LEGISLATIVE COUNCIL

Thursday 25 March 1993

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

SUPPLY BILL (No.1)

Adjourned debate on second reading.
(Continued from 24 March. Page 1671.)

The Hon. L.H. DAVIS: The year 1992-93 continues to see a pervading weakness in the South Australian economy. All economic indicators show that South Australia trails by some margin all other States. Whether we talk about retail sales, car registrations or housing starts, where there has been more strength in recent times, the overwhelming view around Australia is that South Australia has become the rust bucket State of Australia. It saddens me to say that, but it is true.

To put it in perspective (this is a figure which I have not seen quoted before), if we say that gross domestic product nationally is about $400 billion and South Australia has an 8.5 per cent share of that, which is about $35 billion to $36 billion, the $3.1 billion loss of the State Bank represents almost 10 per cent of South Australia's gross domestic product. That underlines the magnitude of the loss, the magnitude of the financial problem and the length of time it will take this State to fight its way out of the financial mire. No amount of persuasion or politicking from the Labor Government can distract the voters of South Australia from this unpalatable fact.

We also have the continuing and largely forgotten saga of the SGIC. As I mentioned only this week, the losses on one investment alone—333 Collins Street—through interest charges and write-downs amount to well over $300 million in less than two years since the SGIC was forced to acquire this massive building. It is a beautiful building, worthy of heritage listing, but an absolute investment lemon. It underlines the folly of a string of financial decisions made by a largely naive Bannon Labor Government.

We have seen the State Bank debacle. The SGIC problems continue, an SGIC which was technically bankrupt without a SAFA bail-out last year. And of course there is the on-going saga of Scrimber, which will be played out no doubt over the next few months. The dead body of Scrimber—the dead carcass of Scrimber—has been dragged through the public arena for the last 1 1/2 years and is still not a pretty sight.

So the Supply Bill, which traditionally is moved twice a year to provide necessary moneys to pay public servants, does provide us with an opportunity to focus on the financial fiascos in this State. There is no doubt that with the continuing downturn in the South Australian economy this will impact on the revenues collected by this State Government. We have the highest financial institutions duty in Australia at .1 per cent, the highest stamp duty on cheques in Australia, and still the highest WorkCover premiums in Australia, so this is not a haven for small business or even big business. It is not a State which you can sell to overseas or interstate firms looking for potential for expansion or relocation. South Australia has very little going for it under the Bannon/Arnold administrations which have been in power now for 11 years.

When we look at the extent of the budget deficit and the interest payments that are made on the borrowings, which now amount to over eight billion dollars, we have to remember that these massive interest payments are in the context of the lowest interest rates we have seen in the last generation, the lowest interest rates for 30 years. If we take that into account it really does make the situation even grimmer.

What of the future? Well, the future begins at the next State election and hopefully the people of South Australia will have the chance to vote for a change of Government. The Federal election quite clearly shows that one cannot be complacent about these matters but the Federal election was fought on Federal issues, the State election will be fought on State issues.

Members interjecting:

The Hon. L.H. DAVIS: There will be no place for this Labor Government to hide.

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: I did not hear you TC.

The ACTING PRESIDENT: Order!

The Hon. L.H. DAVIS: I can just see a face moving above the *Hansards*. Say that again, Trevor.

The Hon. T. Crothers: Is the abolition of the revenue that the State gets from payroll tax a Federal issue?

The Hon. L.H. DAVIS: The Hon. Trevor Crothers interjects and says, 'Is the abolition of payroll tax a Federal issue?' As the member would know payroll tax is imposed by each State Government around Australia, and if we are going to remove such a significant revenue base it has to be done in conjunction with some adjustment in taxation powers which will inevitably involve the Federal Government. Of course the tragedy of the election on 13 March was that payroll taxes will not be eliminated in the short term. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

BARLEY MARKETING BILL

Adjourned debate on second reading.
(Continued from 24 March. Page 1661.)

The Hon. PETER DUNN: In supporting this legislation, let me outline a little history about the Australian Barley Board and its effect in southern Australia. For some time now, barley has been a grain grown predominantly in southern Australia, with very good reason. Unlike wheat, barley likes a cool ripening period to achieve the best quality product, particularly for malting barley. Therefore, southern Australia is much more suited and, in particular, South Australia, because there are very few other places in the world where cereal grains are grown so close to the sea as in South Australia and, in particular, Yorke Peninsula and Eyre Peninsula.

Those areas benefit from sea breezes early in the day during the hot period, keeping the temperature down and allowing the grain to mature more slowly than it does in, say, central New South Wales or Queensland or, for that matter, inland Western Australia, although Western Australia does grow considerable amounts of barley around its coastline. South Australia has a very long coastline, and barley is grown close to the coast. Victoria is traditionally a cooler climate, so we can grow high quality barley in both South Australia and Victoria.

For some time the barley industry has wanted a board covering the whole of Australia, much like the Australian Wheat Board, but that is proving to be very difficult because the quantities of barley grown are not high in Queensland and New South Wales, so South Australia and Victoria, being the predominant barley growers, have decided to club together—and we have for some time—and have a common marketing board. That is very sound because, on a world scene, we grow fairly minuscule amounts of barley. However, because we have a small population, we do not consume much of our own barley, so much of it is sold overseas. Traditionally, our major overseas market for feed wheat in the past has been Russia. Numerous small parcels of barley grain have gone to other countries, with much malting barley being sent to Japan. In recent years, more and more has been sold to the Middle East and eastern countries, which are drinking more and more beer.

In recent years our grain quality appears not to have matched that of Canada and North America. Because of that, we have lost some of our traditional markets, such as Japan, Taiwan, the Philippines and Singapore, which are now paying premiums to North America for some of its barley. Where we can get in and sell that barley we are getting premium prices for it, and at the moment those prices are historically high. The difference in price between feed barley and malting barley is very high—in fact, $25 to $35 per tonne more for malting barley than feed barley.

Because of the economic problems in the Soviet Union at the moment, I guess the Barley Board is loath to sell great quantities of feed barley in case it does not get paid. So that leaves Saudi Arabia which is using quite large quantities of our feed barley. I think we have a difficult problem there because of the USA and its export enhancement program, where it subsidises its grain into those countries, particularly Saudi Arabia and the Middle East and where, for a very long period, we have had very high grain sales—wheat, barley and other grain legumes.

The Barley Board not only sells barley but it also sells and handles other course grains; for instance, oats. For some time now it has been selling oats. Although it is not a product that we sell great quantities of, I understand that there is an increasing demand for high quality oats. The other commodities, as I pointed out, are grain legumes in the form of lupins, faba beans and field peas. It is interesting to note how, under the change in techniques of farming in South Australia, these grain legumes are becoming more and more an integral part of the farming techniques used in southern Australia.

As a result, I think the yields of all our grains are increasing because of our improved techniques. One of the problems that we have as a nation is that we have not been able increase our yields commensurate with, for instance, Europe or America. At the end of the war, Europe was producing about 2.7 tonnes of grain per hectare (if you took the whole of the grains of Europe) and we were producing about 1.2 tonnes per hectare. Today South Australia produces about 1.7 tonnes per hectare and up to about 2.2 tonnes per hectare in perhaps Victoria, but Europe is producing 7.2 tonnes and has increased its production dramatically.

That is one of the problems that is occurring around the world—that it is producing very high quantities of grain although not necessarily quality grain. Australia has a product which is sought after and we must protect that quality so that we can access the markets which traditionally have been ours. Because Europe and North America produce a great quantity of grain they have had difficulty in getting rid of it because of its lower quality. That is why they have a considerable subsidy in their program. For years we have been trying to lower those subsidies using the General Agreement on Tariffs and Trade (GATT) negotiations—at which we have been singularly unsuccessful. I would say that I do not think we ever will be successful. Despite the Federal Government's protestations that the subsidies must come down and despite the Opposition's protestations to that effect, it is my opinion that the subsidies in those countries will never come down to the degree that we would expect.

There is a very good reason for that. There is an enormous number of primary producers in Europe, and the reason for that is that they own relatively small plots. If their industry collapses those people will migrate into the cities as has happened in Mexico and in some of the South American countries, and for that matter in places like China and some of the eastern nations. If that happens they become slums or they go onto social benefits which have to be provided by the nation. So, they have made the decision, in my opinion, to pay them social benefits through the form of subsidies for farm produce. I think we are kidding ourselves if we think that we are ever going to be able to access some of those markets and be able to compete on an even playing field with them, because we do not get subsidies in Australia. There is not a razoo of subsidy in the grain industry and I do not think we will ever be able to match the Europeans for production. Because of the subsidies they receive they can put on very large quantities of fertiliser and they can carry out intense research projects as a result of which they can produce larger and larger quantities of grain. That is a rough idea of what the world scene is, and that is why Australia, particularly South Australia and Victoria, needs a strong Australian Barley Board.

Getting back closer to home for a few moments, there have been some problems arising in our barley industry in recent years on which the Barley Board will have an influence. This year, because of the very unusual season—we had a lot of rain during the harvest period—South Australia lost perhaps 300 000 tonnes of grain which in normal circumstances we could have expected to be in the system and therefore receive export moneys when it was sold. However, because it was wet it was downgraded and some of it was not even harvested. We could have expected about 2 million

tonnes of barley to be produced in this State, but as it has turned out it is about 1.735 million tonnes, and because of that we have lost out.

There are other reasons appearing on the horizon that are unrelated to the seasonal problem that we had this year, which may affect the sales of barley. One of those relates to snails. They arrived in this country many years ago. They were at very low levels and they appeared around places such as Port Lincoln, Outer Harbour and similar places. They have now travelled out into the country on railway vans and things like that and are becoming a very big problem in South Australia and in Victoria. Yorke Peninsula in particular is having a great deal of problem with those snails. They are posing a serious threat to our ability to market our grain.

Some countries have quarantine regulations which do not allow these snails into their country and they will not buy grain which is contaminated with them. Apart from all the problems with growing and harvesting grain, in the hot weather the snails climb up the stalk of the barley plant and are reaped with the machinery. It causes a sort of slurry and the box ends up with a high moisture content and crushed up snails. They are a big problem and a considerable amount of research is now being done to try to find a natural vector which will at least reduce their numbers so that we can access the markets that we want to, with a product that is free of snails.

There are new varieties of barley on the market but I think we have missed the boat somewhat regarding those markets. North America has galloped past us and it has varieties that are now being sought by the maltsters around the world. I think we will catch up. Traditionally we have had very good research into our cereal grains, but we seem to have fallen behind a bit with barley research and I notice there is a new emphasis on the production of grain.

Of course, importantly, we must produce grain free of insect, and traditionally we have always used much pesticide to eliminate grain problems. One of the pesticides we used was Fenitrothion. It has been used for many years; it has been a very good pesticide. In recent years, places such as Japan have tightened up the quantities of residue of Fenitrothion that they will allow in the product we are selling to them at the end of the season. So, there is another problem that manifests itself for the Barley Board when it wants to sell grain overseas.

We now get down to the actual legislation which will set up a new Barley Board. For a number of years, we have had a Barley Board in South Australia—in fact, we have had one since 1947. It has been a marvellous board; it has done marvellous things for the primary producers of this State. I would like to place on record my thanks for that board, because I have been a benefactor of some of the good work that that board has done. Furthermore, I was the neighbour of one of the very first Barley Board members, Mr Max Pearce, and he was always a fount of good information and worked very hard to make those boards that were first set up in 1947 and from there on work. They worked economically and cheaply, and we got good value for the money that the barley growers put in to running them.

However, time marches on, and we do need a new board which combines with Victoria and South Australia so that we can gather the majority of the crop grown in Australia and sell it to the world involving the best possible people and in the best possible conditions. Lengthy consultations have occurred with grower organisations, both in Victoria and South Australia. There has been a long period of consultation, particularly in this State, as we thought this legislation would be introduced in the last session of Parliament. However, because of that long period of consultation, I believe that the legislation we now have is getting very close to that which is achievable. The Bill itself is a relatively short one. It has a sunset clause in it which takes it out of operation in five years time. Therefore, there will be a chance to review the legislation and make sure that it is performing as we expect it to perform in the next five years. The term of operation of the Barley Board in this Bill is three years, and I think that is right and proper. So, the framework for the Barley Board is quite correct.

The board is made up of eight members—and I will not go into detail about them, except to say that Victoria has agreed to select its members. The organisation in Victoria which is equivalent to our Farmers Federation is selecting a group of people who will select the members whom they will put to the Minister, and the Minister will finally take a couple of members from that selection committee's pool of members. I am not sure that that is entirely the way that we would like to do it in South Australia. In fact, we are reflecting a different method of selecting those people. We think that there should be a more democratic system, and that democratic system is to have a pool of growers and elect them, and I agree with that. It still allows the Minister to put his selections on it, that is, to select the Chairman, and to have one other person on that board with special skills. However, one will be selected from South Australia from a pool provided by the South Australian Farmers Federation. That pool does not necessarily involve Farmers Federation people. The Minister has given us that assurance in another House. It is not spelt out in legislation, but I hope he honours his promise so that the widest selection can be made of all the barley growers in South Australia.

If we look at production in this State, the predominant area for barley production is Yorke Peninsula and that area close to the Mid North, and about 60 per cent of barley is grown in that area. I know that the South Australian Farmers Federation does have a problem in that area with members. Also, a number of members live much further away from the metropolitan area; for instance, the people living on the Far West Coast, the South-East and the Murray-Mallee are much further away from those who live on the Yorke Peninsula, and I believe that they, too, need representation. So, I am not unhappy for the South Australian Farmers Federation to represent those people and put forward its point of view. That is one of the reasons why I am supporting the legislation as it is.

When first put forward, the legislation had two members selected from the South Australian Farmers Federation and one elected by a poll of growers. That was not acceptable to the general barley growing population, so a compromise has been made there, and we now have two people elected from a poll of growers and one selected. That is a reasonable balance. The

Victorian organisation decided to select all its own, and that is its choice. That choice has not been altered under a change of Government. There was a Labor Government in Victoria when the legislation was first put forward, and subsequently there has been a change of Government, but the Kennett Liberal Government has continued to have a selection process. If its barley growers are happy to do that, then it is not unreasonable for us to have one person on the board selected in that manner.

There is a very good reason for that, and I use myself as an example. If I spend a considerable sum of money and use the best of my knowledge to produce the best product I can, I expect it to be sold for the best price that I can get for it, because it is a very expensive operation today to produce a tonne of barley. We need experts to sell that barley. Those people who are out there negotiating with other nations must be of the highest quality and have the best negotiating skills. I did mention earlier that we are selling a considerable amount of our grain to Saudi Arabia and to the Middle-East. Those people have been bartering, selling and exchanging for thousands of years and they are experts at getting the best for themselves. However, we have not had that experience. I spend my time trying to grow the best product. If I dealt with an Arab who has had these skills bred into him, I am sure he would give me a lesser price than perhaps if a skilled negotiator did the job for me. I believe that is what this board is about. It should have those skills—and not just negotiating skills but a number of other skills I have talked about in the past 10 minutes. I believe the board needs somebody with those skills. That is what the Bill sets out to do; it says that it needs a person with those skills.

Two elected persons are necessary because, after all, it is the product of the barley growers that we are selling, and they are entitled to have a reasonable say into where and how the barley goes so that they can report back to their growers with regard to how the Barley Board is performing. I would be the first not to agree to a board being set up entirely by the Minister or by a group of people who are at arm's length from the growers with skills just for selling that grain. I think that there is quite a nice balance in the South Australian section of the board. That, predominantly, is what the board is about.

There are other details within the Bill on which I shall be putting forward amendments. I can talk to those matters in Committee because the Bill really is a Committee Bill. There will be a few questions. The fact is that the Bill has been around for a long time and people understand what it is about. People are not now coming and asking me whether I can do this or that. That seems to have stopped. I can only assume that the Bill is right for the time. If so, 1 think we can push the business on and get this Bill through the Parliament so that the Victorians can then pass equivalent legislation and the Barley Board can be set up.

There is a good reason for doing this relatively quickly. Come the middle of the year the Barley Board will need to negotiate with the banks for finance to pay for next year's crop. That involves hedging, as well as looking at world markets and at the area that has been sown. Therefore, it is necessary for the board to make fine judgments in the middle of the year in order to get the best value for money. In the past States and countries have got into trouble, particularly this State, because they invested in the wrong places. We want to borrow the money at the cheapest possible price. Because of the way that barley is sold—it is put into a pool—we need to pay the growers about 80 per cent to 90 per cent of that pool for their product. Like few other industries, the rest is paid over two or three years. There are not many other products in the world for which the growers do not get their money at the point of sale, but this is one. Because of that we need to borrow large sums of money for long periods, so we need to get the best value for money. It is important that the Bill should go through quickly so that we can have the Barley Board in place to negotiate with the banks.

Now that the banking industry has been freed up, more negotiations will need to take place. We cannot borrow from the Reserve Bank, as used to happen; we have to borrow the money from private enterprise. I think it will probably be cheaper money, and it is certainly cheaper today than it was a few years ago. The cost of money nearly wrecked the industry in the late 1980s. As I said, we need to have the board in place to conduct those negotiations so that we can have the most viable industry in this State and in Victoria.

Barley represents a large part of our export income. At about $170 a tonne for malting barley and about $135 a tonne for feed barley, multiplied by about 2 million tonnes, we get an idea of the export income. That is income for the State which will raise our standard of living many times. Using the multiplier effect, I suppose we can multiply it by four times. In that way we can see the value of barley to this State. I do not think that the Bill will be held up in Committee for too long. I support it because it is important for the future of South Australia.

The Hon. T. CROTHERS: Like the Hon. Mr Dunn, I support the Barley Marketing Bill. I want to canvass some of the aspects that have already been touched upon by the Hon. Mr Dunn. The Barley Marketing Board has served the industry in this State competently and well. The board was among the first to recognise that its contribution to the nation's and the State's economy would be greatly enhanced if it could value add to the product of the barley farmer.

It is not insignificant, when we look at the new maltings that have opened up in Australia, that three of them—Coopers Breweries, Palmers Maltings and Whites—have opened up in the past 15 years or so within South Australia. When one totals the export tonnages of the two major export oriented maltings, Whites and Palmers, and adds those to the export tonnages of the two domestic-based maltings, Coopers Breweries and Barrett Brothers, we have a figure of about 150 000 tonnes of malt exported annually. I believe that the State has an even greater capacity to turn the barley into malt, so it could export more.

The greatest competitors until recently in respect of the export of South Australian malt and barley in general terms have been two nations in the Northern Hemisphere, namely, France and West Germany, now Germany. One thing that has stood South Australia in good stead has been the quality of the barley which is

produced for malt and which is almost unrivalled anywhere else in the world.

I pay tribute to the work of the agricultural division of the CSIRO and of the agricultural divisions of our own State-based research departments which have done a great deal of experimentation on strains of barley suitable for malt. They have produced strains such as Galleon, Schooner and Clipper. I believe there is also a new strain on the market, but the name of it escapes me. Much credit must be given to those researchers who, through the diligence of their research, have kept the quality of Australian barley grown for malt to the forefront in the world.

In addition, because of the apparent global warming and the shift in climatic conditions over large areas of the earth, it now appears that France and, to a lesser extent, West Germany are suffering the vagaries of drought whilst we are somewhat insulated from that because of the proximity of the Yorke Peninsula to the coast, thus lessening any impact that drought might have on the Yorke Peninsula. That is not to say that Yorke Peninsula, like other less agriculturally prone areas of this State, does not from time to time suffer from drought; it does. However, it can minimise the impact and it does because of its geographic position. That also assists us in the export of barley and cf malt because we have the capacity to continue to supply people who have been taking South Australian malt and barley over many years, whereas the Northern Hemisphere seems to suffer periodically from the vagaries of drought, which is rather surprising to those who have not studied the barley growing industry.

It does surprise me, knowing the quality of the people in the barley producing areas and the quality of the barley they produce to turn into malt, that South Australia can compete with those two nations of the EEC in the northern hemisphere and Canada too for export markets. It says much in fact for our capacity to export to see that we have tapped the newer markets of Saudi Arabia. Of course being a Muslim country they certainly do not want malt; they want barley as it is part of their staple diet. It speaks volumes again for the capacity of the State Government, SA Barley Board, the Federal Government and the various different representatives of our overseas trade, from the Ministers right down to officers of the department, that we have been able to open up those new markets, and this in light of the economic agricultural trade war that is currently being waged—although the pace of it seems to have dropped off—between the North Americans in the United States and the Europeans of the EEC, largely led by France and to some extent supported by Germany, as it now is.

A reference was made by the Hon. Mr Dunn to the 'green revolution'. I think he would have no objection to my using the word 'revolution' in that context in my speech. What he says is quite true: the effect of the green revolution on grain producers has been enormous, particularly so in Europe. England, for instance, which is a prime example, was a net importer of some considerable quantum of wheat after the second war and for sometime after. It now exports on a per average year some three million tonnes of wheat. So it has gone from being a net importer of about six million tonnes of wheat to a net exporter of some three million tonnes of wheat and in the crossover mathematical approach used to determine these matters that is nine million tonnes of wheat more that the South Australian grain exporter has to compete with. Again it says much for the expertise of our farmers in respect to being able to compete in the grain export area and compete very well with barley. They do not compete so well perhaps with wheat because of the subsidy war but it again speaks volumes for people in respect to the export of those materials from the country.

It is indeed very difficult in Australia to become expert in growing anything. It says much, I suppose, for the people who preceded us as inhabitants of this nation for the manner in which they addressed the different growing problems that were found here when they first came from Europe and mostly the United Kingdom.

As I have said the Bill is one which I support. However, I am pleased to see that there is a sunset clause in it and it would be my hope, and I place my hope on record, that the successive Ministers of Agriculture will keep a very close monitor on the operations of the newly formulated board because South Australia is, as was stated by my honourable colleague, Peter Dunn, by far and away the very largest barley grower in the nation. In a better than average year we produce better than two million tonnes of barley and I think, if my memory is serving me well, that Victoria, the next largest grower, produces something in the order—and perhaps the Hon. Mr Irwin will give me the okay if I am right—of 600 000 tonnes of barley; about a third.

I would not want to see the stage develop, given the success of South Australian barley growers over many years since the formation of the board, where their best endeavours are thwarted. I would not want a situation to develop where the tail wags the dog. It is for that very purpose that I am pleased to see that some attention has been paid to the protests of our farming community, particularly in the Mid North and on the Yorke Peninsula and even the Eyre Peninsula, which is also a fairly large contributor to our annual barley crop in this State. I would hope that successive Ministers of Agriculture, irrespective of Party, irrespective of philosophy pay more than simply scant attention to monitoring the progress of the new board. I support the Bill.

The Hon. DIANA LAIDLAW: I, too, support the Bill and I commend my colleague the Hon. Peter Dunn on his fine contribution to the debate on this Bill which at times has been quite controversial. Certainly the consultation in respect to this Bill has been long and protracted. I remember visiting Yorke Peninsula about 18 months ago when my purpose was to discuss road transport matters and tourism matters with local councils and all they were prepared to discuss was barley marketing. So it was a subject that I learnt a lot about very quickly. I appreciated the emotion and zeal with which they presented their views.

At that time or shortly thereafter the Liberal Party resolved that we would oppose the Government's original concept of three selected members as South Australia's representatives on the Barley Marketing Board. The Government has since reconsidered that point of view and this Bill proposes that two members be elected and

one selected. I believe that the position outlined in this Bill is a reasonable compromise when one considers that the people advocating election faced the situation some 18 months, two years ago where the Government was offering only selection as the means of electing members to the board.

I believe the Bill represents a reasonable compromise on the very fixed views that have been presented by various barley growers and their representatives in South Australia over some considerable time. I also believe that in fact it represents a victory for those who have been arguing for election. Those that have been doing so should recognise and should in fact applaud the quality of their arguments and the diligent manner in which they have presented those arguments because the situation we have today is certainly a vast improvement over the earlier proposition of all members being selected by the Government.

The reason why I am prepared to accept that one member, and it is only one of three, be selected is the fact that the Wool Council in recent years, where there was election only, got itself into enormous troubles in terms of the state of the wool industry in this country. Every member in this place who takes an interest in agricultural matters and primary production would realise that the wool price at the moment is almost at rock bottom, and many wool growers are facing horrendous trouble as a consequence. I suspect that much of this trouble now could have been overcome if we in this country had had the wisdom many years ago to be much more diligent in the marketing of wool to customers in this country and overseas.

I recall that on previous occasions in this place I have noted that, when I was to make a trip to Antarctica about three years ago and was looking for warm clothing, all the Adventure shops I went to recommended clothing other than wool. I was shocked at that, because I had been brought up to believe that wool was certainly the best quality product for extremely cold climates. However, the synthetic products were recommended to me, and it took me a great deal of effort and, I must add, a great deal more money to hunt out and purchase woollen products. It was that experience that has in great measure influenced my thinking in relation to barley marketing. We cannot in this State sit back and believe that, without aggressive marketing and an acute knowledge of what is happening in the market place, we will sell our product, whether it be the best product or not. It is very important with respect to barley, wheat and wool that we not only safeguard but in fact expand our market share of future exports in these fields. That is critical for the growers, and it is critical for this State and the well-being of the nation generally.

I wanted to make those brief remarks because I have received some quite agitated representations from barley growers calling themselves 'concerned barley growers', and I believe, as a member of the Legislative Council, it is important that I record my views in this place on this matter. My views certainly do not in any way dismiss the representations and pleas that I have received from so-called concerned barley growers. I believe that their efforts in the past 18 months have been instrumental in reaching the compromise that we have before us in this Bill. I believe that this compromise situation will see all barley growers, and all people in South Australia generally, profit from a much more effective, coordinated and aggressive marketing approach to barley in the future.

The Hon. J.C. IRWIN secured the adjournment of the debate.

[Sitting suspended from 12.4 to 2.15 p.m.]

GENDER DISCRIMINATION

A petition signed by 257 residents of South Australia concerning Justice Bollen's summing up to the jury in a recent rape in marriage trial, and praying that this Council will:

1. look into ways and means of officially condemning the statement and officially warning the justice of his unacceptable attitude of gender discrimination;
2. request the Government to encourage and promote education for the judiciary into attitudes which discourage any forms of domestic violence; and
3. request the Government to take a lead in gender sensitivity training for law enforcement personnel and judges;

was presented by the Hon. Bernice Pfitzner.

QUESTIONS

GRAND PRIX OFFICE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Tourism a question about the Australian Formula One Grand Prix Office.

Leave granted.

The Hon. R.I. LUCAS: In February of last year I asked a series of questions of Ministers about consultancies used in the previous two years, and finally in December of last year I received answers to those questions from Premier Arnold. One of these consultancies employed by the Australian Formula One Grand Prix Office was Fraser Consultants who were employed to establish an industrial relations agreement for the Adelaide Entertainment Centre. I was advised by Premier Arnold that the total cost of that consultancy was $7 500.

In January of this year I submitted a Freedom of Information (FOI) request for the file relating to this appointment. This month I received a response to my request, which states in part:

> Although I am able to supply a copy of the agreement, I am not able to provide reports presented by Fraser Consulting. All reports submitted were labelled 'Confidential' and after review were returned to the consultant. The agreement is unique for Australia and the confidentiality provisions set down by the unions concerned were critical to the success of the project.

A source within the Australian Formula One Grand Prix Office has advised me that these documents were removed from the Grand Prix Office files and returned to the consultant to prevent embarrassing disclosures under

FOI requests. However, some of this information released under FOI does give an indication of what might be being hidden by the Grand Prix Office.

The Hon. R.J. Ritson interjecting:

The Hon. R.I. LUCAS: Well, I think so. For example, seven photocopies of invoices from Fraser Consultants totalling almost $27 000 indicate that much more than the stated figure of $7 500 was spent on the consultancy. One of the invoices also refers to the following claim:

Tickets John Drumm (LTU)

'Susan Clachere' Concert, Saturday 13 April $56.80.

