding of WorkCover has not been as strained as it was in more buoyant times.

The matter of stress has been dealt with by my colleague the Hon. Trevor Griffin and, obviously, that can be a matter of debate in the Committee stage. The fact is that a Supreme Court decision, which the three judges accepted was a bizarre decision, nevertheless was made in favour of a worker who succeeded in his claim for workers compensation on the ground of stress because of the curiosity of the definition in the legislation, and amendments that have been recommended in the past by the select committee addressed this measure.

There have also been proposals to address the second year review problem, where people with intractable illnesses or disabilities resulting from accidents while at work are brought under a social security net, and that is a matter that all parties recognise must be addressed. The exclusion from the calculation of a worker's average weekly earnings of superannuation contributions paid by employers is also sensible. The legislation, then, does go a long way toward meeting some of the recommendations of the select committee. However, the Liberal Party believes that the Bill should go further. Accordingly, as my colleague the Hon. Trevor Griffin has said, the Liberal Party will be moving a number of amendments. I know that the Hon. Ian Gilfillan has already ruled out any discussion of these amendments. He has already flagged his opposition to the amendments. I am saddened—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: I am sorry, I am not picking up your drift. I don't want to embarrass you, but I think you should read the debate in another place and not make a fool of yourself in this place.

The Liberal Party will be moving a series of amendments. I must say that it disappoints me that the Hon. Mr Gilfillan does not see fit even to listen to the arguments in the Committee stage, given that the employer groups in South Australia, which have been consulted this time as they were in April 1992, very much support the amendments. The economy of South Australia is in desperate straits: we have 11.3 per cent unemployment; we have had record business bankruptcies and there is no light at the end of the tunnel.

The ANZ monthly employment indicators show that South Australia is trailing all other mainland States by some distance in creating new jobs and that the retailing sector in South Australia is also trailing other mainland States. Housing is patchy. There is little prospect of any significant economic recovery in coming months and, therefore, a time such as this for economic reform and for legislative change must be taken more seriously, I submit, than the Australian Democrats have taken it on this occasion.

Whilst we welcome the Australian Democrats standing shoulder to shoulder on two of the major reforms to workers compensation legislation, I hope that overnight the Hon. Mr Gilfillan will reconsider his hasty and, I think, ill-considered judgment not to examine any further reform to workers compensation; that he will take counsel from employer groups and small businesses around South Australia and join the Liberal Party in seizing the moment, reforming this legislation and giving South Australian small businesses at least some ray of hope in the form of a workers compensation scheme that has premiums at least competitive with those of interstate rivals. I support the second reading.

The Hon. BERNICE PFITZNER: My contribution will be very brief, following the very colourful speech of my colleague the Hon. Mr Davis and the very comprehensive contribution by the Hon. Trevor Griffin. I want to make just a generalisation about this Bill. The workers rehabilitation and compensation system, or WorkCover, is an attempt to provide a safety net for the work force. All employers are required to pay workers compensation premiums for all their employees, and the system is what is called a no fault system. This ensures that workers are entitled to income support, irrespective of whose fault the injury was. This is justifiable, as the worker would need support following an injury, no matter whose fault.

However, although the concept of WorkCover is good, the general strategy at present may achieve the aim but at a high cost to workers, to employers and to the State. For the workers, we need to put in incentives to return to work. Such incentives are to do with economic returns and with the attitude towards work. For the employer, we need to encourage safer work practices and to engender an attitude towards working together. For the monopolistic WorkCover, the system should provide relatively low levies and to eliminate unfunded liabilities which, at present, stand at $97.2 million as at 30 June 1992. Although the liabilities have been reduced over the past two years, the rate of reduction is not enough. The average levy premium is said to be reduced from 3.8 per cent to 3.5 per cent. However, the target to be achieved ought to be around the 2.7 per cent to 2.5 per cent range. It has been reported that every .5 per cent drop in the levy could mean 200 new jobs. Therefore, to achieve a target of a 1 per cent drop, 4 000 new jobs can be expected, which is an ideal goal.

The Workers Rehabilitation and Compensation Bill initially sought to reform eight issues, those being the following: limiting eligibility of stress claims; tightening payments of benefits to claimants pending review; employers making direct payments of income maintenance to claimants; a new system of capital loss payment for workers who have been on benefits for more than two years; the exclusion of superannuation for the purpose of calculating benefits; the exclusion of damage to motor vehicles for compensation for property damage; the disclosure of information in relation to claims against the employer; the cost before review authorities; and bringing the Mining and Quarrying Occupational Health and Safety Committee under the control and direction of the Minister of Labour Relations and Occupational Health and Safety.

To this list we add what is now known as the 'Peterson's changes', and they include the review of lump sum non-economic loss payments. This proposal would amend the first schedule to include disabilities added by regulation in June 1992, and add to the third schedule a provision that any disability not specifically identified on

the schedule be compensated on the basis of an assessment of permanent loss of total bodily functions expressed as a percentage to be applied to the prescribed sum. Therefore it really abolishes the concept of pain and suffering compensation *per se*, and all permanent disabilities will be compensated by the third schedule with its list of defined injuries and specific pay-outs on the basis of a medical assessment on loss of capacity. Only the most severely injured will qualify for a supplementary payment increased from $89 300 to $155 000.

The other Peterson change is the common law claims. It is proposed that the limited legal right of a worker to sue the employer, at common law for negligence be removed for all future claims. The Government in the other place decided to oppose these amendments. However, with the tortuous and devious discussion of a Government I believe clinging onto power, I understand that the Government here in this Chamber will now support the so-called Peterson amendments. At present the issue of WorkCover and its amendments are not clearly thought through. If it is the Government's intention not to support the amendments, then why the about turn? It is sad that such a Government wants to stay in power in spite of the community indicating otherwise. If the Government is directed by unions and if this Government believes in its union philosophy, why then the change?

This Government's emphasis is solely on workers' benefits and not on how the employer might try to survive, nor even how this State might try to survive. Workers' benefits have been generous to date, but in this recession and in the Government's huge economic loss due to financial mismanagement, all these benefits cannot be further provided. We must have a reorganisation of the whole compensation system-a compensation system that gives bonus points for early return to work. It has been said that an early return to work might prolong the worker's recovery in the long term. It may be so for some but, observing workers' attitudes to work, I do not think that early return to work of unwell workers will be a problem.

Rehabilitation is an important area as well. However, this area has to be dealt with comprehensively, or else we will be over-servicing this area with para-health professionals and with no added benefit. We must evaluate our rehabilitation system to monitor for effective outcomes. At present the fee-for-service system by which rehabilitation providers are paid encourages prolonging the disability rather than shortening the recovery. We must have clear guidelines and strategies that will improve or cure the disability as economically, efficiently and effectively as possible. Accident prevention in a safer workplace must be actively canvassed. Suggestions to employers of implementing strategies for high risk activities are important. Bonus points ought to be given to these employers who have a safe workplace record.

Finally, as with industrial relations and WorkCover, it is the attitude that workers and employers have to work and to each other that must be addressed. If a workplace is safe, and if the worker's relationship to his employer and to his job is positive, I believe a lot of WorkCover pay-outs will be reduced. Therefore, with these general principles of providing a safety net for injured workers through compensation and rehabilitation we must also look at benefits and building incentives, improved accident prevention and look at the economics and methods of this and other systems so that the system can be self-funding and the system does not lend itself to abuse all for the benefit of workers and employers.

At present the Government is only tinkering at the edges, clinging on to power and not fully attending to the issue. With these concerns and with reluctance I support the second reading, but this Bill could and should do so much more for the care of the working community.

The Hon. J.F. STEFANI: I welcome the opportunity to speak to this Bill. My colleague the Hon. Trevor Griffin in his contribution has covered many areas of concern upon which the Liberal Party has received representation. Amendments will address a number of the issues which have been identified by the Liberal Party.

Since its inception in 1987 WorkCover has had a very controversial existence. Employer groups have been most critical of the haste in which the Workers Rehabilitation and Compensation Act was originally changed by the Labor Government and the way in which WorkCover has performed since it was established. Right from the outset the Liberal Opposition has expressed serious concerns about the effectiveness and efficiency of the WorkCover scheme. The Liberal Party has repeatedly highlighted potential problems and the areas which we have identified include the question of funding of liabilities, workers rehabilitation programs, employers' levies, cost of administration and the overall cost of rehabilitation, which should be measured against the results of returning injured workers to their jobs.

From the promise of a fully funded scheme the community has seen a massive accumulation of unfunded liabilities. Obviously, to cover the huge cost blow-out, employers have been called upon to pay higher levies and in a good number of instances levies have almost doubled from 4.5 per cent to 7.5 per cent. For some time now the Labor Government has backed down over WorkCover reforms which were originally promised to employers by the former Premier, Mr Bannon. The U-turn taken by the Arnold Government has been highlighted by the hypocritical action of voting against a major Bill in the House of Assembly and then arranging for the Upper House Labor members to vote in favour of the measure.

One could be forgiven for thinking that the Labor Party has lost both its direction and its principles. I am sure that the people of South Australia will remember this cynical manoeuvre at the next election and will have the opportunity to cast judgment on the leadership of Premier Arnold who, like his predecessor, has become the captive of the union bosses who have been previously described by the Minister of Primary Industries as 'bovver boys'. Premier Arnold has chosen to retain the support of the union movement by taking the easy option which will ensure that his Government will remain in power for just a little longer period.

There are many employers who can demonstrate that workers compensation costs in South Australia are significantly greater than those in other States. An example would be a medium sized South Australian retailer with workers compensation costs of $22 000. In Queensland a comparable company would pay $3 000.

On average workers compensation costs in South Australia are 25 per cent above the national average.

There are three options which can be considered by Parliament: we can retain the concept of a monopoly insurer, such as WorkCover, we can move to limited and regulated private insurance involvement, such as is the case in New South Wales; or we can go to a fully privatised scheme. The Liberal Party believes that immediate changes are required to the existing scheme for two reasons: for every .5 per cent average levy rate decrease about $60 million is saved by employers. This could mean 2 000 new jobs. A reduction in the average levy rate from 3.5 per cent to 2.5 per cent, which is the immediate employer objective, could provide 4 000 new jobs while leaving WorkCover with sufficient assets to cover its liabilities. Secondly, there is a good possibility that the WorkCover monopoly concept does not represent the most efficient way to manage WorkCover's compensation in this State.

The key issues now relate to the legislation which WorkCover must administer. The payment of an excessive level of benefits to injured workers who have been in the scheme for more than two years represents a disproportionate cost burden. It is recognised that a small number of the total WorkCover claimants represent a major proportion of the scheme's liabilities. Employers want to return to what was promised in 1986 when the scheme was first developed—substantially reducing long-term benefits. The Peterson proposal does not address this problem. Employers have generally supported the abolition of common law remedies which are inconsistent with a no-fault scheme. The Liberal Party has an open mind about this proposal which is said to save substantial costs. However, we have not been able to identify these costs and there is no defined absolute value which these costs could represent.

The Liberal Party supports the inclusion of the stress definition to avoid a scheme obligation to meet almost every stress claim such as is the case now. The union prompted suggestion that WorkCover should have the right to release confidential employers' claims history is designed to convert WorkCover into an industrial relations weapon which will substantially undermine WorkCover's credibility and is unfair given that the employers have little control over many of the accidents and have a very difficult task in assessing information about the potential fraudulent claims made against them.

