LEGISLATIVE COUNCIL

Wednesday 12 April 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the sitting of the Council be not suspended during the continuation of the conference on this Bill.

Motion carried.

MATTERS OF INTEREST

The Hon. L.H. DAVIS: I am pleased to say that the Adelaide Rose Festival, held every second year, is gathering momentum. Obviously, it is a festival destined for bigger things. I have had the privilege of visiting Portland, Oregon, which has a major rose festival, said to be the largest rose festival in the northern hemisphere. It lasts for two weeks and includes a torchlight parade, and one of its features is the roses in the Portland Battery gardens, some 50 000 roses in bloom. It attracts visitors from around the world, because there are many rose growers of all ages in countries such as Japan and Britain, in Europe and in Asia. The schools of the area are encouraged to participate, and an Indy car race is built into the program. Remarkably, it has a budget of some $US6 million: there is no subsidy whatsoever for this festival.

It seems obvious to me that South Australia, which is said to be one of the best places in the world in which to grow roses, is an ideal venue in which to create the Portland equivalent in the southern hemisphere; to become the premier rose festival of the southern hemisphere. It is important for Adelaide to recognise that, given that this State has no icons, we must do as Singapore has done and create our own opportunities for the local community and for the interstate and international tourists. A rose festival has the potential to do just that. We have many international leaders in the rose industry: people such as the renowned David Ruston in the Riverland, Ross Roses, Walter Duncan and Trevor Nottle.

I believe that it is possible for the parklands of Adelaide to be planted with even more roses. It is a relatively inexpensive procedure to develop a major presence in roses in this State, compared with the infrastructure and the costs associated with other capital works. Therefore—

The Hon. Anne Levy: What about Carrick Hill's roses?

The Hon. L.H. DAVIS: The Hon. Anne Levy, interjecting illegitimately as she does, has nevertheless made a very good point: that Carrick Hill also has a very fine rose collection.

The Hon. Anne Levy: It has a rose museum, too.

The Hon. L.H. DAVIS: And a rose museum.

Members interjecting:

The PRESIDENT: Order! The honourable member will have a chance.

The Hon. L.H. DAVIS: In fact, if we have the ability, perhaps we can have follow on speeches in this House to take advantage of the stimulating subject that I have presented this morning. I hope that the Major Events Committee, which is presently considering options in South Australia, will look at the Rose Festival as a major opportunity for Adelaide and South Australia.

The Hon. ANNE LEVY: I wish to raise a matter of concern not only to me but to a very large number of people in South Australia. That is, what is the future of Edmund Wright House? We have been told that the Registrar of Births, Deaths and Marriages is moving out and the site is no longer to be used for weddings, but have been assured that adequate premises will be provided for civil weddings. We need to look at the history of Edmund Wright House. It was built in the 1880s and owned by the ANZ Bank. In 1970 the ANZ Bank was proposing to sell the building as it no longer needed it, and developers were proposing to pull it down and replace it with some modern, doubtless mainly glass, construction.

There was public outcry at this suggestion and public subscriptions to save the bank. The then Premier (Don Dunstan) announced in August 1971 that the Government would purchase the building, thus saving it from destruction. The actual purchase took place in November 1971, and the Government paid the price of $750 000, which may not sound much 24 years later but which at the time was a considerable sum.

Public subscription had raised $16 000, which, while not a large sum, was considerably greater in 1971 money than it is in 1995 money. The premises were then renovated and renamed Edmund Wright House, after the name of the architect who originally had designed the building. It has been a much loved building and venue for a very large number of South Australians ever since. We now have the suggestion that the building is on the asset sale list of the Government; that the Government is proposing to sell what was purchased for the benefit of South Australians and what has been much loved and used by many people in the community since then. An article in this week's *Messenger Press* by the Keyboard Music Society expresses its dismay at proposals that it may no longer be a public building. There is a great deal of concern that Edmund Wright House may be sold and so may be lost to the people of South Australia.

I wonder how the Government considers it can sell something to which there has been public subscription. Public moneys were donated to preserve the building for the people of South Australia. It would be betraying a trust if that building, which was contributed to by the public of South Australia, were now sold and put into private hands. That was not why people contributed money.

I hope that the Government can allay the many fears which are running round and indicate that the building is not for sale, that it belongs to the people of South Australia and that it will remain having that status even if the ultimate use to be made of it has yet to be determined. Obviously the large banking chamber has many uses as a venue for functions, concerts and all sorts of activities. I am sure that everyone knows it has been used extensively at festival time. I hope that the Government can allay the fears and indicate that this building is to remain a public building and have a myriad of uses, that it can continue to be enjoyed by the people of South Australia and not put into private hands.

The PRESIDENT: Order! The honourable member's time has expired.

The Hon. J.F. STEFANI: Today I wish to speak about the activities of some union officials who have been reported to be hassling workers who are leaving the unions in droves

and who are at last able to properly exercise their rights by choosing to be either members or non-members of the union. I place on record my understanding and respect for the many union officials who act with propriety and responsibility. Unfortunately, some officials act without regard to the damage which their actions can cause to the well-being of the nation and their members, as we are presently witnessing in the vehicle building and manufacturing industry. These entrenched attitudes and bloody-mindedness by the unions have been one of the major causes of our economic problems and loss of production which, over the years, has added millions to our cost of production, making Australia the laughing stock of the world.

I now turn my attention to the legal position which applies to workers in relation to their union membership. Recently there has been a concerted drive by unions to shore up falling membership numbers and collect unpaid outstanding union fees from their members. We are all aware that the Liberal Government has enacted legislation which protects the rights of individuals by introducing laws which forbid coercion by unions to force workers to remain in or to renew their membership with the union. In the past, some improper and unlawful strong-arm and stand-over tactics have been adopted by some union officials to force workers against their free will to join unions and pay union fees. Some membership renewals were obtained by threatening to black list workers or, even worse, by precluding workers from going about their daily lives and earning a living unless they complied with unreasonable union demands.

I am sure that most members would remember the offensive signs which were insisted upon by the unions and which were displayed at many building sites declaring a 'no ticket, no start' condition on construction projects. Many of my constituents from non-English speaking backgrounds describe this situation as a breach of individual rights, an assault on democracy and a form of dictatorship which should never exist in Australia.

The current position as it relates to union membership is very simple. South Australians are able to choose without fear of discrimination whether they belong or do not belong to a union. Clearly, to achieve this position their union membership fees must be up to date and, if they wish to resign from the union, workers must resign in writing preferably by sending their letter of resignation by certified mail.

I have been approached by a number of workers who have been pursued by the unions for outstanding membership fees, which were accrued because the workers were non-financial members of the union and because they had failed to notify their union in writing, giving notice of their intention to resign as members of their respective union. My advice has been in line of their obligation as former members of the union, which requires them to pay all outstanding membership fees due to their union and, if they so desire, they can then tender their resignation in writing.

The Hon. M.J. ELLIOTT: I wish to address what I see as a lack of planning in relation to rail transport in the Mitcham Hills area. With the changeover, with National Rail taking over one of the lines, there have been a number of consequent changes, some of which have been addressed in this place, but I want to touch on a few matters which may seem like minor things but which, I think, are quite important. First, I address the comfort of some of the stations. As a consequence of the changeover, people at the Coromandel and Eden Hills stations, both of which are very busy stations—the second and third busiest stations on the line—will be standing on platforms which were initially used for people arriving at and not departing from the stations. As such, there is virtually no shelter available.

I can guarantee that, with winter coming, large numbers of people will be forced to stand out in the rain, and that will not be terribly conducive to encouraging people to use public transport. By comparison, the other platform has somewhat better shelter available, but that platform will no longer be used. It is short-sightedness. No-one seems to have thought about the fact that people will be standing on these platforms. I am pleased that the Minister seems to have acted on a request which I made recently in relation to the Blackwood platform, which was in a deplorable and dangerous state, with work being done on it right now.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Yes. Generally the work at that station has happened very slowly. The Blackwood departure platform is looking extremely tired and, as the busiest of the stations in the Hills, is overdue for some proper work to be done on it. The final issue is that, overall, I do not see any sign of a real plan to encourage people to use rail transport. I call on the Government to generate a plan. That plan should include a new station at what is the current Eden Hills dump, which would serve the Bellevue Heights suburb, which is extremely poorly served with public transport; and for the four major stations—Blackwood, Coromandel, Eden Hills and the new station I propose—to have significantly upgraded parking facilities, potentially including secure parking, because the fear of vandalism to cars—and I know one person who has had her car stolen twice from the Blackwood station—is enough to discourage people from using public transport. Realising that Australia has been condemned due to its lack of action at this stage on greenhouse, I would like to see some sort of commitment from this Government to get people out of cars where possible and encourage them to use rail.