Whilst it might be heartening to see the cultural appreciation of union leaders being increased, it is difficult to understand why the taxpayers should be funding it through the back door route of a consultant employed to negotiate an industrial agreement. Members can only speculate as to what is being concealed in the documents that have been refused, even after an FOI request. What is clear is that the Grand Prix Office has engaged in a deliberate decision to mislead the Parliament and conspire to prevent the release of information to the Parliament. My questions are:

1. Why did Premier Arnold mislead the Parliament by indicating that the total cost of the Fraser consultancy was $7 500, and what was the real final cost of this consultancy?

2. Is it within Government policy guidelines on consultants to reimburse expenses such as the concert tickets for Mr Drumm, and how many similar expenses were paid out by this consultancy?

3. On what date were the reports written by Fraser Consultants returned to the consultant and why are copies allegedly no longer kept by the Grand Prix Office?

4. Will the Minister urgently request copies of those reports and make them available under the FOI Act and, if not, why not?

The Hon. BARBARA WIESE: I am not in a position to make any comment about the claims that the honourable member is making, but I will have his questions referred to my colleague in another place and bring back a reply.

INTELLECTUALLY DISABLED PERSONS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the handling of intellectual disability in the justice system.

Leave granted.

The Hon. K.T. GRIFFIN: On 8 January 1993 I wrote to the Attorney-General about the prosecution of an intellectually disabled young man for indecent assault. I marked the letter 'urgent' because the prosecution was listed for hearing on 17 February 1993. I have not received a reply. The young man has now been convicted and 14 April 1993 is the date set for sentencing. I do not propose to identify by name in the Council the parents, the son or the young woman who was the victim, but I can make those particulars available to the Attorney-General if he needs them to trace what has happened to the file in his office.

The parents of the young man saw me just prior to Christmas 1992 because they were very concerned that their faith in the justice system that their son would receive a fair go and be properly supported through the system was very much in danger of becoming misplaced. They had sought not to become very much involved in the process but merely to provide support to their son from the background. Their experiences and those of their son reflect their concerns about the capacity of the justice system to deal fairly with intellectually disabled people.

Their son is intellectually disabled with a disability which makes him a borderline case. He his unable to read or write. He has an intellectual capacity of an 11 year old. He cannot visualise concepts of tomorrow but only deal with the matters that are relevant to today, and generally has great difficulty in understanding concepts. Frequently when asked if he understands something the young man will say 'Yes', whether or not he understands both the matter being put to him and the consequences of his answer. He will often say that he does understand in order to please the person who is asking the question.

The parents tell me that the young man does not understand that he is being charged with a serious offence—indecent assault—and that that is something more than what a number of the intellectually disabled persons in his group engaged in—playful tickling. The parents are concerned that if there is to be punishment their son should be able to understand and be helped to understand what he is being punished for, what the punishment is and what it is designed to achieve.

As I understand it, in the trial almost all the witnesses were intellectually disabled persons who worked with the young man at a sheltered workshop. Their intellectual disability was at various levels. Several of the witnesses after they had given evidence said that they did not understand the questions. One answered questions in a way that she thought that she should answer them in order to please rather than telling the truth. Another witness did not know what was going on and was confused.

The defendant was in the witness box and also did not understand the questions. One witness who was to be a witness for the defence was interviewed by police the night before the trial commenced and the witness was told that he would be called in fact for the prosecution instead of for the defence. When that witness arrived at court he was not able to talk to anyone on either side because he believed that he should not be communicating either with the defence or the prosecution witnesses.

There was then an argument in the foyer of the court in front of this witness between counsel for the defence and prosecution counsel as to who was to call him. That event upset this witness. The witness gave evidence, did not finish, but was not given any guidance as to what he should do over the lunch period so he was left to his own devices and left somewhat bewildered as to what he should do and when he should return. So, for that person, as I understand it, there again was no support.

None of the witnesses who were intellectually disabled, other than the victim, who did receive support from the Intellectual Disability Services Council, did receive any support during the proceedings. The defendant did have a counsellor from the Intellectual Disability Services Council in the early stages, but that person was also involved in consultations with the

parents of the alleged victim. IDSC also provided support to the victim. Subsequently that counsellor withdrew from supporting the son and no other support was provided until later, when the defendant was informed that there was a counsellor in the Tea Tree Gully office of the IDSC.

However, the victim was also being counselled out of the same office. Obviously there are serious problems of conflict of interest and grave difficulties where IDSC is to provide support to persons with differing and conflicting interests.

The other problem was that the person from IDSC who originally was the counsellor for the defendant wrote letters to the defendant about behaviour and other matters, but he failed to acknowledge, even though he knew, that the defendant could not read and, because of his intellectual impairment, could not understand what was being written.

There is another difficulty in that, as I understand it, an allegation of sexual harassment has been made to the Equal Opportunity Commissioner against the defendant and again there is potential for conflict if the defendant takes to the Equal Opportunity Commissioner difficulties relating to allegations of discrimination in relation to his inability to understand the court process if on the one hand the Commissioner is investigating the allegation of sexual harassment and on the other is being asked to provide assistance to the young man.

The additional complicating factor is that the parties do not appear to understand what is or is not sexual harassment, even though in the case of the young man the parents have endeavoured to make it clear what that means. The problem is that no-one, least of all in the office of the Equal Opportunities Commissioner, but also at the sheltered workshop, has taken the trouble to explain it in simple terms which are understandable to these persons with intellectual disability.

The final aspect of the case which is of concern is that the court directed the defendant to a psychologist for assessment. The defendant turned up at the psychologist's rooms but the psychologist did not know what the defendant was there for. Discussion by the defendant with his parents later indicated that he did not understand what was happening. The psychologist only had a matter of minutes with him. The young man indicated to his parents that he did not understand what was happening and that he was not particularly happy with the brief consultation. He has since returned to that psychologist, who says that he now has to rethink his position.

The problem again is that the court referred the defendant to someone who did not know him, did not tell the psychologist that the reference was being made and the psychologist did not seem to appreciate the extent of the intellectual disability.

While there are many more facts which could be referred to, I think these are sufficient to outline the concern of the defendant's parents which appear to me to be quite legitimate about the inability of the system—both court and support systems—to cope with persons charged with offences where those persons are intellectually disabled, and to cope with the difficulties experienced by witnesses. My questions to the Attorney-General are:

1. Notwithstanding the complexity of the matter can he give an indication as to when he will address the issues raised in my letter of 8 January?

2. Does he agree that from the matters raised in this particular case there appears to be an inability of the justice system to deal adequately with intellectually impaired people?

3. What steps will the Attorney-General take to examine both the law and the practice and procedure relating to offences where intellectually disabled persons are involved and have the sorts of difficulties which the defendant in the facts referred to by me has suffered from?

4. Will he also pursue with the IDSC and the Commissioner of Equal Opportunity the problems of support, lack of understanding of the issues, matters of conflict of interest and related issues?

The Hon. C.J. SUMNER: I do not know what the correspondence referred to. If it referred to the prosecution, then it should have been sent to the Director of Public Prosecutions who no doubt was responsible for the prosecution. However, I will peruse the letter and examine the matters raised by the honourable member. Obviously, from what the honourable member has said, it was a difficult case. Whether all the facts outlined by the honourable member are substantiated, I cannot say. As always in these cases, there are usually two sides to the story, and that may well be the case here as well. However, that does not mean that I will not look at it: I am quite happy to do that and to bring back a reply. In doing so, I will also address the other matters that the honourable member has mentioned. I cannot say whether this case demonstrates an inability of the justice system to deal with people with intellectual disability, but I will see whether this case, if it is established that what the honourable member said is correct, does indicate that there is a need for some changes and will give a report to the honourable member on the matter that he has raised.

HELPMANN ACADEMY

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

Leave granted.

The Hon. DIANA LAIDLAW: The creation of an academy for the performing arts, to be known as the Helpmann Academy, was a principal recommendation of an Inquiry into Tertiary Performing Arts Training in South Australia which reported to the Minister for the Arts and Cultural Heritage and the Minister for Further Education in December 1990. The inquiry, chaired by Ms Mary Beasley, also recommended that the academy be established on the University of Adelaide North Terrace campus, embracing courses in music, dance and drama performance currently offered by various tertiary institutions in the metropolitan area. The Liberal Party is keen to encourage the creation of a structure of significant national and international standing that has the capacity to provide a comprehensive range of courses in the performing arts, music composition, professional writing and technical theatre. We see such an initiative as

critical in reinforcing our status as the Festival State and also in generating export income by attracting overseas students to this State.

As it is now over two years since the Government received the Beasley report, it is hardly surprising that there is much confusion among tertiary institutions, performing arts students and the arts industry in general in South Australia about the Government's intentions in respect of the Helpmann Academy. Therefore, I ask the Minister: is she able to confirm advice I have received that the Minister of Education, Ms Lenehan, has now abandoned the Beasley concept of a Helpmann Academy based on the University of Adelaide North Terrace campus, in favour of a multi-campus structure embracing all three South Australian universities? If this is so, will the Minister explain the terms of reference for the work being undertaken at the present time within the Department for the Arts and Cultural Heritage to develop a charter for the Helpmann Academy?

The Hon. ANNE LEVY: As the honourable member has indicated, the question of the Helpmann Academy has been discussed extensively since the report was received from Ms Mary Beasley. Of course, the discussions have involved various institutions, at both university and TAFE level. But the discussions have been under the aegis of the Department of Further Education, and it is that department that has been involved in the discussions that have been taking place.

I know that the new Minister of Education is just as interested in this proposal as her predecessor was, and her officers are continuing discussions with the various players who potentially can be involved in such a proposal. She is hoping to achieve a performing arts academy which will be of enormous benefit to South Australia in terms of training for people both within and outside this State as indicated by the honourable member. I have not had a recent update on what is occurring, so I will need to refer that part of the question to my colleague in another place. Officers of my department were consulted on a possible charter for such an academy as it was realised by people in education that it would need a charter which was not solely educational in its outlook but would require an artistic and cultural component. Consultations have been taking place between officers of the two departments regarding possible inclusions for such a charter.

The Hon. Diana Laidlaw interjecting:

The Hon. ANNE LEVY: Just a broad charter of the aims of such an institution and what its broad mission would be. There is no detail in terms of objectives or the structure. I understand that it is merely what should be the overall mission statement for such an academy, given that it has both educational and cultural responsibilities. I cannot give any more recent information to the honourable member. In terms of discussions, which I understand are continuing, I will refer the question to my colleague in another place and bring back a reply.

COMPUTER PORNOGRAPHY

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about computer pornography.

Leave granted.

The Hon. I. GILFILLAN: I have been informed that hard-core pornographic images involving children, animals and adults can now be accessed by computer in South Australia. I have been reliably informed that examples of material available in South Australia include hard-core pornographic acts involving very young children. I am told that current computer technology has advanced to the stage where full colour photographic-type images can be shown on a computer monitor and in some cases video quality images can also be accessed showing real-time action.

The so-called 'Compu-Porn' network in South Australia is accessed on a private subscription basis using a modem connected to the telephone system. Under the system subscribers receive a private access code in return for the payment of a fee and then, via the modem, simply dial the subscriber number by ISD or STD and access the large menu of pornography available, including child pornography.

This type of system is now widely in use in the United States, Europe and Asia, and increasingly a growing number of people in South Australia have become subscribers. The difficulty for authorities dealing with the rapid growth in this illicit trade is that it involves several countries as well as local States and the use of a world-wide computer network. Nevertheless, the problem continues to grow, and South Australia is not immune. I understand that some private investigations into the child pornography aspects of the trade are now under way in South Australia, but as yet I am not aware how successful those investigations have been.

My questions to the Attorney are: is he aware that computer pornography involving children is now available in South Australia? If so, can he indicate how widespread the network is believed to be in this State? Are any official investigations under way, and if so to what extent? Finally, will the Attorney outline what penalties could be imposed for those people caught taking part in computer pornography involving children.

The Hon. C.J. SUMNER: I will take those questions on notice.

KEAN, MR CHRISTOPHER

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about Mr Christopher Kean.

Leave granted.

The Hon. L.H. DAVIS: On 10 September 1992, I asked the Attorney-General a question about the blatant nepotism which occurred at the Terrace Hotel. Bouvet Pty Ltd, a fully owned subsidiary of SGIC, operates the Terrace Hotel, which had been refurbished and reopened in October 1989. The Chairman and Director of Bouvet Pty Ltd was Mr Vin Kean, who was also Chairman of SGIC.

I pointed out to the Attorney-General that Mr Kean's daughter had taken over the gift shop and Mr Kean's son-in-law had been appointed a casual chauffeur for the hotel's Rolls Royce. I also advised the Attorney-General that I had been contacted by a concerned person from the

building industry who advised me that Mr Vin Kean's son, Christopher Kean, was paid many thousands of dollars for fitting out bathrooms when the Terrace Hotel was being refurbished. I eventually received an answer to my question on 26 November 1992, the last sitting day of Parliament.

In respect of Mr Christopher Kean the answer from the Treasurer stated:

It was discovered during Grand Prix week 1989, immediately after the opening of the hotel, that 29 rooms had defective plumbing. As this was a design problem it was up to the hotel to arrange repairs. As the work had to be done quickly the General Manager of the hotel, Mr Robert Arnold, went to someone he knew. He asked Mr Christopher Kean, whom he knew to possess a builder's licence, to have a look at the problem and recommend a suitable plumber. The plumber was called in to fix the problem and did the repairs under the supervision of the Terrace's maintenance manager. Mr Christopher Kean assisted with the plumbing work. The total payment to Mr Christopher Kean, the plumber, and for materials was approximately $940 per room (total approximately $24 000).

The fact is that in 1989 Mr Kean's son, Christopher Kean, did not have a builder's licence nor was he registered as a plumber with the E&WS. Over the last 10 years he has never held appropriate E&WS registration to undertake any plumbing work. In fact, Mr Kean became the holder of a speculative building licence, category 2, only on 11 September 1992, one day after I asked my question in Parliament and nearly three years after he assisted with the plumbing work at the Terrace Hotel. It has to be said that Mr Kean may well have applied for this licence some days or weeks before 11 September 1992. The fact is that Mr Kean was not permitted to undertake any building work without the necessary licence. It would seem that he has acted illegally, contrary to the provisions of building legislation. In fact, there is no obligation for any party to pay a person for work performed if they are not holders of the builder's licence. More importantly the Parliament has been mislead—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —in a most shameful and deliberate fashion.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: It took SGIC 11 weeks to provide an answer to my questions about the blatant nepotism which occurred at the Terrace Hotel and the answer was dumped on the last sitting day in Parliament, quite clearly to minimise publicity. None of the facts were denied but the answer is a lie. The answer that said that Mr Robert Arnold asked Mr Christopher Kean, whom he knew to possess a builder's licence, to look at the defective plumbing is simply untrue.

How did Mr Arnold know that Mr Kean had a builder's licence if he did not have a builder's licence? Did SGIC and the Government check the information which was contained in my most serious allegations? A simple phone call to both the Office of Fair Trading and E&WS would have revealed the truth that Mr Christopher Kean did not hold a licence.

It is reasonable to conclude that the answer was either a desperate deception or a crude cover-up. The Legislative Council was misled when it was advised in this prepared written reply that Mr Christopher Kean held a builder's licence, because he did not. If Mr Christopher Kean had not held a builder's licence, he almost certainly would not have been allowed to do the work at The Terrace, which was work for a statutory authority, at a time when the Government was trying to crack down on illegal acts under building legislation.

My original question to the Attorney-General last September highlighted the blatant nepotism involved in using the Chairman's son for repair work on The Terrace Hotel. The point my informant made—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS:—and which should be of interest to the Attorney-General was that there were many more people in Adelaide better qualified to do the work than Mr Kean and at a time when building work in Adelaide was becoming very scarce. That observation certainly has been reinforced by the discovery that Mr Kean held no builder's licence whatsoever at the time he did that work. My questions to the Attorney are:

1. Why did the Treasurer mislead Parliament, and will the Government immediately investigate and report on this most serious matter to Parliament next week?

2. Did the Government and/or SGIC check on whether Mr Kean had a builder's licence as was claimed in the answer? Who provided the information to the Government and SGIC that Mr Kean had a builder's licence? Who told Mr Arnold that Mr Christopher Kean had a builder's licence?

3. Will the Government be taking any action against Mr Kean for illegal building work, or against the person or persons involved in providing this misleading answer?

The Hon. C.J. SUMNER: The honourable member is an interesting person. He comes into this Chamber often with a whole lot of allegations but, more particularly, he is the most consistent interjector that this Chamber has. When Ministers are giving answers to questions, he continually interjects, blusters and attempts to get answers from Ministers by interjection.

The Hon. R.I. Lucas: You always complain.

The Hon. C.J. SUMNER: I was not even interjecting in a rude way. I wanted to ask just a simple question of the honourable member, but he was not the least bit interested in that because he knew if he had answered the question it would not have helped the case he was putting in the Chamber this afternoon.

The simple question I was going to ask him, which I did ask him by interjection and which he did not answer, was: to whom was the money paid? As I understood what he said earlier, from the answer that had been given by the Treasurer, the money was not paid to Mr Christopher Kean but it was paid to the plumber.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Well, Mr President, the honourable member may well have been able to clarify that—

Members interjecting :

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

The Hon. C.J. SUMNER: —had he not been so interested in putting his side of the story without in any way listening to a legitimate question from this side

because, as I heard what the honourable member said, the money was paid to the plumber. He also said (from the Treasurer's reply) that Mr Christopher Kean assisted in the plumbing work. They are the words that I understood he used. 'Mr Kean assisted in the plumbing work.' If that is the case, it is possible—and I do not know for sure but I will have it checked—that Mr Kean did not have to have a builder's licence to carry out this work if the work was being carried out by a plumber, as apparently it was, if the plumber was being paid, as apparently he was, and if Mr Kean was assisting the plumber, as apparently he was. They are the things I sought to clarify with the honourable member when he was asking his question, but he was not interested in answering those clarifications because he knew it would interfere with the story he had to tell.

That is the situation, despite the fact that on every other occasion when members on this side of the Chamber are trying to answer questions or make speeches about a whole range of topics, we have to put up with the honourable member's inveterate chatter, his continual interjections and his continual turning of the Chamber into some sort of shambles.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I thought I was answering the question, and answering it in a more straightforward way than was the case when the honourable member asked his question previously. The honourable member has indicated, as far as his information is concerned, that Mr Kean did not have a builder's licence, and that is something I am happy to look at. I also gleaned from what he said that all the information he was putting forward, namely that Mr Kean was required to have a builder's licence in this particular case, was not necessarily correct. However, the honourable member has raised the points. They are not my area of responsibility. The Treasurer provided the response, no doubt after consultation with the people concerned, and I am happy to refer the questions to the Treasurer for clarification and answer. All I ask is that the honourable member does not adopt double standards in this place, which is what he constantly does in the area of interjections.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: He bleats, he yells, he screams and interjects but, when someone from this side asks a legitimate question while he is asking a question, he goes to water and keeps talking.

The Hon. L.H. DAVIS: As a supplementary question—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. All interjections are out of order.

The Hon. L.H. DAVIS: After that extraordinary, amazing response from the Attorney-General, can I also ask the Attorney-General to provide information about the exact breakdown in payments made to the plumber, to Mr Christopher Kean, and also for materials used?

The Hon. C.J. SUMNER: I am not sure that that is a supplementary question, but I will get it, anyhow.

SUPERDROME

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister representing the Minister of Emergency Services and the Minister of Recreation and Sport—and I know they are not represented by a single Minister in here—a question relating to fire safety at the new velodrome/superdrome.

Leave granted.

The Hon. J.C. IRWIN: With the four fires in the metropolitan area yesterday fresh in our mind, I add to the questions I have previously raised about the almost criminal lack of fire-prevention/preparation in some public buildings, often Government-owned buildings, such as schools, hospitals and high rise buildings, by now referring to a report in the *City Messenger* of 17 March 1993 about the fire fears over big events at the recently completed velodrome.

It is interesting to note that the present Minister of Emergency Services was previously the Minister of Recreation and Sport, and responsible for building the velodrome which was part of the Commonwealth Games dream that South Australia had. However, now we must go on and hopefully put that to some good use. It is worth noting that we are considering a complex with a large clear centre area surrounded by a wooden cycling track with a considerable amount of timber, in some places steeply sloped upwards from that centre area, with the track surrounded by raked seating with a capacity of approximately 4 000 spectators. The complex also has restaurants and other food outlets, some being well above ground. The article states:

> Fears that the recently completed Superdrome could be a major fire risk have put future big events planned for the Gepps Cross complex in doubt. SA Metropolitan Fire Services is concerned that the venue may be used for functions it was not designed for and, as a result, could pose a threat to fire control.
>
> The velodrome was purpose built as a cycling venue, and a recent sports, health and leisure expo, which attracted about 40 000 people, concerned local fire services which were on hand at the event. They feared smoke and crowd control in the event of a fire would be difficult and voiced reservations to the Sport and Recreation Department and Enfield council about the level of fire fighting equipment at the complex.

I am not sure whether that was prior to or after the event. The articles continues:

> Senior fire safety officer David Scarce—

who was on radio today—

> said a major concern was the lack of exits in the central arena area of the complex. He said the building would need more exits if it was to comply with regulations for large events likely to attract large groups of people.
>
> Recreation and Sport Corporate Services Director George Forbes said that the problems stemmed from the fact that there were no regulations for buildings of this nature.

To me, it is reprehensible that there are no regulations for buildings of this nature when a complex can be used for other than its designed purpose. It continues:

> But everything complied with regulations provided the complex was used as a sporting venue.

That is, with people in the 4 000 seats watching cycling. It continues:

> Superdrome senior administration officer Jane Kendrick said inquiries from groups wanting to hold events attracting large

numbers of people to the complex would be considered, but the problem of fire safety would need to be addressed. Mr Forbes said the building's capacity was 4 000 and larger crowds would require careful consideration and planning.

I am also reliably advised that St John has recently inspected the building and has found, amongst other things, that the lift—and I am only talking about one lift although there may be others, but I am assuming that if there are others the same problem would apply—is incapable of accommodating a stretcher, making it impossible to work on a patient on the way to an ambulance if the patient had had a cardiac arrest in the restaurant or seating area. My questions are:

1. Does the Minister of Emergency Services accept joint responsibility with the Minister of Recreation and Sport for the decision to use the new Superdrome which put lives at risk at the recent expo where there was known to be inadequate fire provision?

2. Will the Minister of Emergency Services advise his colleague, the Minister of Recreation and Sport, that the Superdrome should not be used for anything other than a cycling venue until fire and health safety provisions of the highest standard are in place?

The Hon. ANNE LEVY: I think those questions were directed to the Minister representing the Minister of Emergency Services, asking him to consult with his colleague the Minister of Recreation and Sport. I represent the Minister of Recreation and Sport in this Chamber but not the Minister of Emergency Services.

The Hon. C.J. SUMNER: I will refer them to my colleague for a reply.

TREE PLANTING

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Environment and Land Management a question about rural tree planting.

Leave granted.

The Hon. M.J. ELLIOTT: The question I will be asking is in relation to the Rural Tree Planting Committee, and I am not absolutely certain whether it is functioning under the Minister of Environment and Land Management or the Minister of Primary Industries. With that proviso I will proceed.

South Australia's Rural Tree Planting Committee has received 61 applications for grants to fund projects totalling $200 000. It is the committee's job to go through the applications and recommend to the Minister the ones that should be funded. A recent *Bush Chronicle,* a publication of the Save the Bush program from the Department of Environment and Land Management, said that grants of about $50 000 would be made. In other words, about one-quarter of the applications have been met—a significant shortfall in anyone's book on the projects seeking assistance for this vital area of work.

It is no secret that revegetating significant areas is the only way to save some of our State's most productive land from salinisation and wind erosion, and it is important for a range of both agricultural and environmental reasons. I ask the Minister:

1. What happens to the rural tree planting project proposals of the applicants who are not successful in gaining grant funding?

2. Does the Minister believe that $50 000 is adequate to help groups around the State undertake vital revegetation work?

3. Will the Minister consider increasing the amount of money available for rural tree planting?

The Hon. ANNE LEVY: I will refer that question to my colleague in another place and bring back a reply, but indicate that if it should go to the Minister of Primary Industries rather than to the Minister of Environment and Land Management I will request that it be directed on to him.

PARLIAMENT HOUSE

The Hon. J.C. BURDETT: Mr President, I seek leave to make a brief explanation before asking you, Sir, a question about fire protection in this building.

Leave granted.

The Hon. J.C. BURDETT: My question is prompted, as was that of my colleague the Hon. Jamie Irwin, by the near tragic fires yesterday in Adelaide which are recorded on the front page of the *Advertiser.* I refer to fire precautions and fire protection in this building. I can recall one fire drill having been conducted, and I think that might have been about 10 years ago. A document was promulgated about the procedures, about what the various fire alarms meant and about what happened if the fire alarm went—that you left your documents behind and did not take anything with you, that you went to a group and subsequently went outside, and so on.

I have spoken to some of the fire officers who think they are still fire officers as far as they know because there has been no change. They do have fire helmets hanging behind their door but that seems to be about all. The document that came out then I certainly could not locate if anything happened now, and I do not know whether other members could.

As to actual fire alarms that I can recall, there have been two when we actually were evacuated. The first I think was for a suspected gas leak, and we were evacuated for quite some time. The other, which was still several years ago, was when a workman working in the building accidentally with his machine caused smoke to get into the air-conditioning system which activated the alarm.

The next thing is in regard to fire alarm tests. We used to have fire alarm tests. I can recall being in my office and hearing that there would be fire alarm tests on the first floor, second floor, and so on, for so many minutes, and then at the end of the testing over the public address system the message would come 'This is the end of fire alarm testing.' Presumably that was stated for the purpose of letting persons know that if the fire alarm rang again it was for real.

That is the history of what has happened, as I recall it. Mr President, I bring to your notice that you have been effective in preventing smoking in the building and preventing people who work in the building from being exposed to passive smoking. One of the arguments which

you used was that that was in accordance with what happened in other public buildings.

So, we are protected against passive smoking. As far as I can see we are not protected against being burnt to death. In other public buildings this does happen: they do have fire drills. I can recall when I was working as Minister of Consumer Affairs in the Grenfell Centre there were fire drills and I had to walk down 23 steps to get out of the building, but that does not happen here. I am concerned not only with members and staff but also with other people who are legitimately within the building from time to time.

Members interjecting:

The Hon. J.C. BURDETT: Yes, even journalists. But more importantly even than journalists there are great numbers of schoolchildren here at various times, and there are ministerials who are not members of the permanent staff and who do not see any documentation that comes around. I am not sure who has the jurisdiction in this matter, and this is part of the question: as to whether it is you or you and the Speaker, or whether it is the Joint Services Committee or whoever. I do think this is a serious matter. This is a building where a fire could occur and where people who are legitimately, or even not legitimately, in the building could have their lives endangered. I ask that you, Sir, look into this matter and perhaps even presently give any answers as to whose jurisdiction this is in and as to what happens and what will happen in the future about fire drills, fire precautions, information, testing of fire alarms, and so on.

The PRESIDENT: As presiding officers and with the staff we have been very concerned. I would say that we do have fire drills, even though there have not been any recently. I have been present at them. The idea is that we have a marshalling point and that we go outside as quickly as we can.

An honourable member: About 10 years ago.

The PRESIDENT: No, we have had one more recently than that. In fact we had an alarm when there was some heating up in the electric room or in the air conditioning room when everybody abandoned ship that day. However, to follow on from that, there are a couple of matters that are relevant to it. I will give members an outline of what has happened.

In relation to fire protection, the original SACON proposal was for the building to have a fire detection system installed which would alert the fire brigade and occupants to the presence of fire but which would rely solely on the fire brigade to put the fire out. So, following discussion with SACON, the senior heritage architect and the South Australian Metropolitan Fire Service, and noting the damage to the Parliament House in Wellington, New Zealand, and Windsor Castle in England, it is now considered cost beneficial not only to detect a fire and evacuate the occupants but also to protect the building and extinguish a fire at its source using a sprinkler system.