Finally, the legislation is in the hands of honourable members in this Chamber. The challenge is now very much in consideration of the decisions that will be made. We have the option of endorsing the Peterson package or of looking at reforms which will provide long-term benefits to employers and employees alike. I support the second reading.

The Hon. R.J. RITSON: My contribution also will be brief. I begin by supporting the position taken by the Hon. Trevor Griffin on the common law. The right of every citizen in this country, regrettably with a few exceptions, is to have recourse to the courts for a ruling as to whether he or she is entitled to damages as a consequence of loss suffered by another's negligence. That stands as a universal principle, unless interfered with by Parliament. In the case of workers compensation, alongside that right as it was stood a system of no-fault compensation. Now, because of difficulties with the no-fault compensation, we have already eroded that right and we propose to take it away.

If a worker, who was an up and coming concert pianist, were injured by obvious negligence in the workplace, and that injury resulted in the loss of a little finger, that would be a terrible loss, and our system of justice used to provide a remedy. As I said, we have eroded that right and we now propose to take it away altogether, just to cover up the bumbling and the wrong thinking behind today's system of no-fault compensation. We are blaming one for the other; we are cutting the foot to fit the shoe, because people on that side of the bench will not admit that the original Woodward concept was wrong; it does not work. I grieve for that.

Frankly, we need to attack the problem where it lies rather than attack another legal right. We need to recognise that the system as it stands is subject to insurance fraud by workers and others who work with the system, such as service providers. We need a disincentive for fraud.

Furthermore, the psychology of adopting the sick role should not be reinforced, but in our society it is. We do not recognise that if someone is bereaved they deserve a day off, but if somebody is sick, and we call it tension headache instead of bereavement, it is all right to take sick leave. Somehow we deify the sickness. Clearly, someone who has an injury and suffers the loss of a leg will not try to pretend that he has the loss of a leg when he has not. Even at that level the system exacerbates the grief and depression that will follow the loss of the leg. The way people are interrogated and treated as objects in the system compounds the situation.

I give an example, Sir. I recall a patient, a brickie's labourer (I do not think this man is still alive because it was so long ago) with one leg due to a Second World War injury. He had chronic infection in the stump and used to come along for combine dressing to put around his chronically infected stump. I said to him, 'What is your entitlement? What pension do you have?' He said, 'I haven't got any.' I said, 'But you would be entitled to a pretty good repat pension.' He said, 'I will take that when I can't work, but I can work with this.' He went up and down ladders with it. Anyone else would be perfectly entitled to cease work forever.

Even with profound physical injury there is a strong mental component which conditions whether the person is or is not in the work force at a slighter level of injury. Everyday of the week people limp around the golf course on a sprained ankle that they are not prepared to limp to work on. We need some incentives, both positive and negative, at this level to ensure that people are given enough self-respect, are not depressed by the system and are encouraged to do whatever limited amount of work they can. Of course, in the employment climate that Paul Keating has given us, that is a pretty tall order anyway. It is quite wrong, when the system has this defect in it, that we attack the common law area and the matter of negligence. That is unjust because most of the problems we are dealing with are caused by the quite different set of no-fault insurance principles.

I could repeat this in a circular fashion forever but we will never, at least while this Government is in power,

accept the fact that it is reasonable to be compensated at a level a little bit less than one is receiving when at work. I have privately-funded sickness accident insurance. It is not terribly expensive for my age when one compares it with some of the WorkCover premiums. The striking thing about it and about why it is competitive is that, first, I cannot insure for more than 90 per cent of my income and, secondly, I have a qualifying period, and that varies from policy to policy but it is commonly seven days. That insurance effectively protects me from the consequences of major illness however caused, whether or not work related, but I cannot use it to go to the mid-week races—and that is the whole point.

The other point is the provision for the employer to make payments which would subsequently be reimbursed by WorkCover. What sort of a try-on is this? If I were to ask the community for a multimillion dollar interest free overdraft, I would be laughed at.

If anyone were to get a 3 per cent housing loan from the State Bank, that would be scandalous, but it is all right for a Government instrumentality, a quango such as WorkCover, to go to the Government and ask for and be given the legislative power to ask the community for a megabucks interest free overdraft. The Bill provides that the employer is entitled to reimbursement and, if the regulations so provide, interest at a prescribed rate. What sort of a condition is that? If they do not provide—

The Hon. J.C. Burdett: There would be no interest.

The Hon. R.J. RITSON: As my colleague the Hon. John Burdett has said, if they do not provide, there is no interest. If the prescribed interest rate is substantially less than the going commercial rate, again an injustice is done. Talk about riding roughshod over natural justice! It makes the mind boggle. This is an unjust Bill.

I now want to address the problem of the employer who makes payments. Section 46(8i) provides:

> An employer may make payments of compensation on behalf of the corporation in anticipation of a claim for compensation being subsequently made to the corporation and determined in the worker's favour.

I am sure that the trade union movement will expect the weekly payments to begin the day the worker fills out the form.

The Hon. R.R. Roberts: The day the injury occurs.

The Hon. R.J. RITSON: The day the injury occurs, yes. Of course, WorkCover will take advantage of the free overdraft provisions but, under subsection (8i) the worker or the worker's representative will say immediately, 'You may make these payments now. I want the money.' Of course, WorkCover has not processed or evaluated the claim, and several weeks may pass. Indeed, the claim may be rejected. It may be a claim for a journey injury and it may be discovered that the evidence points to the injury not being on the route to work but on the way to the beach, so the claim is rejected. What will happen to the claim for reimbursement now? Will WorkCover expect the employer to carry the bad debt? Will it expect the employer to attempt to recover that money, if necessary by recourse to the law?

This is an appalling bit of legislation in those respects. I despair of the Government or indeed of the Democrats picking up these points, but there is an issue of justice. Justice is denied by the erosion of common law rights, by forcing the initial payments, the delay in reimbursement and possibly the carrying of the bad debt on to the employer. This is an added impost on the cost of production in this country. This is a perpetuation of adversary class politics, the world of *Wigan Pier*—and Mr Terry Roberts would know more about that than I.

Members interjecting:

The Hon. R.J. RITSON: He is a well-read man and is more intelligent than I am. However, I should like to remind him that the nineteenth century has come to an end. The industrial revolution is no longer at its peak and the world of Karl Marx has tumbled into ruins in those countries which most lauded his writings. I should like people of Terry Roberts' persuasion to look honestly in their hearts at the question of legislation that simply requires all employers to take out sickness and accident policies from private insurers at the community rate. Certainly the first few days would have a threshold, but the safety net would be there for any type of illness or injury, and the fictions of trying to relate some sort of illness or injury to the workplace would no longer be needed. In conclusion, I emphasise that it is a question of justice, justice, justice.

The Hon. PETER DUNN: I support the Bill, but I hope that there will be a significant amendment to it. I like to think that every member in this Chamber and every person in South Australia wants to see WorkCover as efficient and effective as possible because, as a State, we need to have as much profit as we can. Let me explain that I believe that profit is a wage, unlike others who believe that it really means my ability to exist. I declare my interest there and say that I would be one of three members in this place who pays WorkCover, and it just so happens that they all sit on this side of the Chamber. Prior to being lucky or unlucky enough to break out and take on a business of my own, I worked for wages. The Hon. Mr Stefani, the Hon. Mr Gilfillan and I would be the only persons in this Chamber who have paid WorkCover and have had to put up with it. I notice that the Hon. Dr Ritson has put up his hand. Obviously he has employed someone and has had to pay WorkCover. At the moment, I think we would be the only three in this Chamber who do.

WorkCover and the people who work for the corporation are most obliging and efficient. They seem to know their job and I pay tribute to them. However, under the legislation, I have to pay WorkCover bills on a monthly basis. How pernickety and fiddly is that! I would have thought that, for the small amounts I pay, three monthly would be sufficient. I do not pay every month because the person I employ gets paid on a share basis and receives most of his money in two or three payments a year. At other times I employ casual labour, for example, shearers, and they are paid at the time. In effect, I pay WorkCover about four times a year, and I consider that to be adequate. However, if I have a claim, WorkCover wants to pay me only on a three monthly basis. There is one rule for one and another for the rest.

The Hon. R.J. Ritson: It is all to do with interest rates.

The Hon. PETER DUNN: It might be a free loan to the Government and, after today, it certainly needs it. As an employer and farmer in a relatively high risk business,

I think we have benefited since the introduction of WorkCover. I know that my premiums have dropped from what they were before WorkCover. However, I was not paying for cover in relation to everyone who came on to my property, as I do at the moment. Under WorkCover now I am obliged to take out cover on myself if I pay myself under a company situation. So I declare my interest there in saying that I have a problem arguing either side of the case, because I could be the recipient of WorkCover but am also a payer of WorkCover.

WorkCover is very essential for some high-risk jobs. The rural community with which I am most familiar really needs a cover of this sort. There are certainly dangerous jobs in it. I have cited previously the case of the ringer who is used to cut out stock, particularly cattle. If he is on a horse in a mob of cattle and a steer or bullock ducks his block, before you know it he is on the ground. There is no other way of doing what that ringer does. I could take members north and show them how it is done every day of the week when cattle are being taken off the properties. There is no other way to do it, other than to drive the cattle for many miles to put them in yards. Animals are unreliable, particularly in the wild, and it does make the job dangerous. It is necessary to have cover.

There ought to be some cross-subsidy there and I guess there is some, but there are other high-risk industries, probably because of past practices. Some of those industries may need reviewing and looking at. All in all, WorkCover in South Australia has made us quite uncompetitive with other States. One thing that disturbs me most is this argument about stress. Stress does not come into the high-risk physically dangerous categories that I have been talking about. It seems to me that stress is all in the muscle in the head. In my opinion, it is not stress, but distress, and people who get distressed have personality problems. They cannot get on with their mates or something goes wrong so they go and make a claim.

They maintain that they are under terrible stress. A couple of years ago it was RSI for which people were claiming, saying, 'Oh, I've got terrible RSI, my drinking elbow's gone on me, I just have to have a couple of months off to recover.' The problem is that we indeed have made light of these stress claims and this is becoming folklore, if you like. In some States they are unheard of, but in South Australia we have a huge number of stress claims and this has got out of hand. Employee A tells employee B, 'I had a week off with stress; you had better try it on.' Who pays? In the long term, it is generally one of the people in that industry who gets the sack, because this type of thing is unaffordable. The plain fact is that stress, or distress (or whatever you want to call it) is costing huge sums of money. Unfortunately it is probably because of some personality clash or not being able to get on with the boss or with their mates, or whatever.

Certainly, the common law claims worry me, if these are knocked out under this proposal. I have an obligation to look after myself. If I get in my car, I have an obligation to put on a seat belt. If I get in my plane, I have an obligation to see that it has enough fuel. There are thousands of examples that could be used, in that a person has to look after himself.

There are odd occasions when an employer steps over the line and allowance ought to be made for common law so that those claims can be taken to their logical conclusion. This Bill needs amendment, and the Hon. Mr Griffin has laid out those amendments clearly. I will be interested to hear the Attorney's reply, and I note that he has enough people out there to support him—a lot more than we have—and help him through this Bill. I hope the ill works out satisfactorily.

I would be interested to hear the 40-minute contribution that the Hon. Terry Roberts would have given but, unfortunately, I think he has been gagged or torpedoed. I do not know what it was, but he does not appear to be on the speaking list tonight, and I am disappointed about that.