The Hon. T.G. ROBERTS: The issue I address this morning is the occupational health and safety problems faced by workers of Leigh Creek and signify that it is a sensitive issue that needs to be addressed in a sensitive way. Although, I am certainly not advocating any remedial action that would stampede the community into believing that the problems at Leigh Creek need to be addressed overnight or immediately. They are problems that have developed over a long period of time and, due to the nature of the work and the nature of the industry, there needs to be a sensitivity in the approach to how the matters are addressed. The position in Leigh Creek is that it is an open-cut mining process. It has a high level of oil shale in amongst the overburden and the material itself, and from time to time the fires that are caused through spontaneous combustion and the increased activities at the mine site give off gasses that are injurious to health.

A number of inquiries have been conducted, and as the ministerial statement put out by John Olsen on 16 February indicates, a lot of attention has been paid to the problem, but, in my mind, there has not been a solution determined yet. I do acknowledge that the Minister is setting up an inquiry into the problem. He stated in the ministerial statement:

> . . . I will continue to pursue the issue to ensure that the assurances given to me—

that is those assurances that were given by the review committee in the Industrial Commission which said:

No evidence was produced that could lead to the conclusion that there was any generalised danger from the emissions from coal fires—or fires in the overburden dumps to the health of the work force at Leigh Creek—much less the residents of Leigh Creek South.

The system of work for protecting employees engaged on controlling coal fires, and overburden fires is adequate and safe.

I must say that the Minister's response to that has been responsive and has been to set up an inquiry as a responsible way to go. I would refute the review committee's decision. Although I have not been privy to the information that was collected by the commission, all the evidence that I have seen and read over a number of years indicates to me that any emissions from coal is dangerous. It has marked and injurious problems associated with respiratory health. I know of a number of cases that have had successful outcomes in courts in relation to securing compensation for those dangerous exposures. What we need to do now is to make sure that the parties that are responsible for the provision of work in the Leigh Creek area are able to sit down with their occupational health and safety representatives in that town to make sure that the fears of work versus safety are taken into consideration.

It is my view that you can have both: you can have an open-cut mine process; you can have safe occupational health and safety programs operating and people can be made to feel secure in their employment. What tends to happen is that fears are placed in their minds that, if they are working in an industry that has occupational health and safety problems, the industry itself will disappear if the occupational health and safety problems are addressed, or, if there are fear campaigns run, that addressing those problems will become too expensive and the compromises that will have to be made will force the closure of the factory, process or mine. It is incumbent on everybody now to address the problem and to take into account the information that is available to people in 1995. For those people who watched the problems associated with London smog in the 1950s with its burning of smoke coal, it is pretty clear that there was an epidemic of associated problems.

The PRESIDENT: Order! The honourable member's time has expired.

The Hon. CAROLINE SCHAEFER: I wish to speak briefly on an issue of great importance to me, the plight of Australian Aborigines, particularly those dwelling outside urban areas. I draw your attention to the ABM March issue and the feature article in that entitled 'Black Money', written by Trevor Sykes, which outlines many of the problems as they are, and I quote:

There were about 300 000 Aborigines and Torres Strait Islanders in Australia last year. Australian taxpayers paid more than $2 billion in various support programs for them and we spent about the same amount the year before, yet any television reporter seeking heart-wrenching video footage on the plight of Aborigines can easily find them living in squalid conditions with no running water and chronic trachoma. Why is this so? Aborigines amount to fewer than 1.6 per cent of Australia's population and we are spending a relatively large amount of money on them. Is it being well spent?

The answer is clearly 'No.' Aborigines still suffer one of the highest infant death mortality rates in the world. They have 30 per cent unemployment and of that 30 per cent 60 per cent are long-term unemployed. They have depressingly low standards of living and shocking health and drug dependency problems. During my time in this Parliament I have been contacted, on average, twice a week by Aborigines complaining of maladministration and the need for reforms in accountability and in administration and, in fact, even reforms in legislation before it is too late. Anecdotal evidence abounds of misspending, corruption and even misappropriation, but I do not have time to dwell on those today. I will refer back to the conclusion of this article, which states:

It is worth asking what will happen if the present policies persist unaltered for another 20 to 25 years. . . the number of Aborigines in remote communities is estimated to be about doubled by then. There will be twice as many communities in the bush, all demanding health, education, housing and infrastructure. However successfully they run cattle stations, CDEP programs and businesses, there is little hope that more than a few of these communities can become self-sustaining and most probably none of them will.

At the same time the dependency ratio will be rising. . . The policy of settling Aborigines on their traditional land has been heart-warming for some idealists. It has also, for politicians, had the benefit of putting numbers of Aborigines out of sight. But as long as the communities are going to need economic support, the policy has its limits.

The Aboriginal population keeps surging upwards without a corresponding surge in Australian prosperity, that limit will one day be met. Meanwhile Aborigines are being shut off from the rest of society, except insofar as they participate by watching television.

Prolonged isolation in the backblocks is liable to makes them less—not more—able to cope with modern society when they ultimately have to deal with it.

The 'back to the land' policy has a degree of self-delusion about it. Whites in Melbourne and Sydney like to think of Aborigines as communing with their sacred sites or manufacturing boomerangs or running cattle stations when the fact is that many of them are simply enduring squalor.

Through ATSIC, Aborigines have the opportunity for self-determination. The aim of ATSIC and of all non-Aboriginal politicians should be to give Aborigines more incentives to help themselves and, necessarily, to penalise those who don't; because if a community is not prepared to help itself then in the long run the rest of us won't be able to help it either—no matter how much money we throw at the problem.

The Hon. T. CROTHERS: In the brief time I have to address the Chamber in this grievance I intend, in as concise a manner as possible, to speak on the pace at which new technologies are being introduced into our global society. There can be no doubt that, in today's global economic village concept, when one nation introduces a form of new technologies, other nations, particularly trading nations such as our own, have little or no other option but to follow suit. In about 1906, at Kitty Hawk in South Carolina, the Wright brothers were the first to fly a heavier than air machine, and less than 70 years later humankind was able to launch a satellite or rocket ship and land on the moon. That gives members some idea of the pace with which technology moves—even in our own lifetime—in the twentieth century.

The greatest problem that confronts humankind is the fact that no-one has given any thought to what the effects will be considering that the pace of new technologies so introduced has accelerated to an alarming speed over the past decade. The European Economic Community currently has a pool of 30 million unemployed and unemployable people. Within our own sphere of influence in Australia we are sitting on an unemployment rate of around 10 per cent which, by any previous standards, would have been far too high, and grievously judged to be so. The problem we have is that technology is not being introduced for the benefit of humankind; rather, it is being introduced to maximise profitability, and any spin-off of benefit that occurs to the human race is merely something that happens by chance rather than by design.

If one looks at the medical profession and talks to the ordinary GP, the difficulty is that they cannot keep pace with the new technologies in surgery and pharmaceuticals that are occurring with such rapidity that, as I understand it, some 70

new drugs come on to the market each day of our existence in this very fragile environment in which we live. There is no doubt that the potential for real destructive change lies in the pace with which computer technology is being ever more swiftly introduced into our society. One has only to look at the pool of unemployed people around the world—even in the so-called OECD nations or the 'nations of seven'—to see that one of the things that electronic computerisation advances has done is render beyond the control of national Governments the capacity that they once had to effect or control their own fiscal and economic destinies.

If we continue down this path, the only thing that confronts us is the black abyss of disaster in respect of our quality of life and the ongoing continuance of this planet's being able to support the ever rapidly increasing number of people who have to do so. Ironically, all this is done in the name of progress. The captains of industry—not the manipulators of capital, but the appropriate and *bona fide* captains of industry—in conjunction with people like ourselves and other leaders in the community have to think through the matter much more carefully than we have ever done before if we have ever at any stage tried to apply our minds to the resolution of the problems that confront us. If some of our trading opposition introduces new technologies and new methods to manufacture goods, we cannot avoid following suit.

The PRESIDENT: Order! The honourable member's time has expired.

EWS OUTSOURCING

The Hon. T.G. ROBERTS: I move:

1. That a select committee of the Legislative Council be established to consider and report on proposals by the Minister for Infrastructure to outsource functions now undertaken by the Engineering and Water Supply Department with particular reference to:
   - (a) whether the specifications will ensure best international practice is achieved in the delivery of a continuous supply of water that meets AWRC/NHMRC health related guidelines;
   - (b) the level of financial protection and security of service against default by the contractor or sub-contractors;
   - (c the probity of criteria used for short listing tenderers and the decision to exclude Australian based companies;
   - (d) the effect on public finances over the contract period;
   - (e) the effects on consumers including the price and quality of water, sewerage charges, connection fees and response times to faults;
   - (f) the effect on environmental performance in regard to the conservation of water and the treatment and disposal of sewerage;
   - (g) the timeliness and standard of maintenance of infrastructure;
   - (h) commitments by the Government in relation to the provision of capital;
   - (i) proposals by the Government for the management and control of the contract; and
   - (j) any other matter concerning the public interest in relation to the above.
2. That Standing Order 389 be suspended to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.
4. That Standing Order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

This motion to set up a select committee, based on the points included in the motion, arises as a result of the serious impact that the Government's restructuring of the EWS Department will have. It is to give Parliament an opportunity to examine the nature of the contracts, the way in which the contracts are let and the content and standards required within those contracts. Although the indicated Bill we are expecting from the Government has not arrived, as the Government is still examining the position, it would be good for the Council to have a select committee ready to monitor the legislation.