The capital outlay would be minimal compared to the cost of restoring Parliament House. In fact, some elements of the building and contents would be irreplaceable. Following on from that, permission has now been given to do it in stages, and the first stage will be roof compartmentalisation, the emergency and exit lighting, emergency warning to the basement, a stairwell isolation to the north-east and very early smoke detection advice detectors (VESDA). They are to be installed in the corridors and Chambers.

Also, a sprinkler infrastructure is also to be set up but is not being connected. That is a further stage. A cost factor is involved so it is going to be done over a period of years. That is the initial stage which will be done.

The Hon. R.I. Lucas: When is that going to be done?

The PRESIDENT: That is getting under way now. They are starting this side of the financial year, and then we go into the next side of the financial year for the continuation of the project. That alone, without the sprinkler system, is going to cost about $253 000, which must be spread over some time.

The whole lot becomes rather academic until we get a security system, and that is going hand in hand with this. At the moment we have come to an agreement where the Centre Hall will be progressively staged for security with a screen to stop wind coming in. We are going to work on a security system so that people will have access only to the public gallery and will not be able to get access to the rest of Parliament House.

The only persons who will have access will be those with a key, such as members or the staff who are permitted to have those keys, and that is going hand in hand, too, because without both one is ineffective. As we saw yesterday all those fires were started by somebody who illegally entered premises and set a fire going. So, it does not matter how good the fire system is because, unless we have a security system in conjunction with that, it is ineffective. We are therefore working on both of them, but the cost structure for the initial stage of $253 000, which does not include the sprinkler system is a fair way up the track. However, it is being worked on.

In relation to fire drills, I am quite happy, in conjunction within the Speaker of the House of Assembly, to see that drills are conducted more frequently. In fact, I was listening to the ABC this morning and there was a fire breakout in that building; they evacuated the building, so whether it was a fire drill or an actual fire I am uncertain.

BENEFICIAL FINANCE

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question about the contingent liabilities arising from the activities of Beneficial Finance.

Leave granted.

The Hon. J.F. STEFANI: On 12 February 1991 I raised questions about the activities of Beneficial Finance involving the promotion of tax evasion schemes through a vehicle known as Benpac which subsequently changed its name to Investpac Pty Ltd, which is the parent company of Luxcar Lease Ltd. Honourable members would be aware that both companies and Beneficial Finance were raided by the Australian Federal Police and the Australian Taxation Office task force in an effort to obtain documents and to initiate their investigations into an alleged major tax fraud involving up to $200 million. I am advised that the Federal authorities have been

conducting their investigations in Germany, France, Switzerland and other countries as well in Australia, including New South Wales, Victoria and South Australia.

The investigation is wide ranging and involves other companies and individuals including Beneficial Finance Corporation Ltd, Beacon Credit Corporation Ltd, Beneficial Leasing Pty Ltd, Benpac Ltd, Benpac Pty Ltd, Benpac Ltd and Others Partnership, Investpac Australia Pty Ltd and Investpac Australia Ltd.

Experts have suggested that the implications arising from the alleged fraudulent activities are considered to be of major consequence in terms of the contingent tax liabilities which may be payable to the Australian Taxation Office. These liabilities may well incur heavy penalties and interest charges. In view of the seriousness and extensive investigations which are yet to be finalised, my questions are:

1. Will the Treasurer confirm or deny that the Australian Federal Police and the Australian Taxation Office are still involved in these ongoing investigations into the activities of the State Bank's wholly owned subsidiary, Beneficial Finance?

2. Will the Treasurer confirm or deny that possible criminal charges are pending as a result of these inquiries?

3. Will the Treasurer advise Parliament what provisions or guarantees are likely to be made by the State Bank or the Government to cover these contingent liabilities when the sale of the State Bank is considered?

The Hon. C.J. SUMNER: There does not seem to be anything particularly new in that, Mr President, although the honourable member tried to make it appear as though there was. As I understand it, it is common knowledge that there have been some tax inquiries relating to Beneficial Finance, and that has already been in the public arena on previous occasions. So, as to the first two questions it seems to me that the honourable member can answer them for himself. As to the third question I am happy to refer that to the Treasurer and bring back a reply.

ONE NATION STATEMENT

The Hon. PETER DUNN: I seek leave to make an explanation before asking the Minister of Transport Development a question regarding the One Nation statement.

Leave granted.

The Hon. PETER DUNN: The statement, which refers to a better and safer road network, says that we will be spending $600 million extra on roads between now and the end of 1993-94. We can assume that $60 million should come to South Australia. They were going to accelerate the ring routes around Melbourne, Brisbane and Sydney, and they are offering development on the Sturt and Newell highways. Can the Minister give me some detail of what the $60 million that we can expect to be spent in South Australia is likely to be used for and where?

The Hon. BARBARA WIESE: I do not have a detailed list of the particular projects upon which money will be spent under the One Nation statement, but I will be happy to seek a detailed list of projects for the honourable member. I indicate that numerous road projects are involved with that, including an extensive black spot program which is designed to—

The Hon. Peter Dunn: Is that coming out of it?

The Hon. BARBARA WIESE: The black spot program is part of the One Nation statement funding, and there was an increase in the allocation to South Australia under the black spot program just a few months ago due to the fact that South Australia had been successful in spending the money, and quickly.

HARBORS AND NAVIGATION BILL

In Committee.

(Continued from 2 March. Page 1344.)

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: This clause deals with the commencement of the Act and provides that it will come into operation on a date to be fixed by proclamation. Does the Minister intend to bring all parts of this Act into operation on a single day and, if so, at what time will this Act be proclaimed, or is she prepared to look at suspending some parts of the Act and bringing them in at a later time—it is certainly possible to do that under the Acts Interpretation Act?

The Hon. BARBARA WIESE: It is intended to proclaim the legislation once the regulations are in place. We have been advised that it will take some six months for the regulations to be drafted and ready for approval. So, once the regulations are available, then it would be the intention to proceed to proclaim the Act and have the whole thing operating after that six month period.

The Hon. DIANA LAIDLAW: Will the Minister proclaim the Act as a whole at that time and not suspend some parts?

The Hon. BARBARA WIESE: Yes, that is the intention. I know of no reason why the whole Act should not be proclaimed at the one time.

The Hon. DIANA LAIDLAW: From the Minister's answer, do I also assume that she intends to bring in the whole package of regulations at the one time rather than in certain parcels? The Minister would be aware, as I am, that many very diverse matters are the subject of this Bill. On behalf of the Liberal Party, in my second reading speech, I did indicate that the Liberal Party is very anxious about the regulations in relation to this Bill. This Bill is merely a skeleton, and so much of the substantive law will be in regulations. I am anxious that, if the Government intends to bring in the whole of the Act, suspend no sections and bring in all the regulations at once, considerable difficulties will arise. Will the Minister explain that before I indicate the Liberal Party's response to that?

The Hon. BARBARA WIESE: As the honourable member has indicated, the legislation provides a framework for operation, and much of the detail will be contained in regulations. Therefore, it is important that the regulations accompany the legislation and that all these things come into operation at the one time,

otherwise there would be some administrative or operational difficulties. So, there is no intention to hold back on any particular section or parcel of regulations. It is intended to proclaim the legislation and all the regulations at the one time.

The Hon. DIANA LAIDLAW: I am very uneasy with that approach. The Minister is well aware that in one small section of the current Marine Act there was considerable debate in this place, and subsequently the regulations involving boats for hire and charter were disallowed. That is just one small section of a very complex set of regulations that would arise from this Bill. The Minister's answer reinforces my earlier belief that we should not have even been debating this Bill at the Committee stage until we had seen the regulations. I hope the Minister will reconsider her strategy because, if the Liberal Party is not comfortable with any part of those regulations, and as we are unable, through subordinate legislation and this place, to amend part of those regulations, our only course will be to reject the lot. The Minister is heading down a dangerous and most uncertain path, and it would be much better either to have produced the regulations at this stage or to delay this Bill for some time until we actually see those regulations.

I know the Hon. Mr Elliott, in his second reading speech, did indicate that it was his belief that there was no urgency with this legislation and that he believed that there was some reason for sighting the regulations before proceeding to the third reading. As I understand it, that is not technically possible. We would have to seek leave to adjourn the debate before finishing the Committee stage. The path proposed by the Minister is one fraught with danger. It makes me very uneasy and it gives me no pleasure to say that perhaps the only course open to us—unless we can delay this Bill at this time—is to threaten disallowance of regulations.

The Hon. BARBARA WIESE: I cannot understand what the fuss or problem is. The regulations being drafted will largely mirror existing regulations or reflect national agreements on a range of matters. They will provide for uniformity across Australia. In the past there has been a small number of controversial issues. The honourable member referred to one—the regulations proposed last year for the hire and drive yacht sector, which were disallowed by Parliament. It is not my intention to proceed with regulations of that nature again for the purposes of this legislation. Therefore, I do not envisage the problems with regulations that the honourable member seems to feel might occur. In any case, should there be any controversy about the drafting of any particular regulations, Parliament will again be sitting by the time any debate on such a matter needs to take place.

The six months drafting period will take us well into the next session and there will be an opportunity for the Parliament to debate the regulations if, for some unforeseen reason, any controversy should arise from the drafting to which I have referred. I do not envisage that there will be any problems with the regulations. If there are, there will be the opportunity for Parliament to debate the matter. Should it be some discrete area of activity and it is considered desirable that we should get on with the proclamation of other things, a decision could be taken at that time to isolate the area of controversy. My preference would be to have agreement on all regulations, as well as the legislation, and that the whole thing be proclaimed at once so that we can get under way with the new rules.

The Hon. M.J. ELLIOTT: In the second reading debate I expressed some reservations about passing a Bill in the absence of regulations, particularly a Bill the workings of which will be so reliant on the regulations, and I expect that they will be quite comprehensive. It is a pity perhaps that we are not looking at draft regulations with the legislation. That happens on some occasions with legislation. For instance, the Development Bill, which is in the other place, has had draft regulations circulated which are expected to accompany that Bill. That will give a clear indication of how it is expected legislation will work in tandem with the regulations. We do not have that with this legislation. This legislation has not been terribly controversial, but a few issues have been raised. If there is to be a debate, it is more likely to happen in response to regulations, and that has happened from time to time in the past.

I am not of a mind at this stage to cause the Bill to fail in the absence of draft regulations, other than to flag to the Minister that wherever possible—and I think it could have been possible in this instance—we should have been looking at the two things in tandem. I hope that the Minister will take on board that where there is a rewrite of an Act the regulations that are likely to accompany it should be available for us at the same time. I think that the suggestion made by the Hon. Ms Laidlaw of not introducing all the regulations in a single raft is sensible. There is the potential for particular components to cause concern. Looking at a whole set of regulations could cause difficulties which no-one would want to cause. If the Government recognises that there are bits that it needs to get up desperately, and there are parts which are likely to be contentious, it might be sensible to float not one raft but several, so that we do not cause any difficulties. The most sensible thing is to ensure that there has been ample consultation beforehand. That might have happened if the regulations were available with this Bill. That is not the case, but that is not necessarily a reason not to proceed at this stage.

The Hon. BARBARA WIESE: I should like to make a final comment on this point. It would be my preference with a Bill of this sort, which essentially is providing a framework and where there is expected to be extensive regulation required, that both should be available at once. A few months ago I was able to introduce legislation for which there was a set of draft regulations that I was able to make available for perusal by honourable members. In this case that has not been possible. However, it should be acknowledged that I have been able to circulate to honourable members drafting intentions for regulations which have given an indication of where we are heading with the regulations and what we expect will be the outcome. Although honourable members may not be entirely satisfied because they have not seen a draft of the regulations, they have been informed of the Government's intentions in this area. I can give the undertaking that there will be extensive consultation on the drafting of regulations. Should any problem emerge through that consultation

process, I hope it can be overcome well before Parliament or the parliamentary committee is asked to assess those regulations.

Clause passed.

Clause 3—'Objects of this Act.'

The Hon. DIANA LAIDLAW: As we have noted earlier, this Bill will replace three Acts. This is the first time that we have had objects in relation to boating, marine and harbor responsibilities. Therefore, I have taken great interest in what the Government believes will be the objects of the legislation. I am particularly intrigued to know why in paragraphs (a), (e) and (f) the Minister has chosen the words 'to provide'. Paragraph (e) is 'to provide for the safe navigation of vessels in South Australian waters', and paragraph (f) is 'to provide for the safe use of South Australian waters for recreational and other aquatic activities.' What does the Minister mean by the words 'to provide'? Why has she chosen that term rather than 'to ensure' or 'to facilitate'? The words 'to provide' suggest that there could be minimum and maximum standards of provision. If so, what are those standards? Generally I look forward to some explanation of what the intention is of 'to provide' and why not use the words 'to ensure' or 'to facilitate'.

The Hon. BARBARA WIESE: I am not sure I am able to throw very much light on this. It is, I think, a matter of drafting style as much as anything else. I do not think there is anything particularly relevant about the word 'provide' rather than 'facilitate', or the other term that the member used.

The Hon. Diana Laidlaw: You have 'ensure' earlier and 'promote'. I am wondering why you use 'provide' and what you mean by it.

The Hon. BARBARA WIESE: I suppose the best response I can give to this is that, for example, in 3(e), where we use the word 'provide'—'in order to provide for the safe navigation of vessels in South Australian waters'—it is a preferable term to use to 'ensure'. We can provide the conditions by which vessels can safely navigate South Australian waters but we cannot ensure that vessels will safely navigate the waters.

The Hon. Diana Laidlaw: In (c) you have 'to promote' the safe movement.

The Hon. BARBARA WIESE: In the case of making provision for safe navigation we are not simply promoting the activity; we are providing for it by either providing channels, beacons and other things ourselves or we are encouraging others to provide those things. So that I think there is a subtle difference there that leads to a different use of terminology.

The Hon. DIANA LAIDLAW: I think it is most confusing when in 3(c) we find that the Minister believes the object of the Act should be 'to promote the safe, orderly and efficient movement of shipping within harbors', and then in 3(e) 'to provide for the safe navigation of vessels in South Australian waters'. 'Promote' and 'provide' could be interchangeable but the meanings are quite different. I just thought the Minister might have some understanding of what she meant but it does not really appear to me that she does. I will not labour the point because I realise that there are time constraints in respect to this Bill. Therefore I ask the Minister in respect of 3(d) what does she mean by 'to promote the economic use and the proper commercial exploitation of harbors and harbor facilities'? What is the difference between proper and improper exploitation of harbors and harbor facilities? Why the use of the word 'proper'? Why not just 'to promote the economic use and commercial exploitation'?

The Hon. BARBARA WIESE: Here again, Mr Chairman, in some respects it is rather a semantic argument. One thing that comes to mind in relation to that particular terminology would be to ensure that we distinguish between the economic use of harbors and harbor facilities to its fullest extent, regardless of the consequences, as opposed to the proper commercial exploitation of harbors and harbor facilities that would take proper account of such things as safety, for example. It is just a way to ensure that we are not going about the unbridled drive for economic development with no consideration being given to other relevant factors.

Clause passed.

Clause 4—'Interpretation.'

The Hon. BARBARA WIESE: I move:

Page 2, after line 17—Insert:

'breath analysing instrument' means apparatus of a kind approved as a breath analysing instrument under the Road Traffic Act 1961;.

This simply provides for a definition of a breath analysing instrument which is referred to later in the legislation. Unfortunately, this definition was omitted from the first draft and it is desirable that it should be contained within the Bill.

Amendment carried.

The Hon. DIANA LAIDLAW: Could the Minister advise who else she envisages could be determined as crew upon declaration by regulation? You provide that other people could act in a position of responsibility declared by regulation. I do not know what you meant. Who you were thinking of.

The Hon. BARBARA WIESE: In the case of recreational vessels it is not anticipated that there would be any persons other than the operator of the vessel, but in the case of commercial vessels then obviously there would be other members of crew, including perhaps the engineer, deck hands, people of that sort.

The Hon. DIANA LAIDLAW: I thank the Minister. I would like some assistance also with the interpretation of 'department'. I note that in the Marine Act and I think also the Boating and Harbors Act that 'department' is defined as the Department of Marine and Harbors. I am wondering why it has been determined in this Act not to nominate the department as meaning the Department of Marine and Harbors. Certainly I am aware that there are some rumours that the Minister is looking at various new arrangements for the structure of transport and I am wondering whether that is part of her wider agenda. Perhaps she could elaborate why the Department of Marine and Harbors has been written out of the Act as such.

The Hon. BARBARA WIESE: This is purely a drafting issue. Since we are starting with a new piece of legislation it was decided that instead of making provision for a name that we would use the terminology which has been used in other pieces of legislation and provide a more generic description.

The Hon. DIANA LAIDLAW: Could the Minister explain paragraph (b) of the definition of 'Navigational

aid' with respect to a radio beacon or other device intended to be an aid to navigation? Should we not insert after 'device' the words 'declared by regulation'? I raise the question in part because 'device' is used elsewhere in this Bill to help define 'vessel', and it occurred to me that, unless we had 'declared by regulation' after 'device', there is every reason to be confused with the reference to a device under the definition of 'vessel'.

The Hon. BARBARA WIESE: It is not the intention to introduce a regulation that would provide for approval of particular devices intended to be an aid to navigation. I am advised that there is a standard range of such devices that could be used, and there would be no need to actually approve of particular devices for this purpose. In that case, I do not envisage at this point that we would need to make a provision in the Bill to suggest there should be a regulation. If at some stage in the future there is some dramatic change in events that would require that, we would be able to do it without making provision in the legislation.

As to whether we need to distinguish between the word 'device' for the purposes of an aid to navigation and 'device' with respect to the operation of a vessel, I would suggest that the sort of device that would be referred to in the context of those two different matters would be such that it would not be necessary to make such distinction.

The Hon. DIANA LAIDLAW: I move:

Page 4, lines 24 and 25—Leave out paragraph (c) and insert—

(c) a surfboard (including a wind surfboard) or water skis;

This amendment deletes one of the definitions for a vessel. I believe it is an illogical definition because, as I said in my second reading contribution, it suggests anything from boogie boards to water wings and a life jacket could well be included as a device, and therefore be interpreted as a vessel, and as a consequence be subject to all sorts of fees that are provided for in the Bill and be covered under the terms of the sections about the conduct of vessels.

I see that the Minister has an amendment on file simply to delete the words 'or is supported in water' at the end of that definition. My view is that that is not sufficient, especially as the Minister in her summary to the second reading debate referred to 'hot dogs' and then did not have a clue what 'hot dogs' meant. We should be more specific about what we mean by a device when we are referring to a vessel. Therefore, I have suggested that a device should be very specifically defined as 'a surfboard (including a wind surfboard) or water skis'.

The Hon. M.J. ELLIOTT: If I might complicate things further, looking at both provisions, according to the Minister's provision, if you were on something such as a tractor tyre you would be covered, but if you were hanging in it, you would not be covered as I read it. By sitting on it, you are riding on or through the water, but if you are hanging in it, you are being supported in the water. It might depend how you decide to use the tractor tyre. In fact, tractor tyres would be clearly left out of the definition used by the Hon. Ms Laidlaw, but there are people who get on tractor tyres being dragged behind a speed boat in the same way as you might on water skis, and I suspect there might be some circumstances when the Minister did want to include tractor tyres as vessels.

The Hon. Diana Laidlaw: Then you would probably pick up the vessel itself.

The Hon. M.J. ELLIOTT: But you would with skis, unless you were standing on water. I cannot help but think you will almost need to pick up items beyond surfboards and water skis by way of regulation to describe the circumstances in which they may be used, if you know what I mean. I am not sure that either definition being suggested might in all circumstances pick up exactly what you are trying to get. It might be sensible to cut off at the end of 'surfboard and water skis', but certain other devices might be picked up by way of regulation. If there is a clear problem with people on tractor tyres being dragged along behind boats, you could pick that up by way of regulation. You certainly would not want to pick up life jackets.

The Hon. Diana Laidlaw: Or water wings!

The Hon. BARBARA WIESE: I move:

Page 4, line 25—Leave out 'or is supported in water'.

My intention with this amendment is to acknowledge the point made by the Hon. Ms Laidlaw in her second reading contribution which was that the provision in the Bill is perhaps too broad and would include such things as water wings and life jackets. That is not the intention of this definition. What we are looking for is the ability to cover devices upon which people ride through the water. To take up the point that has just been made by the Hon. Mr Elliott, I think it would be a fairly fine distinction to suggest that if somebody sat through a tyre it would not be covered by this definition. It would be very difficult to suggest that if a person is sitting through or resting on (whatever it might be) a tyre that is not something that is being ridden through the water. I think that a tyre would probably be covered by such a definition.

The Hon. M.J. ELLIOTT: Some children use them as floaties and sometimes they are being towed behind boats. In one situation they are a toy and in the other situation they are quite clearly being used for other purposes. One I think you might pick up and the other you probably would not.

The Hon. BARBARA WIESE: We certainly want to be able to pick up surfboards, water-skis and hot dogs. I have discovered that a hot dog is a long plastic tube on which a person sits in order to ride through the water. They are usually towed behind boats, I am advised. So, there are devices such as these that we would want to be covered by the legislation. Although I acknowledge that there may still be some difficulties with some particular objects or devices, as the Hon. Mr Elliott points out, nevertheless the effort that is made here now, particularly if my amendment is successful, should cover all those devices that we can think of at this time. Should they not, I guess there is the opportunity for us to revisit this matter at some time in the future.

The Hon. M.J. ELLIOTT: I ask the Minister to respond to a suggestion that I made that perhaps the definition could stop at the end of water-skis and that other devices might perhaps be picked up by regulation as another way of solving the problem. I think we might find some other grey areas, but I am not sure how many. It would seem to me to be a relatively simple way to go.

The Hon. BARBARA WIESE: I have a relatively open mind about this. It is not clear that we are able to

pick up all these things, so I will accede to the wishes of the Committee. Therefore, I seek leave to withdraw my amendment in favour of the Hon. Ms Laidlaw's amendment.

Leave granted; amendment withdrawn.

The Hon. Ms Laidlaw's amendment carried.

The Hon. M.J. ELLIOTT: I make it clear to the Minister that I was not suggesting that there may not be other items that we would want to pick up. Rather, I was just suggesting that we pick them up by regulation now. Would the regulation making powers be such that you could do that, or would we need to recommit the clause?

The Hon. BARBARA WIESE: I forgot to refer to the point that the Hon. Mr Elliott raised. We would be able pick up any such devices by way of regulation. Now that we have amended the Bill in this way, it would be my intention to use the regulation making power should it be required.

The Hon. DIANA LAIDLAW: Could the Minister explain why there is no definition of 'wharf' in the Bill. I recall seeing a reference to a wharf in the body of the Bill and, although I do not have it here, I made a note of it at the time. The Minister would appreciate that there is considerable interest in the future of wharves, who is to be responsible for them and who will pay to ensure that they are maintained in the future. I wondered whether they had been written out of the Act for any purpose, with the Government no longer wanting to have anything to do with them.

The Hon. BARBARA WIESE: There is no such motive intended. I am advised that there is no definition of wharf because the dictionary definition is universally accepted.

Clause as amended passed.

New clause 4a—'Crown bound.'

The Hon. DIANA LAIDLAW: I move:

Page 5, after line 6—Insert the following new clause:

4a. (1) This Act binds the Crown not only in right of South Australia but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.

During my second reading contribution I was anxious about the fact that this is a skeleton Bill and so much is left to regulation and yet, unlike provisions in the Acts that it will replace, this Bill has no provision for the Crown's being bound. I appreciate that the Minister indicated that there is a general provision in the Acts Interpretation Act for binding the Crown. However, I feel very strongly that, because so much is left to regulation, there should be a general acknowledgment in this legislation that the Crown is bound.

I indicate that because there is so much concern about the future of the department and its responsibilities for traditional activities other than commercial ones. There is tremendous concern amongst recreational boat owners and users in particular that the department is not spending money on facilities such as beacons, wharves, jetties and slipways. I feel that the Minister in this Bill has an enormous number of responsibilities but does not appear to have legal responsibilities for many of the statutory powers that we will pass to her.

The Hon. BARBARA WIESE: I oppose this amendment, not because I believe that the Crown should not be bound for the purposes of this legislation but because it is simply unnecessary to put it into this Bill. The Crown is bound under the Acts Interpretation Act, unless it is specifically stated in legislation that the Crown will not be bound. So, it is clearly the intention of the Government that, by the deletion of that latter matter which I raised, the Crown will be bound under this legislation. As a matter of principle and drafting consistency, I think it is unnecessary for it to appear in this Bill.

The Hon. M.J. ELLIOTT: Can the Hon. Ms Laidlaw explain the significance of subclause (1) of her amendment?

The Hon. DIANA LAIDLAW: As I understand it this amendment specifically reflects the words in the Acts Interpretation Act. It distinguishes between the Crown as it applies to a State and Federal Government responsibility. I would add also that while we would be seeking in this Bill to bind the Crown, although it is difficult sometimes to prosecute the Minister, an officer can be prosecuted.

The Hon. BARBARA WIESE: I am advised that the Minister cannot be prosecuted, but all matters relating to such issues are clearly spelt out in the Acts Interpretation Act where this power resides. In view of that fact and the fact that there is no clause in this Bill which indicates that the Crown is not bound, such a provision is unnecessary in this Bill. It is clearly the intention that the Crown will be bound, and the powers that bind the Crown and all the associated paraphernalia that go with it are clearly spelt out in the Acts Interpretation Act.

The Hon. M.J. ELLIOTT: One thing that I am clear on after the debate so far is that there is no doubt that the Crown should be bound. I have not spent enough time reading the Acts Interpretation Act, and that creates something of a quandary for me. I am certainly aware that in another Bill, namely, the Development Bill, which the Government had been circulating on a number of occasions, a clause was included which provided that the Crown was bound. That clause was removed in the final draft, I might add. Why such a clause would be included in a Bill which has only relatively recently been circulated if it is a redundant thing to do here leaves me somewhat perplexed, when the Government is now saying that it is an unnecessary provision. At the very least the Minister's argument would be that the clause is redundant rather than her disagreeing with the sentiment of it, so at this stage I will support the amendment.

New clause inserted.

Clauses 5 to 9 passed.

Clause 10—'Delegation.'

The Hon. DIANA LAIDLAW: I move:

Page 6, line 22—Leave out 'or to any other person'.

This part of the Bill deals with the administration and the division relating to the delegation of powers. Unlike the circumstances in New South Wales and Victoria (I am not sure of the situation in other States), the Marine and Harbours activities in this State are operated through a department that is responsible to the Minister. I have received further advice in the form of a press release from the Victorian Minister that they are actively engaged at present in sweeping reforms to port operations in order to boost economic performance, and they have boards whose sole emphasis is commercial

activity. Whether that is proper or improper activity, I am not too sure in terms of our definition here of the objects of the Act. However, it is of considerable interest to me that, where our main competition is in terms of port activities in this country, those States have all established boards at arm's length from the Minister, and boards with a purely commercial emphasis. They are making dramatic strides in terms of leasing arrangements and the like and enterprise deals to ensure that their profits not only remain supreme in this State in competition to other States but also remain competitive on the world scale.

I want to make those few observations while we are looking at this provision relating to administration. If the amendment is carried the clause will then read:

The Minister may delegate to the CEO any of the Minister's powers under this Act.

I have moved this amendment because I believe that, if that subclause is to be compatible with clause 10(2), where the CEO may delegate powers under this Act, including powers delegated to the CEO by the Minister, I think it is appropriate that the scale of delegation and command be the Minister through the CEO and then, if the CEO wishes to delegate powers further, at least in terms of having a knowledge of what is going on in the department and keeping tabs on it, the direction is the Minister, the CEO and further delegation of powers if the CEO believes that it is desirable. I think it is confusing and unnecessary to have the Minister delegating to the CEO and to other people, and then the CEO delegating to other people also. So, it is a matter of trying to neaten up the chain of command, responsibility and accountability.