The Hon. T.G. Roberts: I'm on the list.

The Hon. PETER DUNN: The Hon. Terry Roberts interjects that he now has a guernsey, that he is in the 18 and will be playing tonight. I will be interested to hear what he has to say, because what he says is probably not what he thinks. I think he will verbalise in an interesting manner, because I do not think his heart will be behind it. He will have a bit of a problem getting the words out, and he will have to put his tongue back in a few times. His heart will not be behind what he says tonight. Knowing Terry, he is pretty straight and he would like to have the best benefits for his mates, and I agree with him, but they have to be benefits that we as a State can afford, so that we as a State can compete with other States and countries.

If we do not export, we die and, if we do not export, we do not raise the standard of living for all of us, and I am sure that is what all of us want. Our standard of living is going backwards rapidly at present, and we have to stop that. Increasing costs to employers and the cost of items that we manufacture, produce or export will not help any of us. For all those reasons, I support the Bill at the second reading stage.

The Hon. T.G. ROBERTS: I thought I had better put members on the other side out of their delusion that I was not going to speak. I do not have speech A and B for the two positions that the Opposition might have been able to put forward. I have been pre warned by all the second reading speeches exactly where they stand on their amendments, so I am comfortable in supporting the Government's position as to the amendments.

The Hon. Peter Dunn: What about Peterson's amendments?

The Hon. T.G. ROBERTS: These are the amendments moved in the Lower House and then forwarded to us for consideration. My position is one of some education, and I hope members opposite take note. I thank the Hon. Mr Ritson for his compliment in relation to my standing in the industrial community and my understanding of George Orwell's *Road to Wigan Pier*. There is a lesson or a political simile in that the pier did not exist and neither did some of the heart and soul of the contributions by Liberal members opposite. Many pirouettes have been done between the Lower House and the Upper House by many members. It is unfortunate—

The Hon. R.J. Ritson interjecting:

The Hon. T.G. ROBERTS: I was not talking about the Hon. Dr Ritson's contribution. As to the unfortunate

position we are in, the Attorney-General alluded to it in his speech yesterday when he said that the adversarial situation in which we are placed in Parliament in many cases does not bring about the best outcomes that could be provided in relation to many of the matters that come before us.

Some of the deliberations tend to be for politically opportunistic reasons, and in other cases to form a consensus around a difficult problem. WorkCover tends to fall into that first category; over the years WorkCover and any indicated changes has been a difficult area to sell across the board to employers, to unions and to the community generally, because it is a complicated Act. It contains 125 sections plus the schedules, and not only does it affect injured workers in its administration, in handling claims, in diagnostic treatment by the medical profession, by rehabilitation and by monitoring and following injured workers but also it impacts on the community generally by the levies that we must pay.

I should have thought that, because of its complicated nature and the effect that it has on injured workers and the community generally, we might have been able to pull out of the fire a consensus document which we could have placed before the South Australian public and which placed us in a position where we could sell the State's WorkCover Act in a positive way—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: I will get to that in a minute, if you'll be patient. That would have at least put this State in a position to sell WorkCover not just in relation to its own Act but as a package of industrial aims and ideals—and not only nationally but internationally. If we compare the Act with some of the international workers compensation Acts, we see that it stands up as well as any of those overseas, and to try to make comparisons with other States and nations in relation to getting onto the competitive chopping block for lowering standards, so that we can become internationally competitive, will not stand us in good stead.

What we should have been able to do in the clear light of a negotiated position amongst all parties is to come away with an Act that allows levies to be lowered and, at least, to maintain a principled Act that looks after injured workers and their families. The position as put by some, in undertaking comparisons about getting our oncosts down so that they become internationally competitive, given that WorkCover, somehow or other, places us in a position where we cannot achieve that, has its limits. If we look at Bangladesh—and I am sure that the Hon. Mr Davis would have liked to compare us with Bangladesh—we see that it has quite a high unemployment rate that has nothing to do with its wage structures or with the fact that it probably does not have adequate workers compensation cover, but why would we get onto the auction block to force wages and conditions down that far?

It has much to do with how we organise society, how we are seen internationally and how society is judged by the way in which we look after its members. George Orwell probably noted in many of his writings that a society could not be judged too well if it were not prepared to look after its injured workers and not prepared to pay decent wages and have conditions that the State could afford.

Regarding the WorkCover Corporation itself, the position in which it found itself in 1991-92 and during the deliberations of the committee—a two year period—we were constantly finding that many of the problems we were sitting down to solve were being solved administratively; that many costs being incurred by WorkCover were being improved administratively; and that, if enough patience had been shown by everyone concerned, I am sure that many of the amendments we are now looking at could have been found to be unnecessary. The WorkCover Corporation now has a trading surplus of $37 million. Its investments on its levies have earnt for WorkCover significant funds in relation to its investments. In fact, it has earnt $65 million on its investments, which all helps to fund the scheme. The number of claims over the past 12 months has dropped by 20 per cent as—

The Hon. R.I. Lucas: Is some of that due to the recession?

The Hon. T.G. ROBERTS: Well, some of it is due to the recession, but in other cases it is due to tighter administration, cost cutting measures being put into effect and the fact that there has been a drop in claims. There has also been an unfunded liability drop from $134 million to $97 million to June 1992. The Hon. Mr Davis spent about 30 minutes on his feet castigating the whole process and the Act itself and telling us in hindsight how clever he was. The real picture is that all the financial indicators around WorkCover were heading in the right direction. There was a lot of commitment by many people in WorkCover and there was a lot of commitment by employers and unions to sit down and make the system work.

The medical profession was starting to work a lot more closely with employers in relation to diagnosis and treatment, as seen through rehabilitation and not just the single treatment of the injured worker but to build into the treatment program a rehabilitation program that was lower in cost. If people had been patient I think we would have been able to evolve a WorkCover system that not only delivered a fair and equitable service to injured workers but also allowed for a lowering of levies, which would have then led to a decrease in the unfunded liability. Unfortunately, what we got was a stampede for change and in a lot of—

The Hon. R.I. Lucas: Do you I oppose that?

The Hon. T.G. ROBERTS: I oppose stampedes for change. I do not oppose change generally. Although—

The Hon. R.I. Lucas: What is this we have?

The Hon. T.G. ROBERTS: Well, I have just pointed out that I believe that the consensus we should have had and been working towards broke down and people were stampeded, mainly by some of the media commentators, who were placing the Government in a position of adding to all its other problems and making a political play out of the difficulties that we were having. It got down not to an issue of how, when or whether the Bills should be amended—

Members interjecting:

The PRESIDENT: Order! Injections are out of order. The Council will come to order. The Hon. Mr Roberts.

The Hon. T.G. ROBERTS: Thank you, Mr President. I told them it was going to be part educative but they will not listen. The WorkCover indicators were all heading in the right direction and everyone got stampeded into putting forward overnight solutions to what I said is a very complex and difficult area. We were well on the way to evolving a system that would not have had us in the position we are in at the moment. We are currently in a political pie where everyone is having a slice; pirouettes are being done daily in relation to strategies on how to handle the problems associated with the tactics developed. What we have now is a Bill with amendments that I think could have been avoided had those who have been working on solutions been allowed to work through the problems without the politics of persuasion being employed, particularly by the Opposition in its rush to force and early election.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dunn and the Hon. Mr Lucas will come to order.

The Hon. T.G. ROBERTS: Every major issue has been turned out as a test for the Government in relation to its numbers both in the Lower House and in the Upper House, and it has been a test on the Government as to how it handles that. The stampede, of course, was aided and abetted by commentators in the media who really did not know what the intricacies of the Act were, and I am sure they did not know the amount of work that had been done behind the scenes to make it a clear and concise document that was working towards reducing the unfunded liability. What we have now is a Bill before us and a series of amendments as outlined by the conservatives (the Liberal Party), who are crying crocodile tears at the moment, trying to get the Democrats to come over to their position, which I think was outlined quite adequately by the Hon. Trevor Griffin, but then elaborated on by Attila with the suit on (the Hon. Mr Davis), who certainly put in what he thought was the way in which WorkCover should develop, which is to the lowest common denominator position within this State.

Another matter is the tone of comparing South Australia's Workers Compensation and Rehabilitation Act with the New South Wales legislation. It is not possible to compare the two systems, because they have entirely different ways of handling second year reviews and severely injured workers. In New South Wales, severely injured workers tend to drop back onto the social services system and the Federal Government picks up the bill for that. It does not go into the actuarial figures, and the unfunded liability is not affected, whereas in South Australia we take the responsibility for long term injured people, and that shows in our figures. It shows in our actuarial figures and makes our program blow out, but I think that that is a responsibility that we must look at in the future.

I do not think we can afford the luxury any more of States vying to have the lowest common denominator in relation to wages, conditions, workers compensation, etc. I say that because, as the One Nation takes its bite as Australia's federal system of government and as we move towards one nation competing internationally for the attention of the international industrial world, it is high time we had a lot of uniformity within our industrial laws to make sure that States are not put in the position of competing against each other to the lowest common denominator set by those States that can, I guess (if we take the Victorian scene as an example), force in what can only be regarded as a paternalistic fascism. I would hope that the—

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I would hope that the Victorian Government does change its position in relation to its attitude to its work force because, if it does not, I am sure that any benefits that it proposes to get from cutting wages and conditions in that State will certainly be lost through the hours lost through industrial action. The Bill and amendments that are proposed—

Members interjecting:

The Hon. T.G. ROBERTS: I think that, if you look at some of the statements that were made here about South Terrace dominating the industrial scene in relation to the Government's position, you would agree that, if the unions were so strong and did dominate the debate, we would not have the present Bill before us.

Members interjecting:

The Hon. T.G. ROBERTS: I am just stating the facts. If the unions had had their way (and you mentioned Paul Noack's position), we would not have the Bill that we have before us now, so we must recognise and acknowledge that it is the Government's position, due to the extenuating circumstances that I explained earlier. The position was not allowed to be debated without becoming a political football. At each turn the position was not able to be debated with logic—

The Hon. R.I. Lucas interjecting:

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

The Hon. T.G. ROBERTS: In every forum it became a political football.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: I am afraid that you would not make centre-half forward, Mr Davis; you would be in the forward pocket using this as a political football. Mr Ingerson was the one who was playing centre-half forward in using WorkCover as a political football and it put everybody in a position where logic—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. T.G. ROBERTS: He is a spoiler. I would not give him the position of taking out the oranges.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Davis and the Hon. Mr Dunn have already spoken. Interjections were not prevalent when they were speaking. I expect them to extend the same courtesy to the Hon. Mr Roberts.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Roberts.

The Hon. T.G. ROBERTS: Not only were the interjections not relevant, Mr President, but his whole speech was not relevant, either. At each turn WorkCover became a political football and it was unfortunate that the debate was not able to be conducted logically. At each

turn somebody worked out, 'Yes, there is a vested interest politically and we might be in a position to embarrass the Government if we take a certain position.' These positions were discussed behind closed doors in the Liberal Party's think tank among their decision-makers; they were unsure how they were going to move until another piece of the jigsaw fell into place, and then it was back to the drawing room for another set of instructions. That did not indicate to me the goodwill that one would expect in a bipartisan way in order for such an important issue to bear fruit.

Members interjecting:

The PRESIDENT: Order! Interjections are out of order. The Hon. Mr Davis will come to order.