The concerns and considerations we have on this side of the Council are shared by some members opposite, and I guess it gets to a position where the restructuring program through Hilmer needs to be examined by the States, and the progress of some of the philosophical positions inherent in Hilmer need to come under closer scrutiny. One of the most under-debated subjects in the community at this stage is the Hilmer report. Although we see much written about it and references made (in fact, there is a reference today in the *Advertiser*), the general philosophical position exposed by Hilmer tends to be neglected and overlooked. As one commentator summarised it this morning, in doing a round up of the negotiations at Commonwealth level yesterday, as to what is in the Hilmer process and program for us, the bottom line is how much each individual will save at the end of the day.

That is one way to look at it: what impact will the restructuring of the water and power infrastructure have on the individual? The Federal Government is saying that as much as $1 400 for each individual could be saved through streamlining water resources, power resources and infrastructure and that, by bringing competition into the field, we will have these marked savings. All indicators point to the fact that in the first instance what has evolved through the growth of the Government's responsibility in providing clean potable water to its citizens under a Government run, financed and managed structure is now to be dismantled and a privatisation or outsourcing factor is to be brought in.

It is the Government's indicated intention to have a management structure within EWS, which I assume will take some responsibility for overseeing the letting of the contract and the monitoring of the successful tenderer. From all the indications we will have a two-tiered management structure, and the tendering process will be opened up to international tenderers if the indicator reports are accurate. It is quite possible that we will have a French or British company running South Australia's water supply.

It is unfortunate that we have gone that way because South Australia has a water supply department probably equal to none in the nation and therefore, by definition, equal to none in the rest of the world. We have decreased the ability of that organisational structure to sell its identifiable programs and expertise into Asia or the Pacific region and we will have now, perhaps at best, joint venture programs to assist third world countries and developing countries in being able to maintain potable clean water supplies for their growing populations. As the Hon. Mr Crothers indicated in his grievance debate, the world's population is growing, and certainly in our neighbourhood it is growing more rapidly than the rest of the world.

There are great opportunities in the Asian region—particularly in China, Indonesia and Malaysia—for supplying clean potable water, not only to the cities but to the growing outlying regions as well. Unfortunately, it appears that those opportunities now will be missed and that international companies will be able to use Australia as a springboard into Asia rather than our own entrepreneurial skills being applied

to public sector operations to build up relationships through our Government departments and having Government to Government negotiations which would involve the State's water supply programs. New South Wales has a very good water resource management program, and it is heralded around the world as a leading department. In fact, most States have water supply departments that could easily take advantage of the opportunities that will present themselves in a developing Asia-Pacific region.

We have gone the other way: instead of using our own department to take that entrepreneurial step into the international arena, we have dismantled it. We are in the process of ensuring that it will not be able to move into the international arena to present its programs to the rest of the world. The other difficulty that I have with the proposal being put forward by the Government is that it has all the hallmarks of the first stage of dismantling a strong, efficient and effective public sector operation and, in its place, by stage development, it places the asset management, at least in the first instance, in the hands of an overseas tenderer.

South Australia is not the first State to move into the privatisation field but, if the history of privatisation is followed—as it has been in Britain and other countries—the process of private sector management of public assets is not where the process stops. The next stage is to identify those areas of the public sector management process which are profitable, and they are then tendered out to the private sector so that private companies can privatise their gains and the public can pay for the losses or those areas of the public domain that are unprofitable.

People trumpet and herald the fact that, with the Hilmer report and the restructuring of public resources, there will be individual savings and moneys will be returned to individuals via that competitive process, and it appears to me that, in the first stage, that may be the case. I say 'may' because it is quite possible that the cost structure which has been put in place by the Government now for water resources will be turned over in the first 12 months of the private sector tender taking place, unless the Government puts in its contracts protection mechanisms that do not allow for those increases to be passed onto private consumers or even, in the case of industry and commerce, those increases that the private sector management structure might feel are necessary for them to get the profit returns that they require.

Some 12 months ago I travelled to Western Australia, where the biggest fear that the private sector has in relation to privatisation of public assets is that it will not be able to influence public enterprises through political pressure, or at least political representation, to achieve any sorts of subsidies that it thinks may be necessary for the benefit of its business or industry. In the Bills that have been before the Chamber in relation to the pricing of water, there is a dismantling process of cross-subsidisation. The cross-subsidisation of private consumers, which has occurred to some extent by the method in which water is priced, is to cease and private consumers will pay at least $25 to $30 a year more per person, which equates to $10 million to $12 million, so that industry and commercial interests can have some subsidies put in place in order to attract industry into this State.

It appears to me that many private companies are saying that that is fine in the first instance, where the restructuring program is done under the auspices of the public sector but, where private sector management comes in and advances to private sector ownership, the influence on water pricing methods and structures is left to market forces. If market forces determine the cost, we may end up with the situation as we have in Britain where the price of water has increased over a short period by, in some cases, up to 40 per cent. It would be tragic in this State if those increased costs were passed onto industry. I suspect that that is not what is in the Government's mind at the moment. The Government is advancing the proposition that the public assets are to be managed by a management company and that the pricing mechanisms and the control over price will remain with the Government and the EWS management. That may be so in the first instance.

I raise those concerns in relation to first stage public sector dismantling, and I am not as enthusiastic about the benefits that Hilmer may bring to a wide range of people as are the proponents of the Hilmer philosophy. The other problems inherent with the private management of public assets is not only the price component—what the public will pay for a valuable resource—but the method of delivery and the efficiency with which private competition can be brought into a particular field.

In relation to public ownership and single monopoly control, as long as the test mechanisms for cost and efficiency are maintained, and Government pressure on the authorities to maintain the cheapest possible delivery with the most effective use and conservation of non-renewable resources is maintained, that is probably the best way to manage those systems. For instance, to separate out the harvesting of water—that is, water either being pumped from the Murray River or from the harvesting programs that occur in the catchment areas—it will be very difficult to have quality control and quality checks through non-integrated planning processes that have an environmental protective program which maintains at least a reasonable standard of quality of water in those catchment areas. The responsibility for potable water coming out of people's taps rests with the quality that you have to start with.

The River Murray Commission was set up and cooperation between the States was starting to emerge. It involved the management of the water at its source and those programs are starting to work. It came out of the fact that there was a realisation by each State that it had to bring about a better management system and as a result of crisis. All our feeder rivers to the Murray River were being stricken with blue-green algae, there were recurring droughts, over use by people in the upper catchment areas and those in the upper reaches of the feeder systems to the Murray were taking too much out in their water regimes for irrigation. Rather than putting back potable water they were putting back heavy pollutants, including organochlorins in pesticides, weedicides and so on. We in South Australia then had to pick up the programs for treatment of that water once it had been pumped from the Murray into our reservoirs and then treat it before it went into the pipes and homes. So, the starting quality of the water is the important point.

Where Governments have control over planning processes, where they are able to influence the planning processes by which one can try to guarantee some of the starting points for water quality in the catchment areas, whether it be in the Adelaide Hills or the Murray River, that is an important starting point for the total management and control of that resource. It is not just a matter of managing it from the reservoirs or from the holding points to the pipes and treatment programs: it is a matter of total integration of management controls. I would have thought that the single management authority, such as the EWS in South Australia

and the other State catchment management bodies, with a Federally-managed program, perhaps could have been the way to develop a new structure or system for managing such an important area as water.

What we have now is an indicator position by the Government about which we are left a little in the air. This motion brings those issues to the attention of the Parliament. It is hoped that, if the motion is passed and when the select committee is set up, those issues are looked at and examined by Parliament so that there is some responsibility to the public in relation to what one would see as the State's responsibility to discharge its management program over such an important issue as water and so that the proposals that are being put forward by the Government for the management, control and contract of the water supply can be monitored. When the Government's position becomes clear, I am sure that the terms that I have set out in the motion can be investigated, bringing before the committee expert witnesses to state their case so that the Council can at least look at the intentions of the program. We may be able to highlight some of the deficiencies that may be inherent in the Government's plan. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

JOINT COMMITTEE ON WOMEN IN PARLIAMENT

Adjourned debate on motion of Hon. A.J. Redford:

That the interim report of the Joint Committee on Women in Parliament be noted.