The Hon. BARBARA WIESE: That seems to be a particularly old fashioned view, if I may say so. I cannot see any real reason for this amendment. I think that it is a perfectly reasonable thing to have a power of delegation which enables the Minister to decide whether a power should be delegated to the CEO or some other person, and for that delegation to be made directly. I have taken advice on the wording that exists in other pieces of legislation and I am advised that these powers vary from Act to Act and that in some legislation the delegation from the Minister is made to the CEO only whereas on other occasions the wording is as it has been provided for in this Bill.

I do not have any particular examples of persons other than the CEO to whom I want to have the power to delegate, but I cannot see any problem in making provision for that power should it at some time in the future be appropriate for the Minister directly to delegate to a person other than the CEO.

It is not an issue on which I would want to go to the wall. The Bill, as prepared, provides flexibility, and that is a desirable thing in the interests of an organisation which, along the lines that the honourable member has suggested, should be moving towards being a flexible, efficient commercialised organisation. Our Department of Marine and Harbors is certainly doing all the things that the honourable member cites as examples of reform and movements towards being commercialised operations that are taking place in other port authorities. Our department is doing those things, too, and is achieving much success. This power provides for flexibility which may be desirable in the future, and I think the Bill should stand as it is presented.

The Hon. M.J. ELLIOTT: Clause 10(2) makes it quite plain that the CEO may delegate powers under the Act, including powers delegated to the CEO. While clause 10(1) refers to the Minister making delegations to the CEO, it obviously talks about making delegations to other persons. It does not anywhere say that a power delegated to another person either can or cannot be further delegated. Quite frequently in other legislation it is stated that one power that cannot be delegated further is the power to delegate itself. With the CEO, it has been made clear that he or she can, but in relation to any other person this clause appears to be silent. So, it seems to me that the Minister could delegate the power to delegate. I do not know whether that was the intention, but there is nothing in this clause that says that that cannot happen. If that is not intended I would have thought that that would be expressly stipulated. Further, it does not make it clear that the CEO cannot further delegate the power to delegate. I not sure of the intention there, but I am not confident that this is clear enough at this stage, and it overlaps to some extent the concern raised by the Hon. Ms Laidlaw in her amendment.

The Hon. BARBARA WIESE: I am advised that any power that is delegated to an individual by standard practice cannot be delegated to another. That is the practice that is followed. So, if the Minister delegates to the CEO or another person, that power cannot be delegated to another. There is one correction I would like to make to what I said, that is, that as well as it being the practice, it is the law.

The Hon. M.J. ELLIOTT: I seem to recall several pieces of legislation that we have looked at where it does expressly say that powers may be delegated, except the power to delegate. Why does that find its way into some pieces of legislation if, in fact, it is redundant and unnecessary? In recent times I have seen that in legislation.

The Hon. BARBARA WIESE: I do think that I have a particularly helpful explanation for this. I am advised that, in some cases for some reason, the power to subdelegate has been provided in pieces of legislation, I suppose in the same way that the Hon. Ms Laidlaw is seeking to add a clause binding the Crown, even though that is not necessary because it is provided for in other pieces of legislation. It is not necessary to make provision for subdelegation because it is the law in any case provided for under another piece of legislation, but occasionally some people do it for some reason.

The Hon. M.J. ELLIOTT: Perhaps, Mr Chairman, Parliamentary Counsel needs a set of instructions which produce drafting consistencies. It might help the rest of us if that occurred.

Amendment negatived; clause passed.

Clause 11—'Appointment of authorised person.'

The Hon. DIANA LAIDLAW: Division 4 under Part 2 of the Bill deals with authorised persons. I suppose I am taking a particular interest in this section because of the recent debates that we have had in this place about the powers of authorised officers and the State Transport Authority and how these people have enormous powers in our community but are not necessarily trained as police officers. I note that in clause 4 'authorised person'

means 'a person appointed under Part 2 or a member of the Police Force'. What training is provided to these authorised officers who are appointed under this clause compared to authorised persons who are members of the Police Force? How many people in the department at the present time are deemed to be authorised persons?

The Hon. BARBARA WIESE: It could be that the definition of 'authorised person' as contained in the interpretation section might confuse the issue to some extent because, by referring to 'authorised person', we are not suggesting that all people who may be authorised to undertake a task are being authorised to undertake a task that could otherwise be performed by a police officer, with whatever powers are attached to a police officer.

We are saying that police officers in some respects stand alone as authorised persons. They are often referred to as authorised persons to undertake a range of functions. In addition to providing for police officers as authorised persons, we are making a provision for other people to be authorised to undertake certain tasks, such as marine safety officers or people who might inspect and check on the safety aspects of vessels. All those people will be authorised officers to undertake those tasks—they will be suitably trained for the tasks to which they have been assigned—but they should not be confused with police officers or the powers that a police officer has.

Clause passed.

Clause 12 passed.

Clause 13—'Powers of an authorised person.'

The Hon. DIANA LAIDLAW: I move:

Page 9, after line 3—Insert:

(3) An authorised person who—

(a) speaks offensively to another in the course of exercising powers under this Act; or

(b) hinders or obstructs another, or uses or threatens to use force against another, without reasonable grounds to believe that the authorised person has lawful authority to do so,

is guilty of an offence.

Penalty: Division 6 fine.

This amendment has affectionately become known in this Parliament as the Gunn amendment. It addresses a number of actions by an authorised person which may be deemed an offence; for example, an authorised officer speaking offensively to another in the course of exercising powers under this legislation or hindering or obstructing another.

I suppose that the Gunn amendment has always been of some interest to me, particularly in relation to this Bill, because I have been the victim of what could be termed as the over-zealous actions of an authorised officer. A few years ago, 1 recall taking out our boat at the No. 19 beacon at Goolwa. I had my sister and young nephew from the country with me. It was about 7.30 in the morning, we had our life jackets, the fire extinguisher, the spade, the bucket, the rope and all the other things that we were required to have under the regulations.

The Hon. T.G. Roberts: Was there any room for passengers?

The Hon. DIANA LAIDLAW: There was room for my sister and her baby of about nine months. We were going out before it got too hot in the day. As the child was so young, we planned to be out for only one hour. The inspector was there and there was a row because he would not let me launch the boat as I did not have a torch. I recall that the torch had been used the night before by my father when putting away the barbecue and he had not put it back in the boat. The inspector would not let me launch the boat, so we did not go out that day. I will never forgive that inspector for his most unreasonable action and offensive language. I am not sure whether under the Marine Act the way in which he addressed me could have been an offence and I could have done something about it. I move this amendment with considerable enthusiasm. I hope that the Minister will find that she can accept it, because it has traditionally been the case with this standard amendment which relates to authorised officers.

The Hon. BARBARA WIESE: I oppose the amendment, not because I disagree with the sentiments expressed by the honourable member about the need for appropriate standards of behaviour to be followed by any authorised officer, but because I believe that such a provision in this legislation is unnecessary. There are appropriate provisions which cover the behaviour expected of public servants and authorised officers in the Government Management and Employment Act. I refer specifically to sections 7 and 67 relating to standards of behaviour and powers of discipline for those who contravene acceptable standards. In the interests of consistency, I think it is unnecessary to have such powers in this legislation as well.

The Hon. M.J. ELLIOTT: I am not sure who was rude to Mr Gunn in the past, but—

The Hon. T.G. Roberts: Everybody is paying for it.

The Hon. M.J. ELLIOTT: Since that time everybody has paid dearly. It is not an issue on which I have spent an enormous amount of time. I think that people should be nice to each other.

The Hon. Diana Laidlaw: At least they should be reasonable.

The Hon. M.J. ELLIOTT: I do not see that this clause will make a profound difference, I do not see any special need for it, and I shall not support it.

Amendment negatived; clause passed.

Clauses 14, 15 and 16 passed.

Clause 17—'Care, control and management of property.'

The Hon. DIANA LAIDLAW: I move:

Page 11, after line 23—Insert:

(2a) A proclamation under subsection (1) may not be made in relation to land, or a structure on land, that is within the area of a council unless the council has been consulted and given an opportunity to make representations on the matter.

During the second reading debate I referred at some length to past problems and difficulties, particularly in the South-East, when Ministers have transferred land in their care and control and vested it with other Ministers. One instance related to the National Parks and Wildlife Service and the Coorong. I have had strong representations from councils in the South-East about this because what has happened in the past in terms of transfer of land remains a grating issue to them. I am simply asking that, as a form of government recognised

in the State constitution, councils should be consulted when land is transferred. I suppose this amendment is in line with some of the principles of the memorandum of understanding that the Government has signed with local government.

The Hon. BARBARA WIESE: I support this amendment.

Amendment carried; clause as amended passed.

Clause 18 passed.

Clause 19—'Rateability of land.'

The CHAIRMAN: I point out to the Committee that this clause being a money clause is in erased type. Standing Order 298 provides that no question shall be put in Committee on any such clause and the message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clauses 20 and 21 passed.

Clause 22—'Establishment of navigational aids.'

The Hon. DIANA LAIDLAW: I move:

Page 13, lines 9 and 10—Leave out subclause (1) and insert—

(1) The Minister may establish such navigational aids as the Minister considers necessary or desirable for the safe navigation of vessels within the jurisdiction and must maintain all such navigational aids.

This amendment addresses navigational aids and in particular the establishment of navigational aids. I have indicated in the past that I am concerned that insufficient time and effort is being spent on the establishment and maintenance of navigational aids. The area of particular interest to me is the Coorong and the Minister did acknowledge in her second reading speech that the lower Coorong is an area that has not received attention in this matter for sometime. It seems to me that what is happening in terms of the expenditure of the dollars through the Department of Marine and Harbors is contrary to what the Minister is seeking to do in terms of the objects of this Act, which in 3(e) is 'to provide for the safe navigation of vessels in South Australian waters'.

So that I can help the Minister honour that obligation provided in 3(e), I am seeking to reword 22(1) so that, instead of reading 'the Minister may establish and maintain' and leaving it rather subjective, I am suggesting that the Minister may establish such navigational aids as the Minister considers necessary or desirable for the safe navigation of vessels within the jurisdiction and must, I repeat, must maintain all such navigational aids. So she has the discretion whether to establish them but once having established them they must be maintained. I think that is critical to ensure the safe navigation of vessels in South Australian waters.

The Hon. BARBARA WIESE: I oppose this amendment not because I think it is inappropriate for the Government to maintain beacons where the Government has provided beacons or some other navigational aids but because this amendment would restrict the power of the Government to negotiate with some other body to maintain such navigational aids.

I would like to give a couple of examples of situations where the Government, through the Department of Marine and Harbors, has determined that it is desirable for navigational aids to exist in places such as Whyalla and Port Stanvac, for example, but where relevant bodies such as BHP in Whyalla have actually taken over the responsibility of maintenance and the cost of maintenance.

I would like to preserve the opportunity for the Government to be able to reach agreements of that sort with relevant bodies if such agreement is possible. So I would prefer the wording as contained in the Bill to stand.

The Hon. M.J. ELLIOTT: I will not support the amendment. I see a couple of difficulties. I am not sure whether the one the Minister raised is a difficulty in itself because I think that ultimately it is really saying that the final responsibility is the Minister's. If somebody else, by agreement, does the maintenance work then I do not think that that in itself would have been a problem for the Minister. I suppose my concern would centre around precisely what 'maintain' means—what level of maintenance would be considered adequate. There may be some navigational aids that the Minister might actually withdraw if maintenance became an on-going difficulty.

I can give some examples where the Federal Government has withdrawn a number of navigational aids in Spencer Gulf. A couple of beacons were removed, I think largely because they decided they were not willing to bear the cost. That was a rather tragic decision, but if the meaning of this clause became such that maintenance had to be to a very high standard you could have some navigational aids, perhaps along the River Murray, which are perhaps not high priority aids but are put there to assist. They might suffer vandalism on some sort of on-going basis and the Minister might ultimately decide that they are more bother than they are worth and simply withdraw them. That sort of thing, I suppose, is a possibility. I am not sure that I see the amendment gains a great deal. There are some possible down sides and on balance I am not supporting it.

The Hon. DIANA LAIDLAW: If I reworded this amendment to read 'and must ensure all such navigational aids are maintained', would that overcome the Minister's difficulties in terms of the argument that she presented in opposition to this amendment? It would then allow, by the Government or under contract, as the Minister outlined in her example, for these navigational aids to be maintained. My concern is that there is just too much discretion in this provision when the Parliament has given, under the objects of this Act, a statutory responsibility to provide for the safe navigation of vessels in South Australian waters.

I am trying to see that the Minister honours what she and the Government have sought and what the Parliament has passed, and that is that the Government does provide for the safe navigation of vessels. As soon as I put that to the test the Minister and the Democrats say that they are not prepared to make the Government accountable.

Therefore, I believe the manner in which I have sought to reword my amendment would overcome the Minister's difficulties and still ensure some accountability upon the Government. Most importantly those who are using the waters can do so with a degree of confidence that the beacons that are there are being maintained and that they can be used as a guide to safe navigation in South Australian waters.

The Hon. BARBARA WIESE: In the interests of attempting to be cooperative in this process, I have taken further advice on the revised proposal put forward by the honourable member on the question of maintenance of beacons. Unfortunately, I cannot agree to her revised proposal either. I would be very concerned if such a provision would leave the Government open to litigation, for example, in the circumstances where a decision had been taken that a navigational beacon was no longer required on the grounds of safety reasons—

The Hon. Diana Laidlaw: Then take it out.

The Hon. BARBARA WIESE: —we would not want to be open to litigation because that had not been maintained in an appropriate way. The honourable member says, 'Take it out.' That would be the ideal situation, and I would expect at the appropriate time that such a beacon would be taken out, but very often there will be an overlap between the time of a decision being taken and the ability to actually fulfil this intention. So, it would raise issues that I do not want the Government to be exposed to. I want to maintain the power and flexibility that we currently have to negotiate with other bodies to take over the cost and maintenance of such facilities when that is desirable and possible.

As to the question raised by the Hon. Mr Elliott that there might be the risk, if this Government could not afford to maintain beacons, that they would remove them in order not to comply with a provision that would require the Government to maintain such navigational aids, I would suggest to him that one of the things standing in the way of such action, even if it were contemplated by a Government, is that we also have safety obligations. So, if on the grounds of safety, navigational aids were desirable, then the Government would not be in the business of removing them because there was a problem with maintaining them. So, on balance, it is my view that the Bill as drafted provides the best options for us to pursue the establishment and maintenance of navigational aids, and I would urge the Committee to support the Bill as it stands.

The Hon. DIANA LAIDLAW: If I was not so mad, I suppose I would say I was speechless. I am absolutely stunned that this Minister could put this Bill before the Parliament and ask us to support (which we have done) one of the obligations of the Government, which is to provide for safe navigation of vessels in South Australian waters. But when I put it to the test and, in terms of navigational aids that she decides to establish, suggest to her that the Government would also be responsible for maintaining them, she runs a mile. She and the Government are not interested in safe navigation in South Australian waters because, if they were, they would maintain what they provide.

Essentially, the Minister has indicated that, as long as the private sector maintains it, as long as this cash-strapped Government, this bankrupt Government, puts it out to the private sector or local government, that is all right. It does not matter if they fall into disrepair because the Government does not have the money to get rid of them. All she cares about is the liability of the Government. She does not care a stuff about safe navigation in South Australian waters. She does not care a damn about people in boats who actually have some reason to believe that a navigational aid means it is an indication of the safe use of the waters. All I have asked is that she undertake what she sought and what this Parliament has determined, and what the Government has a responsibility to provide.

I asked her earlier what she meant by 'provide', but she did not know. No wonder she did not know what she meant, because in this clause she is not even prepared to maintain what she now says she may wish to establish. I am very pleased that I moved this amendment because it is an indication of how hypocritical this Government is, how cash-strapped it is, and how little care or interest it has in the safe navigation by vessels. This is the action of a former Minister of Tourism who is trying to promote boating in South Australian waters. I do not know why anyone would want to use recreational boats in South Australian waters if they could not rely on the navigational aids that this Minister might determine she will establish. Unless we can promote our waters as safe, there is no reason to believe that any of our promotion and other tourism activities to encourage boating activity in this State will be realised.

All this Minister cares about is litigation against the Government. She is not concerned about safe navigation. Even if she did not like my first amendment, which actually imposed some obligation upon the Minister, at least I had suggested that I would be prepared to modify the position and have some flexibility, but even then she could not countenance that. I am cross, but I suppose I am more disappointed than anything else that this bankrupt Government is even now prepared to sacrifice what is important to many people, and that is safety when they are out on South Australian waters.

The Hon. BARBARA WIESE: What an extraordinary outburst. I think the honourable member must have had something unpleasant for lunch.

The Hon. Diana Laidlaw: The only thing unpleasant is your explanation that you are not prepared to honour what you say you—

The CHAIRMAN: Order! Everybody has the opportunity in the Committee stage to enter the debate in a proper manner.

The Hon. BARBARA WIESE: I think that this is the most extraordinary thing that has happened thus far this afternoon. The fact of the matter is that the Department of Marine and Harbors has certain obligations under legislation to fulfil certain safety functions, and the department does fulfil those functions. The legislation that it works under provides for navigational aids in certain areas, and the Government fulfils its responsibilities in those matters.

The honourable member has raised some examples of navigational aids that require upgrading in one or two locations around the State, and they happen to coincide with the areas where she likes to spend her holidays and weekends. I remind the honourable member and the Committee that the Department of Marine and Harbors' obligations extend way beyond those parts of the State, and the department fulfils its obligations very well.

I would give an example of where the department has, in the interests of safety, taken over obligations which were previously undertaken by another level of government and which has meant that increased costs have come to the South Australian Government—which we accept, although reluctantly, because we recognise

our obligations to maintain safe waterways for the people who use them.

The example I use are the beacons that previously were maintained by the Federal Government east and south of Whyalla. The Federal Government simply withdrew from responsibility in that area and, in the interests of safety, the South Australian Government has picked up the responsibility.

The Department of Marine and Harbors is doing as good a job as can be done currently in this area. I maintain my position about the undesirability of the amendment that has been moved by the honourable member, not because the Government wants to run away from its responsibilities. There is nothing more absurd than that comment. The Government is not running away from its responsibilities: the Government puts considerable resources towards maintaining navigational aids and meeting its responsibilities.

The honourable member's amendment would place the Government in an impossible position. It is rather like suggesting that the fact that the Government provides traffic lights on the roads means that it must ensure that lights are glowing at all times. That is much too absolute and it is not possible for any organisation to guarantee that that will occur at all times. It is an impractical proposition that the honourable member has put forward. My opposition to it in no way should suggest that the Government is running away from its responsibilities or does not want to meet its responsibilities in this area. In fact, I think that overall the Government's record in this area is very good and appropriate.

The Hon. DIANA LAIDLAW: To determine this record of which the Minister seems to be so proud, could she indicate what resources are provided this financial year for the maintenance of navigational aids, and could she also say whether the department has undertaken studies on the maintenance condition of all navigational aids in South Australian waters? While I have highlighted—and it is true—examples in areas with which I am most familiar, I know that the Hon. Mr Dunn in his contribution talked about the Spencer Gulf region; I know that Mr Gunn, the member for Eyre, will readily speak about the coast of the State where he has responsibility; and the Hon. Peter Arnold can do likewise.

All members would be equally as angry as I am to see this Government trying to weasel its way out of maintaining what it has deemed must be established. Then the Minister related the example to traffic lights. I can assure her, although perhaps she is not so familiar with the Department of Road Transport, that every effort is made almost immediately to ensure that traffic lights are at full operating order at all times and, if that is not the case, the police come in and do something about it. However, never are the lights allowed to deteriorate or remain unattended.

If the Minister got out on the waters around the South Australian coast, she would understand. She, the department and the Government generally are unprepared to see the declining standards of navigational aids in this State.

The Hon. BARBARA WIESE: At the outset of that speech the honourable member asked two questions: how much is spent on maintaining navigational aids and whether there is a maintenance program. There is a program of maintenance and there is a budget for the maintenance of such facilities. I do not have with me details of the program or the money that has been budgeted for this year, but I will provide that at a later time.

Amendment negatived; clause passed.

Clauses 23 to 25 passed.

Clause 26—'Restricted areas.'

The Hon. DIANA LAIDLAW: This division relates to restrictions of use of waters and this clause specifically refers to restricted areas. I have received more letters on the issue of a draft paper prepared by the Murray-Darling Commission than I have on other matters for some considerable time.

What has the response of the Government been to the draft recommendations by the Murray Darling Basin Commission? I understand the closing date for comment is the end of March, in just a few days time. Although this is not the only issue which has been raised, the issue that most people have written to me about, and about which people seem most agitated, is that the commission is recommending the uplifting of regulations providing that the River Murray be deemed to be a maritime port, harbour or navigable waterway. Essentially, the commission is proposing that the boating public be made scapegoats for the pollution problems within the River Murray area without adequately addressing many of the other effluent problems upstream or the problems arising from agricultural and horticultural production along the river.

I am therefore keen to see what the department's response has been to this very frightening report in terms of recommendations for those many people who have written to me on this matter. Instinctively I share their fear of the implications of many of the recommendations in this report.

The Hon. BARBARA WIESE: I, too, have considerable concerns about the proposals that have been put forward by the Murray Darling Basin Commission. These concerns have been incorporated in a submission on behalf of the South Australian Government to the commission, and it is the intention of the South Australian Government, and the Department of Marine and Harbors in particular, with respect to matters relating to the boating community that there should be extensive and further consultation on the matters that have been raised within that draft document prepared by the Murray Darling Basin Commission.

I am not at all happy with some of the ideas that have been put forward. I know that South Australia's views are shared by comparable organisations in other States, and I hope, therefore, that modifications can be made before any final proposals are adopted.

At this point the South Australian Government has not reached a final position on some of the issues that are of concern. That will occur after further consultation with both the user groups and the people associated with the Murray Darling Basin Commission. So, all I can say at this point is that I, too, have concerns about the proposals that have been put forward, and I hope that it will be possible through negotiation to bring about change.

The Hon. DIANA LAIDLAW: As it was a Government submission that has gone to the Murray Darling Basin Commission, does it therefore incorporate the views of the Marine and Harbors, Environment, and Agriculture, and is it being coordinated by Marine and Harbors or by the Department of Premier and Cabinet? Is the Minister prepared to provide me with a copy of that submission?

The Hon. BARBARA WIESE: As I understand it, the paper has been prepared by the Engineering and Water Supply Department on behalf of the Government, and represents largely the views of the Marine and Harbors and the E&WS Departments, although other agencies of government have had involvement with the considerations that are currently under way in the Murray Darling Basin Commission. I do not know whether that submission can be made available to the honourable member, but I will undertake to check with the Minister who is responsible for the lead agency in this area and let the honourable member know.

Clause passed.

Clause 27—'Control and management of harbours and harbour facilities.'

The Hon. DIANA LAIDLAW: This clause deals with control and management of harbours and harbour facilities and makes reference to harbour facilities that are not in private ownership. Will the Minister outline what is the Government's policy in respect of ownership of harbours and harbour facilities?

The Hon. BARBARA WIESE: I am not sure that there is a specific policy on the question of private ownership of harbour facilities. from time to time representations have been made to the Government by particular interest groups about the idea of purchasing facilities that exist in harbours or ports around the State, but I do not think there is any particular policy position that either embraces or rejects such a notion. I certainly have no particular objection to the idea that some harbour facilities might be in private ownership, and there may well be some opportunities in the future to enable proposals to come forward from private organisations that previously have expressed interest in purchasing particular parts of our harbour facilities.

Clause passed.

Clause 28—'Dredging and other similar work.'

The Hon. DIANA LAIDLAW: This clause relates to harbour improvement work and specifically refers to dredging and other similar work. I have recently received from the District Council of Murat Bay information pertaining to the port of Thevenard, and the correspondence points out that when the former Minister of Marine and Harbors, Mr Gregory, visited the council back in March 1990 he identified that the department was currently investigating upgrading the port and loading facilities of Thevenard and that early estimates had indicated that dredging of the channel and berth would cost between $12 million and $20 million. Was that investigation completed and what were the cost estimates regarding that upgrading? Has the Government any intention of making provision for dredging of the harbour at Thevenard? Also, what is the Government's capital works program in respect not only of dredging but also of the development of harbours and maritime facilities in general?

The Hon. BARBARA WIESE: I am not certain whether the review of the port facilities at Thevenard has been fully completed. I am aware that an estimate was made that the dredging of the channel could be anywhere between $12 million and $20 million. It is not the intention of the Department of Marine and Harbors—in the near future, at least—to spend such money in order to undertake that work, because at this stage it is not considered to be a cost effective proposition. What would change that position would be if the business through the port were able to be increased substantially, in which case it then may well become a viable proposition that the department would consider.

The Hon. DIANA LAIDLAW: Does the Minister believe it will ever be possible for the business to pick up substantially through the port unless it is dredged? My advice from the district council and from those who are involved in the fishing, gypsum and other industries—and I have at least an inch of correspondence here—is that many jobs are threatened and the loss of further business will occur unless a decision is made on dredging the harbor and utilisation of the slipway. Also, the unloading facilities at the port are totally inadequate to meet the needs of prawn, lobster and shark boats, according to the advice I have received. The Minister suggests that a cost effective operation is the only standard she is going to find acceptable before dredging can be undertaken, in which circumstances it is very hard to envisage how any activity will increase.

The Hon. BARBARA WIESE: I would not disagree with the comments that the honourable member has made. I am not aware of any future activity that can provide the quantum leap, if you like, that would bring about a commercially-based decision by the department to invest such an amount of money at Thevenard. I am not aware that there is any likelihood of new vast deposits of gypsum coming on stream which would enable an increase in business. I presume that would be the sort of thing that would have to occur to increase the business through the port and to make the dredging proposal a viable proposition.

Clause passed.

Clause 29—'Development of harbors and maritime facilities.'

The Hon. DIANA LAIDLAW: Clause 29(2)(f) provides that the Minister may, for example, establish facilities for sporting or recreational purposes. I am not sure whether it is appropriate to raise my earlier concern about wharves and jetties under the area of sporting or recreational facilities, but I am aware that the Minister and the department no longer consider the majority of wharves and jetties around the State to have a commercial purpose. As commercial goals are the department's chief objective these days, it is looking to pass them at no capital cost to local government. Could the Minister outline what progress has been made with respect to jetty/wharf policy and discussions with local government?

The Hon. BARBARA WIESE: The proposal to which the honourable member refers is one that has been put forward, along with a number of other proposals from the State Government, for discussion with local government as part of the broad discussion that is taking

place regarding rationalisation of the provision of services.

The Hon. Diana Laidlaw: Relating to the petroleum franchise fee.

The Hon. BARBARA WIESE: Yes, within the context of the discussion relating to the transfer of the petroleum franchise fee to local government. I am not sure exactly how far those discussions have gone at this point or whether there has been agreement on any of the matters brought forward. Of course, as well as various proposals that have been put forward by the State Government, other proposals have come from local government, and all these are being discussed as part of a suitable package. I and certainly hopeful that the discussion relating to the recreational jetties will be a successful one and that we can reach some agreement with local government as part of that broader package. I anticipate that within the next few months we will know the answer to that.

The Hon. DIANA LAIDLAW: Today, I received a copy of a speech the Premier of Victoria, Jeff Kennett, made at Bendigo on 23 March at the official opening of the Victorian Farmers Federation grains conference. I was somewhat interested to note on page 6 the following comment, and it is relevant that I raise it under this clause relating to development of harbors and maritime facilities:

> We [the Victorian Government] have also been made aware of the prospect of being able to channel grain from the South-East of South Australia to Portland instead of Adelaide. The shorter distance is an advantage in Portland's favour, but there is also the consideration that this would avoid the need for a costly upgrading of port facilities at Adelaide to cater for supertankers.

What plans are there for upgrading the port facilities at Adelaide to cater for supertankers, and at what cost? If this work is not undertaken, what is the likely impact on the port of Adelaide from any initiative by the Victorian Government to attract grain from the South-East through Portland rather than shipping that same grain through Adelaide as is the current practice?