The Hon. T.G. ROBERTS: The real victims of industrial accidents were never going to get the justice that they deserved.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The Hon. Mr Davis interjected about my position on the select committee. The select committee was taking evidence over two years. We took a lot of evidence on many subjects, but there were two major points on which there were differing views. I must respect the *SA in Business* industrial relations piece, because I think it referred to the two key areas of dissatisfaction. It does not put it any higher than that. The article, in November this year, stated:

> The improvements in WorkCover's performance for the 1991-92 financial year were welcomed by employers, but fundamental problems remain.

That was acknowledged by the committee. The committee, working its way through a whole series of problems that had been put before it, was prepared—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. T.G. ROBERTS: We agreed they needed attention. The article continues:

> The trading surplus of $37 million, reducing unfunded liabilities to under $98 million (as assessed by independent actuaries), is good news. The funding ratio of 87 per cent is, however, still a long way short of 100 per cent (the five year target).
>
> Levy collections, at almost $284 million, though slightly less than last year, have generally trended upwards from $137.1 million in 1987...The high average levy rate of 3.5 per cent (compared with 3 per cent in Victoria and around 2 per cent in New South Wales) is obviously still a significant factor in achieving 87 per cent funding.

The committee was looking at those issues. It goes on:

> The other significant factor in the scheme's performance is a 20 per cent drop in claim numbers, which has to be seen in the context of double-digit unemployment.

Unemployment is not the major issue that has brought about the reduction in claims, but it is one issue. The article continues:

> When the economy starts to pick up there is a danger that the number of claims will rise and place greater pressure on the funding of the scheme.
>
> Accordingly, the Chamber has continued to campaign for the adoption of the parliamentary select committee's recommendations as a minimum. Key aspects include the tightening up of the second year review process to prevent WorkCover being a *de facto* social security scheme. Also a redefinition of 'stress' is required to ensure that a claim can be made only where the work can be proved to be the major cause of a stress related condition.

If one looks at the statements contained in *SA in Business* one can see that they are not inflammatory but are a reasonable assessment of WorkCover problems and the position generally. We are working towards a collective solution of these problems.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. T.G. ROBERTS: Then the stampede started. The political football was taken out and Mr Ingerson started to kick it around the arena. We got to the position where the Speaker of the House of Assembly, Mr Norm Peterson, put together a series of amendments which he moved in the Lower House to the Government Bill—and they are the ones we have before us and the ones we are debating. If indicated positions are to be those stated publicly, I suspect that the majority in this Council will support—

The Hon. R.I. Lucas: Does that include you?

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: —the Hon. Mr Peterson's amendments. That includes me, Mr Lucas. I will explain again that the situation does not come down to debating the issues logically to get a solution to the problems that WorkCover has; it is because the political football was kicked in such a way that we now have been put in a position where these amendments—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has had is turn. He will come to order.

The Hon. T.G. ROBERTS: —are the only ones that have a chance of passing this Chamber and thereby becoming law. In the absence of any other consensus position being reached, this is the Bill that we will be looking at and agreeing to. I have one misgiving with the intention of the Hon. Norm Peterson's amendments. He says, '...to assist the economic recovery of South Australia and create jobs for the unemployed'. I do not think the Bill will do that, despite the rhetoric from the other side—from the Liberals and from the Hon. Mr Peterson. I do not think WorkCover levy costs are a great disincentive for employment opportunities as there are many other indicators and on-costs not directly associated with South Australia's disadvantaged position geographically. Employers take into account a lot of factors when setting up a business within a State. I support the second reading.

The Hon. R.I. LUCAS (Leader of the Opposition): The extraordinary performance of the Hon. Terry Roberts was one to behold. I am sure that members will be delighted to photocopy and frame that contribution and present it to him on his retirement from this Chamber, so that he can take it down to the Colac when he goes to drink with his mates, Paul Noack and company. As to his attitude to this legislation—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. R.I. LUCAS: My colleague the Hon. Legh Davis referred to the Hon. Terry Roberts as the Lewis Carroll of the Legislative Council, but I think the Hon. Terry Roberts, and the Government perhaps, could be more appropriately described as the Greg Luganis of the State Parliament—doing triple somersaults with an inward pike.

The Hon. L.H. Davis: Who is Greg Luganis?

The Hon. R.I. LUCAS: My colleague shows his ignorance by saying, 'Who is Greg Luganis?' He is a triple Olympic gold medallist in springboard diving, and we have this performance from the Hon. Terry Roberts, the Premier and the Labor Government in relation to this legislation—a triple somersault with an inward pike. However, more about the difficulties of the Labor Party, the Labor Government and members such as the Hon. Terry Roberts in a moment.

I congratulate my colleague the Hon. Trevor Griffin on his typically incisive and detailed critique of the Bill and his outline of the Liberal Party's position, and therefore I wish only to address a small number of issues.

First, I want to address the position of the Speaker, Mr Peterson. That is pretty difficult because Mr Peterson has had more positions than the Kama Sutra in relation to the WorkCover legislation. He has changed his mind more often than on occasions a former colleague in the Legislative Council, the Hon. Lance Milne, used to in relation to some pieces of legislation.

The member for Semaphore introduced the Peterson package in the House of Assembly on 27 October. It was the first occasion on which Liberal members of the Parliament had seen the Peterson package. There had been no prior discussion with the shadow Minister or the Liberal Party about the contents of that package.

Quite properly the Liberal Party approached the Speaker seeking a delay of parliamentary consideration of his package, indicating that it had not seen the legislation, and that it wanted 24 hours to meet in the joint Party room to consider its position regarding a whole series of new matters that were introduced to the WorkCover legislation at the last moment by Mr Peterson. For his own reasons, Mr Peterson refused a 24-hour delay to enable consideration of the matter by the Liberal Party. Mr Peterson indicated that with a majority of members—in relation to some amendments, Government members, and in relation to other members, potentially Liberal Party members—the package was to be forced through the House of Assembly and considered on that day.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No, on that day.

The Hon. T.G. Roberts interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Liberal Party was then left in the unenviable position of not being able formally to consider the package, and of having to vote on the legislation one way or another in the House of Assembly. The leadership group of the Liberal Party was consulted at short notice and the decision was taken to keep the amendments alive for debate in the Legislative Council, a position that has been adopted by the Attorney-General, the Hon. Terry Roberts and Labor members in this Council with respect to a number of pieces of legislation. They have indicated their preparedness to consider the amendments but, because of the short time available, the amendments would be kept alive and final consideration of those amendments would be given by the respective Parties.

The Hon. T.G. Roberts: No ulterior motives?

The Hon. R.I. LUCAS: None at all. So, the Liberal Party's position was that it would support the package of amendments only to keep the amendments alive so that the Party room could discuss its position in relation to each and every one of the amendments, and the Liberal Party's position would then be revealed during debate in the Legislative Council.

Given the unreasonable position of Mr Peterson and the Government in insisting on having the debate finalised on that day, that was the only position available to the Liberal Party. The only other option was to vote with the Government against all the amendments and therefore prevent the possibility of any further consideration of the Peterson package.

The Liberal Party, as it has indicated in another place and again this afternoon through the Hon. Trevor Griffin, supports some elements of the Peterson package. However, it does not support other elements; therefore, it will move amendments in Opposition to some parts of the package.

The Opposition was able to arrive at that position because the joint Party room was able to consider the Peterson package of amendments and then put its position through its respective spokespersons in the Legislative Council.

The Liberal Party room has considered its position. It has a package to put to Parliament and to the community. It is a package that is consistent with the views that Liberal members expressed earlier this year when the legislation was first debated. The position that we adopt in this Chamber by vote will be consistent with the position that we adopted earlier this year. I suggest to the Hon. Terry Roberts and to our absent friend the Hon. Mr Gilfillan that that is more than we can say for the respective positions of the Australian Labor Party and the Australian Democrats in relation to the WorkCover legislation.

I should like to consider the Speaker's position in relation to his alleged threat to the Government concerning its future. As the *Advertiser* editorial noted, the member for Semaphore has been caught as the little boy who cried wolf once too often. I know that editorial did not please your Presiding Officer colleague in another place, Mr President, but there was a good element of accuracy in the editorial, at least from my own viewpoint.

On 30 October, a Friday morning, the Speaker busily rang all the news media outlets saying, 'You have to be at my press conference at 11.30 because I have a big statement to make.' It was held late in the morning. The TV journalists replied, 'It is the end of the week. Norm, what are you up to? What are you talking about?' The Speaker replied, 'I can't tell you but it is a big statement. You have to be there. It will be the issue of the day.' Having been contacted by the Speaker and his staff with that tantalising titbit of information to get them interested, the journalists dutifully trotted off to the press conference that morning, where the first Peterson position, if I can call it that, was presented. He explained what he intended

to do about the WorkCover legislation if certain things did not go his way.

By Friday afternoon, the second Peterson position had been put forward because he was already in reverse gear, he was already backing off from that first position. He is the only Speaker I know who has more reverse gears than he has forward gears, because he was steadily in reverse by early that afternoon. After discussions during the middle of the afternoon, his position had changed quite markedly from the morning, as dutifully recorded by the representatives of the news media. I know that members of the media who spoke to the Speaker that afternoon said, 'That is not what you said this morning. That is not what we reported this morning. Are you changing your position?' There was a thump on the table. 'No, I am not changing my position. I am not going to let those thugs on South Terrace dictate to me what will happen to the WorkCover legislation,' said the Speaker. I hope that he was not referring to the colleagues of the Hon. Terry Roberts when he referred to the people on South Terrace as union heavies and thugs.

As best as we could determine on the Friday afternoon, the Speaker's alleged threat to the Government was this, 'If the Bill is amended in any way in the Legislative Council and returned to the House of Assembly where I have some say on it, it will all depend on whether I get a letter from the UTLC which says that it does or does not want my amendments to the WorkCover legislation.' It might be an amendment that he was for or against, it might be an amendment that was part of his package, it might be a technical amendment—it did not matter.

The Speaker said, 'If I received a letter from the UTLC which said they did not want any amendments to the WorkCover legislation, when the Bill came back into my House, I would do all in my power to bring it back to the original Government Bill.' He would vote against his own amendments, if possible, vote against all the other amendments and bring it back to the Government Bill. 'Then at a time of my choosing, I will go across the road to Her Excellency, Dame Roma, and withdraw my support for the Labor Government. I will not put up with the union thugs threatening and intimidating me and my staff in the way they have been,' he said.

The Hon. T.G. Roberts: Did you have another Party meeting?

The Hon. R.I. LUCAS: No, we didn't have to have another Party meeting. We knew where we were. We were the only ones who knew where we were. I suggest that the Speaker did not know where he was. The Hon. Terry Roberts still does not know where he is. He does not want to be where he has to vote at the moment, the same as his colleague the Hon. Ron Roberts and all the other union representatives on the back bench. The Australian Democrats do not know where they are at the moment, because they are all over the place as well.

We know where we are in relation to the WorkCover legislation, and it has been a consistent position from early this year to the position that we are adopting in this Chamber at this time.

That was the position of the Speaker in some discussions with members of Parliament and members of the media when asked about this phrase 'the time of my choosing', when the Speaker would go across the road to the Governor. He indicated that it would not be this year but that it would be more likely after the budget, of all things, had been resolved. I think he had forgotten that we had resolved that. It would be more likely when the WorkCover legislation had been resolved, and that might be some time early next year. There may well be other reasons on which I will not be unkind enough to speculate as to why February or March next year might be an appropriate time to get rid of the Labor Government as opposed to early this year. I will leave that for another day. However, that was the explanation from the Speaker as to his position on that Friday afternoon.