(Continued from 5 April. Page 1748.)

The Hon. SANDRA KANCK: The committee deemed it necessary to present an interim report because of the current renovations going on in Parliament House. Primarily, we are recommending that a room be set aside for the children of MPs when they are visiting this place. We recognise that legally we cannot provide a child-care centre on site because that requires access to an outside area, which clearly we do not have.

This issue is very important and it should be noted and acted upon. I address you specifically in regard to this, Mr President, because, if the powers that be in this place do not act upon the recommendations, I believe that history will judge you harshly, just as it has done with those who are responsible for the make-up of the Federal Parliament House. We have an opportunity to act at the moment with the current renovations and the committee is very keen that this be taken up.

The family room that we envisage would ideally have an en suite incorporated so that children do not have to wander around corridors looking for toilets. We have also discussed the sort of facilities that we would envisage in such a room, including a study table for children to do their homework, a TV to entertain them and keep them occupied, and bean bags so that they can sit and watch the TV and perhaps if they are going to be there for a late night sitting actually to sleep on. We believe that such a room would be used by both sexes in this Parliament. Regardless of gender, MPs who have young children will all face child-care difficulties from time to time. Men are also faced with this issue if their wife is suddenly sick. If they are the primary child carer, there will be occasions when some of our male MPs will find that they cannot get child-care. Such a room would be ideal. It is something that would benefit both sexes in this place.

It is not the brief of this committee but I also believe that we need something like this not just for MPs but also for support staff—the clerical people, table staff and *Hansard* staff. They too must at times face a problem with child-care. In the interests of being humane, we should consider them, because they are also part of these late night sittings and could similarly benefit. We have also considered the sharing of child-care facilities with the Adelaide Casino and the Adelaide TAFE College. I commend the recommendations of this interim report to you, Mr President, and the committee will be looking forward with great anticipation to a positive response from you.

The Hon. DIANA LAIDLAW (Minister for the Status of Women): I am keen to note this report and to commend the committee for the work it has done to date, recognising that further work is to be done and further reports to be noted on other aspects of the terms of reference. On 8 March last year I moved a motion on behalf of the Government to establish the Joint Committee on Women in Parliament. At the time, I said that I was moving the motion to establish the committee to examine what obstacles prevent women from standing for and being elected to Parliament. I went on to say:

> The Government maintains that it is in the interests of all South Australians for men and women, inside and outside Parliament, to work together to bring a human perspective on all matters that are the responsibility of Parliament and the Government.

It is that challenge—the human perspective—that has been so well taken up by the committee in this report. I am very pleased that the Minister for Education and Children's Services is listening to this debate, because we will need his assistance in terms of one of the recommendations. I am talking not about funding assistance (that should help him to relax) but about the guidelines for child-care provision. The committee recommends that Parliament investigate with other organisations, such as the Casino and Adelaide College of TAFE, which also have late working hours, the feasibility of joint child-care facilities. That is an excellent recommendation; it shows that the Parliament is keen to work with other big user groups in the area to provide a common facility. However, it may be that, because of lack of space and the design of many of the historic buildings around here, the guidelines in relation to open space may have to be reconsidered.

It will be extremely difficult to meet all the guidelines for child-care provision within the funding, locational and building constraints that will face such a project along North Terrace. I have indicated publicly that I am very keen to work with all those organisations and the committee to take these proposals to Cabinet and the Parliament so that we could be the first Parliament in the country actually to address seriously the issues of a family friendly workplace. If addressed, those issues will ensure only that members give more quality time to the work that they do here. They certainly would not be seen as demeaning the activities and responsibilities that are undertaken by members of Parliament. They would ensure that we can undertake those responsibilities with more peace of mind in the knowledge that we are responding to demands within the electorate and the changing profile of family life. I see these measures as complementing family life, not undermining it.

I was interested to read an article in the *Weekend Australian* following the release of this report, and this article is essentially a round-up of positive responses from members

of Parliament in leadership positions in other States to this child-care family friendly issue. The article states:

> The Tasmanian Greens have persuaded the other Parties to allow an un-staffed family room to be set up so children and spouses of MPs do not have to wait in corridors and offices.

This has been a terrible problem in Parliament; until some of the recent extensions, members have had to share offices and there was no place at all to meet their husband, wife, friend or kids. That problem has reduced a little as more members now have an office of their own. The article further states:

> The secretary of the Joint House Committee in Canberra, Mr Michael Bolton, said that the Commonwealth Parliament had introduced a "spouses' room" containing games for partners and children, and 18 months ago began a limit on sitting hours.

It is this sort of activities area that is considered to be an important initiative by the committee. Like many members, I have had nieces and nephews at Parliament House helping me with various activities, or I was essentially baby-sitting them during the school holidays, because it is so difficult when Parliament time does not relate to school time and school holiday time. It is another issue that the Minister for Education and Children's Services, I and others in this place can address. I know he has had his kids in the corridors from time to time, and it has been lovely to see them grow up and realise that there is more to Robert Lucas than just himself. He has a big family; it would be nice to see them more often, and I am sure he would like that too. The facilities outlined in this report would help to ensure such an outcome. The article continues:

> The Deputy Leader of the Opposition in the Northern Territory, Ms Maggie Hickey, said that there were 'absolutely no facilities' available for the families of women in her Parliament or in Government departments.

This is a pretty shocking admission when you think of the amount of money that has just been spent on the huge, completely new Parliament House in the Northern Territory. The article further states:

> NSW Upper House MP Dr Meredith Burgmann said Parliament urgently needed to establish child-care facilities and implement 'sensible' sittings from 9 a.m. to 5 p.m.

I am not sure that I advocate those hours; they are hours that have always frustrated me in terms of the general community, because life never starts at 9 a.m. nor stops at 5 p.m., but I certainly think that, as pointed out in the committee, it is right that we should be moving to more daytime sittings. Just as we started at 11 a.m. today, I think members generally would prefer to start a bit earlier, still have the morning free for committees and general work, and leave a bit earlier. I suspect the staff of this place may rejoice at such a change of hours.

Those matters must certainly be looked at. They are really uncivilised hours, notwithstanding that the Legislative Council does not sit beyond midnight on most sitting nights; nevertheless, they are uncivilised, particularly if you have a family at home and they have some expectation of seeing you in a reasonable condition next morning and that you appreciate that they too have demands that have to be met. Further on, the article states:

> The Queensland Minister for Family Services, Ms Warner, said providing work based child-care would 'humanise' Parliament and should not be seen as a 'privilege'.

It was that human perspective that the Government was seeking, as I said when moving this motion to set up the joint committee. The article continues:

> The Western Australian Minister for Women's Interests, Ms Edwardes, said she was 'very interested' in the South Australian report and would refer it to Parliament. [Her counterpart] the . . . State Labor Opposition spokeswoman on Women's Interests, Dr Judyth Watson, said she was considering moving a motion based on the South Australian model, calling for a joint select committee to examine how real changes to sitting hours could benefit women 'and therefore all members of Parliament'.

It is that point that I wish to highlight at this moment. By focusing on women and family friendly workplaces, and humanising the workplace, I am looking at the benefits to families generally, including fathers. There are many fathers in this Parliament. I am not sure that their role within the family has really ever been taken seriously by this place in the past. We could see a change in that sense. I want to very strongly commend the committee for undertaking the survey of the view of spouses and partners. It is a first in my knowledge to seek the views of family members on the role of Parliament, and the impact of Parliament on the lives of members and their families. Certainly some constructive suggestions about sitting hours, school holiday times and the like have come strongly from spouses.

I want to mention briefly how much more comfortable Parliament is for me, and I suspect all members, now than it was when I first entered Parliament 12 years ago. I found it an extremely uncomfortable place, notwithstanding the goodwill of the majority of members. There were certainly some who set out to make life extraordinarily difficult. There were certainly others who deliberately refused to see that their role was to work beyond a zone that gave them comfort. It was to work with other people, including women, and women were not referred to as just 'she', if we were lucky enough to even get that acknowledgment. I used to be very upset to hear members talk about their secretaries as 'the girl', where that 'girl' may have worked with that member and in fact kept that member's seat alive for them for many years, yet 'the girl' was never provided the courtesy of a name. 'The wife' was not much better, and certainly I did not fare well at either level.

As I say, times are changing. The acknowledgment that women are here and are here to stay is something that could not have escaped most members of Parliament but, notwithstanding the weight of numbers of women here now, there is a much more healthy and certainly a more mature attitude by male members of Parliament to their female colleagues. However, it does not stop the patronising remarks that go on. Last Friday night I attended a State Council of the Liberal Party, and one of my colleagues came up to me and said how pleased he was to see me doing tapestry, because it encouraged him to believe that I was still a woman. I could not believe that, just because I have the transport portfolio and have had some arguments with him in the past about the priorities for funding in his electorate and a whole range of other interests, somehow I had changed from being a woman because of the matters we had discussed. He was comfortable seeing me doing tapestry or knitting, and I suppose he would even be more comfortable if I was still in front of the fire at home. But you still put up with those sorts of situations. I suspect they are not stereotypes that male members of Parliament have to accept.