The Hon. BARBARA WIESE: I am not aware of any specific proposals to upgrade the port of Adelaide to take supertankers and I do not think there are any such proposals for the port of Portland. I am aware of the moves that are being made by the Victorian Government to attract some of the grain business from the South-East of South Australia across the border into the port of Portland and that is of some concern to me. Although I cannot be specific about quantities, I understand that a good proportion of the grain traffic from the South-East of South Australia is already taken across the border to Portland.

I am aware that discussions that have taken place during the past 12 months or so with port users in the South-East were designed to gain some idea of the potential business that may exist for the port of Adelaide for various types of cargo, including grain. From those discussions has come a strong expression by potential users that they do not have a particularly strong allegiance to or preference for the port of Adelaide. There is a view amongst potential users that whatever is most convenient and cost-effective will ultimately form the basis for any decision that is taken as to which port will be used for any cargo, including grain. I would anticipate that any judgments made by people in the South-East on these latest moves being made by the Victorian Government to encourage greater use of the port of Portland will be on that basis as well. I hope that there will be resistance to that on the part of some potential users and that it will not have a significant impact on current business through the port of Adelaide, but I am not in a position at this stage to give any idea of the current quantities of traffic or the potential for loss.

The Hon. Diana Laidlaw: Could you provide that information?

The Hon. BARBARA WIESE: If that information is available, I shall be happy to provide it later.

Clause passed.

Clause 30—'Fees and charges.'

The Hon. DIANA LAIDLAW: Yesterday I received correspondence sent to Mr Hedley Bachmann outlining concerns about port pricing policy in South Australia, particularly at the port of Adelaide, compared with Melbourne and Fremantle. I seek leave to incorporate in *Hansard* a table outlining the costs of imports and exports through Adelaide, Melbourne and Fremantle.

Leave granted.

	Adelaide	Melbourne	Fremantle
Exports:			
20' dry container	$79.00	$55.00	$49.20
20' reefer cont.	$72.10	$55.00	$49.20
20' landbridge cont.	$53.00	$55.00	$24.20
General cargo (tonne)	$2.95	$1.92	$2.93
Bulk grain (tonne)	$1.50	$1.35	
Bulk liquids (kl)	$3.90	$1.35	
Sheep (each)	$0.22	n/a	$0.19
Motor Vehicles (9m3)	$21.00	$17.28	n/a
Motor Vehicles (12m3)	$31.00	$23.04	n/a
Imports:			
20' dry container	$79.00	$55.00	$49.20
20' reefer cont.	$72.10	$55.00	$49.20
20' landbridge cont.	$53.00	$55.00	$24.60
General cargo (tonne)	$3.90	$1.92	$2.93
Minerals (tonne)	$2.95	$1.92	$2.93
Timber (tonne)	$3.90	$1.92	$2.93
Bulk liquids (kl)	$3.90	$1.35	
Motor Vehicles (9m3)	$21.00	$17.28	n/a
Motor Vehicles (12m3)	$31.00	$23.04	n/a

The Hon. DIANA LAIDLAW: This is a very important paper for all members to look at, because in this section we are addressing fees and charges and it is quite apparent that, while great progress has been made at the Port of Adelaide in recent times to reduce port charges—and I am aware that in some instances charges have fallen by up to 23 per cent at the latest round—

The Hon. Barbara Wiese: Twenty-four per cent and more.

The Hon. DIANA LAIDLAW: —or by 24 per cent. Those statistics look fantastic until you compare what is happening interstate and the tremendous gains that have been made there. Our competition is with the Port of Melbourne and the Port of Fremantle and, while it may sound wonderful that we are making progress here, our progress is slower than that interstate, and that is the reason for tremendous concern for the State generally, for those who rely on work through the port and for the Government's concept of a transport hub. I hope that members will have time to look at this paper, which

arises principally from concern about the application of a new cargo service charge which, it is argued, is making Adelaide uncompetitive compared with its two main competitors of Melbourne and Fremantle.

The Hon. BARBARA WIESE: It is worth indicating again that enormous progress has been made in the past two or three years in pricing policy for the Port of Adelaide, and that has been widely acknowledged by people in the shipping industry and those associated with it. That has been accompanied by a considerable increase in throughput of cargo, and our ability to reduce charges even further at the Port of Adelaide will be very much dependent on our ability to increase cargo through the port. I think it is worth noting that, in the 1992-93 financial year, there was a 46 per cent increase in cargo through the Port of Adelaide, and there has also been a significant increase in business during this financial year. So things are heading very much in the right direction, both in terms of volume throughput and also the reduction in charges over the last couple of years.

There is one other comment about charges that I would like to make, and that is that various port authorities have reformed their pricing policies in different ways. I would caution against trying to make direct comparisons on all charges in place in various ports around Australia, because they are not all comparable. Some people in the industry do not take full account of the fact that there are variations and that some charges incorporate different functions in one port as opposed to another. So, it is not always possible to make a direct comparison between one fee and another, even though they might have the same name. The Port of Adelaide's charges are favourably comparable with those at the ports that the honourable member referred to earlier, but we do not want to let it rest there.

We recognise that if South Australia is to improve its throughput in our ports and if we are to have the opportunity further to boost the South Australian economy, we must continue to work very hard to increase business through the port and to identify those areas of shipping activity for which we can provide a better service than some of the other ports in Australia, and to go for those and concentrate on them, increase the throughput, which will in turn give us the opportunity to reduce our charges even further.

Clause passed.

Clause 31 passed.

Clause 32—'Licensing of pilots.'

The Hon. DIANA LAIDLAW: This division refers to pilotage. I note that the Minister in her second reading explanation said:

> Presently, all licensed pilots are employed by the Department of Marine and Harbors. However, there is provision in the proposed Harbors and Navigation Bill to allow for suitably qualified and experienced persons to be licensed as pilots. This may lead to private pilotage in the future but recognises the need to control safe navigation practices in ports...

Could the Minister clarify the situation? From my reading of the Harbors Act, all licensed pilots are employed by the department in respect of the port of Adelaide, but I could not find the provision that that was so at other ports in the State. Looking back at the old Harbors Act, I was rather amused to note that under section 110 there was a provision that the salaries of all pilots had to be approved by Parliament. So, there is a need for getting rid of much material in the current Bill that is not necessary for the future. It is rather fun to keep some of these Acts to look back on, to see what legislation was deemed to be acceptable in the past. I would like also to know what the Minister's program is in terms of privatisation or the use of private pilots in the future.

The Hon. BARBARA WIESE: The department does not have any particular plans in this area and we have not been approached by any private pilots seeking registration, but it was deemed appropriate, since we were revamping legislation, to make provision for such private citizens to be licensed as pilots in the future should there be a need for that.

The Hon. DIANA LAIDLAW: How many pilots are employed by the Government at the present time?

The Hon. BARBARA WIESE: I do not have the exact figure but I think it is approximately 16 pilots employed by the department.

Clause passed.

Clauses 33 and 34 passed.

Clause 35—'Duties and immunities of pilots.'

The Hon. DIANA LAIDLAW: Clause 35(2) refers to no civil liability attaches to a pilot or a pilot's employer for negligence'. I would like some explanation why this is necessary. I certainly note that in sections 109 and 110 of the current Harbors Act liabilities are defined. I would like to know why those provisions have been dropped in respect of this Bill.

The Hon. BARBARA WIESE: I am seeking some advice on whether or not the provisions contained in this new Bill are the same as those which existed in the previous legislation. The principle behind these provisions is one which I believe is well recognised and that is that regardless of what advice might be received by the master of the vessel ultimately the master of a vessel must take responsibility for any accidents or any problem that might occur when a ship is being manoeuvred in port or wherever.

So that although a pilot must be involved in the process and a master must take account of the advice of a pilot, ultimately the principle of the matter is that the master must take ultimate responsibility. So the blame for negligence must ultimately be worn by the master of the vessel because he has the ultimate responsibility and must make judgments.

In response to the points I made initially, although the wording is not exactly the same in this Bill, the meaning of the provisions here are exactly as applied under the old legislation. So it is a carry on of practices that have existed for a very long time.

The Hon. DIANA LAIDLAW: I will not labour this point, but I will ask my colleagues to pursue it in the other place, because there is no way that section 110 of the current Act has any relationship at all to clause 35(2), because section 110 provides a penalty for a pilot who endangers ship, life or limb. It provides further that, if a qualified pilot, when in charge of a ship, by wilful breach of duty or by neglect of duty or by reason of drunkenness, does certain things, he shall be guilty of an offence against this Act and liable to a penalty not exceeding $500 or to imprisonment for a term not exceeding six months.

The Hon. BARBARA WIESE: I draw the honourable member's attention to section 114 of the current Act.

The Hon. DIANA LAIDLAW: This matter should be pursued in the Lower House, because under section 110 there is provision for an offence if there is negligence, and this Bill contains no such provision.

The Hon. BARBARA WIESE: Section 110 of the existing legislation creates an offence; section 114 excludes negligence from the offence provisions.

The Hon. Diana Laidlaw: But not from section 110.

The Hon. BARBARA WIESE: Section 114 takes over from section 110 with respect to pilots. It excludes negligence as a ground for an offence being committed.

The Hon. DIANA LAIDLAW: I will not labour this point, but it is clear that under the current Act there is a penalty for negligence and in certain cases a pilot may be guilty of an offence. There is nothing in this Bill which suggests that under any conditions a pilot could be guilty of an offence of negligence. I highlight that matter as one of the interesting changes in this Bill.

The Hon. BARBARA WIESE: To clarify the matter: in the previous legislation section 110 created an offence; section 114 excludes civil liability for negligence, and that is what is being done by way of the new legislation.

Clause passed.

Clauses 36 to 40 passed.

Clause 41—'Conditions of office.'

The Hon. DIANA LAIDLAW: Will the Minister, on notice, say what are the remuneration, allowances and expenses of members of the State Crewing Committee?

The Hon. BARBARA WIESE: Although there is provision for members of the committee to receive remuneration allowances and expenses, in fact they receive none.

Clause passed.

Clauses 42 to 45 passed.

Clause 46—'Requirement for certificate of competency.'

The Hon. DIANA LAIDLAW: I move:

Page 25, line 1—Leave out 'under the regulations' and insert 'in accordance with subsection (6)'.

Under the present Boating Act, section 22 relates to special permits, and the Act very specifically provides that a permit can be provided to enable a person between the ages of 12 and 16 years to operate a motor boat with a potential speed not exceeding 18 kilometres per hour or a motor boat with a potential speed exceeding 18 kilometres per hour while accompanied by a person who holds a certificate of competency of a class appropriate to the operation of that boat.

I believe it is important in respect of special permits that those conditions in relation to people between 12 years and 16 years be specifically stated in the Act and not left to regulations. That is my motivation for moving this amendment.

The Hon. BARBARA WIESE: I oppose these amendments, which are all dependent one on the other. It is the intention under the new regulations attached to this legislation to make a provision similar to the one which the honourable member is making in her amendment and which is consistent with the regulation that currently exists under present legislation. However, some alterations must be made to the new regulations on the advice of the Commissioner for Equal Opportunity, who has indicated to us that a reference to age as a criterion is not appropriate under the new legislation. So, a new regulation will make a similar provision, but other criteria of competency will have to be established. We envisage that there will probably be some mechanisms for testing people in this age group.

The Hon. Diana Laidlaw: A practical test?

The Hon. BARBARA WIESE: Practical testing, I presume, yes, as to maturity and competency in order to comply under such a regulation or provision.

The Hon. M.J. ELLIOTT: I have no problems with the Government's existing clause, although the Minister's answer has raised another question in my mind. If we as a Parliament are capable of stopping those under 18 years from buying cigarettes, why cannot we prescribe an age in relation to people driving motor boats? It seems quite bizarre to me. We can set age limits in other areas. I do not understand that. In any event, it does not matter as I am not supporting the amendment.

Amendment negatived; clause passed.

Clause 47—'Issue of certificates of competency or exemptions.'

The Hon. DIANA LAIDLAW: This clause relates to the issue of certificates of competency and exemptions and provides that the CEO must arrange for the examination of applicants seeking certificates of competency. Currently under section 18 of the Boating Act there is provision for oral, written or practical tests. There is no such facilitating provision here in terms of suggestions that practical tests could be applied in the future.

Based on the Minister's response to amendments that I moved to clause 46 suggesting that practical tests may be acceptable for determining competency for people under the age of 16 years in the future, can she indicate whether she is proposing that all people of any age who apply for licences in the future will also be required to undertake practical tests to determine competency?

The Hon. BARBARA WIESE: There is no intention to introduce practical tests for adults in this area, although courses are available through TAFE and other institutions which are recognised by the department and of which people are encouraged to take advantage.

The Hon. DIANA LAIDLAW: I move:

Page 25, after line 26—Insert:

(3a) A certificate of competency continues in operation without renewal and without payment of any further fee.

I am keen to move this amendment because the current Act states specifically that a licence would continue in operation without renewal and, whilst it is implied in clause 47, it is not specifically stated and that is the reason, in part, for this amendment. I also considered it was important because the Murray Darling Basin Commission draft report referred to earlier today recommends that there be an annual licence fee across Australia or that part of the river through which it is relevant, and it would give rise to annual renewal and the like.

I want to state specifically that this would not be the case. I see that the Minister has been prompted to introduce her own amendment on this matter and, while I have moved my amendment so that I can speak to it, I

would be happy to accept the Minister's amendment when she moves it.

The Hon. BARBARA WIESE: I move:

Page 25, after line 26—Insert:

(3a) A certificate of competency issued in respect of a recreational vessel (a boat operator's licence) continues in operation without renewal and without payment of any further fee.

My amendment exempts recreational vessels from this provision. The Hon. Ms Laidlaw's amendment would include all vessels, and that would be most undesirable because it is important that we continue to have the payment of a fee for commercial vessel certificates of competency, as this is required under national and international agreements.

I have no problem with the point that the honourable member is making about her desire to exclude recreational boat operators. I think my amendment achieves her aim but also preserves the current situation with respect to commercial vessels and honours the national and international agreements under which we work.

The Hon. M.J. ELLIOTT: I congratulate the Hon. Ms Laidlaw for raising the issue; she deserves all the credit that there is an amendment here. However, in the light of the argument I have heard, I will be supporting the Minister's marginally superior amendment.

The Hon. Ms Laidlaw's amendment negatived; the Hon. Ms Wiese's amendment carried.

[Sitting suspended from 6.2 to 7.45 p.m.]

Clause as amended passed.

Clause 48 passed.

Clause 49—'Cancellation of certificates of competency by Minister.'

The Hon. DIANA LAIDLAW: I have a couple of inquiries, but nothing major. There are other matters on which the Minister has undertaken to provide information at a later stage and perhaps the matters I raise now could be addressed along with them. I simply note that, until this time, the department has maintained a register of people who hold a licence to drive a boat. I suspect that because no renewal of a driver's licence is required under the current Act that that will not be required in the future. Therefore, this register is rather out of date. That is the reason why there is no provision for a register in the Bill. The Minister may wish to clarify that or bring back a fuller reply at a later stage.

The Hon. BARBARA WIESE: I believe that the honourable member's understanding of the issue is correct. However, if I find that that is not the case, I shall provide the appropriate information.

Clause passed.

Clauses 50 to 64 passed.

Clause 65—'Power to prohibit use of unsafe vessel.'

The Hon. DIANA LAIDLAW: This clause relates to the power to prohibit use of an unsafe vessel. It is part of a section that generally addresses safety questions. Last year a Federal House of Representatives committee produced a major report entitled 'Ships of shame'. In terms of that report, what implications are there for South Australia? Does this general section on safety take account of the recommendations in that report? What is the situation generally? Again, I am happy for this matter to be addressed at some later stage.

The Hon. BARBARA WIESE: My understanding of the report 'Ships of shame' is that it concentrated primarily on matters over which the Federal Government has responsibility and therefore focussed on the standard and safety of vessels that visit Australia from other parts of the world and associated safety questions. I do not know whether there are any matters in that report that impinge on the responsibilities of State Governments, but I will certainly check that matter and bring back a report for the honourable member.

Clause passed.

Clauses 66 to 68 passed.

Clause 69—'Alcohol and other drugs.'

The Hon. BARBARA WIESE: I move:

Page 33, line 13—Leave out 'less' and substitute 'more'.

This amendment is designed to correct a mistake in the Bill now before us. The penalties for these offences were designed to be exactly the same as the penalties that exist in the Road Traffic Act. For some reason or another the provisions in this Bill are inaccurate in respect of the matters that are dealt with by this amendment. So, in short, this is a tidying up amendment which bring these offences directly in line with the Road Traffic Act.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 33, line 26—Leave out '$900' and substitute'$1 200'.

The same argument applies in relation to this amendment.

Amendment carried; clause as amended passed.

Clause 70—'Requirement to submit to alcotest or breath analysis.'

The Hon. DIANA LAIDLAW: I move:

Page 34, after line 34—Insert:

(2a) If a person is required to submit to breath analysis, the breath analysis must be conducted by a member of the police force experienced in the operation of breath analysing instruments.

This provision relates to a requirement to submit to an alcotest or a breath test. Such tests are to be undertaken by an authorised person. The Bill defines an 'authorised person' as 'a person appointed under Part 2 or a member of the Police Force'. The amendment confirms that if a person is required to submit to a breath test, it must be conducted by a member of the Police Force experienced in the operation of breath testing instruments. This issue was brought to my attention by the Boating Industry Association of South Australia on behalf of the South Australian Recreational and Boating Council and SAFIC. They all expressed some concern that, as the Bill stands, authorised officers who might not have sufficient training in handling this equipment and such tests, as do police officers, would be entitled to undertake such tests. I appreciate that in discussions with the Minister and the department the industry and interested bodies to which I have referred have been given a verbal assurance that that is not the Government's intention. My amendment simply seeks to clarify the situation.

The Hon. BARBARA WIESE: The Government supports this amendment. It has always been the intention that it would only be members of the Police Force who would conduct breath analysis tests, so I am happy to agree that this be included in the Bill.

Amendment carried; clause as amended passed.

Clause 71 passed.

Clause 72—'Evidence.'

The Hon. BARBARA WIESE: I move:

Page 36, line 25—Leave out 'instrument' and insert 'certificate'.

This is a drafting amendment. 'Certificate' is a better word to use than 'instrument'.

Amendment carried; clause as amended passed.

Clauses 73 to 88 passed.

Clause 89—'Recreational boating fund.'

The Hon. DIANA LAIDLAW: I am not sure what funds are currently held by this fund. I suspect that there are a few funds held, although it may be that this fund is the recipient of registration fees and initial driver licence fees. I would like some clarification about that and what the fund is being used for at the present time. I would also like clarification from the Minister whether a later amendment that she proposes to move to provide for a levy on boat owners will see that levy committed to this fund.

The Hon. BARBARA WIESE: As I understand it, the funds that go into the boating fund at the moment are such things as registration fees and charges of that sort. They are all spent on facilities and other matters that will assist the recreational boating community. I do not recall how much money is in that fund at this time, but I believe that it is the intention when establishing the new fund, as proposed by the commercial fishing organisation and the recreational boating organisations, that we would be creating a new fund which would be used specifically for new facilities and maintenance of facilities in accordance with the recommendations of members of the proposed committee.

The Hon. DIANA LAIDLAW: Who is responsible for distributing the funds from the recreational boating fund? Is it possible that moneys in this fund could supplement the determinations of the committee that will determine the distribution of the levy?

The Hon. BARBARA WIESE: It is highly unlikely that it would be possible to use moneys currently in the existing boating fund to supplement projects deemed desirable to be funded under the new fund, since even with the proposed new fund we are unlikely ever to have sufficient resources to do all the things that everyone would like to see happening around the State. I understand that at this stage the moneys that come from the existing boating fund are fully utilised and committed and it is unlikely that they could be used to supplement such projects—unless we suddenly strike some new windfall of funding. However, I will certainly look further at that matter when the new committee and the new fund have been established.

Clause passed.

Clause 90—'Regulations.'

The Hon. BARBARA WIESE: I move:

Page 49, after line 15—Insert the following paragraphs:

(aca) fix and impose a levy to be paid (in addition to the registration fee) on the registration or renewal of the registration of a power-driven recreational vessel and provide for the revenue derived from the levy to be paid into a special fund to be used for the purpose of establishing, maintaining and improving recreational boating facilities;

(acb) fix and impose a levy in respect of commercial fishing vessels, provide for the payment and recovery of the levy, and provide for the revenue derived from the levy to be paid into a special fund to be used for the purpose of establishing, maintaining and improving facilities for commercial fishing vessels;

(acc) provide for a committee to advise the Minister on the application of the special funds established under paragraphs (aca) and (acb);

This amendment is being moved at the request of the commercial fishing organisation and the recreational boating organisations. It follows a proposal which was put by those organisations collectively to the Department of Marine and Harbors quite sometime ago, that there ought to be a levy on all vessels, which could be used for improvements for boating and maintenance of facilities for commercial fishing vessels and also for recreational boating facilities.

It has been agreed with the associations that all the funds collected by way of a levy would go into a fund and that a committee would be established that would have equal representation for three parties, that is, the commercial fishing interests, the recreational boating interests and the Government. The agreement that was reached at the most recent meeting I had with representatives of these organisations was that two members each from those three interest groups would form a committee to advise the Minister on the application of special funds that were established under the provisions which members see before them in this amendment.

The reason these provisions were not included in the Bill when it was introduced late last year was that, although agreement had been reached on this some time ago and prior to my becoming Minister of Transport Development, just prior to the introduction of the Bill, I was advised by the boating organisations that there was some disagreement amongst them on the levy proposal. I indicated to them that, unless there was full agreement on the part of all the organisations about the nature of this proposal, I was unwilling to proceed with it. In the intervening time since the introduction of the Bill, the associations have overcome their previous differences of opinion, and they advised me recently that they were in full agreement and wished the levy proposals to proceed and be part of the legislation.

Therefore, I move this amendment, which is an enabling clause. It enables such a levy to be struck and it provides for a committee to administer the special funds. Further discussion will now take place with the relevant organisations about the administration of moneys, the levies themselves and what amount of money might be desirable, so there is proper consultation and agreement on these matters and also some consultations as to the timing of the introduction of such a levy proposal. So, this amendment provides the mechanisms that have been requested by the boating organisations, and I hope that, if it is agreed to, work can commence in the near future with the representatives of organisations to work on the detail of these proposals.

The Hon. DIANA LAIDLAW: I move:

Page 49, after line 15—Insert paragraph as follows:

(acc) provide for a committee (with a majority of members nominated by relevant interest groups) to advise the Minister on the amounts of the levies imposed under paragraphs (aca) and (acb) and the application of the special funds established under those paragraphs;

Before speaking to the amendment, I should like to put an alternative view about the history of the amendment moved by the Minister. The Minister indicated that the amendment was being moved at the request of the industry and that it followed a proposal put forward by representative groups of the industry. That is a rather unfair analysis of the circumstances. Prior to the Minister's appointment to her present portfolio, the original proposition was put forward by the Department of Marine and Harbors to these interest groups. That was confirmed during the Estimates Committees by the former Minister last September, and that view has been put to me without qualification by industry groups. They have reluctantly agreed to this concept of a levy, because they see no other means in this depressing financial time in our State's history to get any money for the facilities that they see as being critical for the boating sector. Under sufferance, they have agreed to this levy proposal.

As regards the Minister's assessment that there was disagreement among the three representative groups in late October/November when the Bill was introduced, my advice is that the disagreement was among not the three groups but the three groups, the Department of Marine and Harbors and the Minister, because they did not wish the levy to be used for maintaining recreational boating facilities or facilities for commercial fishing vessels. They were keen for such a levy to be utilised for establishing and improving recreational boating facilities or facilities for commercial fishing vessels, not for maintaining such facilities. They had a justifiable fear that the money now provided by the industry by way of a levy would be used for maintaining past facilities that had been neglected through lack of resources from this Government.

It is interesting to look at the history of funding for such facilities. During the Tonkin Liberal years a fund of $500 000 was provided for the establishment and maintenance of such facilities in South Australia. Three years ago the Government progressively cut back that fund to an annual allocation of $250 000. Last year it was cut out altogether, and again no funds were provided this year for that purpose. That was the pressure that these boating groups were under when they were approached by the Department of Marine and Harbors to consider an alternative proposal to provide some funds for boating facilities in this State.

The Minister may take exception to my analysis, but I stick by it, because no other recreational organisation in this State that I can discover—and I have inquired widely—is being required by the Government to have a levy imposed upon it to pay for its facilities. For instance, the cyclists did not have a levy imposed upon. them to pay for the velodrome. I am not aware of tennis players having any levy imposed on them for the maintenance of tennis courts around this State.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: I do not care how impatient the Attorney-General is. This is a critical issue for 90 000 boat owners. We spend our whole lives listening to your legal legislation. There are 90 000 people involved in boating in this State in the recreational sector, and they are entitled to have their concerns aired in this place, no matter how grumpy the Attorney may be.

The Hon. C.J. Sumner: It's a waste of time.

The Hon. DIANA LAIDLAW: I do not think the boating industry thinks it is a waste of time. The very fact that your Government has not provided any money for these groups over the past two years is the reason why they are now being forced to pay a levy and they are entitled to have their concerns expressed in this place and, in fact, it would be much better if you listened in silence and had some compassion and consideration for what you are imposing upon them. They are the only group that I have discovered in the recreational sector that has had this situation where the Government is preparing a levy to be imposed upon them to pay for their facilities. They are a group that already pay petrol tax and petrol franchise fees and I understand their annual contribution is estimated to be some $2.2 million. They certainly pay plenty in Federal duty on fuel and now, in addition to paying annual registration fees, they will be paying a levy. So, they pay plenty already and now they will be paying more.

What I have not learnt from the Minister or from my inquiries with the department is what the suggested levy will be. In information that I received some time ago it has been proposed that for a boat 3.2 metres to seven metres in length, of which there are some 37 350 annual registrations in this State, there be a fee of $8 grossing $298 800. Vessels over seven metres, of which there are 2 500 annual registrations, may have a fee of $18 imposed on an annual basis grossing $45 000, making up a total sum of $343 800. Another option suggests that there should be a $15 fee for vessels over seven metres and for vessels over nine metres a $25 fee and that would bring the total to $347 820. They are options that were suggested to me some time ago and I would be interested to know from the Minister what she is considering as suggested facility fees.

I would also like some clarification from the Minister about this reference to maintenance in her amendments and to confirm whether it is for the maintaining of established facilities or facilities that will be established as a result of this levy. In terms of my own amendment I have simply sought to elaborate on the committee proposed by the Minister, as I understand it, and confirm what the Minister has provided in advice to these groups: that the majority of members will be nominated by the relevant interest groups and that they will be responsible for not only advising the Minister about the application of the funds but also on the amount of the levies to be imposed.

The Hon. BARBARA WIESE: I can confirm that they are the issues upon which members of the committee will be advising the Minister and I can also confirm that it has been the intention, according to the agreement that we reached, that there would be a majority of relevant interest group members on the committee. At our most recent meeting I believe we

agreed on a figure of two from the commercial fishing industry, two from recreational boating and two from the Government.

I anticipate that the committee will be established with that sort of membership. As to the question of what facilities will be maintained, as far as I know there has not been any detailed discussion on that matter with industry representatives, although I know that industry representatives have agreed that maintenance will be among the purposes to which the fund will be applied. I have already indicated that much detail has yet to be worked through and I would expect these issues to be resolved once this legislation passes and a committee can be established and agreement reached on them. As to what sort of levy might apply, I have had no ideas put before me. I would not expect that to be the case.

I do not know whether any of the industry groups have their own ideas about what figures might be appropriate. I expect that discussion on those matters will commence once the legislation passes. I for one would be keen to ensure that any impost on recreational boat owners and commercial boat owners should not be too onerous and that it would be a levy that would be considered by those relevant groups as reasonable and useful for the purposes to which it has been agreed they should be applied.

The Hon. M.J. ELLIOTT: Is there any particular reason why non-power driven recreational vessels do not face any form of registration fee, as they do not appear to do so on my reading? They are major users of facilities just as much as power driven vessels are. I am also wondering why yachts are not picked up for some kind of fees. Sometimes they will be using shared facilities, and I wonder why the power driven vessel sitting in the marina or using some sort of facility may be being charged while apparently, at least, the non-power driven one is not.