Give or take a few pirouettes every now and again since then, with a few changes here and there, that is essentially the position that the Speaker maintains at the moment. It is worth our while to give some consideration to the Peterson package and the claims being made by the Speaker and others who support him.

The Speaker indicates that, when this package is passed by the Parliament, he believes that the WorkCover scheme will be fully funded by New Year; that is, in the space of six weeks the WorkCover scheme will be fully funded and, by the same time—within six weeks—the WorkCover premium rate will have dropped from the average of 3.5 per cent to 2.8 per cent.

The Speaker is asking us to believe that we have a magic pudding. We have no reduction at all in weekly payments or benefits to workers in the long term; no second year review; no reduction in journey accidents; and none of those other changes which have all been conceded even by the Hon. Terry Roberts, even though he might not agree with them, and which would result in reduced premium rates to the scheme. Without all that, this magic pudding will produce a fully funded scheme and a decrease in WorkCover premiums from 3.5 per cent to 2.8 per cent in six weeks. That is the Speaker's magic pudding solution to the WorkCover legislation in South Australia.

I am not scared to go on the record at this stage and say that I do not believe it. I do not believe in magic puddings, and I do not believe in the Speaker's magic pudding in relation to WorkCover, either. In relation to any pudding, the proof of the pudding will be in the eating. I do not believe that the reductions in premiums which can be administratively and legislatively provided for from 1 January are sustainable in the long term. Certainly, I do not believe that, if the premiums are reduced to the 2.8 per cent figure, magically on 1 January we will have in a sustainable fashion a fully funded WorkCover scheme under these changes.

The Hon. L.H. Davis: They are election year premiums.

The Hon. R.I. LUCAS: My colleague the Hon. Legh Davis notes that they are election year premiums, and that is certainly a fair description of them. My views are backed by actuarial advice that was provided to the Liberal Party by another set of actuaries as to the effects of the legislative changes. I accept that there are actuaries who are arguing for WorkCover in support of the proposed reduction in premium rates from 3.5 to 2.8 per cent, but again we should place on the public record that a firm of actuaries, who have equally done the work from outside WorkCover, believes that the reduction in premiums, if we are to have a fully funded WorkCover

scheme, would be of the order of only 2.5 per cent, as opposed to the .7 per cent that the Speaker and WorkCover have been talking about.

I had separate discussions with a lawyer who works in this field and his admittedly non expert view in relation to actuarial costings was that this Bill tinkers with the edges and does not tackle the key cost problems which, as we can see from page 8 of the WorkCover annual report in relation to long-term payments to workers, were the big costs factored into the WorkCover scheme. His view was the same as the actuarial advice that has been provided to the Liberal Party—that a fully funded scheme would provide only a marginal reduction in premium rates. Let us turn to the Labor Party's position, the Hon. Terry Roberts' position, a position which I think in relation to the supposed Superman of South Australia, the Clark Kent of South Australia, as he has been described, the new Premier—

The Hon. L.H. Davis: Clark Kent got killed in the comic that came out today—Superman died.

The Hon. R.I. LUCAS: I was not aware of that. Perhaps one could describe the WorkCover legislation and the attitude of the Government to it as the political kryptonite that will destroy the supposed Superman, the Premier, the Hon. Lynn Arnold. I think his attitude and the attitude of the Government to this Bill is an example of political cowardice because the Premier and the Government in the first instance tried to hide behind the Speaker, the Liberal Party, the Democrats and anyone else that they could find.

Stories that the Premier's staff fed to the *Advertiser* gave the Government's position, and then we had the Arnold-Owens position that was being touted around to the media. We had all these positions. We had the ludicrous situation of the Government's position, and at the same time we had the Arnold-Owens position. We had the Premier and Leader of the Government supposedly running around with this third or fourth proposition that was being touted by his staff to the media and to the *Advertiser* in particular, and they thought that they could get away with it by being cute about the WorkCover legislation and the amendments.

They wanted to hide behind the Speaker, the Liberal Party and the Democrats, or anyone else to try to get the legislation through. Yet at the same time the Premier wanted to get the kudos through Rex Jory and others in the media for having achieved a significant victory in relation to the WorkCover legislation. It is interesting to note, as I am sure the *Advertiser* noted in relation to the comments made by the Hon. Terry Roberts, that he disagrees with his own Premier and Leader about the effect of the WorkCover changes. The Hon. Terry Roberts, with some courage, is perhaps one of a dying dynasty of left wing members of the Caucus in the State Labor Party. As convenor of that faction, he indicated that he did not agree with the Premier when the Premier said that these changes to WorkCover would result in increased jobs and increased employment here in South Australia.

The Hon. T.G. Roberts: It was Don Ferguson who said that.

The Hon. R.I. LUCAS: The Hon. Terry Roberts has spiked himself on this issue, and we must admire the man's courage. Obviously, he has decided that he is not likely to be a Minister in the next 12 to 15 months of the Arnold Government and is staking out a position in a—heaven forbid—Rann or Evans led Opposition after the next election. Perhaps he might like to be Leader of the Opposition after the next election, but he is staking out a different position from that of the Premier because he is saying that the Premier is wrong. 'I don't agree with the Premier', is what the Hon. Terry Roberts is saying. 'I don't agree with his view that these WorkCover changes will result in increased employment, increased jobs in South Australia'.

The Hon. T.G. Roberts: Not on their own.

The Hon. R.I. LUCAS: One cannot have, as I said earlier, this Stalinist, revisionist version of history; one must look at the *Hansard* record of the Hon. Terry Roberts, and it is there for all to see that he disagreed, with some courage and, perhaps, some foolhardiness, with the position of the premier in relation to the significance of these amendments. That is the position the Liberal Party is adopting. We are saying that these changes are teetering on the edges; that they will not result in sustainable reductions in WorkCover premiums; and that what we need are more significant changes to the WorkCover legislation.

I know that the Hon. Terry Roberts is in a difficult enough position in rationalising his own position for the vote of the Labor Party, so I will not invite him to join with us in relation to some of our amendments which will achieve significant changes and reductions in WorkCover premiums and which, if passed by the Parliament, certainly would lead to significantly increased numbers of jobs for young unemployed South Australians.

The Hon. T.G. Roberts: This being a House of Review, I am obligated to listen to them.

The Hon. R.I. LUCAS: I am delighted that the honourable member's thinking is evolving. I was pleased to see the Hon. Terry Roberts have the courage to stand up and speak in this debate, and I challenge the Hon. Ron Roberts, the Hon. Trevor Crothers, the Hon. Mario Feleppa and the Hon. George Weatherill to stand up in this Chamber and to say, as the Hon. Terry Roberts did, that they support these amendments in the Peterson package, even though Paul Noack and others have called the Speaker, I think, the rather unflattering term of 'scab' and stated that these were 'scab amendments'.

The Hon. Terry Roberts is prepared to stand up in this Chamber and indicate that he is prepared to support these amendments. It is important for the members I have named to stand up in this Chamber tonight and to indicate their position in relation to these amendments. Perhaps they might be foolhardy or courageous enough also to be critical of the Premier, and then we will see who is in line for a ministerial appointment in the not too distant future, certainly for this Premier.

The Hon. T.G. Roberts: That is the Bulgarian choice.

The Hon. R.I. LUCAS: I will not ask the Hon. Terry Roberts to explain 'the Bulgarian choice'. The Hon. Trevor Griffin explained, although I will not go into the detail again, some of the submission of the Law Society of South Australia in relation to this legislation. Very briefly, it indicated that as a result of this injury and the common law amendments that the Hon. Terry Roberts and his former union colleagues are supporting, in

relation to a 35-year-oil boilermaker injuring his back at work by slipping in a pool of oil, where it is clearly demonstrated to be an act of negligence by the employer—I think that the Law Society says that the oil has been there for a long time and not cleaned up despite many requests for that to occur—without going through all the description of that case, the Law Society indicates that as a result of these amendments that injured worker will not only suffer major interference and disruption to his normal life arising out of the fault of the employer but will be $20 000 worse off as a result of this package of changes that the Hon. Terry Roberts and Government members are supporting.

The second example is of the nurse with the hip injury, which leaves her with a 40 per cent disability overall and a 50 per cent disability to her hip and unable to return to work. But, under these amendments she is denied the right to pursue that claim at common law and she would suffer a loss of at least $11 000 as a result of changes that this Government has supported. Make no bones about it, in relation to this provision members in this Chamber will have to stand up and have their vote on this provision recorded. There will be no easy options for members opposite in relation to these provisions. They will be recorded in *Hansard* as having voted one way or another in respect of these provisions, which their union colleagues, the Law Society and others have demonstrated—and WorkCover agrees—will cause financial suffering and disadvantage to some of their former working class colleagues.

The Labor Party has indulged in unprecedented backflipping—voting one way in one House and another way the other House. I guess it is all things to all people in relation to this and it sets an interesting precedent for the future. However, the Labor Party defence has been, in part—and I have addressed the one offered by the Hon. Terry Roberts—that this is the only way we can protect the workers in South Australia against even more terrible things that those nasty people, the Liberals, might do to them in the not too distant future. This is also the Peterson defence. That is also the position that I suspect the Hon. Ron Roberts might adopt, even though I know that he has considerable reservations about this particular package, and it took some long discussion and a bottle of red wine and a few other persuasive techniques to ensure that he held the Party line and voted the right way in relation to this particular piece of legislation.

The Hon. T.G. Roberts: What restaurant?

The Hon. R.I. LUCAS: The parliamentary bar—didn't need a restaurant! One of the Labor Party responses is that we need to protect the workers from the nasty Liberals after next election. I place on the record now—so that it is not used as an excuse by the Hon. Ron Roberts or others—that the Liberal Party position as adopted earlier this year, and the position we are adopting in relation to this Bill at the moment, is a consistent package of amendments to the WorkCover legislation to seek a reduction in premiums for business to provide jobs for South Australians. It does not matter what happens in relation to this legislation now or in relation to any other matter. After the next election the Liberal Party will be seeking to introduce those changes come what may.

The defence on the part of the Labor Party that in some way by putting this Bill through we will stop the Liberals from moving other amendments is a furphy. It is a red herring that has been produced by the Hon. Norm Peterson, the Hon. Ron Roberts, I suspect, and others, to try to defend their position in respect of this legislation. Let it be on the record that we have a consistent position and will be seeking to implement major and significant changes to WorkCover after the next election to make significant and sustainable reductions in WorkCover premiums and also in the form of fully funding the WorkCover scheme.

Finally, I want the turn to the Australian Democrats' position in relation to this legislation. If ever we could describe the Government as the Greg Luganis of the State Parliament—and there are all the words such as 'political cowardice' and so on that I have used—and if ever a position could be described as rank hypocrisy, as political cowardice and as political fear at the prospect of having to front up to an election at this stage, then this is also the position that can best describe the Australian Democrats and the Hon. Mr Gilfillan in particular.