The first Transport Ministers meeting I chaired a couple of months ago, late last year, was the first time that a woman Minister for Transport had addressed the Australian Transport Council. Members of staff of two other Ministers came up to me indicating that their Ministers asked what I should be called during the conference. I asked, 'What were they called

if they were chairing a meeting?' They said that they were called the Chair or Minister, and I said I was quite comfortable with either of those expressions. I did not see why, just because I was a woman, it made any difference as to how I was addressed. I certainly did not want 'Chairman', but I thought they could cope in the circumstances. It was surprising that they had not encountered other situations where women actually chair such meetings.

Finally, I want to refer to another article in the *Australian* on 10 April by Margaret Fitzherbert headed 'Cabinet clout a must for women.' This article commences 'Let's get beyond the "mother" image and give women in politics the tough roles.' The article states:

> Bob Carr's new Cabinet was noted for including fresh young faces in the NSW Labor team. But unfortunately it still follows the standard approach to female representation in ministries in Australian Parliaments.
>
> Yes, the women are there. Pam Allan, 42, has environment, Gabrielle Harrison, 31, has sport and recreation, and Faye Lo Po, 54, has consumer affairs and status of women—but note their portfolios.

This has always been of interest to me. I would have no quarrel as Minister having any of those portfolios. I was nevertheless very pleased a number of years ago when offered the shadow portfolio for transport, and I was the first woman in Australia to have ever held the transport portfolio, either as shadow Minister or Minister. When I became Minister, two women before me, one from Western Australia and Barbara Wiese from South Australia, served in that role. Certainly it is a unique role, and the transport industry has been absolutely fantastic to me in coming to terms with working with me and then helping me work through so many of the issues. The fact it is a transport portfolio still surprises a number of people interstate—certainly not in South Australia. Interstate it is still seen as a portfolio of some interest because a woman is responsible for the portfolio at this time. This article further states:

> The United Nations publication *Women: Challenges to the Year 2 000* describes women's worldwide predominance in education, health and social welfare portfolios as 'ghettoisation'. It notes that, as of 1991, there were only a handful of women worldwide serving as finance ministers, in Bhutan, Finland, San Marino and Taiwan. Dame Margaret Guilfoyle's positions, as social security minister and then finance minister, have yet to be equalled federally by another female in the 15-odd years since.

She of course was a Liberal member of the Ministry.

The Hon. T. Crothers: She was born and bred in Ireland, too.

The Hon. DIANA LAIDLAW: Was she? It may have been that battleground that helped her suit federal politics. Well, you breed them well. The article goes on:

> Former community services minister Kay Setches [in Victoria] recalls that when Kirner became Premier, she had to cram up on economics. . . literally 18 hours a day. . . she simply hadn't had the exposure to the economy that male MPs get.

Margaret Fitzherbert goes on to say:

> The allocation of portfolios to women is arguably based more upon perception than skill. With some obvious exceptions, such as Dr Michael Wooldridge, most ministers take on portfolios in which they have had little if any practical experience prior to entering Parliament. If the candidates for ministries have generally limited experience, or lack of it, then why is it that women's ministries are so often the same?

That is a good question. Further, the article states:

> While inflammatory, there is a valid argument that for a woman to succeed in politics—or business—she has to be twice as good as a man. It's not enough for political parties to preselect a certain number of female candidates to lift the average. If parties really want to tackle the problem of not enough women in Parliament then they need to follow through and look at the absence of ministers and leaders as well.
>
> In short, parties need to consciously draft women who provide specific and proven professional skills that can be used in the tough portfolios. In doing so, parties can provide themselves with a range of credible ministerial and leadership options.
>
> It's not just about getting women into Parliament to raise an average.

To that I would say hear, hear! Australian Parliaments need females who are equipped and willing to take on a broader range of portfolios and, with them, a chance of leadership through merit rather than default. The most crucial need, however, is for political leaders who are willing to take the risk and look beyond the mother image. Margaret Fitzherbert is immediate past President of the Victorian Young Liberals, and she has done an Honours thesis on women in State politics. South Australia is setting an example in many ways, as we have historically done in this area, whether it be by celebrating the centenary of women's suffrage last year; rape in marriage legislation; equal opportunity legislation; paedophile legislation that is before the Parliament even now; the Domestic Violence Act; and the like.

We have always taken the lead in these areas. I am very keen for the Parliament to continue that trend into the next decade and next century, and one way of doing so will be for it to act on the recommendations of this interim report from the joint select committee.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

PORT ADELAIDE COUNCIL

Adjourned debate on motion of Hon. L.H. Davis:

That the Legislative Council expresses its concern about the administration and financial management of the Port Adelaide council and asks that the State Government conduct an investigation into the matters raised in debate on this motion.

(Continued from 5 April. Page 1747.)

The Hon. L.H. DAVIS: Last week I spoke about the flowers that ate Port Adelaide. I revealed that the Port Adelaide flower farm had cost Port Adelaide ratepayers effectively $2.5 million in the six years since it was formed. This was despite the fact that, unlike its private sector competitors, the farm paid a peppercorn rental for the first five years and paid no land tax and no council rates. In the five financial years 1989-90 through to 1993-94, the profit projections of the farm were always obscenely optimistic. The farm never came within cooee of the annual budget set each year. In those five years the annual budgeted income from the farm and other activities totalled $4.786 million. The actual income in those years was only $2.784 million. Even though budgets were set annually, the actual income was only 58 per cent of the budgeted amount. A crystal ball gazer in Sideshow Alley would probably have done better.

The Port Adelaide council was forced to take over the farm debt of $2 million in 1991-92 and, from that time, the council and its CEO (Mr Beamish) have engaged in a desperate but futile attempt to restructure this haemorrhaging operation. The Newco Trust proposal of mid 1991 disappeared without trace. The Flowers of Australia prospectus, lodged on three occasions over the past 10 months with the Australian Securities Commission—in Sydney, not Adelaide—was twice refused by the ASC. The prospectus was withdrawn the day after my speech last week. It should

be clearly stated that this prospectus had no status: it had been merely lodged with the ASC and not accepted for registration by it.

My speech last week was based on facts from the council's own financial statements about the farm. However, to use my speech as an excuse for the failure of the prospectus is a desperate attempt to cover up a major financial and administrative scandal. The ASC is not required to reveal why it refused to register the prospectus but, as I pointed out last week, the Budget Rent-a-Car float, where $20 million of losses was not revealed to investors, who quickly lost all their money, is mirrored in the Flowers of Australia prospectus.

This prospectus makes no reference whatsoever to the massive $2.5 million in effective losses since the farm was established, nor does it provide any details about the profitability or otherwise of IHM Pty Limited and the Port Adelaide Nursery, which also form part of Flowers of Australia.

I discussed the unreality of the prospectus. Less than $1 million worth of assets was being injected into Flowers of Australia in return for a subscription of $4.8 million. I highlighted the massive fees being paid for the float and to the manager BCG Rural, and IHM the technical consultant.

Flowers of Australia was to be the great escape for the Port Adelaide council, but it will never happen.

There was a complete absence of accountability by IHM for its performance as manager of the flower farm and marketer of product under the terms of the original agreement. I emphasised that the council had not been provided with the financial and statistical information as required by the original terms of reference. Indeed, on more than one occasion, Mr Beamish refused to provide audited financial statements and other information about the flower farm.

Finally, I highlighted the mysterious story of Streetwise Signs.

Last week, chapter 1 was about the flowers that ate Port Adelaide: today we start with chapter 2, the flower cowboys.

This is not a pretty story. I have spoken to 47 people across four States over the past nine days. They are people at the top of the horticultural tree, people who are respected. There is a consistency about their stories. Time and again unpalatable facts are verified.

One clear fact emerges: not one successful major flower or fruit farm investment company has been launched in Australia over the past decade. The fields are littered with failures. Millions of dollars have been lost by farmers looking for another cash crop, retirees eager to commune with nature, using hard won superannuation payments, or Pitt Street farmers looking for a tax break.

Respected leaders in the horticultural industry are embarrassed that they have smooth operators in the industry who damage its reputation at home and overseas. They admit that, in a fledgling industry, it is easy for people with impressive credentials and smooth patter quickly to rise to the top.

They are the flower cowboys, and there are several of them in Australia.

One person associated with Australian flora and blueberries for over a decade is Dr Brian Freeman. Dr Freeman obtained a PhD at the University of Florida in 1978, studying the wax cuticle on blueberry and citrus leaves. In other words, he studied the botany of the blueberry rather than blueberry culture. He returned to Australia where he held himself out as a blueberry expert.