The Hon. Diana Laidlaw: Well, don't move an amendment!

The Hon. M.J. ELLIOTT: No, it is simply a question at this stage. The next question is: does the very fact that the term 'power-driven' is being used mean that a yacht that has an auxiliary motor will still be deemed to be power-driven and, if not, what size motor does it need before it is considered to be power-driven? There is no definition of a power-driven vehicle, unless it is intended to do it within the regulations. When we get to (acc) I will be supporting the Hon. Ms Laidlaw's amendment, because I believe that it is correct and that it should be in the legislation that a majority of the members be nominated by the relevant interest groups.

The Hon. BARBARA WIESE: This legislation does exclude non-powered vessels. To be truthful, I cannot explain why that is, except to say that this legislation carries on the practice that has been in place for many years. What the argument was in the first place for the exclusion of such vessels I do not know, but I shall certainly find out and provide an answer on that matter. As to what constitutes a powered vessel, I assume that there is a standard understanding of what such a vessel is and that provision would be made for it in the regulations if there was any question about the matter.

I might also indicate, because I have not made it absolutely clear, that, since the Hon. Ms Laidlaw's amendment to clause 90 does in fact spell out what was intended by the Government in any case with respect to the composition of the proposed committee, I am happy to support her amendment.

The Hon. Ms Wiese's paragraphs *(aca)* and *(acb)* inserted and paragraph *(acc)* negatived; the Hon. Ms Laidlaw's paragraph *(acc)* inserted.

The Hon. M.J. ELLIOTT: While we are dealing with clause 90, I wanted to raise some other matters with the Minister in relation to regulations. I think it is the appropriate time to do so. Both during the second reading stage and early in the Committee stage there was a discussion about whether or not we should have been debating this Bill at the same time as seeing the regulations. I said that I would accept the legislation being done now and regulations later, although I had some reservations about it.

The Minister has indicated that she does not believe that regulations will be brought in for about six months and that the Bill would be proclaimed at the same time. It would worry me greatly if we approved this Bill now and the regulations appeared in two or three months time and were in force for some months before Parliament had a chance to review them if that became necessary.

I would like to ask the Minister if she would give us an undertaking that indeed the regulations will not be proclaimed until Parliament resumes, which would actually be in five months rather than six months. Secondly, will the Minister give an undertaking that the regulations in the draft form might be circulated publicly, at least a month prior to that time?

The Hon. BARBARA WIESE: I am happy to give that undertaking because my advice from Parliamentary Counsel is that the regulations will not be complete for about six months. I give an undertaking that I will not introduce them prior to six months. I do not believe that they will be ready in any less time than that in any case. I have already indicated that there will be extensive consultation on the regulations before they come to Parliament for consideration. All the relevant user groups and anyone else who is interested in receiving a copy of the draft regulations will be given one so they can comment before the regulations are finalised and brought to Parliament.

The CHAIRMAN: I point out to the Committee that I cannot put that clause as the amendment that we have just passed has turned it into a money clause. Standing Order 298 provides that no question shall be put in Committee upon any such clause. A message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

First Schedule.

The Hon. BARBARA WIESE: I move:

Page 51—Insert 'Port Augusta' in the appropriate alphabetical position in subclause (1).

This amendment simply adds the port of Port Augusta to the schedule of harbors to which this legislation will apply. It was unfortunately omitted from the draft Bill.

Amendment carried; schedule as amended passed.

Second Schedule and title passed.

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

That this Bill be now read a third time.

The Hon. DIANA LAIDLAW: My colleagues and I hoped that we would not reach this stage at this time and

that we would have had the numbers to hold the Bill at the Committee stage so that we could sight the regulations before the passage of the Bill through this place. The Hon. Mr Elliott sought an assurance from the Minister that she would not act on the regulations for six months. He was content to accept that assurance from the Minister, so the majority of members in this place are prepared to pass the Bill at this time. I remain of the view that, because this is a skeleton Bill and the substance of it is contained essentially in the regulations, we should not have passed it until we had sighted those regulations.

Bill read a third time and passed.

PUBLIC CORPORATIONS BILL

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN: This is an appropriate clause to raise just a couple of issues. Can the Attorney-General indicate whether there has been any reaction from any of the State statutory corporations to the Government in relation to this Bill and, if so, is he able to identify from which corporations reaction was received and what was the nature of the reactions?

The Hon. C.J. SUMNER: There were a number of submissions, and generally they were supportive. Various comments were made, some of which were taken into consideration. Obviously this Bill has been around for some time and it went through a fairly extensive consultation phase. Not everyone agrees with it, but that is not unusual.

The Hon. K.T. GRIFFIN: Not necessarily now but, before the Bill passes the other House, would the Attorney-General be prepared to indicate from which corporations submissions were received and is he prepared to release details of the submissions from those corporations?

The Hon. C.J. SUMNER: Yes, I can probably do that. If he had asked me earlier, I might have done it before today.

The Hon. K.T. GRIFFIN: I thank the Attorney-General for that. I do ask him sometimes for things in advance, and I generally get them but, on this occasion, with the heavy load of the legislative program, it is one of those issues that I overlooked picking up at an earlier stage. If I could have them at some stage before the Bill passes the other place, I would appreciate that.

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Can the Attorney-General give an indication when the Bill, if it passes, is likely to be proclaimed? Further, is it intended to proclaim it as a whole?

The Hon. C.J. SUMNER: We would expect about September. It would be anticipated to proclaim it as a whole. Obviously, before a statutory corporation is brought under this legislation, a considerable amount of work has to be done. It may well be that some of the individual Acts have to be amended to accommodate that, but we would hope that would be in place by about September, at least with respect to some, if not all, of the corporations that it is envisaged will come under it. The initial candidates we believe are ETSA, PASA and the Urban Land Trust.

Obviously, given the discussion about the sale of the State Bank, it is probably not a candidate at this time. SGIC will be considered, but whether it is appropriate to bring that under it immediately will have to be looked at in the light of the current situation. Obviously, a framework will be available for other commercial statutory corporations or, as others have referred to them, public trading enterprises.

The Hon. K.T. GRIFFIN: I take it that there is no schedule of progressive application? At the moment there is PASA, ETSA and the Urban Land Trust, and they are the only three. Is there a list to which this Bill will be applied progressively?

The Hon. C.J. SUMNER: We can provide a more extensive list, but that is the initial list. Each statutory corporation will have to be considered on its merits, on a case-by-case basis to see whether it is appropriate. We will not be bringing them all under the legislation immediately. It will be a progressive thing that could take a couple of years to finally achieve. If we can get further information on the list in respect of those we expect to be targets—without being committed to bring them all under it—we can provide it at the same time as we provide the information requested earlier.

The Hon. K.T. GRIFFIN: One in particular comes to mind, and I refer to the Grand Prix Board. Is that a candidate at an early stage?

The Hon. C.J. SUMNER: It is a candidate, but I do not know whether it will be at an early stage. It is certainly on the list.

The Hon. K.T. GRIFFIN: The only other matter about implementation is whether the Attorney proposes to make a handbook available to directors and prospective directors. Will a program of education be available for those who, if the Bill passes, are still prepared to run the gauntlet of the liabilities and obligations imposed by the Bill?

The Hon. C.J. SUMNER: Yes, it is proposed to prepare a handbook outlining the obligations under the Bill, and that will be given to prospective directors of statutory corporations.

Clause passed.

Clause 3—'Interpretation.'

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

Page 2, line 14—After 'in relation to a' insert 'statutory corporation or'.

This amendment and others that are consequential clarify the meaning of the term 'public corporation' by limiting the application of this nomenclature to those statutory authorities that are brought under the legislation, rather than being an alternative means of describing statutory authorities in general. This will reinforce the Government's intention that only certain authorities will be brought under the legislation.

The Hon. K.T. GRIFFIN: I do not have any difficulty with that. Essentially, it is a drafting issue and I can see the good sense in distinguishing between public corporations generally and statutory corporations to which the Bill applies. I do have a later amendment relating to the definition of statutory corporations.

Amendment carried.

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

Page 3, lines 1 to 5—Leave out all words in these lines and insert—

'public corporation'—see section 5(3);

This amendment is consequential upon the earlier amendment that I mentioned, to more specifically indicate what public corporations we are referring to in this legislation.

Amendment carried.

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

Page 3, after line 17—Insert definition as follows:

'statutory corporation' means a body corporate (other than a council) that—

(a) is established by or under another Act; and

(b) comprises or includes, or has a governing body that comprises or includes, a Minister or a person or body appointed by the Governor or a Minister;

This is also consequential.

The Hon. K.T. GRIFFIN: It is correct that it is consequential, but it is the substantive definition of 'statutory corporation'. I move to amend the amendment as follows:

Page 3, after line 17—After 'council' in the new definition of 'statutory corporation' insert 'or university'.

Paragraph (b) of the definition provides that a statutory corporation is a body corporate other than a council established by or under another Act and comprises or includes a governing body that has a person or body appointed by the Governor or a Minister. Two of the universities are in that position. They have made representations to the Opposition that they should be specifically excluded. I would have thought, from what the Attorney-General had to say at the second reading stage in his second reading report and his reply, that it was never intended to extend to universities, and if that is the case I think it ought to be put beyond doubt.

The Hon. C.J. SUMNER: No objection.

Amendment to amendment carried; amendment as amended carried.

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

Page 3, lines 21 to 23—Leave out all words in these lines.

This is a substantive issue and an important one. A subsidiary in relation to a public corporation means not only a company that is a subsidiary of the public corporation within the meaning of the corporations law but also a body corporate established as a subsidiary of the public corporation by regulation under Part V. Whilst this is not the substantive amendment, I would be happy—if the Attorney and the Hon. Mr Gilfillan agree—to treat this as the point where we have the substantive debate. If I am successful there is a lot of consequential amendment, and if I am unsuccessful we will not deal with those later. I do not understand why there is to be a relatively uncontrolled procedure by which regulations can be used to establish a subsidiary of the public corporation.

It applies later and we will deal with that substantive issue later in relation to the establishment of statutory corporations by regulation on which I have an equally vigorous opposition. However, it seems to me to be wrong in principle that the Government can by regulation establish an entity and later dissolve an entity as a subsidiary of a public corporation. Quite obviously, if there is to be a subsidiary formed in the normal course, that is, a subsidiary which is a company, the shares in which are held by the statutory corporation, that still can be established only by approval of the Minister. I think that is an appropriate safeguard. It was one of safeguards recommended by Mr Jacobs in the second State Bank report in relation to the State Bank and that is subject to control. Here we have what is certainly unique in South Australia and probably unique across Australia—a regulation being used to establish a body corporate.

If the Committee is not with me on that point, can I put a point of view that it is a dangerous way by which a body corporate should be established—that is, by regulation—as a subsidiary because regulations are subject to the disallowance process. If the Government decided to establish a corporation by regulation as a subsidiary or as a self-contained statutory corporation, one can have a situation where the corporation is established by regulation, may be in April of this year. It may not actually be disallowed—

The Hon. C.J. Sumner: It does not come into effect under the new procedures for four months.

The Hon. K.T. GRIFFIN: But it might be that there is a three or four month recess and there is still a resolution which can be moved at the commencement of the next session and, apart from intervening elections, that could go right through to April of the following year. So, there is a period of at least 12 months where the incorporation might be under some cloud.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Well, it is possible. If you establish it by regulation, even under the new procedure, it still has the potential to take 12 months to be ultimately disallowed.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You have, because if you give notice of motion to disallow you do not actually have to move that or deal with it until the end of session.

The Hon. C.J. Sumner: Commonsense dictates that you have to deal with it.

The Hon. K.T. GRIFFIN: Maybe so, but we are making this enactment not just for the next session or for the current people, both in Government and in Opposition. I think one has to be sensible about creating a new mechanism for incorporation of bodies corporate as subsidiaries. In relation to a free-standing statutory corporation, not as a subsidiary, there are even more persuasive arguments against that because, although they are subject to some form of parliamentary review in a regulation, I think that where a Government establishes a statutory corporation apart from a subsidiary that ought to be the subject of scrutiny of both Houses of Parliament and debate before it is actually established.

We will argue that at a later stage of the consideration of this Bill. At the moment we are dealing with subsidiaries of public corporations, and I can see no reason why we ought to be permitting establishment of statutory corporations by regulation where they are to be subsidiaries of public corporations. It may be that there is some opportunity to manoeuvre, manipulate or make such a corporation not fully subject to the provisions of the corporations law, where certainly the obligations on directors are quite—

The Hon. C.J. Sumner: They will be subject to the same obligations.

The Hon. K.T. GRIFFIN: I agree that the obligations placed upon directors are tight here.

The Hon. C.J. Sumner: It would be the same for the subsidiaries established by regulation under this Act.

The Hon. K.T. GRIFFIN: It certainly is in relation to the duties of the directors but in relation to their behaviour as a corporation it is not in any way regulated as a subsidiary of a—

The Hon. C.J. Sumner: It would be governed by this Act.

The Hon. K.T. GRIFFIN: I agree with that but what I am saying is that in relation to the conduct of business, apart from the specific obligations placed upon directors, the corporations law as I interpret it has a much more extensive application to the conduct of the activities of subsidiaries under the corporations law than will apply] under this Bill to the subsidiaries incorporated by regulation. So, I am not convinced that it is a desirable course to follow. I do not know why it is proposed in this way; hence my amendment.

The Hon. C.J. SUMNER: I suppose this shows how the best of intentions can be misinterpreted or misunderstood, because the purpose of introducing this clause in the Bill was in fact to strengthen the accountability of subsidiaries established under corporations coming under this Act to the Government and Parliament, and it is surprising that that motivation is now being criticised by the Hon. Mr Griffin, because he says it is in fact lessening accountability. The establishment of these subsidiary corporations by regulation was introduced in fact at the suggestion of the Crown Solicitor to overcome the problems of a statutory corporation establishing a whole raft of subsidiaries under the corporations law, where the capacity to control them through the statutory corporation is in fact less than what would exist under this proposal.

In fact, there were considered to be significant dangers in using companies as a vehicle for conducting Government business, albeit commercial business. Sometimes this cannot be avoided; for example, if the company is to trade in another jurisdiction or if the Government is only to be part owner, or if the company is to be a trustee. However, in general companies are less accountable than bodies incorporated by statutory means, and that was the argument that we had in actually accepting the Crown Solicitor's opinion that there should be this means of establishing subsidiary corporations.

Companies under the Corporations Law are not designed to be governed in a way which facilitates accountability to Parliament; in fact, there is no accountability to Parliament for companies established under the corporations law. They also suffer from a number of disadvantages when looked at in terms of the public interest or in terms of accountability to Parliament. Under Corporations Law, directors must be natural persons and they cannot be designated by office or corporate status. This causes difficulties nominating designated office holders as directors, which the Government may wish to do and which may be the most efficient way of doing it with respect to a public trading enterprise.

A director's duty to a company may be inconsistent with the wider public interest. One would expect a public trading enterprise under this legislation to take account of the public interest. Private company directors may owe a duty of confidentiality to the company and thus be unable to report to those who appoint them. That is a practical problem. Except in limited circumstances, the company established under the Corporations Law will be the subject of Commonwealth taxation, whereas if a subsidiary were established by this means under this statute it would be an instrumentality of the State Crown and would not be subject to Commonwealth taxation. That increases the Government's flexibility.

Statutory and political limitations on the activities of Government will not apply to the company. The provisions proposed by the Government are designed to provide an alternative mechanism for incorporation of subsidiaries and provide accountability mechanisms for such subsidiaries. Without these provisions, public corporations will have no choice but to continue to form companies when a subsidiary structure is required. We know what happened with Beneficial Finance.

Whilst it may be argued that creation of a new entity by regulation is less accountable than creation by legislation, it should be remembered that this mechanism is similar to that under the Health Commission Act for the creation of health units. There is, therefore, a precedent for it. Furthermore, incorporation of a company does not require parliamentary approval. So, if the public trading enterprise brought under the Public Corporations Act establishes a subsidiary body under the Corporations Law, it can do that without parliamentary approval. However, in this mechanism, which is included in this Public Corporations Act, the establishment of those subsidiary corporations will need parliamentary approval, because they will be done by regulation and the Parliament would have some oversight of them. Viewed in this light, the provisions allowing incorporation by regulation, the Government believes—and this is why they were put there—are in fact a substantial step in favour of greater accountability to Parliament and not less.

I do not think there is a problem about there being a delay in the disallowance of a regulation. Unless the Minister gives a certificate to exempt it, the regulations do not come into effect until four months after they are made, and I imagine that in the establishment of a subsidiary corporation under this Act that four month period would not be waived. I believe that would, in the normal circumstances, give adequate time for the parliamentary scrutiny. If there was a disallowance proposition, and that was holding up the creation of the statutory corporation, it would be dealt with expeditiously by the Parliament.

So, I do not see that practical problem raised by the Hon. Mr Griffin as a serious impediment to this procedure, but in any event I have outlined the Government's rationale in introducing this legislation. As I said, it was to provide for a greater accountability and to use this procedure, which would have to come before Parliament, to establish subsidiaries rather than have the undesirable situation that occurred at the State Bank, where Beneficial Finance just went ahead and established a whole bunch of off-balance sheet companies which the Government, let alone the Parliament, did not know about.

The Hon. I. GILFILLAN: I started with the view—and I have not substantially changed it—that where possible it is better to have significant decisions made by legislation rather than by regulation. Certainly, if it were a question of a regulation or nothing, regulation would win by a country mile. But I am not convinced yet that that is the case. It seems to me that the definition of 'subsidiary' in the context in which we are looking at it now does refer in paragraph (a) to 'a company that is a subsidiary of the public corporation within the meaning of the Corporations Law'. I am assuming that that definition embraces companies that currently exist, because my understanding of the intention of this Bill is that no future company that is a subsidiary could be established without there being a regulation. So, the definition that is currently in the Bill embraces both subsidiaries which are currently in existence and subsidiaries which may come into existence in the future by way of regulation. I am hoping my assumption is correct.

It is important—at least for members of the Committee—to have quite clear that there are no other avenues in which a subsidiary can be established other than by a regulation which comes before this Parliament. If the answer to that is 'No, they can be formed in some way other way,' then it strikes me that we are dealing with a very evasive target. So, that is fundamental to the way I understand the intention of the Bill and that of the amendment, and maybe that can be clarified. However, the difference between establishing a subsidiary by way of a regulation or by way of a Bill does not appear to me to be particularly substantial.

The Attorney has talked about there being a four month delay, so to argue that the use of a Bill passed by the Parliament will inordinately delay an intention is less significant than if the regulation were effective immediately, even before it were debated in Parliament. However, if we were to hold with the regulations procedure, at the very least the capacity for the Minister to exempt the four months should be removed as an option in these circumstances. That is just a thought. This will be—and I think rightly—the most substantial debate on opposition to the clauses under which body corporates can be established as a subsidiary of the public corporation by regulation. Clause 22(1) provides:

> The Governor may, by regulation, establish a body corporate as a subsidiary of a public corporation to which this section applies.

The Bill provides more detail. I make plain that it is my intention to support the series of amendments which have that effect. However, I do think that the debate is a little more complicated, having heard the response by the Attorney, and I will be waiting for what the Hon. Trevor Griffin has to say, having taken advice at the counsel bench, before I will say categorically whether I will support the amendment. I would appreciate further discussion on it.

The Hon. K.T. GRIFFIN: As I said in the beginning, I did not want to confuse the issue of subsidiaries with the other issue of establishing corporations by regulation where those corporations are not subsidiaries. There are two issues involved, and we are focusing only on subsidiaries. When I began, I did say this was an important issue, and it is.

I can see the points the Attorney-General was making about accountability, but it seemed to me that, because of the range of provisions which apply to corporations under the Corporations Law, at least in some areas there are more stringent obligations on corporations there than under this Bill. However, I concede that at least Parliament would know that a particular corporation was established as a subsidiary. I can concede the tax position. I acknowledge that, if it is a State instrumentality, no Federal tax is paid on its income, so I do have to concede the validity of some of the points that the Attorney-General has made and, if I have misunderstood his good intentions, I regret that, but I still have misgivings about regulations being used to incorporate subsidiaries. That may be just my natural aversion to regulations being used for anything other than administrative purposes. It is certainly a stronger aversion in relation to a later provision of the Bill where there is power to establish a free standing corporation by regulation, and I certainly will be more vigorous in my opposition to that.

The Hon. C.J. Sumner: Hang on; you haven't heard the argument.

The Hon. K.T. GRIFFIN: As presently informed, I would propose to be more vigorously opposed to that than on this. I will still continue with my amendment, but I indicate that I am persuaded by the Attorney-General on a number of his arguments that it is an issue of judgment as to whether one goes down that track or the track that I am proposing. I can acknowledge also that there is a measure of parliamentary oversight through the regulation-making process where a subsidiary is established by regulation. As I recollect, the Hon. Mr Gilfillan asked whether it was proposed that subsidiaries would continue to be established under the Corporations Law if this amendment was not carried. As I understand the response of the Attorney-General, there was no commitment only to incorporate by regulation but that there may be a need to continue to form corporations as subsidiaries under Corporations Law for a variety of reasons, where the Government does not hold all the shares and for other reasons, and I accept that. I suppose, however, even a corporation incorporated by regulation can still carry on its activities interstate: it does not have to be a company limited by shares under the Corporations Law, but I think that is peripheral to the main issue.

The Hon. I. GILFILLAN: I do have a very strong aversion to expanding the decisions made by regulation, and it takes a very strong argument to dissuade me from that position.

The Hon. C.J. Sumner: We'll just do it by company, and you will not know anything about it then.

The Hon. I. GILFILLAN: As I said earlier—and I did not get an answer from the Attorney—it appears to me as if you have your cake and eat it too: some are formed by regulation and others without regulation, and nobody knows the answer.

The Hon. C.J. SUMNER: As the Hon. Mr Griffin has pointed out, there are the two options: a company under the Corporations Law or a body corporate established by regulation. It was considered that there are some circumstances when a company may be necessary. The Hon. Mr Griffin pointed to one. It might be a joint

venture with other parties and the only appropriate vehicle for that is a company. If one agrees with the Hon. Mr Griffin's amendment I suppose that is fine. That is how the Bill was drafted when it was first presented for consideration within Government. The Crown Solicitor then objected and said, 'You are allowing less accountability'—not quite, because there is ministerial approval for the establishment of a company—'to the Government and Parliament of the day if the only means you have of incorporating the company is under the Corporations Law. You people ought to get hold of the public accountability issue in this area, and one way you can do that is by requiring a subsidiary to be established by regulation rather than under the Corporations Law.'

I understand what the Hon. Mr Gilfillan is saying. There is a reluctance to allow the establishment of these entities by regulation, given the usual approach that the Council takes to that. It is a matter of deciding not between regulation and legislation but between regulation and the establishment of a commercial entity under the Corporations Law. If this amendment is agreed to, we do away with all parliamentary accountability and the public trading enterprises brought under this Bill will then be left with establishing any subsidiaries that they might need to establish—and in fact they do need to establish them from time to time—under the Corporations Law. They will be established as companies with shareholders. There is accountability under the Corporations Law with respect to the responsibilities of directors and what can be done under the Corporations Law, but it is accountability to a different regime; it is accountability effectively to Federal legislation. Doing it by regulation gives accountability to this Parliament. It was put in for greater, not less, accountability. If that is not acceptable, we will go back to where we were.

The Hon. I. Gilfillan: What obligation is there on the Government to bring it in by regulation when the Government has the option to do it without regulation? It appears to me to be a matter of arbitrary choice.

The Hon. C.J. SUMNER: The policy that was argued for within Government (and we have to see how these things work out in practice once they are going) was where possible to establish by way of the subsidiary using the regulation-making power rather than, as they did in Beneficial Finance, establishing a whole lot of off balance sheet companies under the general Corporations Law. That would be the policy. I can only outline that at this stage. A public trading enterprise operating commercially in the market may say, 'We would rather do it under the Corporations Law than by regulation.' Then the Government would have to make up its mind.

This is quite novel. I do not know that it exists in other legislation, but it is novel with a view to greater, not less, accountability. That is what I want to emphasise. All I can do is to outline the policy. Had the Government had no intention of using it, we could have left it out and avoided the argument.

The Hon. I. GILFILLAN: I think it is worth a little patience to get this hammered out. It will save further discussion further down the track. The Hon. Trevor Griffin may understand the implication better than I do, so I shall dwell on it a little longer. I asked: is a statutory corporation empowered presently to establish its own subsidiary without reference to Parliament? I assume the answer to that is 'Yes.' If I ask the further question, whether it is empowered to establish its own subsidiary without direct approval of Cabinet; I do not know the answer. I would like an answer to that.

The Hon. C.J. Sumner: Yes.

The Hon. I. GILFILLAN: They can do that without—so, there is in the current situation quite a scope for subsidiaries to be established without direct scrutiny by either the Parliament or even the Cabinet unless it is brought particularly to their attention. I do think that is a position which needs to be tightened up. From that base the Attorney is obviously quite impressed with the degree of scrutiny coming into this Bill, and is inclined to extol that as one of the virtues of this current Government. It still seems to me that the drafting of this Bill will leave a public corporation enabled to establish its own subsidiary, certainly in the definition of a subsidiary through (a), which is neither brought before this Parliament nor before Cabinet, so that there is that option. There will still be that option.

The Hon. C.J. Sumner: To do it under (a), that is, as a company under the Corporations Law, under this Bill they will have to give ministerial approval and that previously did not apply.

The Hon. I. GILFILLAN: That certainly does tighten that up and I accept that point. So, that reduces one of the areas of risk.

The Hon. C.J. Sumner: It will require the Treasurer's approval, not necessarily the Minister's.

The Hon. I. GILFILLAN: The Treasurer's approval. So that does tighten it up and reduces that area of risk and I support that. Then, if we do move to this worthy intention of (b), I am not yet convinced that there is substantial advantage in regulation as compared *vis-a-vis* to legislation going through the Parliament, as we have shown from time to time here that quite quickly we can actually get legislation through that is unexceptionable, and it does always appear to me to be the preferred course where we are involved in making a significant decision. I tend still towards that being the other option. That may mean that amendments are needed that are different from the ones that the Hon. Trevor Griffin has on file, and we have not had a chance to discuss it, so I do not know what was in his mind about that, but I would like to hear from the Hon. Trevor Griffin.

The Hon. C.J. Sumner: He has already said what his—

The Hon. I. GILFILLAN: Is he prepared to accept this now?

The Hon. C.J. Sumner: Pretty well.

The Hon. I. GILFILLAN: Yes, I could tell he was going soft on it before. He was not listening to my speech.

The Hon. K.T. Griffin: Another one of your compliments.

The Hon. I. GILFILLAN: Yes. It may mean that I remain a lone, not totally convinced, voice in this debate and I certainly do not want to prolong it under those circumstances. If the Hon. Trevor Griffin is content that the amendment is workable I will just say that my position is, first, that I would prefer to be it by way of legislation in this Parliament. That is my basic principle and I am not totally persuaded that I am not still right in

that. Secondly, if there is the option still with regulation that the Minister can waive the four month dwell period I think it is reasonable to ask that under these circumstances the right to exempt that four months does not apply.

The Hon. C.J. SUMNER: I would oppose requiring legislation for the establishment of every subsidiary. I think if you do that then you are going to create an extremely difficult situation for the public trading enterprise in trying to operate in a commercial environment where it may have to move quickly to take advantage of an opportunity. If that occurs all that is likely to happen is that you will force the creation of subsidiaries into the first type, namely, establishment under the Corporations Law. I understand what the Hon. Mr Gilfillan is saying but I would prefer to accept the principle that the Government is putting, which, I think, is a very important principle; compared to the current situation it is a distinct improvement. So, I would prefer to see that distinct improvement, this new mechanism, put in place and given a chance to work.