Whether or not we believed the Hon. Norm Peterson (and I suspect the Democrats did), when the prospect of an early election was floated across the bows of the Democrats, as my colleague the Hon. Mr Davis said, they went weak at the knees and white in the face, and there was political terror written across their face at the prospect of having to go to an election at this stage. So, what we had was an Australian Democrat position, which the Democrats have steadfastly maintained to anybody who has spoken to them, that they will not support any amendments to the WorkCover legislation at all. It would not matter if the Liberal Party, the Parliament, and the Law Society found the grossest error—something that made the legislation unworkable, for example, a technical error in relation to the legislation—a drafting error that everyone agreed would make the Bill unworkable, they would not even support that amendment. When they were approached—

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: Exactly. When they were approached by a member of the media (and I will explain that in a minute) about another amendment, they said, 'Look, can't you understand our position? Our position is that, irrespective of what we have said in the past, what we believe and what our views might have been before, we are not going to support any amendments to the WorkCover legislation that might put the Bill back into the House of Assembly and potentially activate the threat (whether or not you believe it) of the Speaker in relation to the legislation.' That was the position.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: Well, we have flushed out the Democrats; I am sure the Hon. Mr Gilfillan heard at least the introductory comments.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan says 'flush' and I think that is an appropriate word to use about the Democrats in relation to their attitude to this legislation. Let me address two or three particular examples. One example relates to the confidentiality provisions of the WorkCover legislation. An amendment materialised all of a sudden in the House of Assembly as a result of discussions between Kevin Purse, the UTLC and the Speaker in relation to the publication of the

safety records of employers. It was not a recommendation of the select committee; it was not a recommendation of the WorkCover board or management, as many of the other recommendations in the Peterson package were; but it was a provision that Kevin Purse and the UTLC had been seeking to implement for years. Finally, in a cosy little cabal, the UTLC, Kevin Purse and the Speaker got together and added this amendment in relation to the publication of the safety records of employers.

This is something which has been in the legislation and which ought to be confidential—something which has been supported by members in this Chamber, by the Hon. Mr Gilfillan and the Australian Democrats and the Liberal Party in relation to the legislation. There are many examples where the Hon. Ian Gilfillan in this Chamber supported, spoke for or voted for the continuation of the confidentiality provisions in relation to the safety records of employers under WorkCover. There are many examples but, briefly, in April 1990, when there was some attempt to loosen the confidentiality requirements and allow the safety records to be provided to a couple of other Government bodies or semi-Government agencies, the Hon. Mr Gilfillan said:

> I understand that neither the amendment of the Government nor the amendment of the Opposition has had the approval of the WorkCover board, and that neither amendment has been the subject of consultative agreement with the interested employer and union bodies. In those circumstances it is obviously inappropriate to support either amendment and the Democrats intend to oppose them both.

And oppose them they did. They indicated then, and they have indicated by way of their vote and speeches on a number of occasions, that they support the confidentiality provisions. So, what happened was that, when a member of the media found out about this deal which had been struck in the House of Assembly and which will strike against the very heart of this confidentiality provision in the Act and allow WorkCover to publicise at its discretion the safety record of employers, that member of the media went to the Australian Democrats, in particular the Hon. Ian Gilfillan, and said, 'This is not something that you support. You are on the record in the House as having opposed it. I presume you will take a consistent position.'

The Hon. I. Gilfillan: What is this on?

The Hon. R.I. LUCAS: On confidentiality. 'I presume you will take a consistent position in relation to this and, if the Liberals move to amend it, you will support that amendment and thereby ensure that the Bill goes back to the House of Assembly.' With that, the Hon. Ian Gilfillan went weak at the knees and said, 'No way.'

The Hon. L.H. Davis: The Aeroplane jelly party.

The Hon. R.I. LUCAS: The Aeroplane jelly party. He said, 'That might have been the position that I have expressed consistently for years in relation to the WorkCover legislation, but I will not support any amendment that forces that Bill back into the House of Assembly. I will not support anything, whether I voted for it before'—

The Hon. L.H. Davis: He's a real man of principle.

The Hon. R.I. LUCAS: He is a real man of principle. 'I will not support any amendment. Can you understand that I am not going to support any amendment?' What does the poor member of the media say? 'But here you are on the public record; this is the way you voted in the past.' That does not come into it. No matter how they voted or what they said in the past, they were not going to support that provision at all. That has been the position that they have adopted in relation to the two year review. In April this year, the Hon. Ian Gilfillan consistently—I give him credit for this during that particular debate—said, 'I will support everything that was in the select committee report. Anything outside the select committee report, outside the political consensus, I will not support. I am solidly behind the two year review provision', and so on, and they voted accordingly, as my colleague the Hon. Legh Davis—

The Hon. L.H. Davis: They did not take any notice of our amendments which we put forward and which were supported by—

The Hon. R.I. LUCAS: By the employers; exactly. At least the Hon. Ian Gilfillan said, 'I support the two year review. It is an important amendment and it was part of the political consensus arrived at in the select committee.' Therefore, he was going to support it. Now that they understand the Liberal Party's package of amendments to achieve significant change and a reduction in benefits, all of a sudden the Australian Democrats have gone weak at the knees again at the prospect of an amendment getting through this Chamber to force the Bill back to the House of Assembly. They are now going to do a double back flip; they will not support an amendment that they supported in April this year.

The Hon. L.H. Davis: The Aeroplane jelly party has got its flaps down.

The Hon. R.I. LUCAS: By way of interjection, I ask the Hon. Mr Gilfillan, what if—

The Hon. I. Gilfillan: You promise me this is the last?

The Hon. R.I. LUCAS: This is the last dig. What if the Parliament found a major blunder in the legislation, a technical flaw in the legislation in relation to the drafting?

The Hon. I. Gilfillan: A technical flaw is not a major blunder.

The Hon. R.I. LUCAS: A technical flaw, a major blunder or whatever. If there were a change like that and we found a weakness in the legislation, would the Hon. Mr Gilfillan support that? Of course, no response; no support even for that particular position. Even if we were to find a major error or blunder in the legislation, the Australian Democrats' position is, 'We will not support any amendment; we will not force the Bill back to the House of Assembly.' They will support anything in relation to the legislation as long as it does not go back to the House of Assembly. Heaven only knows what an invitation that is to Government members in relation to the WorkCover legislation: they will support anything as long as the Bill does not have to go back to the House of Assembly and as long as there is not potentially the prospect of an early election in South Australia. That is all I have got for you, so if you want to leave now, you can. I am now moving on.

The Government, the Premier in particular—the supposed Superman of South Australia—the Australian Democrats and the Speaker all stand condemned in this Parliament for their political cowardice, their ineptitude and their hypocrisy on this issue of WorkCover legislation.

The Hon. M.S. FELEPPA: The Leader of the Opposition has been successful in challenging the backbenchers of the Labor Party. I will not be as eloquent as the Leader of the Opposition has been; I simply intend to express my support for the Bill by making a few general remarks in support of the WorkCover scheme. The Bill to reform WorkCover first came before the Parliament in terms and forms recommended by the select committee, which has often been mentioned during the debate.

The select committee considered the history and consulted representatives of employers, employees (the unions in this case) and the public. What the Bill contained in the first instance was the best that could be agreed to by all the parties concerned. The 1980 Byrne report, which was submitted to the then Minister of Labour, now the Leader of the Opposition in the House of Assembly (Mr Brown), was not acted on by the Tonkin Government, and it was not until 1983 that the Labor Government introduced a Bill to amend the then Workers Compensation Act to bring about WorkCover. Consultation went on until 1985 on the Workers Rehabilitation and Compensation Bill which was passed by this Parliament in 1986 and came into force on 30 September 1987.

By all means, it was not a slap-dash Act. It had been through the democratic process of the political grinder for several years and had come out as the best proposal for that time. In 1991 it was adopted to give incentive to employers to avoid workplace accidents, to try to split up accident and injury claims and to avoid the need for court action. The Act has been in operation for five years, and this Bill is needed to improve further the operation of WorkCover.

The Bill has been referred to this Council with a number of amendments that do not, regrettably, match the recommendations of the select committee. These amendments go beyond the desire and good intention of the representatives of the employers, the workers (the unions) and the public, who all gave evidence before the select committee. By their good sense, the members of that select committee put forward practical and workable recommendations in their report, and the Bill was drafted on those recommendations.

The amendments, passed in the House of Assembly a few days ago, have altered the structure of the Bill. and the Council now, because of these recommendations, has to choose between two alternatives. The Council can agree to accept the amendments and have them become, within the Bill, a form of law or, alternatively, reject the amendments and most probably risk an early election—as has been sufficiently canvassed by the media in recent days—but, more importantly, put at risk the substantial core of the WorkCover scheme. That is what concerns me.

There is no need for me to elaborate on my last remarks. All members of this Council, particularly members on my side and, I hope, the Democrats, will quickly realise what may happen to WorkCover under a Liberal administration in our State. Therefore, the parliamentary Labor Party has no choice but to support the Bill as amended without further change in order to avoid the unpredictable alternative which, I am sure, would be worse for the injured worker and the community in general in the future.

In my view, a Liberal Government would undo all that has been achieved for injured workers through WorkCover. It would be much worse than compromising now on WorkCover by accepting these amendments. One need only look at what is happening in Victoria under the Kennett administration and at what may happen under the Federal Coalition's policy of industrial relations. I am, of course, far from conceding that the Liberal Party will win the next election. I am confident that the Labor Party will hold its ground despite the unfortunate situation with the State Bank. I am confident that in any election the Labor Party would be returned because the people of South Australia will not be deluded into putting into power a Party that could well follow the Victorian Kennett line of promising jobs it cannot deliver and confronting workers by imposing retrograde working conditions and other changes in the industrial area.

I suspect that a Liberal Government in South Australia would wreck the WorkCover scheme and take us back to the era of the Tonkin Government, which refused to implement the Byrne report. The worker generally would suffer loss of protection against injury by the downgrading of safety measures in the workplace. There would be loss of compensation and rehabilitation for injuries received and the cost of needing to go to the law for justice. Not only would the workers suffer but all of our State would feel the bad effects of a Liberal administration in the future. For this reason we are not prepared to see WorkCover put at risk.

What has to be balanced here is the lesser advantages brought about by accepting the amendments which have been inserted into the Bill against the bad conditions that would be imposed if a Liberal Government were to come to power. We have opted to leave the amendments in the Bill at this time and, at some time in the future, we may be able to strengthen further the legislation where there is a great likelihood of the legislation being reconsidered.

We have to choose the better of the two options. The opinion of the workers has been demonstrated. They voted in their numbers on the steps of Parliament House not long ago and condemned the amendments, not the original Pill. The employees are not altogether happy with the amendments, which do not give them what they want. It is regrettable that this has to be the course, but any other course would be even more regrettable. For that reason, I support the second reading.

The Hon. R.R. ROBERTS: I rise to support the second reading of the Bill. It is a strange night for me because I have to admit that I agree with the Hon. Mr Lucas. He is right. It is the first time I have had to do it. He is dead right. I rise with a very heavy heart. It breaks my heart to support a measure that diminishes the rights of workers. Over the years, I have had to do so on a number of occasions and, whilst it hurts, I believe it is in the best interests of workers in South Australia.

I am aware of the need for workmen's compensation. A subtle pea and thimble trick has been occurring in Australia over the past few years about workmen's compensation. Workmen's compensation is not about who can get the cheapest. Compensation for injured workers is about who provides what is fair and equitable

for a worker when he is injured during his employment. Members opposite have commented that it is cheaper in Victoria and New South Wales and that we pay too much here. What are we paying? We provide a system that gives a person who is injured at work his normal pay. Not too many of them get around like millionaires. We are giving them their normal pay.