He was a research officer for the New South Wales Department of Agriculture until 1983 at the Narara Horticultural Station. Four people, including a fellow employee and a senior executive at the station, have confirmed that serious allegations were made against Dr Freeman and he eventually resigned his position. Dr Freeman quickly established himself as a blueberry consultant and set up a number of companies, including Sector Nurseries Pty Limited, Sector Investments Pty Limited and East Coast Blueberry Management Pty Limited, which was later to be taken over by IHM Pty Limited. In this new and emerging industry his services were widely sought.

He held seminars at which he demonstrated his technical expertise and an apparent marketing flair. But, as many, many people were to learn through the years, while Dr Freeman was good at seminars he was not so good at business. I have talked to people who have worked for him, growers who have used him and investors in companies with which he has been associated. A former employee of Dr Freeman for some years, who has a practical farming background, told me that Dr Freeman presented great looking budgets to prospective clients—glamour schemes promising people almost instant wealth— but that these budgets invariably ignored the reality of farm life.

Projects were badly conceived. For example, one budget made no provision for basic equipment such as tractors or bird netting for blueberries, or recognised the risks in flower or fruit production. Dr Freeman liked to describe his approach as a fully integrated turnkey operation. A Freeman company would provide plants, consult on how to grow the plants and then would market the product. On one occasion when he needed money he insisted on ploughing a dusty, dry field instead of waiting for rain; planting old, inappropriate stock and not installing the necessary windbreaks. The venture was, not surprisingly, less than successful.

The Hon. T.G. Roberts: Whereabouts?

The Hon. L.H. DAVIS: It was not in South Australia. Another grower in New South Wales took advice from Dr Freeman about planting and cropping blueberries. The first season was wiped out by birds, but no reference had been made in the business plan for the need to have protection against birds. The cost of bird netting made the blueberries an uneconomic proposition. Only after the birds had flown did Dr Freeman tell the grower that he had to net the blueberries. The embittered grower later found an article by Dr Freeman in *Agfacts*, a New South Wales Department of Agriculture publication, which had been written while he was still a researcher with the department.

The Freeman article said that it was essential for blueberries to be protected against birds, otherwise they could create serious problems. A grower in Victoria said that Dr Freeman would tell you what you already knew and would charge you for it. Some of the techniques he suggested were clearly inappropriate. For example, Dr Freeman, who had knowledge of the Central Coast of New South Wales, would suggest that techniques for pruning, fumigation and fertilisation which may have been suitable on the Central Coast should be applied in Victoria.

Growers in both New South Wales and Victoria told me that he recommended the wrong blueberry bush to plant in a particular region. For example, in New South Wales Dr Freeman suggested to Central Coast growers to plant a particular high bush, high chill variety. It was planted in large quantities, but people lost heavily, some as much as $15 000. It was a variety more appropriate to Victoria. The truth was that blueberry plants suitable for the Central Coast were in short supply.

On the Central Coast there is widespread disillusionment among growers. Many growers were new to horticulture and vulnerable to Dr Freeman's smooth operation in the mid-1980s. About 10 years ago a biotechnology group servicing the horticulture industry was approached by Dr Freeman and asked to propagate Becky Blueberry tissue culture. The stock was imported, apparently from the United States. It was a mutation. Because it was a good variety it was widely planted along the Central Coast of New South Wales. Because it was a mutation it was an absolute disaster, creating havoc in the industry and causing losses amounting to hundreds of thousands of dollars. In one large blueberry farm, 40 per cent of original plantings failed. Many people were financially destroyed. There was discussion about legal action against Dr Freeman, but it was decided that it was simply too expensive.

Dr Freeman was closely involved with Fruit Farms Pty Ltd, which in 1986 raised around $100 000 in a few weeks following a meeting addressed by Dr Freeman and others in a Sydney motel. Fruit Farms Pty Ltd agreed to buy blueberries from its shareholders. One sceptical observer at the meeting expressed concern about the project and said he believed it would fail through lack of capitalisation. In a very short time shareholders better understood the wisdom of his words.

Two of the nation's leading nurseries had similar views about flower ventures seeking public moneys and offering tax advantages. They believe that companies such as Flowers of Australia will never be successful because they are created for the wrong reason—the attraction of a tax break. But the losses inevitably more than offset any tax losses that such schemes offer. The nurseries also suggest these schemes do not deal with reality and the vagaries of primary industry.

Only last year a NSW grower ordered rice flower through IHM at Gosford. Nothing happened for a long time, and he complained. Eventually the plants arrived in mid-1994, but in very poor condition. This rice flower had in fact been grown at the Willochra Nursery owned by the Port Adelaide council, which surprised this grower. The grower complained to Dr Freeman, who did not seem particularly interested. The grower told me it was not a happy experience.

Only a handful of the 47 people I have spoken to in the last nine days and whose conversations I have noted had positive things to say about Dr Freeman. Significantly, two of these five people had reservations about aspects of Dr Freeman's work. One had visited the Flower Farm at Port Adelaide and thought it was the worst site he had ever seen for a flower farm and certainly not suitable. The other admitted he always generally had to fight Dr Freeman all the way for the money owing on sales.

On 11 July 1986 the New Zealand Horticulture Group Pty Ltd changed its name to Anzgrow Pty Ltd. Brian Freeman was a director of this group. It appears for at least part of the time the company traded out of the same office as some of Dr Freeman's other companies at Erina near Gosford.

Sector Nurseries Pty Limited, another Freeman company, also located at the Gosford office, was a major supplier of plants to Anzgrow, which then onsold them to growers. Anzgrow was also involved with East Coast Blueberry Management Pty Limited, which later was taken over by IHM Pty Ltd. This company was also in the Freeman stable and acted as a consultant to certain clients of that company.

Within six months Anzgrow had gone into liquidation. The official liquidator's report showed a deficiency of $427 895, although the figure was much higher than that because many creditors did not bother to pursue money which they knew was lost. Dr Brian Freeman had 15 of the 90 ordinary shares in this operation.

Anzgrow offered to help people set up a kangaroo paw operation, arrange for plants and the transport and sale of product in overseas markets. Brian Freeman offered advice as a consultant and was active in soliciting sales. Some of the growers were located in the Blue Mountains.

At Brian Freeman's suggestion, one grower sent kangaroo paw off for sale in October 1986. The Anzgrow office told him the stems had been well received. In early December Dr Brian Freeman visited this person and asked him for more kangaroo paw stems to sell, but the grower refused saying he would like payment for the first shipment which had been outstanding for nearly two months.

In January 1987 the grower received a letter from Dr Freeman saying that he had resigned as a director of Anzgrow. The grower later discovered that in fact Dr Freeman's resignation as a director had occurred only a day or two after his visit to him. Dr Freeman said in his letter that, if the grower had any future kangaroo paws to sell, they should be sold through East Coast Blueberry Management Pty Limited (ECBM) rather than Anzgrow. The grower was puzzled by this and contacted Dr Freeman asking for an explanation. He was told to ring accountants who turned out to be the liquidators for Anzgrow. Until that time, the grower was not aware that Anzgrow had gone into liquidation.

The grower, along with other creditors, was owed around $1 300 but along with other creditors did not bother to register this debt with the liquidator. This story was repeated with growers and suppliers in New South Wales and Victoria. Some people were so badly affected by the loss that it destroyed them financially. This same grower bought fruit trees from Dr Freeman for $2 000 to $3 000 and paid him for them on a seven day account. The trees had been procured from a nursery. Twelve months later the grower went direct to that nursery to buy some more trees. Only then did he discover that the fruit trees had never been paid for. Dr Freeman had taken his money, but had not paid the nursery.

There are other complaints. Dr Freeman brought consultants in to assist him in the blueberry operation. When Anzgrow went bad, at least one consultant and other staff were left with moneys owing to them. Staff working for other Freeman companies who went into the field following up leads had to wait six months to get paid for accommodation and living expenses. But Dr Freeman seemed to live in style wherever he went. He was a flower cowboy.

Half a dozen flower growers in Queensland also suffered at the hands of IHM. In 1991 these Queensland growers entered into a verbal agreement to sell wax flowers at a fixed price per bunch through IHM. The flowers were sent to IHM together with an invoice at the agreed price. But growers received up to $1 a bunch less—nearly 50 per cent lower—than had been agreed to. It left a bad taste in the mouth. Those who put up a fight did eventually achieve some satisfaction. Dr Freeman does not generally enjoy a good reputation in Queensland.

I have spoken to people across four States about the Port Adelaide Flower Farm, people who are leaders in the flower industry in Australia, people who are in government, people who are growers and marketers of Australian flora and others with an interest in the flower industry.