If after a couple of years it appears from the annual reports of these public trading enterprises that (b) is not being used, that the Government is always using (a), for whatever reason, then perhaps we can revisit the issue. Certainly, it is a significant advance on the current situation. As to the four months, I do not support the removal of the power to give that exemption. The Minister is responsible to the Parliament. If the Minister behaves wrongly in relation to setting the exemption—

The Hon. I. Gilfillan: He will blame the board or the statutory authority.

The Hon. C.J. SUMNER: Even though the interjection was made somewhat superciliously it is an important interjection in the sense that the Government would blame the board.

The Hon. I. Gilfillan: The Minister would blame the board.

The Hon. C.J. SUMNER: The Minister would blame the board. What this Bill is designed to do is ensure that people, no matter who they are, cannot escape the blame, because the lines of accountability are very clearly set out in this Bill: Parliament, Cabinet and the Minister's role and the obligations of the statutory corporation. That is what I think is the advance that this Bill provides. I would be reluctant to agree to the setting aside of the four month waiting period. I know it happens for regulations on a regular basis but it should not happen where there is a large chunk of new regulations under a new Act, and it should not happen where there is the establishment of a new statutory corporation or subsidiary under this Bill.

However, there may be circumstances where it is necessary to do it quickly, and all I can come back to is the basic argument we have had here, namely, that Parliament has the ultimate say about it. If the Government establishes one of these subsidiaries in controversial circumstances, it runs the risk of the Parliament's disallowing it, and that is something that can be sheeted home to the Government in the Parliament.

The Hon. K.T. GRIFFIN: The Hon. Mr Gilfillan's observation that I have tended to moderate my view is a correct one. I am less uneasy about the proposition after the discussion than I was when I moved the amendment. I can see that there are advantages for and against the proposition that the Attorney-General is putting. I will not go so far as to seek leave to withdraw my amendment: I will maintain it, but I will not be unduly upset in the context of the discussion so far if it is not carried. But I will reserve for a later stage some other questions about subsidiaries if this is not carried.

Like the Attorney-General, I do not think it is practicable to require every subsidiary to be established by legislation, so I do not support that proposition. I acknowledge that there does need to be reasonable control over the formation of subsidiaries, because no-one on any side of the Parliament wants a repeat of the State Bank and Beneficial Finance saga. Even SGIC establishes its subsidiaries, and of course in the legislation that establishes some of these corporations there is a provision that requires approval for the acquisition of shares but not approval for the establishment of a new company in which shares are actually issued to the promoter, which might be a statutory corporation. I acknowledge that this Bill does provide a greater measure of control over that sort of situation.

The Hon. C.J. SUMNER: I make one point: that, if the Hon. Mr Gilfillan and the Hon. Mr Griffin turn to the schedule, they will see that the schedule has provisions applicable to subsidiaries. There is a clear notation that 'this schedule applies to a body corporate established by regulation under Part 5 as a subsidiary of a public corporation'. So, this schedule applies to the subsidiaries that we have been talking about on this clause.

If you go through you will see that the schedule then contains a code virtually for the conduct of that subsidiary. You will see the headings 'Direction by board of the parent corporation' and 'General management duties of board' and in clause 4 'Directors' duties of care'. So it picks up duties of honesty and directors' duties of honesty; in clause 6 'Transactions with directors or associates of directors', the conflict of interest clauses; in clause 7, similarly, another more direct conflict of interest clause; and in clause 8 civil liability, etc.

So, we have set out in the schedule a whole regime of accountability for the subsidiaries that were established under this Act which effectively mirror the obligations which are imposed on the public trading enterprise and others in the main body of the Act.

The Hon. I. GILFILLAN: I am quite impressed with the diligence that the Government has put into this Bill. However, the point is that I have had a base position which I have felt was reasonable and my response to the shadow Attorney's amendment has been based on what I understood from his introductory support of his amendment and a trend which appeared to be cohesive through his series of amendments.

So, if, as the Hon. Trevor Griffin indicated, he has varied his view, I would like to indicate that if he seeks leave to withdraw his amendment he will get no opposition from me, but if it stays and is put I will support it.

The Hon. K.T. GRIFFIN: That is passing the buck again. I was hoping I would pass it to the Hon. Mr

Gilfillan. I will face up to the responsibility and formally seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. K.T. GRIFFIN: I want to raise one issue on the definition of 'relative'. It is very widely drafted. I have not put an amendment on file but it is defined as the 'spouse, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person'. That is very wide and I wonder if the Attorney-General can indicate why it is so wide—whether there are any specific cases which he has in mind catching. It is particularly wide in the context of later provisions which relate to transactions with the corporation of which the person involved is a director.

The Hon. C.J. SUMNER: Parliamentary Counsel advises me—and I have not checked this—that this is the definition used in the Corporations Law. However, I will check that and confirm it later.

Clause as amended passed.

Clause 4 passed.

Clause 5—'Application of Act.'

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

Page 5, line 4—Leave out 'public' and insert 'statutory'.

This is a consequential amendment.

Amendment carried.

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

Page 5, lines 7 to 11—Leave out all words in these lines.

Clause 5 seeks to apply a provision of this Bill to a public corporation either by the Corporations Incorporating Act or by regulation. That means that there will be regulations. I am not sure whether they will be separate to each corporation or whether they will be all in a bundle which apply this Bill to a particular corporation or apply a particular provision of the Bill to a public corporation. One can envisage for a start that, if there is a regulation which seeks to apply this Bill to a number of identified corporations, it would be difficult to deal with each one individually and, even more so, if different provisions are applied to different corporations. However, apart from that, it seems to the to be inappropriate to apply substantial obligations upon directors and to impose a wide range of legislative provisions on public corporations merely by regulation, particularly because the penalties in some instances are quite severe.

I do not disagree with the severity of the penalties—I think they should be severe—but I have difficulty with the application of this Bill by regulation to particular corporations. The Attorney-General has already said that the Government will go through the incorporating legislation of particular public corporations, and some may need amendment. It may be that they will all need amendment and, in the light of that, it would seem to me to be more appropriate that, as the incorporating Act of each public corporation is reviewed, a decision should be taken as to whether or not provisions ought to apply to it and that that application should be made by Act of Parliament, or initially by Bill which is considered by both Houses, and not by regulation which is of course still subject to scrutiny but only to disallowance. In my view, there is no problem with establishing a structure of substantive provisions in this Bill and applying them by separate Act of Parliament in relation to each corporation. That is the context in which I move my amendment.

The Hon. C.J. SUMNER: I think we need to stand on our head a little some of the general thoughts that we have about the use of regulation in this area. This is another category I would suggest where, while I understand the honourable member's usual approach to these matters and the approach of the Hon. Mr Gilfillan, if you remove this regulation making capacity you reduce to some extent the efficacy of the Act, because it was put there to ensure that, if a public corporation was not behaving itself or was getting out of control, there was capacity for the Government to move in quickly to impose certain of the obligations in this Public Corporations Act on that statutory corporation and therefore bring it under control and into an accountable situation.

If this cannot be done, then with respect to every statutory public trading enterprise that is established by statute you will have to bring the principal Act back to the Parliament for amendment. If you want that to happen, that is fine, but it does not increase accountability: it reduces it because it removes the capacity for the Government of the day to act quickly in circumstances of difficulty. So, as I said, I think we need to turn our usual thinking on its head a little bit in relation to this Bill.

The legislation seeks to provide a flexible mechanism for applying provisions to statutory authorities. By allowing the application of whatever they might be in this legislation by regulation, that flexibility and greater accountability is achieved. I expect that, for the major public trading enterprises, as I outlined at the beginning, the substantive legislation will be amended to harmonise it with this Public Corporations Bill, but there are numbers of statutory corporations, or public trading enterprises, out there where it may be necessary for some of the provisions of this measure to apply. So, while there are the major public trading enterprises that this is designed to cope with, there may be others which are not being accountable and not performing well, and Governments may have to step in and act quickly. This provides a mechanism for it to be done.

The Hon. I. GILFILLAN: I must admit I am a little confused as to how much the initiatives in this Bill will apply automatically to public corporations. I rather naively anticipated matters such as internal audits, audit committees and other prescribed methods of conduct would apply. Maybe I have missed a connecting link. I thought they would automatically apply to various statutory authorities once this Bill was passed. From the response I am getting from the Committee, that is wrong, and this will be the only vehicle by which the conditions in this legislation will be transferred that have to be complied with by the various statutory authorities or public corporations.

I do not know whether the Attorney is looking perplexed, but I assume I am right, having translated it, and that clause 5 is the way by which the effect of this legislation will be implemented in the wide world, authority by authority. I can see some justification for softening a hard line of expunging regulations from the method by which this is done. My immediate reaction is: if that is the way I am thinking, I would distinguish

between (1) and (2). To knock over a condition which is already sitting in the Act of an authority seems to me to be a little more significant than the application to a relatively minor body as envisaged by what the Attorney said with respect to subclause (1)(b). I would consider them as two separate amendments and look with more favour at retaining by regulation in subclause (1). At this stage I would be inclined to delete subclause (2).

The Hon. C.J. SUMNER: The Government appreciates the position taken by the Hon. Mr Gilfillan but believes that clause 5(2) is necessary so that it is legally clear what the situation is. Clause 5(2) makes it legally clear that, where a regulation is made to bring a public trading enterprise under this Act, then the provisions of the Act apply and take precedence over the provisions of the corporations' incorporating Act. Unless we do that, we could end up with litigation as to whether what we had done by bringing the public trading enterprise under this Act was valid in certain respects. There has to be a provision that avoids that capacity for litigation. I know that people get upset about regulation, but it does provide a mechanism for Parliament to look at it.

The Hon. I. Gilfillan: I'm sure it serves a useful purpose.

The Hon. C.J. SUMNER: I am trying to emphasise that the use of regulation here is designed to increase the capacity of the Government, acting on behalf of the Parliament and the public, to get a hold of these corporations if they start running out of control and to do it quickly and in a publicly accountable way.

The Hon. K.T. GRIFFIN: Subclause (2) stands or falls on whether or not subclause (1)(b) is deleted. I do not believe we can have any one without the other, which is why I have moved the amendment as a whole. I understand the Attorney's desire to be able to act quickly. I had been under the impression that there was going to be a methodical review of statutory corporations to determine the ones to which this should apply.

The Hon. C.J. Sumner: There will be.

The Hon. K.T. GRIFFIN: If one makes that methodical examination, I would have thought that in those circumstances it would rarely, if ever, be necessary to then act quickly, as the Attorney suggests. In any event, if the Government is exercising its responsibilities as it should in relation to statutory authorities then one would hope there would never be the need to suddenly bring into effect provisions of this Bill which presently do not apply to particular statutory corporations. In any event, if one had to act quickly as the Attorney-General supposes might have to occur, it may be something akin to closing the stable door after the horse has bolted. So I am not convinced of the desirability of using this as a mechanism for dealing with an emergency situation. As I said, I hold the view that it ought to be a scheme which is applied after review of particular corporations.

I admit that if it is to be used in the way the Attorney-General suggests then removing the capacity to apply provisions by regulation does mean a limitation on the speed with which one can move. As I say, I have not seen this Bill as being available for that particular purpose. In any event, in relation to most of the statutory corporations, apart from the State Bank, the Legal Services Commission and the State Courts Administration Council (there may be a few others), I think in establishing legislation those corporations are subject to ministerial control and direction, and that is ultimately the means—

The Hon. C.J. Sumner: A general control.

The Hon. K.T. GRIFFIN: A general control and direction, that is right.

The Hon. C.J. Sumner: And it has some limitations on it.

The Hon. K.T. GRIFFIN: They are not too significant though, I would have thought. The Attorney-General has been in Government for the past 10 years and may have had some wider experience than I have had in relation to the use of that power.

The Hon. C.J. Sumner: It is certainly a narrower power than where it says 'subject to the control and direction of the Minister'.

The Hon. K.T. GRIFFIN: I concede that. So it is in that context that we took the view that we ought to not permit this to be applied by regulation. I suppose there is another difficulty, and that is that if there is a regulation—I did raise this issue when I spoke earlier but the Attorney did not address it in response—it could be used to apply this to a whole range of bodies. I do not know whether it is intended to do it statutory corporation by statutory corporation, with a separate regulation for each. There could be difficulties also if a regulation applies certain provisions but not others, and that could be even more difficult if there is an omnibus regulation which applies some provisions to corporation A and other provisions to corporation B.

The Hon. C.J. Sumner: In the same regulation?

The Hon. K.T. GRIFFIN: Yes. The Attorney might be able to elaborate what he has in mind, the way by which this is proposed to be dealt with.

The Hon. C.J. SUMNER: It is intended to go through a methodical examination of the public trading enterprises, and that has already commenced. I indicated at the beginning where we were with that and undertook to provide a more comprehensive list to the Hon. Mr Griffin before the Bill passes another place, and we will do that. I think there are some 20 public trading enterprises that have been identified as being obvious candidates to be brought under this legislation. The normal process will be to use clause 5(l)(a), that is, by amending the Act establishing the corporation. However, there may be circumstances where applying this Act to a public trading enterprise by regulation may be necessary. If that is done I would not envisage it being done in an omnibus way; it will be done by one regulation applying to a particular public trading enterprise.

It is true—and the Hon. Mr Griffin raised this—that, if we are talking about statutory corporations generally, there are large numbers of statutory corporations, many of which you would not categorise as being public trading enterprises. It is true that the definition in this Act would enable the provisions of this Act to be applied to those statutory corporations. It is not envisaged that that would be done in an omnibus way but it may be appropriate in some circumstances to apply some of these provisions to some of those other statutory corporations.

Again, it has the basic objective of increasing accountability, not reducing it. I think all I can say is, yes, there will be an examination; yes, there is a list;

yes, in the major cases we anticipate the legislation setting up the trading enterprise will be brought back to Parliament. However, to achieve the flexibility that is needed and the greater accountability, bringing some of those organisations under this Bill by regulation is useful and I think enhances what we are all trying to do with this Act.

The Hon. K.T. GRIFFIN: I will take that a step further. If my amendment is not successful would the Attorney-General then consider a provision in the regulation-making power, or here, or some place in the Bill, which specifically provides that in any regulation applying the provisions of this Bill to a corporation there will be one per corporation?

The Hon. C.J. SUMNER: I would be happy with an amendment of that kind.

The Hon. I. GILFILLAN: I still hold the view that there is a difference in the significance of a regulation which comes in and which does not challenge anything that is currently in the legislation regarding the particular corporation. I toyed with some words to express something with which I would feel quite at ease supporting after hearing the debate to this point. Clause 5(1)*(b)* would read:

...or by regulation, provided there is no inconsistency over the provisions of the Corporations Incorporating Act.

It seems to me that if we are going to bring in a regulation that is inconsistent with the Corporations Incorporating Act there will have to be an amending Bill anyway. So, the Parliament will have to consider legislation. I cannot tolerate the thought that a regulation will constantly sit in contradiction to an Act of Parliament. There is something intrinsically wrong with that in terms of the way Parliament should work. I put that forward for consideration as a procedure that I would be prepared to support. I will wait until the Hon. Trevor Griffin is back in the Committee before outlining my intentions. I am not prepared to be the ultimate arbiter in this—it will have to be by consensus—and he ought to listen to this debate.

The Hon. C.J. SUMNER: I am not attracted to that amendment because it may well be that what the honourable member is trying to do is ensure that the provisions of this Bill apply to a corporation where the legislation establishing that corporation is inadequate for the matter to be dealt with.

The Hon. I. Gilfillan: Or silent.

The Hon. C.J. SUMNER: Yes, but it may well be inadequate. It might be that you have a situation where you want to impose greater accountability and duties of directors. You might have a conflict of interest dispute, for instance, where the board of a statutory corporation is saying, 'No, we are going ahead with this'; it is obvious to people that there is a conflict of interest. There may not be, as there has not been in the past in a lot of Acts establishing statutory corporations, the same strict provisions that we are now putting in this legislation. It may well be that you wish to apply those stricter provisions, which we are now debating and now putting in legislation, to a corporation that was established some time ago under different attitudes and different regimes.

The Hon. I. GILFILLAN: Is it not true, though, that if you were to introduce regulations which were in conflict and inconsistent with the establishing Act there would have to be an amending Bill consequently down the line, anyway?

The Hon. C.J. SUMNER: That would not necessarily be the case, but I would agree that that would be desirable. I do not believe that the Government will use this power of regulation as the main objective of bringing statutory corporations and public trading enterprises under this Act. We will use clause 5(1)*(a)* in the normal course. The legislation we brought here will be amended to harmonise it with this Public Corporations Bill. That will be the normal course of action.

The Hon. I. GILFILLAN: I think I have been provided with a better insight into the connection and the procedure now through this debate. As we work our way through the debate and eventually hopefully achieve a satisfactory draft for the Bill and it becomes an Act, Parliament will then have endorsed the contents of this measure. Therefore, as I see it, the regulation will be doing no more than giving a transfusion of the intention of this Act into statutory authorities so that they get up to speed and they pick up the advantages we have outlined in this Bill. So, I am going to desert the Hon. Trevor Griffin and his amendment holus-bolus in these circumstances. I think the argument is a convincing one and I am prepared to accept the Bill as it is currently drafted.

The Hon. K.T. GRIFFIN: I am disappointed to be the subject of desertion but I hope that—

The Hon. I. Gilfillan: Give me some argument—

The Hon. K.T. GRIFFIN: I think it is a good debate and it is important to explore all the issues. I will not hold it against the Hon. Mr Gilfillan in taking that course of action. There are many other arguments in this Bill where there will be equally important matters to debate. However, in the light of that, if I lose the amendment on voices, I do not intend to divide. I do intend to pick up the point I made in the debate by way of a later amendment to the regulation-making power to ensure that if there is a regulation it is a stand alone regulation in relation to each corporation.

The Hon. C.J. SUMNER: We will agree to that amendment, Mr Chairman. I move:

Page 5, line 9—Leave out 'public' and insert 'statutory'.

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

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

Page 5, after line 11—Insert subclause as follows:

(3) A reference in a provision of this Act to a public corporation is a reference to a statutory corporation to which the provision is declared to apply in pursuance of this section.

This is a consequential amendment.

Amendment carried; clause as amended passed.

Clause 6—'Control and direction of public corporations.'

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

Page 6, after line 9—Insert subclause as follows:

(2a) The corporation may not be directed by its Minister to do anything that would be beyond its powers as provided by its incorporating Act and any other Act.

This amendment explicitly provides that a Minister may not direct a corporation to exceed its own powers. Whilst it is doubtful that in any event a Minister could do this

by operation of this clause, on consultation with various parties it was felt to be beneficial to provide for this explicitly.

Amendment carried.

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

Page 6, lines 11 and 12—Leave out subclause (4) and insert—

(4) Subject to subsection (6), where the Minister gives a direction to a public corporation under this section—

(a) the Minister must cause the direction to be published—

(i) by notice in the *Gazette* within 14 days after the direction was given;

and

(ii) by tabling the direction in both Houses of Parliament within six sitting days after it was given;

and

(b) the corporation must cause the direction to be published in its next annual report.

I have a package of amendments which relate to the publication of ministerial directions. I have adopted the position in relation to the Economic Development Bill and to other legislation establishing statutory authorities that, where directions are given by Ministers, not only should the directions be published in the next annual report but there ought to be a more immediate publication of a direction.

So, I am proposing, subject to a new subsection which I am proposing, that the Minister must cause the direction to be published by notice in the *Gazette* within 14 days after the direction was given and by tabling the direction in both Houses within six sitting days after it was given, as well as publishing it in its annual report. I pick up subclause (5), which provides that, if there is any direction which 'might detrimentally affect the corporation's commercial interest; might constitute a breach of a duty of confidence; (or) might prejudice an investigation of misconduct or possible misconduct', all that needs to be published is a general statement in respect of a direction. I am also suggesting that that ought to be widened so that it applies to the forms of publication, to which I refer in proposed new subclause (4), so that there is that discretion and only a general statement may be given.

I think that will largely overcome the problem which the Attorney-General raised in the course of the debate on the Economic Development Bill about the disclosure prematurely of directions which might in some way be prejudicial but not prejudicial to persons with whom a corporation may be dealing, for example, or in some other way. So, I take the opportunity of moving the first amendment.

The Hon. C.J. SUMNER: We have debated this issue on some occasions recently. There is a message on the Notice Paper at the moment dealing with the Economic Development Bill where this same issue has caused a dispute between the Legislative Council and the House of Assembly. I guess it is an area where we have to get some kind of agreement as to what is appropriate, given that this is to be the standard which will apply, that is, under this Public Corporations Bill. I am not sure that we will achieve that tonight, given that it is not just this Bill we are talking about but also the Economic Development Bill.

The Government opposes the amendment in the form proposed by the honourable member. We believe that the audit trail is sufficiently established by reporting ministerial directions in the annual report of the corporation; that, as a matter of practice, corporations have to operate commercially; and that they have to operate in a managerial way—in an efficient way. I have a fear that, if there has to be virtually an immediate publication of any direction, a matter could be thrown into the public arena in circumstances where that could act to the detriment of the public trading enterprise.

What it might do, which I think would be undesirable, is cause directions not to be given or to be given less often and to avoid that consequence. In other words, the public trading corporation might say, 'Well, we want a direction on this but, obviously, if the Minister gives a direction, it will be in the public arena tomorrow; we can't cope with that because of what might be happening with our competitors, so we will just do what you want to do, Minister, and won't report it.' Then, of course, if there is not formal direction, it does not have to be reported anywhere. So, the Parliament does not find out about it either through the *Gazette* or the annual report.

That is something that could occur. What I hope with this legislation is that there is more specific accountability and everyone knows their responsibilities. It may be that ministerial directions do not become the significant thing that they have been in the past. They may well become more of a natural way of ensuring accountability and proper management of the corporation and be reported in the annual report, and for that to be reviewed by the Parliament at the appropriate time. So, I have a couple of fears with this; I am not sure whether we will resolve it tonight. This sort of provision could react against what Parliament is trying to do.

The Hon. I. GILFILLAN: I do not expect that this matter will be satisfactorily resolved tonight. The matter that arose with the Economic Development Bill is almost identical to this in that it involves the reporting of ministerial direction—an amendment that the Democrats supported and will continue to support in principle. It is obviously constructive to indicate to the Committee that I am having and will continue to have conversations with some people representing the Government on what may be some variation on the specific detail of timing. I do not think we need to back away from the principle that there should be another form of reporting of a ministerial direction than just in the annual report. I have indicated elsewhere that we support that strongly. But we are also conscious that there is no point in insensitively demanding an immediate disclosure of sensitive information; no-one will gain by that either. The question of 14 days or a different term or a period of time by notice in the *Gazette* is the current uncertainty. We certainly intend to support, and continue to support, the principle, and I do not believe from the reaction I have had from the Government that the Government will resist it particularly strongly: in fact, it may not resist it at all if we work out a sensible working compromise.

My suggestion is that, as there is a process in train to look for consensus—and I hope we get it—in the final detail of the amendment we have been asked to consider

relating to the Economic Development Bill, that pattern would apply equally satisfactorily to this legislation. Having said that, I intend to support the amendment; I indicate to the Government that, as I expect a satisfactory resolution to be worked out under the Economic Development Bill, I would support the amendment if, indeed, it is eventually carried, in order to conform. So, I am supporting the amendment that has been moved, because I believe the principle is right. I signal quite clearly that, after further discussion and after what I believe to be an agreed position is reached, I will move, or certainly support, an amendment to bring it into line with that agreed position.

The Hon. C.J. SUMNER: That process is acceptable to the Government. If this Bill is not completed by this evening and we have to come back next Tuesday and debate this, we can recommit the clause if the discussions have been satisfactory to that point.

The Hon. K.T. GRIFFIN: I think that is an appropriate course to follow. I can appreciate that there may be some sensitivity in disclosure of information relating to a Ministerial direction where it is perhaps commercially sensitive, but there are many other instances where there could be a ministerial direction and where it is important to have it out in the public arena, for example, the suggestion that there was to be a ministerial direction in ETSA. When that happens, even if there is not ministerial direction but only talk of it, it is likely that that will get out into the public arena in any event. But I would suggest that in any event there will be a difficulty with that sort of direction to which the Attorney-General referred, even if it is has to be reported in the annual report. We ought to work on the basis that ministerial directions should be disclosed in those situations where there is ultimately a difference of view between a corporation's directors acting under all the obligations of this Bill and the Minister. Public disclosure at an earlier stage is preferable to delay, but I recognise that there are many occasions where sensitivity, not to the political ramifications but to commercial ramifications, ought to be recognised.

Amendment carried.

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

Page 6, lines 13 and 14—Leave out 'publication of a direction in the corporation's annual report' and insert 'a direction should not be published for the reason that its publication'.

This is consequential.

Amendment carried.

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

Page 6—

After line 16—Insert 'or'.

Lines 18 and 19—Leave out 'or' and paragraph (d).

This amendment is related to the next two amendments, which can be taken together. All I am seeking to do is to limit the circumstances in which the publication of a direction may be limited to a statement that the direction was given. Paragraph (a) provides that, if the corporation is of the opinion that publication of a direction might detrimentally affect the corporation's commercial interest, might constitute breach of the duty of confidence in paragraph (b), or (c) might prejudice an investigation of misconduct or possible misconduct, there can be a statement only that the direction was given and the description of the general nature of the description. There is a catch-all provision in paragraph (d) that would be inappropriate on any other ground. It seems to me that that is too all-embracing, and for that reason it ought to be removed. I move these amendments accordingly.

The Hon. C.J. SUMNER: We agree for the moment.

Amendments carried.

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

Page 6—

Lines 20 and 21—Leave out all words in these lines and insert 'the corporation may advise the Minister of that opinion giving the reason for the opinion'.

After line 21—Insert subclause as follows:

(6) Where the Minister is satisfied that a direction should not be published for a reason referred to in subsection (5) then only a statement that the direction was given together with a description of the general nature of the direction need be published as required by subsection (4).

These amendments are consequential on the earlier amendment to subclause (4).

Amendments carried; clause as amended passed.

Clause 7—'Provision of information and records to Minister.'

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

Page 7, lines 8 to 13—Leave out subclause (3) and insert:

(3) Where the corporation considers that any information or record furnished under this section contains matters that should be treated for any reason as confidential, the corporation may advise the Minister of that opinion giving the reason for the opinion, and the Minister may, subject to subsection (4), act on that advice as the Minister thinks fit.

(4) Where the Minister is satisfied on the basis of the corporation's advice under subsection (3) that the corporation owes a duty of confidence in respect of a matter, the Minister must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister from disclosing the matter as required in the proper performance of ministerial functions or duties.

This amendment and the following amendments to clause 8 are designed to ensure the necessary degree of confidentiality in relation to any information provided by a corporation to the Minister or Treasurer, as the case may be. In particular, the amendments seek to ensure that, where the corporation is under a duty of confidence, this duty extends to the Minister or Treasurer and any officials. Some concern was expressed that persons may be reluctant to deal with public corporations if the Government has access to commercially confidential or other information relevant to their interests. The Government stands firm in the view that access to information is necessary in the interests of monitoring corporation activities. Whilst it would not normally seek access to information on individuals, it is agreed that there is a need for a duty of confidence to extend to the Minister should such circumstances arise.

The Hon. K.T. GRIFFIN: I will not oppose the amendment. However, I am uneasy about it because, whilst the Attorney-General has said that there is no intention to gain access to detailed information about particular customers, for example, there is still the potential to gain that access. As I said, I am uneasy

about that. Any Minister who sought to obtain that sort of information is in any event going to put the enterprise under some cloud, because if that became publicly known it would undoubtedly create misgivings among the clientele as to what else might be the subject of inquiry and disclosure. I record my uneasiness but indicate that I cannot find a suitable alternative form to substitute for it.

Amendment carried; clause as amended passed.

Clause 8—'Minister's or Treasurer's representative may attend meetings.'

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

Page 7, line 16—After 'corporation' insert 'and may have access to papers provided to directors for the purposes of the meeting'.