If members of this Chamber were injured in the course of their employment by falling down the stairs or became choked up with laryngitis, they would not expect to go home and sit in their plush mansions in Burnside and get 65 per cent of their wage. No, they would expect to get 100 per cent; yet, when it comes to injured workers in this State, they say that we should inflict on them the same sort of archaic conditions that are provided in New South Wales and Victoria. That is what it is all about.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Members opposite talk about the cost of workers compensation in New South Wales, but what about the cost to the worker out of his weekly pay? What about the cost of the insurance premiums that he would have to make up to maintain a normal standard of living, not a luxurious standard of living? That is what it is all about.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: I was encouraged by Mr Lucas to make a contribution in this debate. For 25 years I fought for better conditions for workers and it hurts me to do something which might reduce those benefits. However, I make the sacrifice with some comfort. Mr Lucas mentioned in his contribution that, if he were in Government, he would introduce the same amendments as are contained in his Bill. Quite frankly, I do not believe it. I have seen what has happened under a Liberal Administration in New South Wales and, more recently, in Victoria.

When the Government wanted to deal with this Bill last week, on a number of occasions as Whip I asked members opposite whether they wanted to make a contribution to the legislation. Their answer was that they wanted to see what we were going to do, particularly on Thursday night. However, they have come in here this week with this pious indignation about how the Australian Labor Party has reversed its position. The reality is that all their colleagues in the other place voted for the Bill in exactly the form that it has come to us, although they added the qualification that they might want to look at it. The Opposition wanted to look at it to see what opportunities it could grab. It is about trying to grab power, not just—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Not just—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. R.R. ROBERTS: They were not just looking at workers compensation. They saw a window of opportunity. They are not really worried about the principles of the thing. They saw the light at the end of the tunnel. They could see what was going on with Jeff Kennett in Victoria, as could the 4 000 workers who marched on Parliament House and gave me a very strong message. They said, 'We see what Jeff Kennett is doing in Victoria and we don't want it done over here.' A total of 4 000 turned up here and 100 000 turned up in Victoria to say, 'This is not on.' So, we have 4 000 people saying, 'We can see what is happening under the Victorian style Liberals with Kennett and his cohorts, and we don't want it here. We don't want that sort of workers compensation here, and we don't want the industrial legislation that goes with it.'

This debate tonight is not just about workers compensation. It is about every condition that besets working class people and the general community in South Australia. These people want to rip power off, but not in the four years. I have heard them stand up in this place and talk about four-year terms and all their wonderful philosophies, but at the first sign of a snatch at power, they could not help themselves. Well, Mr President, they will not get it.

They will not inflict a situation on the workers in South Australia as Jeff Kennett did in Victoria. I do not believe they will introduce the same alterations to WorkCover. We will have all the other props. W. do not want to take the shoes off the workers, but we will have to take the shoes off the workers to a certain extent. That is what these people were saying out in front of Parliament House. There were 100 000 protesters in Victoria because they have had their legs broken by the Liberals over there. Members opposite should not think that Dean Brown is any different from Kennett. We only have to look at the record. In the early 1980s, Dean Brown was the only Minister of Labour who ever precipitated a general strike by the Public Service. This is the man—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: —who in 1980 wanted to privatise the Public Service and wanted to get rid of the Harbors Board. This is the person who they want us to believe now could come into this State and provide sensitive and sensible conditions for workers in South Australia. They are asking us to believe that we ought to give control of the chickens to Colonel Sanders. This bloke is no different from Kennett. The Hon. Mr Lucas wants to say they will not be like the Liberals in Victoria. I have had a little to do with animals, like my friend the Hon. Mr Dunn. I can tell you, Mr President, that if a cat has kittens in the pig sty, it does not have piglets, and Liberals are the same everywhere in Australia. They are no different here from anywhere else.

Dean Brown is a clone of Jeff Kennett. The only difference is the Brylcreem. I will not support anything that will inflict that type of regime on to South Australian workers. I do support this legislation with some ache in my heart, but I do it as I have done on a number or other occasions. I would rather the workers take a little less now and not be hit in the neck later. I am about maintaining the *status quo.* I am not making any untrue statements. I am being quite clear about it. I will do whatever is necessary, given the instruction by the Australian Labor Party on a three to one vote. They tell me that I should support this. I see the merit in doing that. I will support this Government, and members opposite will miss their opportunity to snatch power. The

so-called champions of small business will have to sit there. Where were they last week when we were talking about reducing the costs to the employers? They were saying nothing. I might add that—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: I did not hear the Chamber of Commerce and other people saying, 'We want you people to support this. We want you to duplicate your decision in the Lower House.' No, they were all sitting back waiting to see whether they could snatch the big prize. They did not just want to have these amendments; they wanted the big prize—government. They are not getting it and they will have to wait until February 1994. In the words of the Prime Minister, 'We will do you blokes, and we are going to do you slowly.' I support the second reading.

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

PARLIAMENTARY COMMITTEES (PUBLICATION OF REPORTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 737.)

The Hon. J.C. BURDETT: I support the second reading of the Bill. The Bill provides that, if more than 14 days elapses from the day on which a report of a committee—whether a final report or an interim report—is adopted by the committee until the next sitting day of the committee's appointing House or Houses, the committee may present the report to the Presiding Officer or Officers of the committee's appointing House or Houses and the Presiding Officer or Officers may after consultation with the committee authorise the publication of the report prior to its presentation to the committee's appointing House or Houses.

A report so published will be deemed to be a report of Parliament and, therefore, will be published. The second reading explanation comments that all four committees created under the Parliamentary Committees Act have been more active than the committees that they replaced because of the additional roles given to them. My own comment is that in the case of the Social Development Committee it is, of course, a completely new committee.

It was pointed out in the second reading explanation that it is not in the best interests of communicating the work of Parliament to the public that during a long recess a report of a committee cannot be made public, which is the present position. It was also pointed out that the situation of its being desirable to publish a report without waiting until Parliament sits again is most likely to arise in the case of the Economic and Finance Committee, although I can easily envisage situations where it could be desirable for the other committees to have a report published during a parliamentary recess.

Interim reports, as well as final reports, are included in the operation of the Bill. I can envisage a situation where it might be desirable to publish an interim report for public comment outside a sitting time so that the committee will be in a position to make a final report to Parliament when it sits again. I cannot see any objection to the Bill because its provisions are not mandatory: it is entirely up to each committee as to whether or not it uses them.

One downside that I can see is that the report cannot be published without the cooperation of the Presiding Officer or Officers. The Presiding Officer or Officers are always going to be members of the Government Party, the Party of the day, or persons who have come to an understanding with the Government Party, and it is possible that a Presiding Officer may not give his authority to the publication of the report because of the potential for the report to damage the Government.

However, I do not see how this can be overcome, because the committees are committees of the Parliament and, if they do not report to Parliament, they must surely report to the Presiding Officers in lieu of Parliament. Also, I do not see this problem as being real because, except under extraordinary circumstances, I cannot see a Presiding Officer ever sticking his or her neck out by authorising publication of a report that a committee has asked him or her to publish.

It is possible to see other problems with the Bill. In regard to the Economic and Finance Committee of the House of Assembly, in particular, I see problems in some of the statements that have been made by the former Presiding Member of that committee that have not come to Parliament, so it has not been a question of reporting to Parliament but of press releases being made, of comments being made in the press and of Parliament having been bypassed.

I do see that as a problem, and Parliament will need to monitor the operation of this Bill when it comes into effect, but I do not see that as a reason for voting against the Bill, because any committee should be able to control its Presiding Member and, to me, it is not just the fault of the Presiding Member but of the committee if these things are allowed to happen, to go on happening and to remain unchecked.

As I see it, a Bill such as this is likely to render that kind of conduct less likely to happen in the future, because here is a way, presented with a procedure authorised by the Parliament, to present the reports to the Presiding Officer or Officers and for the Presiding Officer or Officers to have the right to authorise their release or not. If this Bill is passed there will not be the excuse, perhaps, that there has been in the past for a Presiding Member of a particular committee to make press releases, to go to the press, to have the media present during meetings, and so on, which there has been in the past.

While I do think that the Parliament ought carefully to monitor the situation when the Bill is passed, the Bill as it stands is reasonable and sensible, and I cannot see any objection to it. There is no reason why a report that is ready to be released should not be released out of sitting time and, in particular, as I said before, there is every reason why an interim report could be released out of sitting time so that there can be public comment and so that a final report can be presented as soon as Parliament reconvenes. I support the second reading of the Bill.

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

DAIRY INDUSTRY BILL

The Hon. BARBARA WIESE (Minister of Transport Development): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

There are currently two State Acts covering the dairy industry in South Australia. These are the Metropolitan Milk Supply Act 1946 which covers the area from Meningie to Gawler and the Dairy Industry Act 1928 which covers the rest of the State. There is also Commonwealth legislation that levies all milk to support the lower returns received on export markets.

There is an increasingly national focus on returns from dairying and the legislation to achieve this. There is also a move in all States to reduce legislation in the dairy industry by giving more responsibility to the industry for its own pricing mechanisms and quality control.

The Dairy Industry Bill 1992 follows this national perspective and is in line with national requirements and pricing, particularly at the farm gate. The Bill repeals the Dairy Industry Act 1928 and the Metropolitan Milk Supply Act 1946 and allows the industry to take increased responsibility in quality control especially at the farm level.

Some of the provisions of the Bill are as follows: The Dairy Authority of South Australia is established consisting of three members appointed by the Governor. There will be an orderly transition from the current Metropolitan Milk Board to the new Authority which will allow for industry to re-organise its staff requirements as they become more involved with responsibilities of quality and safety control through specific codes of practice.

Provision is made to set prices. However, as has been outlined in the White Paper, it is anticipated that these prices will be progressively removed so that from 1 January 1995, the only price control will be at the farm gate. However, in line with Commonwealth legislation, this farm gate price control may cease by the year 2000.

Provision is made to ensure that milk for market milk, no matter from where sourced or sold, is paid for at the declared farm gate price. This provision is to ensure national discipline as agreed to by all States.

Provision is made to allow for two (one cent) increases in the wholesale price of milk to be paid into a fund to be distributed to dairy farmers outside the current Metropolitan Milk Board area and so increase their farm gate price to the same as that received by dairy farmers in the Metropolitan Milk Board area. This provision will allow for a statewide farm gate price and not put at risk country milk processing plants.

Provision is made for the Minister of Primary Industries to have reserve powers in the event of a breakdown in an industry equalisation agreement.

Provision is made for unpasteurised milk to be sold which will need to meet satisfactory safety and labelling standards.

Provision is made for codes of practice to be administered by the various industry segments.

Provision is made for the milk testing equipment (currently the responsibility of the Metropolitan Milk Board) to be transferred to the dairy industry, as determined by the Minister in consultation with the industry. The benefits from herd recording cover all dairy farmers and provision is made for the industry to fund the replacement and operational costs of this equipment.

Staff currently employed by the Metropolitan Milk Board will be transferred to the Authority.

I commend the Bill to Members.

Part 1 of the Bill (clauses I to 3) contains preliminary matters.

Clause 1: Short title—This clause is formal.

Clause 2: Commencement—This clause provides for commencement on a day to be fixed by proclamation.

Clause 3: Interpretation—This clause contains definitions of words and phrases used in the Bill.

Part 2 of the Bill (clauses 4 to 11) deals with the Dairy Authority of South Australia.