In November 1994 members of the Rural Industry Research & Development Corporation visited the Port Adelaide Flower Farm. This is a peak Federal body under the Department of Primary Industry which funds research into

infant primary industries and consists of prominent experts in primary industries, including horticulture. Other eminent horticulturalists also have visited the farm over recent years.

I have spoken to several of these people in the last few days. All of them have expressed concern about the Port Adelaide Flower Farm. One leading Australian flora expert, who lives interstate, earlier this week told me that he had seen the site during the latter part of 1994. He said,'It's a lousy site; it should never have happened. No plants looked to be in really good condition. They appeared to be wind-battered, salt affected and in very poor condition. Only 15 to 20 per cent were of export market standard. The growing expertise at the Flower Farm leaves a lot to be desired. The Flower Farm is a bloody disaster—it is even worse than the previous time I visited it. Culturing plants in bags hasn't worked.'

Another prominent interstate horticulturalist who visited the Flower Farm for the first time late in 1994 said he found the horticultural practices very unsatisfactory. He was staggered to learn the farm was being floated off to the investing public. He noted the strong wind at the farm which is bad for plants and retards growth. The salt coating on plants was causing leaf burn and dieback. The plants were not happy. Many plants were full of woody, diseased roots. He was appalled at what they were picking. Many plants were past their normal life span.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: It means something if you are trying to invest in the project. This horticulturalist told me that grow bags were still considered unproven technology and at least one State Government department had confirmed this in a report. This expert said that plants growing in natural conditions and good soil have a longer life span than plants in grow bags. Grow bags increase costs and reduce yields. He said he would bulldoze the lot.

I am advised that the Department of Agriculture at the time when the flower farm project was first proposed expressed written opposition. The department believed the economics of the project were questionable from the start. The fact that plants had to be placed in grow bags using weed mats and windbreaks dramatically added to the cost and completely destroyed the economics of the project.

I have been advised that at the start half the plant material used was completely unsuitable. In my speech last week I claimed that Geraldton wax was unsuited to grow bags. I have since had that confirmed by several experts.

When the Port Adelaide Flower Farm was first established, IHM was appointed the manager of the farm and also the marketer of the product. The aim was to export primarily kangaroo paw grown on the farm, as well as acting as a processor and marketer for other Australian flora growers in the State. This was a most commendable aim. However, people in four States have confirmed that many South Australian growers have been seeking interstate outlets for their product because they have become disillusioned with the performance of the Port Adelaide Flower Farm.

I am advised that IHM issues receipts which allow no degree of trace back. The grower does not know on what day and on what market the product was sold, and costs are often quoted in a single figure rather than broken down into itemised amounts. The farm does not enjoy a good reputation among growers and, sadly, it has also been criticised overseas for not delivering on quality.

Even more alarming are reports of the 1994-95 season. I understand that total production of the flower farm was in the vicinity of 750 000 stems of kangaroo paw, rice flower, Geraldton wax and boronia. However, the prices received were very low because of some poor quality and the fact that the season was four to six weeks late.

There are serious allegations about poor cultural techniques and hygiene at the Port Adelaide Flower Farm, and that during 1994 it had fungal disease and was infested with weeds. Gangs of people were brought in to clean it up which has resulted in a budget blow-out.

Currently, 18 000 of the farm's 76 000 plants are being replaced. It is further alleged that many plants have been lost and have had to be replaced, including 1 500 boronias, 10 to 15 per cent of the rice flower and 10 to 15 per cent of kangaroo paws.

When the farm was first set up it was hailed as creating employment for the Port Adelaide district—a worthy aim. It was claimed that 120 to 130 people would be used for seasonal employment at the height of the picking season, October to December. The Port Adelaide Flower Farm claims that, in fact, 50 people are employed for picking and processing, although others to whom I have spoken suggest the figure is in fact closer to only 30.

It is quite clear that the Port Adelaide Flower Farm is heading for another massive loss in the current year. In fact, if one takes into account the five year rental holiday which the farm received until late 1993, and exemption from council rates and land tax, there is no doubt that by 30 June 1995 the real cost to Port Adelaide ratepayers will be well over $3 million. When the Port Adelaide Flower Farm was first established, terms of agreement were entered into between IHM and the Port Adelaide council. IHM was given a five year contract which expired in June 1993. As far as I am aware, the Port Adelaide council has never been given the opportunity of reviewing the performance of IHM, or indeed discussing the renewal of the contract, if it was ever renewed. Accountability is not in the vocabulary of the Port Adelaide council whenever the Port Adelaide Flower Farm is at issue. As the financial position and prospects of the flower farm have plummeted in recent years, the information to council about the farm has dried up.

Mr Beamish, as CEO of both the Port Adelaide Flower Farm and the Port Adelaide council, has a most difficult conflict. He has not been providing information to the Port Adelaide council, as was originally agreed to when the farm was first established. IHM, in the period 22 May 1989 to 3 June 1991—a period of just over two years—received at least $926 850 from the Port Adelaide council. These cheques were made payable to a range of IHM companies. It is hard to establish exactly what these payments are for, but it is reasonable to assume that the bulk of them were for IHM's fees and charges in establishing the Port Adelaide Flower Farm. IHM provided the plants and planted them. IHM provided the windbreak material, the weed matting and irrigation equipment.

The many discussions I have had with people around Australia indicate that IHM is not the cheapest supplier in town. Was any attempt made by the Port Adelaide council to monitor the establishment costs of the Port Adelaide Flower Farm which ran way over budget? Was any attempt made to obtain competitive quotes?

Further serious matters need to be raised about the Port Adelaide Flower Farm. Last year staff were not paid their wages on time at both the farm and the Perce Harrison Environmental Centre. Some staff had to lend money to other staff to enable them to meet their financial commitments. The Port Adelaide council does not want to know about such

matters. It might own the farm, but the management of the farm is now with BCG Rural Management, which has replaced IHM as manager at both the farm and the Perce Harrison Environmental Centre since 1 July 1994.

Staff were being paid up to eight days late. Staff at the flower farm were at the point of calling in the union. It is not an impressive performance.

Also it is alleged that IHM has been many months late in meeting its commitments to the Port Adelaide council. Under the terms of the agreement, IHM buys all product from the Port Adelaide council.

I have been advised that IHM approached the Federal Airports Corporation about five years ago in Adelaide with a view to establishing a commercial nursery at the airport. A feasibility study was done but, when it was checked, it was discovered that IHM was quoting prices for plants 50 to 100 per cent higher than would be quoted from other nurseries.

On 13 May 1991, Mr Beamish presented a proposed restructure plan for the Port Adelaide Flower Farm to the Port Adelaide council. It was proposed to come into operation on 1 July 1991. The restructure was to cost the Port Adelaide council $160 000. The proposal was to merge the operations of the Port Adelaide Flower Farm with Australian Berry Farms, located near Coffs Harbor, and with IHM Pty Limited. The CEO said this merger had been the subject of an 'independent feasibility study'. The council was advised of the details of the new structure which was styled 'The Newco Trust'. The farm was to be transferred to the Newco Trust and the trust would lease the assets of the farm from the council in year one for a sum of $150 000 per annum which would be taken up as equity by the council. This would include lease rights to the property, leasehold improvements made by the council and plant stock.

In year two, rental would be $120 000 per annum. In addition, Newco would purchase plant and equipment from the council for $200 000. But notice the huge difference between the Newco proposal of mid-1991 and the restructuring proposal of Flowers of Australia in mid-1994! In 1991 the plant stock and leasehold improvements were to be leased in year two for $120 000; in 1994 the plant stock plus plant and equipment were to be leased for $729 000 in year two—six times the 1991 figure! In 1991 the plant and equipment was to be bought for $200 000; in 1994 the grow bags, trading stock and equipment were to be purchased for $511 000. The second leg of Newco Trust was to purchase 80 hectares of land near Coffs Harbor from Australian Berry Farms. This land had four hectares of blueberries, 0.6 hectares of kangaroo paw and 0.4 hectares of lime trees.

The May 1991 council meeting was told by Mr Beamish that Australian Berry Farms, 'having proved the viability of its farming concept, now wishes to expand its operations'. In an article in the *Portside Messenger* on 19 June 1991, Mr Beamish discusses this major restructure, which he says will distance the farm from the 'vindictive, vocal opponents' who have plagued its first three years of operation. The article mentions the Newco Trust will incorporate the Australian Berry Farm's Coffs Harbor flower farm valued at $650 000. I have spoken with people who know the Coffs Harbor property well. They confirm that the property was marginal—so marginal, in fact, that most of the blueberries have now been pulled out because they were a late variety which did not bring top prices at market.

I have been advised there were no significant movements in land prices in the Coffs Harbor region between 1991 and 1993. In October 1993, just two years after the Newco proposal, the Australian Berry Farm's property was sold for $225 000, barely one-third the value placed on it for the Newco Trust proposal just two years earlier. Shortly after this October 1993 sale, Australian Berry Farms was dissolved, having been incorporated in November 1988.