If a person is authorised by the Corporations Minister or the Treasurer to attend meetings of the board of the corporation, there is not much point in attending if they do not have access to papers relevant to the meeting. It was a recommendation in the second report of the Royal Commission into the State Bank that if a representative of the Under Treasurer attends the bank board access should be given to papers as well.

Amendment carried.

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

Page 7, after line 16—Insert subclauses as follows:

(2) Where the board considers that a matter dealt with at a meeting attended by a representative of the Minister or the Treasurer should be treated for any reason as confidential, the board may advise the Minister or the Treasurer, as the case may require, of that opinion giving the reason for the opinion, and the Minister or the Treasurer may, subject to subsection (3), act on that advice as the Minister or Treasurer thinks fit.

(3) Where the Minister or the Treasurer is satisfied on the basis of the board's advice under subsection (2) that the corporation owes a duty of confidence in respect of a matter, the Minister or the Treasurer, as the case may be, must ensure the observance of that duty in respect of the matter, but this subsection does not prevent the Minister or the Treasurer from disclosing the matter as required in the proper performance of ministerial functions or duties.

This amendment is consequential on the previous amendment.

The Hon. K.T. GRIFFIN: I express similar misgivings as before.

Amendment carried; clause as amended passed.

New clause 8a—'No breach of duty to report matter to Minister.'

The Hon. C.J. SUMNER: I move to insert the following new clause:

8a. A director of a public corporation does not commit any breach of duty by reporting a matter relating to the affairs of the corporation or a subsidiary of the corporation to the corporation's Minister.

This amendment seeks to clarify that a director of a public corporation may, without breaching any duty of confidence, report to the Minister on the affairs of the corporation or a subsidiary taken with a later amendment to clause 13. These provisions now do not provide a positive duty for directors to report certain matters to the Minister but ensure that they commit no breach should they choose to do so.

The Hon. K.T. GRIFFIN: I do not have any difficulty with that. As I understand it, the issues of confidentiality by a Minister will generally apply equally to this sort of communication by a director to a Minister as if the Minister's representative on the board or at meetings of the board disclosed information. So, I can see some good sense in it and support it. I move:

New clause 8b—Notification of disclosure to Minister of matter subject to duty of confidence.

Page 7, after clause 8—Insert clause as follows:

8b. Where a public corporation discloses to its Minister in pursuance of this Act a matter in respect of which the corporation owes a duty of confidence, the corporation must give notice in writing of the disclosure to the person to whom the duty is owed.

My amendment relates to notification of the information to the Minister. Where it is disclosed to the Minister and there is a duty owed by the corporation to a client and customer then the corporation has to inform the client or customer that that disclosure has been made.

The Hon. C.J. SUMNER: I have no objection.

New clauses inserted.

Clause 9—'General performance principles.'

The Hon. K.T. GRIFFIN: I do not yet have an amendment on file, but in line 5 there is a reference to a public corporation using its 'best endeavours'. As I understand the law, that is a more onerous responsibility than 'reasonable endeavours'. Has the Government deliberately used 'best endeavours' to ensure that really there are no holds barred in a public corporation performing its commercial operations?

The Hon. C.J. SUMNER: I think one should give one's best endeavours, whether one is in charge of a public corporation or a private corporation or one is a member of Parliament or a person in government. I do not think any similar clause exists in the general Corporations Law. In fact, I am sure one does not. But I guess in the case of Corporations Law that, if a director is not using his or her best endeavours to achieve a level of profit, they get into trouble but, as we are here dealing with public corporations, it is an exhortation standard that we are trying to establish to put directors of a public corporation on notice that they are expected—

The Hon. I. Gilfillan: What is the penalty for non-compliance?

The Hon. C.J. SUMNER: There is no penalty—to work as effectively as they possibly can in the interests of the corporation. The Hon. Mr Gilfillan interjects saying, 'What is the penalty for non-compliance?' But there is not one, obviously.

Clause passed.

Clause 10—'Corporation's charter.'

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

Page 9, after line 9—Insert subclause as follows:

(3a) The charter may not extend the functions or powers of the corporation as provided by the corporation's incorporating Act and any other Act.

I wanted to make sure that any charter did not extend the functions or powers of a corporation beyond those in the corporation's incorporating Act or any other Act that might apply to its operations. It is open to argument, at least, that a charter may actually extend the powers and functions, and I do not think that ought to be done without parliamentary approval.

The Hon. C.J. SUMNER: That is not opposed.

Amendment carried.

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

Page 9, line 15—After "amendment" insert "(but without affecting any contractual obligations previously incurred by the corporation)".

The purpose of this amendment is to ensure that any change to the charter does not affect a prior contractual commitment made by the corporation. Some concern was expressed in consultation that persons might be reluctant to contract with a public corporation in some circumstances if there was a prospect that the charter might change, thereby rendering a corporation incapable of fulfilling its contractual obligations.

Amendment carried.

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

Page 9, after line 23—Insert subclause as follows:

(8) The charter ceases to have effect if either House of Parliament passes a resolution disallowing the charter in pursuance of a notice of motion given within 14 sitting days (which need not all fall within the same session of Parliament) after the charter was laid before the House.

I know the Opposition has argued in other legislation that there ought to be some formal opportunity for review by Parliament of the charter of any statutory corporation. It has not been successful on those occasions but again I raise the issue. A statutory corporation established by the Parliament is a vehicle by which Government can undertake functions which are conferred by the Parliament on the statutory corporation. It seems to me that a charter which actually addresses the nature and scope of any investment activities, the nature and scope of any operations or transactions outside the State and other matters ought at least to be subject to some form of parliamentary review as part of considering the operational activities of the statutory corporation.

I am proposing a mechanism by which that may occur, that is, to allow (as with regulations) a disallowance of the charter. I know that in clause 10(7) there is a provision for the charter to be laid on the table of the Parliament and a copy to go to the Economic and Finance Committee, and that is subject to scrutiny but not to any formal disallowance or amendment. I move the amendment to allow that option of disallowance of a charter.

The Hon. C.J. SUMNER: I oppose this. I understand from what the Hon. Mr Griffin has said—and his memory is better than mine—that when we debated a similar proposition in relation to the SGIC Bill the Council did not accept this proposition. I do not think it is necessary. I think the tabling of the charter in the Parliament ought to be sufficient for there to be parliamentary scrutiny of it. If the Economic and Finance Committee or the Parliament are not happy, they can investigate the charter, or call in the Minister, the public servants and the statutory corporation to get information about it, and I think that is adequate enough.

The Hon. I. GILFILLAN: I believe there is adequate scrutiny in the Bill without this additional requirement.

Amendment negatived; clause passed.

Clause 11 passed.

Clause 12—'General management duties of board.'

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

Page 11, line 8—Leave out paragraph (b) and insert:

(b) protecting the long-term viability of the corporation and the Crown's financial interests in the corporation.

Following consultation with various parties and having regard to comments made by the Hon. Mr Griffin it seemed the wording of this clause required tightening to make it more explicit, and that a board's responsibility extends to protecting the Crown's interests in the corporation.

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

Amendment carried.

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

Page 11, line 9—After 'ensure' insert 'as far as practicable'.

In consultation over the Bill it became clear that some parties were concerned that the statutory duties of a board are too onerous as they are currently phrased in the Bill. In recognition of these concerns this amendment makes it clear that the board's duties as enumerated in clause 12(2) are not absolute but rather are objectives which each board must strive for. It is recognised that the Corporations Law makes no such attempt to stipulate management practices. However, unlike some companies public corporations will be major trading entities and it is reasonable to expect such practices to be put in place as a matter of course.

Amendment carried; clause as amended passed.

Clause 13—'Directors' duties of care, etc.'

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

Page 12, lines 9 and 10—Leave out subclause (1) and insert:

(1) A director of a public corporation has a personal responsibility to take all reasonable steps to ensure that the board discharges its duties under this Part.

In consultation there was some suggestion that the original wording of this subclause as it stands is not clear. The alternative wording provided in the amendment is believed to overcome this objection by removing reference to the processes of the board and requiring directors to take reasonable steps, which is a more usual formulation of a duty.

The Hon. K.T. GRIFFIN: I have taken the view that there is no need for subclause (1). Subclause (3) effectively addresses that issue by requiring a director at all times to exercise a reasonable degree of care and diligence in the performance of his or her functions. I would have thought that there is no need for existing subclause (1) and that the Attorney-General's amendment is unnecessary. I am not sure what it actually adds to subclause (3). I take the view that it is preferable to leave out subclause (1) and leave the question of diligence and care to be determined under subclause (3).

The Hon. I. GILFILLAN: I am not particularly fussed either way. The only matter about which I have mild concern is that we may find willing directors fairly thin on the ground if we scare them substantially with the fear of slipping into culpable negligence if either wording of subclause (1) leaves them more vulnerable to being charged and found guilty. I am not sure what the difference in meaning is—perhaps the Attorney would like to comment. 'Personal responsibility' seems to me to be the only addition to the wording which has any significance. Frankly, I am not persuaded that either wording makes much difference to the meaning; neither am I persuaded that it adds much to the Bill. As the shadow Attorney, Trevor Griffin, pointed out, subclause (3) establishes quite well the obligations of a director. I

understand that it does have a tendency to overkill as a reaction to the deficiency in directorships for which the State has suffered and continues to suffer, but perhaps we are making it such a daunting prospect that people will be too timid to take on the role.

The Hon. C.J. SUMNER: On the first point, my amendment does not change the effect of what was in the Bill as introduced; it is just a more elegant way of expressing it—so not much turns on that. However, as to whether the subclause should be there at all, perhaps the Hon. Mr Gilfillan has hit the nail on the head by saying that we are engaged in overkill, but I assure the honourable member that bitter experience has led us to this sorry state of affairs. We were trying to ensure that the legislation contained a clear exhortation that directors had a personal responsibility to discharge their duties under the legislation. If the Committee thinks that this is overkill, that is fine. As the Hon. Mr Griffin has pointed out, it is probable that the duties established in clause 13(3) are adequate, but the Government felt that we should make it clear, and that is why subclause (1) was included in the first place.

The Hon. K.T. GRIFFIN: What the Hon. Mr Gilfillan says is a matter of concern. This concern has been expressed to me already by members of Government boards. They feel that the directors' duties require each director to be the keeper of other directors. They are not too keen on having the responsibility for watching the back and front of other directors or incurring a liability if the other directors went off the track. It seems to me that the drafting which the Attorney-General proposes tends to retain that obligation upon directors to take all reasonable steps to ensure that the board discharges its duties—not just one particular director but that all directors together or at least a majority of directors discharge duties under this part.

So, I would tend to agree with the view expressed by the Hon. Mr Gilfillan that there would be some directors who would say, 'I will not look after everyone else's back; I will watch mine, and because I am watching mine and this is a heavy responsibility I am not prepared to risk it.' That would be unfortunate, because there are many public spirited people with experience who do serve the interests of the State well by being part of the structure of Government through statutory corporations. The Attorney-General does say that the Government has learnt by bitter experience, and that may be so, but one has to try to get some balance into it, and that is really the reason why I would be much happier not to have subclause (1) included at all.

The Hon. I. GILFILLAN: I indicate support for the amendment. If the amendment is successful—and I assume it will be—it would be sensible drafting to then make subclause (3) subclause (1), to put the priority of responsibility as the first subclause of the clause.

Amendment negatived.

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

Page 12, lines 11 to 13—Leave out subclause (2).

This amendment is consequential on an earlier amendment dealing with whether a breach of duty is committed by reporting any matter to the Minister.

The Hon. K.T. GRIFFIN: We support it.

Amendment carried.

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

Page 12, line 17—Before 'properly' insert 'must take reasonable steps to'.

This and subsequent amendments are designed to provide a test of reasonableness in relation to the directors' duties referred to. Some concern was expressed in consultation that the Bill as worded imposes too high a standard on directors. The Government reiterates its desire to state a standard of skill, care and diligence in more explicit terms than is contained in the Corporations Law.

The Hon. K.T. GRIFFIN: I have no difficulty with the thrust of what the Attorney-General is saying, and I support his amendment to include 'must take reasonable steps to', but I would still want to delete the word 'properly' because I am not sure what it really means in the context of informing himself or herself about the corporation.

The Hon. I. GILFILLAN: Agreed.

Amendment carried.

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

Page 12, line 17—Leave out 'properly'.

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

Amendment carried.

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

Page 12, line 19—Leave out 'actively seek' and insert 'must take reasonable steps through the processes of the board'.

By removing the words 'actively seek', the Government seeks to remove an implication that directors must go outside the processes of the board in order to fulfil their responsibilities.

The Hon. K.T. GRIFFIN: There is not that much difference between my amendment and that of the Attorney, and I am happy to forgo mine and accept his.

Amendment carried.

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

Page 12, line 23—Before 'exercise' insert 'must'.

This is a drafting amendment.

Amendment carried.

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

Page 12, after line 24—Insert subclause as follows:

(3a) A director is not bound to give continuous attention to the affairs of the corporation but is required to exercise reasonable diligence in attendance at and preparation for board meetings.

In consultation following the introduction of the Bill, some concern was expressed that the standard of skill, care and diligence required of directors by the Bill is too onerous. This amendment gives explicit recognition to the principle that non-executive directors are not full-time officers but that a reasonable standard of preparation and attendance at meetings is nevertheless necessary in order to meet their obligations.

The Hon. K.T. GRIFFIN: Does 'to exercise reasonable diligence in attendance' mean to regularly attend?

The Hon. C.J. SUMNER: Yes.

Amendment carried.

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

Page 12, line 26—Leave out 'any special' and insert 'the'.

This amendment provides for a broader operation of the clause. There is a view that, as currently worded, the clause acts to provide a higher standard of duty where a director has special skills, but the reverse does not necessarily apply where a director has lesser skills. The wording in the amendment is believed to provide a more

balanced standard, which is in accordance with the common law.

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

Amendment carried.

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

Page 13, after line 3—Insert subclause as follows:

(7) A director of a public corporation does not commit any breach of duty under this section by acting in accordance with a direction or requirement of the Minister or the Treasurer under this Act.

This amendment makes an explicit provision to the effect that a director is not in breach as a result of any consequence which flows from acting in accordance with a ministerial direction. Whilst this is probably the case in any event, explicit recognition of this principle in the Bill is considered to be useful pursuant to the Government's desire that the standards of skill, performance, etc. of directors be explicitly stated in legislation.

The Hon. K.T. GRIFFIN: I raised this issue during the second reading and I am pleased that the Attorney has taken it up. It is important to have it expressly stated so that there is no question about the obligation of a director who is a member of a board given a ministerial direction.

The Hon. I. GILFILLAN: I seek information. In subclause (6) a court is mentioned. Which court is expected to hear these matters?

The Hon. C.J. SUMNER: It might be either the Magistrates Court or the District Court.

Amendment carried.

The Hon. K.T. GRIFFIN: At the second reading stage I raised concern about what culpable negligence really meant, and I expressed concern about subclause (6), which I thought left the offence rather vague. I do not have any amendment to address that issue. I could not identify appropriate alternative wording. All I want to do at this stage is put on the record my misgivings about the way in which that is expressed.

Clause as amended passed.

Clause 14 passed.

Clause 15—'Transactions with directors or associates of directors.'

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

Page 14, after line 17—Insert subclause as follows:

(4a) A transaction may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the transaction in good faith for valuable consideration and without notice of the contravention.

This and the following amendment are designed to protect the interests of any innocent third party who is party to a transaction which otherwise might be avoided as a result of a breach of duty by a director.

The Hon. K.T. GRIFFIN: It is supported.

Amendment carried.

The Hon. K.T. GRIFFIN: This is really the first point at which the definition of 'relative' and the definition of 'associate' (as a consequence of that) are relevant. This is probably a more appropriate time at which to address the point rather than on the definition clause. This clause provides that a director or an associate of a director may not be directly or indirectly involved in a transaction with the corporation or a subsidiary of the corporation without the Minister responsible for the corporation giving his or her approval.

There are some exceptions, but the point I am making is that if you are a director with a large number of relatives it may be absolutely impossible to keep tabs on what those relatives are doing and it may be that there is an inadvertent breach of this provision. It may be that that is unavoidable. I think it would be unfortunate for directors if that were to occur, because there is an offence created and a penalty imposed.

I do not think there is much we can do immediately about it, but I draw attention to it because it is a matter of concern. It may be that the definition of 'relative' can be more limited or it may be, as an alternative altogether, that the regulations may be able to prescribe uniform exceptions to the general provisions.

I notice that in subclause (3) there is a provision to exempt transactions of a prescribed class. So, there is that power to do it. All I wanted to do was draw attention to the problem, particularly in the context of the definition of relatives.

The Hon. C.J. SUMNER: We will examine the point the honourable member has raised. All I can undertake to do is consider it either here later or in another place.

Clause as amended passed.

Clause 16—Directors' and associates' interests in corporation or subsidiary.'

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

Page 15, after line 9—Insert subclause as follows:

(la) Subsection (1) does not apply to a transaction made with the corporation or a subsidiary of the corporation in the ordinary course of its ordinary business and on ordinary commercial terms.

I am seeking to provide some flexibility so that the prohibition against a director or an associate entering into certain transactions might be moderated and not applied to a transaction made in the ordinary course of business and on ordinary commercial terms, so that there is some safeguard against those who might inadvertently deal with the corporation or a subsidiary in the ordinary course of its business.

The Hon. C.J. SUMNER: The Government opposes this amendment, which would dilute the clause and the requirements of clause 16 quite substantially. The intention of the provision in the Bill is that all such interests and transactions be subject to ministerial approval. The Minister would presumably approve them if they are on ordinary commercial terms and in the ordinary course of business. The Opposition's amendment, if supported, would require a further amendment to require the board to approve such transactions.

This could well be related indirectly to the perpetual questions that the Hon. Mr Davis asks in this Council about SGIC. It is the same principle. I would have thought that the Government's proposition, which is to be reasonably strict about a director of a corporation holding shares, and so on, is the preferred course.

The Hon. I. GILFILLAN: I am opposed to this amendment. If we do conclude this debate, I am assuming it applies to several other amendments of identical wording further on in the Bill, so it will be work which will be an advantage to us. I am confused

about how one would define 'ordinary course of ordinary business on ordinary commercial terms'.

The Hon. K.T. Griffin: It is already in the Bill under clause 15.

The Hon. I. GILFILLAN: I do not know how critical it is under clause 15, and I thank the Hon. Trevor Griffin for pointing that out to me. However, in this case it seems to me to be a complete defence. I agree that there is good reason to make sure that the intention of clause 16 is not unnecessarily diluted, and I think this amendment would do that. For that reason, I am not persuaded that it helps the intention of the Bill, and I oppose it.

The Hon. K.T. GRIFFIN: I am not sure that the first point that the Hon. Mr Gilfillan referred to—that this appears in other provisions of the Bill—makes it a foregone conclusion that it is not appropriate in other parts of the Bill. I prefer to deal with each one on its merits. The second point is that 'ordinary course of its ordinary business and on ordinary commercial terms' is already a provision under clause 15(3). That relates to transactions between a director or associate of a director with the corporation or a subsidiary, and some exceptions are provided, and it seems to me not inappropriate that there should be a similar exemptions under clause 16, which deals with interests in a corporation or subsidiary, and those interests are shares, debentures or prescribed interests and certain other interests which are specifically referred to.

The Hon. I. Gilfillan: Where is the word 'ordinary'?

The Hon. K.T. GRIFFIN: On page 14, line 12, after the four subparagraphs of paragraph (a).

Amendment negatived; clause passed.

Progress reported; Committee to sit again.

WORKERS REHABILITATION AND COMPENSATION (REVIEW AUTHORITIES) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

This Bill continues the reform process of the WorkCover scheme in South Australia.

In the past two years there has been a significant tightening up of the administration of the WorkCover Scheme. This has resulted in a downward trend in WorkCover's unfunded liability from $150 million in 1990, to $134.5 million in 1991, to $97.2 million in 1992 and recent actual data indicate $26 million in 1993.

Improvements in the WorkCover system has also resulted in reductions in the average levy rate from 3.8 percent in 1990-1991 to 3.5 percent in 1991-1992 and 3.04 percent from January 1, 1993.

The changes to the WorkCover system over the last two years have been dramatic. This Bill continues that trend.

The principal purpose of this Bill is to implement the recommendations of the second Interim Report of the Joint Select Committee on the Workers Rehabilitation and Compensation System covering the Review and appeal process. This report was tabled in the House of Assembly on 26 November 1992.

The second Interim Report of the Joint Select Committee made the following recommendations:

1. Allow the Workers Compensation Appeals Tribunal to hear appeals without the requirement for lay representatives.
2. Provide the power for the Workers Compensation Appeals Tribunal to refer matters back to Review Officers for reconsideration.
3. Restrict persons representing parties at review hearings to those in the employ of approved organisations representing employees or employers, or to specialist advocates to be employed within the Department of Labour.
4. Make the Review process more independent of the administrative functions of the WorkCover Corporation.
5. Make provision for the preparation of Proceeding Rules for the conduct of matters before Review Officers.

The Joint Select Committee also considered that:

There is a major deficiency in the collection and compilation of data on the review and appeal processes that does not allow the WorkCover Corporation to adequately measure its performance relative to its corporate goals. This raises the question as to whether basic statistical information is being effectively collected to aid the efficient management of these functions.

There are 8 significant issues covered by this Bill:

- excluding lay persons from the Workers Compensation Appeal Tribunal (WCAT)
- WCAT to be able to refer matters back to Review Officers for reconsideration
- limit the charge for representation before a Review authority
- Review Officers to be made Statutory Officers and independent of the WorkCover Corporation
- clarifying the powers delegated to exempt employers regarding medical expenses
- enable WorkCover and Exempt employers to redetermine claims
- the Crown and certain agencies to be exempt employers
- Review applications to be submitted direct to the Review Panel

The first four amendments are a direct result of the recommendations of the WorkCover Joint Select Committee.

Membership of Workers Compensation Appeal Tribunal

The current Act provides for lay persons to be members of the Workers Compensation Appeal Tribunal. Amendments to the Workers Rehabilitation and Compensation Act made in 1988 effectively limits the Tribunal to primarily considering issues of law. It is therefore considered that lay members are no longer required to serve as members of the Tribunal.

Workers Compensation Appeals Tribunal to refer matters back to Review Officer

The proposed amendment will enable the Tribunal to refer matters back for reconsideration by a Review Officer if the Tribunal considers that to be more appropriate than for the Tribunal itself to decide the matter in issue.

Representation at Review

The Joint Select Committee in its second interim report recommended restricting persons representing parties at Review hearings in an attempt to reduce the costs of representation at Review and to facilitate an informal review process.

Instead of restricting representation at Review the proposed amendment will limit the fee that can be charged for representation before a Review authority. Accordingly, it is proposed that the Minister be empowered to set scales of costs that the representatives of a person in proceedings before a Review authority will be limited to charging. The scales will be fixed after consultation with the Crown Solicitor.

Review Officers

The current provisions of the Act make Review Officers employees of the Corporation.

The second Interim Report of the WorkCover Select Committee recommends that the Review process should function independently of the WorkCover Corporation.

The proposed amendment will make Review Officers Statutory Officers and as such will be independent of the Corporation. Costs associated with the Review operations incurred by the Department of Labour will be recovered from the WorkCover Corporation.

Other significant proposed amendments contained in this Bill are:-

Compensation for Medical Expenses

The WorkCover Corporation will be required to consult with the Self Insurers Association of South Australia before fixing or varying the scale of medical fees set pursuant to Section 32 of the Act; this common scale will then apply to WorkCover and to exempt employers.

Determination of Claim

The WorkCover Corporation will, in limited circumstances be empowered to redetermine a claim.

This matter has arisen as a consequence of a decision by the Workers Compensation Appeal Tribunal which has questioned the power of exempt employers to issue a second determination, even if all parties agree to a second determination. If the views expressed by the Tribunal are correct, it would mean that all amended determinations, even where the parties agree, would require the matter to go before a Review Officer for the consent agreement to be ratified. This proposed amendment will make it clear that the Corporation or exempt employers can issue fresh determinations in cases involving underpayment of benefits and thus avoid significant costs in taking matters to Review.

The Crown and certain Agencies to be Exempt Employers

On 16 July 1992 a regulation became effective which listed all Health Commission Units and some Government related organisations to be registered and operating as Crown Exempt Employers.

Doubts have been raised by a Review Officer over the legal status of these agencies and instrumentalities prior to the Regulation. This proposed amendment, to make the exempt status of these agencies retrospective to the commencement of the scheme, will put the matter beyond doubt.

Application for Review

The current provisions of the Act require that an application for review be forwarded to the WorkCover Corporation.

The proposed amendment will provide for applications for Review to be forwarded direct to the Review Panel. This will result in significant improvement in the processing of Review applications and reduce the time taken before matters can be heard by Review Officers. This amendment is consequential on the proposed change in status of Review Officers.

I commend this Bill to the House.

Clause 1: Short title

This clause is formal

Clause 2: Commencement

This clause provides for the commencement of the measure

Clause 3: Amendment of s. 32—Compensation for medical expenses, etc.

This clause is intended to ensure that the Corporation consults the appropriate association that represents the interests of exempt employers before it fixes or varies a scale under section 32 of the Act.

Clause 4: Amendment of s. 53—Determination of claim

This clause will allow the Corporation to redetermine a claim in certain circumstances.

Clause 5: Amendment of s. 61—The Crown and certain agencies to be exempt employers

This clause will allow a regulation under section 61(4) (allowing certain bodies to be prescribed as agencies or instrumentalities of the Crown) to have retrospective effect (which was found to be necessary in certain cases).

Clause 6: Amendment of s. 63—Delegation to exempt employer

This clause clarifies that certain provisions of section 32 are not to be delegated to exempt employers.

Clause 7: Amendment of s. 64—The Compensation Fund

This clause will allow the costs of maintaining the Review Panels and the Medical Advisory Panels to be deducted from the Compensation Fund.

Clause 8: Substitution of s. 77

This clause provides for the establishment of a Review Panel. The panel will be comprised of a Chief Review Officer, and other Review Officers, appointed by the Governor on the recommendation of the Minister after the relevant persons have been interviewed by a special committee under new section 77b. A Review Officer will be appointed for a period not exceeding seven years. The salary and conditions of office of a Review Officer will be determined by the Governor.

Clause 9: Amendment of s. 79—Membership of Tribunal

The effect of this clause is to remove "lay members" from the Workers Compensation Appeal Tribunal.

Clause 10: Substitution of s. 80

This clause will allow the Tribunal to be constituted, according to a direction of the President of the Tribunal, or the rules, of one or three members of the Tribunal.

Clause 11: Amendment of s. 82—Rules of the Tribunal

This clause makes a consequential amendment.

Clause 12: Amendment of s. 92—Representation

This clause clarifies that a deputy member of the Board is not entitled to act as a representative of a party in proceedings before a review authority.

Clause 13: Amendment of s. 92a—Costs

This clause provides that the amount that a person may charge to act as a representative before a review authority will be limited by scales prescribed by the Minister by notice in the *Gazette* after consultation with the Crown Solicitor.

Clause 14: Amendment of s. 95—Application for review

This clause makes various amendments to section 95 of the Act which are consequential on other amendments made by this measure.

Clause 15: Amendment of s. 97—Appeals to Tribunal

This clause will allow the Tribunal to refer the subject matter of an appeal, or any matter arising in an appeal, to a Review Officer.

Clause 16: Transitional provision

This clause sets out various transitional provisions required for the purposes of this measure. A person who was a Review Officer before the commencement of the Act will continue to hold office.

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

GUARDIANSHIP AND ADMINISTRATION (MENTAL CAPACITY) BILL

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

MENTAL HEALTH BILL

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

GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT BILL

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

WHISTLEBLOWERS PROTECTION BILL

Returned from the House of Assembly with amendments.

STATUTES AMENDMENT (FISHERIES) BILL

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

LEGAL PRACTITIONERS (REFORM) AMENDMENT BILL

Returned from the House of Assembly with amendments.

ADJOURNMENT

At 11.15 p.m. the Council adjourned until Tuesday 30 March at 2.15 p.m.