Clause 4: Establishment of the Authority—This clause provides that the Authority is established as a body corporate and an instrumentality of the Crown.

Clause 5: Ministerial control—This clause provides that the Authority is subject to control and direction by the Minister.

Clause 6: Composition of the Authority—This clause provides that the Authority consists of 3 members appointed by the Governor of whom at least 1 must be a person with wide experience in the dairy industry.

Clause 7: Conditions of membership—This clause provides that a member of the Authority is appointed for a term not exceeding 3 years and is eligible for reappointment- The terms for removal from office are set out as are the reasons why such an office may become vacant.

Clause 8: Remuneration—This clause provides that a member of the Authority is entitled to such remuneration, allowances and expenses as may be determined by the Governor.

Clause 9: Disclosure of interest—This clause provides that a member who has a direct or indirect private interest in a matter under consideration by the Authority must disclose the nature of the interest to the Authority and must not take part in any deliberations or decision of the Authority in relation to that matter. Failure to comply with proposed subsection (1) carries a penalty of a fine of $8 000 or imprisonment for 2 years. Proposed subsection (2) provides that it is a defence to a charge of an offence against proposed subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

If a member discloses an interest in a contract or proposed contract under this proposed section and takes no part in any deliberations or decision of the Authority on the contract, the contract is not liable to be avoided by the Authority and the member is not liable to account for profits derived from the contract.

Clause 10: Members' duties of honesty, care and diligence—This clause provides that a member of the Authority must at all times act honestly in the performance of his or her official functions. The penalty for an offence is divided as follows:

- if an intention to deceive or defraud is proved—the penalty is a $15 000 fine or imprisonment for 4 years or both;
- in any other case—the penalty is a $4 000 fine.

Subclause (2) provides that a member of the Authority must at all times exercise a reasonable degree of care and diligence in the performance of his or her official functions. A fine of $4 000 may be imposed for failure to comply with this duty.

Subclauses (3) and (4) provide for penalties of a $15 000 fine or imprisonment for 4 years or both where—

- a member of the Authority makes improper use of his or her official position to gain a personal advantage for himself, herself or another or to cause detriment to the Authority; or
- a member or former member of the Authority makes improper use of information acquired through his or her official position to gain directly or indirectly a personal advantage for himself, herself or another, or to cause detriment to the Authority.

Clause 11: Proceedings—This clause sets out the procedures of business conducted by the Authority, including the quorum necessary (2 members) and voting rights (1 vote per member and the presiding member has a casting vote if necessary). A decision carried by a majority of the votes cast by members at a meeting is a decision of the Authority. The Authority may conduct a meeting via a telephone or video conference. The Authority must cause accurate minutes to be kept of its proceedings.

Part 3 of the Bill (clauses 12 to 16) deal with the functions and powers of the Dairy Authority of South Australia.

Clause 12: Functions of the Authority—This clause provides that the Authority's functions are—

- to recommend the imposition, variation or removal of price control in respect of dairy produce under this Act;
- to determine the conditions and the fees for licences to be issued under this Act;
- to approve, provide, or arrange for the provision of, training programs for implementing appropriate standards and codes of practice for the dairy industry;

- to grant, or arrange for the granting of, certificates to persons who successfully complete training programs approved by the Authority;
- to monitor the extent of compliance by the dairy industry with appropriate standards and codes of practice; and
- to carry out any other functions assigned to the Authority by or under this Act or by the Minister.

Clause 13: Powers of the Authority—This clause provides that the Authority has the powers necessary or incidental to the performance of its functions and may, for example—

- enter into any form of contract or arrangement;
- employ staff or make use of the services of staff employed in the public or private sector,
- engage consultants or other contractors;
- delegate any of its powers to any person or body of persons.

Subject to the transitional provisions, an employee of the Authority is not a member of the Public Service, but the terms and conditions of employment of any such employee must be as approved by the Minister.

Clause 14: The Dairy Authority Administration Fund—This clause provides that there is to be a fund called the Dairy Authority Administration Fund which consist of all fees and charges recovered under this Act, all penalties recovered for offences against this Act and any other money appropriated by Parliament for the purposes of the Fund. The fund is to be applied towards the costs of administering this Act.

Clause 15: Accounts and audit—This clause provides that the Authority must keep proper accounting records of its receipts and expenditures, and must, at the conclusion of each financial year, prepare accounts for that financial year. The Auditor-General may audit the accounts of the Authority at any time and must audit the accounts for each financial year.

Clause 16: Annual Report—This clause provides that the Authority must, on or before 31 October in every year, forward to the Minister a report on the administration of this Act during the year that ended on the preceding 30 June. The report must include the audited accounts of the Authority for the relevant financial year and must be laid before Parliament within 12 sitting days after receipt by the Minister.

Part 4 of the Bill (clauses 17 to 27) deals with the regulation of the dairy industry.

Clause 17: Licences—This clause provides for licences of the following classes:

- dairy farmer's licence;
- processor's licence; and
- vendor's licence.

It is an offence for a person to carry on business as a dairy farmer, processor or vendor unless that person holds an appropriate licence. The penalty for such an offence is a fine of $8 000.

Clause 18: Issue of licences—This clause provides that the Authority may, on receiving an application for a licence, issue the licence.

Clause 19: Licence fee—This clause provides that a person who holds a licence must pay periodic licence fees in accordance with the regulations and if a periodic fee payable by the holder of the licence is in arrears for more than 3 months, the Authority may, by written notice given to the holder of the licence, cancel the licence.

Clause 20: Conditions of licence—This clause provides that a licence may be issued on such conditions as the Authority thinks fit and that the Authority may, by written notice to the holder of a licence, add to the conditions of the licence or vary or revoke a condition of the licence. A person who holds a licence who contravenes or fails to comply with a condition of a licence is liable to a fine of $8 000.

Clause 21: Transfer of licence—This clause provides that a licence may be transferred with the consent of the Authority.

Clause 22: Revocation of licence—This clause provides that the Authority may revoke a licence if the holder of the licence ceases to carry on the business in respect of which the licence was issued or the holder of the licence contravenes or fails to comply with a condition of the licence.

Clause 23: Price control—This clause provides that the Minister may, on the recommendation of the Authority, publish an order fixing a price for the sale of dairy produce of a specified class. An order under this section—

- may apply generally throughout the State or be limited, in its application, to a particular part of the State;
- may apply generally to the sale of dairy produce of the relevant class or may be limited to sale by retail or by wholesale or to sale by licensees of a particular class or by reference to any other factor;
- may, by further order, be varied or revoked.

This clause further provides that an order under this proposed section fixing a price to be paid to processors for market milk may be subject to a condition, stated in the order, requiring that a specified proportion of the price paid for the milk be paid into a fund to be established by the processors and applied by them, as directed by the Minister, towards enabling them to pay the farm gate price for milk to dairy farmers who would not otherwise receive that price for such milk.

Clause 24: Non-compliance with price-fixing order—This clause provides that a person who carries on a business involving the sale of dairy produce must not sell dairy produce to which the order applies for a price that differs from the price fixed in the order. A fine of $8 000 is fixed for non-compliance with this provision. For the purposes of determining the price for which dairy produce is sold, any contractual arrangement which provides in effect for a remission of price or a premium on the price, will be taken into consideration.

Clause 25: Guarantee of adequate farm gate price—This clause provides that a person must not process milk in the State for the purpose of manufacturing market milk unless the raw milk was purchased from a dairy farmer (either within or outside the State) at or above a price determined by the Minister on the recommendation of the Authority as the farm gate price for milk. A fine of $60 000 is the penalty for non-compliance with this provision.

It is further provided that a person must not sell market milk unless the market milk was produced from raw milk purchased from a dairy farmer (either within or outside the State) at a price determined by the Minister on the recommendation of the Authority as the farm gate price for milk. (Penalty: $60 000).

The Minister may, on the recommendation of the Authority, by notice in the *Gazette*—

- determine a farm gate price for milk to be used for manufacturing market milk; or
- vary or revoke a previous determination under this proposed subsection.

If there is a general consensus throughout Australia on what an appropriate farm gate price for milk should be, the Authority's recommended farm gate price should reflect that consensus.

Proposed subsection (5) provides that this section does not apply in relation to raw milk sold under a contract that was in existence at the commencement of this Act unless the Minister, by notice published in the *Gazette,* otherwise determines.

Clause 26: Equalisation schemes—This clause provides that the Minister may, on the recommendation of the Authority, establish a price equalisation scheme that is binding on dairy farmers and wholesale purchasers of dairy produce of a class stated in the scheme. Such a price equalisation scheme may impose a surcharge on licence fees on licensees who are bound by the scheme. The terms of any such scheme are to be published in the *Gazette* and the Minister may, on the recommendation of the Authority, by further notice, amend or revoke the scheme.

Any scheme under this proposed section, or an amendment to such a scheme, must be laid before both Houses of Parliament and is subject to disallowance in the same way as a regulation.

This clause further provides that a price equalisation scheme cannot be established if a voluntary price equalisation scheme is currently operating binding dairy farmers and wholesale purchasers of dairy produce throughout the State.

Clause 27: Non-compliance with scheme—This clause provides that a person who sells or purchases dairy produce contrary to the terms of a price equalisation scheme that is binding on that person is guilty of an offence and liable to a fine of $8 000.

Part 5 of the Bill (clauses 28 to 33) contains miscellaneous provisions.

Clause 28: Advisory and consultative committees—This clause provides that the Minister may establish committee(s) of representatives of the dairy industry to obtain advice and facilitate consultation as to any matters relating to the industry or the administration of this Act.

Clause 29: Powers of inspectors—This clause provides that an inspector may enter and inspect any dairy farm or other premises in which dairy produce is produced, processed, stored or kept for sale in order to determine whether appropriate standards and codes of practice are being observed and may take samples of any such dairy produce in order to determine whether the dairy produce complies with standards in force under this Act.

This clause further provides that an inspector (or a person assisting an inspector) who while acting or purporting to act in the course of official duties uses offensive language or hinders or obstructs, or uses or threatens to use force against, some other person knowing that he or she is not entitled to do so, without a belief on reasonable grounds that he or she is entitled to do so, is guilty of an offence. (Penalty $8 000).

Clause 30: Hindering inspectors—This clause provides that a person must not hinder or obstruct an inspector in the exercise of powers conferred by this Act. The penalty for an offence against this clause is a fine of $8 000.

Clause 31: Protection of staff—This clause provides that an inspector or other person engaged in functions related to the administration or enforcement of this Act incurs no civil liability for an act or omission in the course of the performance or purported performance of those functions.

Clause 32: Review of Act—This clause provides that the Minister must at the end of 3 years from the commencement of this Act review the operation of this Act the report of which review must be prepared and laid before both Houses of Parliament.

Clause 33: Regulations—This clause provides that the Governor may make regulations for the purposes of this Act.

The schedule of the Bill contains repeal and transitional provisions.

The Hon. R.I. LUCAS secured the adjournment of the debate.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

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

STAMP DUTIES PENALTIES, REASSESSMENTS AND SECURITIES) AMENDMENT BILL

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

MOTOR VEHICLES (CONFIDENTIALITY) AMENDMENT BILL

Returned from the House of Assembly with an amendment.

STATUTES AMENDMENT (RIGHT OF REPLY) BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 11.20 p.m. the Council adjourned until Wednesday 18 November at 2.15 p.m.