The third leg of the Newco proposal was to transfer the assets and liabilities of IHM Pty Limited which had been formed in February 1987. In fact, the report to council reveals IHM had net liabilities!

The Port Adelaide council accepted the CEO's recommendation for this merger, even though no details appear to have been given about the profitability of Australian Berry Farms or IHM.

The financial model provided to Port Adelaide council on 13 May 1991 projected a minimum revenue of $3.5 million in year two and $4.7 million in year three in the Newco Trust which comprised the Flower Farm, Australian Berry Farms and IHM. History has shown this was absolutely fanciful. Think about it. It is like a board of directors of a public listed company, or a private company, agreeing to a major restructuring without any financial details at all. That is a remarkable and obviously unacceptable proposition.

The Port Adelaide council, in accepting the CEO's recommendation for the Newco restructure, ignored that part of the report which noted, 'In pure financial terms, based on present assets and liabilities of the three operations, the proposal does not appear *prima facie* to have a good base.'

I turn now to the 1994 Flowers of Australia restructure. The Flowers of Australia prospectus states that the company will take over the operations of the Port Adelaide Flower Farm, The Perce Harrison Environmental Centre and also take up a one-third interest in IHM Pty Limited. In addition, Flowers of Australia will exercise an option on 82 hectares of land close to Penola by payment of $180 000. The prospectus states that there are 14 000 plant units presently on the property together with other improvements, plant and equipment. The plants include banksia, protea and wax flower.

I am advised that the Valuer-General's site value for this property is $61 000 and the capital value is $73 000. People who know the area well believe that $180 000 is a bit rich. I am advised by people in the area that a price of $140 000 to $150 000 would be the absolute tops. That is no criticism of the present owners, who are entitled to set an asking price for their land; but I am concerned for the ratepayers of Port Adelaide and the prospective investors of any future float.

The Hon. Barbara Wiese interjecting:

The Hon. L.H. DAVIS: It's just a shame you didn't and that you have to sit here listening to me telling you the truth. The Perce Harrison Environmental Centre was opened in late 1988 to provide plant stock for the City of Port Adelaide's parks and gardens. The cost of the centre was $1.69 million, and it is admitted that, having been constructed as an employment creating program, it was considerably more expensive than if it had been contracted out to the private sector.

Under the Flowers of Australia prospectus, the nursery, which is only one element of the Perce Harrison Environmental Centre, is being valued for Flowers of Australia at $250 000. The Flowers of Australia prospectus states that the new group will lease this nursery from the Port Adelaide council for the remarkable sum of $45 000 per annum. That is even more remarkable when it is recognised that the nursery has never made a profit. The proposal for a new

nursery was first discussed in August 1987 and was based on moneys being made available from a CEP scheme.

In June 1990, a draft business plan examined the feasibility of operating the Perce Harrison Environmental Centre along the lines of a commercial wholesale nursery. The plan claimed that there were gaps in the local and domestic market for Australian native plants which could be filled by this council nursery. It was claimed, 'Council could generate substantial revenue and make a sound return on its capital investment.' The document claimed that there was 'a need for council to seek out other forms of revenue in an entrepreneurial way'.

It was emphasised that the council would produce plants for other nurseries and retailers for sale but would not sell directly to the general public. Discussions were held with several major chain stores and other nurserymen. There was also a suggestion that the nursery would become involved in the public hire of indoor plants for decorations.

Dr Freeman of IHM had discussions with the council indicating that the nursery had the potential to be a significant exporter of Australian native plants. The council budget, adopted on 4 June 1990, estimated a profit of $94 087 from the nursery in the 1990-91 financial year. That forecast proved to be hopelessly optimistic.

On 20 January 1992, the Port Adelaide council was presented with a report on the tissue culture facilities at the Perce Harrison Environmental Centre. The report noted that when the Perce Harrison Environmental Centre was first constructed it had an area designated for use as a tissue culture laboratory.

However, following the commencement of commercial activities at the nursery, a review highlighted the fact that the level of expenditure required to complete the refurbishment of the tissue culture laboratory to the required standard could not be warranted: 'Council does not currently possess the technical expertise to undertake such operations.' In addition, the environment required to produce tissue culture plants successfully must be quite sterile, and the current operation precluded such conditions without major renovations. Therefore, it was recommended that the tissue culture laboratory should be disbanded and surplus equipment disposed of.

By 1993, the nursery was providing plant material for the Port Adelaide Flower Farm and it was also growing trees for MFP sites. But profits were elusive. In 1991-92 sales were at least $37 000 under budget—little more than half the budgeted amount. In 1992-93 there was a budgeted loss of around $55 000; the figure was well beyond this amount.In 1993-94 IHM was in charge of the nursery. However, during that time I believe that many pieces of horticultural equipment had not been installed correctly or were not being used correctly under IHM's management.

In 1993-94 the revenue was virtually zero, and the Perce Harrison Environmental Centre may have lost between $200 000 and $400 000. Many pots produced at the nursery went to the tip. However, the 1993-94 budget was for expenditure of $219 450 and income of $158 250—a loss of just over $61 000. In 1994-95 the income received by the nursery will be lucky to be half the budgeted amount. Not only was the centre a financial disaster, but part of the holding area for plants went under water after rain and became boggy due to poor drainage which had an impact on the plants.

The Flowers of Australia prospectus claimed that the nursery provides 'facilities to allow tissue culture, propagation, growing and hardening off of nursery and landscape plants'. It is curious that the prospectus makes a point of highlighting tissue culture, when only three years earlier the council had made a decision to sell off all surplus tissue culture equipment. Obviously, the council did not sell off the equipment as previously agreed. There are other problems with the Perce Harrison Environmental Centre. There is no temperature control, which makes it impossible to have a commercial tissue culture laboratory. A successful laboratory would need hospital-like conditions.

In summary, the Port Adelaide council commercial nursery has been a commercial failure. It has lost hundreds of thousands of dollars and yet incredibly, with no profit record whatsoever, it is proposed to be leased at nearly $1 000 a week by the council to Flowers of Australia. How can that be justified? The answer is that it cannot. The nursery has been renamed the Willochra Nursery.

The Port Adelaide Flower Farm was established under section 383a of the old Local Government Act. The equivalent section is now section 199, and this applies directly to the Port Adelaide Flower Farm. In answer to a question by the Hon. Jamie Irwin, the then Minister of Local Government, Hon. Anne Levy, said in September 1990:

> The Flower Farm was established as a section 383a scheme. This section of the Local Government Act has been repealed—section 199 now covers these matters.

Section 199(10) provides:

> The controlling authority must, on or before the prescribed day in each year, prepare a report containing the prescribed information and documents relating to the operations of the controlling authority.

The Local Government regulations (No.74 of 1993), at clause 15(2), state:

> The audited accounts . . . of controlling authorities . . . must be submitted to the council by a day determined by the council and included as part of the council's annual report.

This has not been done. It is a flagrant breach of the Local Government Act and has been a continuing breach for at least the last five years. This breach is in addition to the serious matters I raised last week regarding Mr Beamish's continuing failure to provide audited financial statements and other information about the Port Adelaide Flower Farm at a number of council meetings. I emphasised last week that there have been many complaints about the Port Adelaide council over many years. For example, on 25 May 1988 Mr Beamish wrote to Mr Searle, the Secretary of Port Adelaide/Alberton/Queenstown Sub-branch of the Labor Party. Mr Searle had written to Mr Beamish expressing the sub-branch's concern about the council's purchase of land on the eastern side of the Old Port Reach.

In July 1986, almost two years before this Labor Party letter, the Port Adelaide council had purchased at auction this site known as Harbourside Quay for $1.3 million. Council discussed how to finance this purchase. The council adopted a motion to take out a loan with the Local Government Authority or with Westpac for $1.3 million to cover the purchase. The Town Clerk flouted that motion, and, without reference to the council, took out a bank overdraft of $1.3 million with Westpac to cover the purchase of this land.

Mr Beamish, in responding to the letter of criticism from the Labor Party sub-branch said:

> The council has not taken a loan for the purpose; it is funded on short term finance because it was, and is, proposed to resell in the short term.

That was two years after the purchase of the land. But this overdraft arrangement was never approved by council and

must be considered unauthorised. If, as Mr Beamish claimed, the purpose also was always to resell the land in the short term, why did council adopt a motion to borrow loan funds? But Mr Beamish decided he knew better and allowed this overdraft debt to remain and accrue. Over four years later, in September 1990, the council was advised that it was now paying 17.75 per cent for the Westpac overdraft compared with only 15.25 per cent for a Local Government Finance Authority loan facility similar to the one which had been discussed at the time of the purchase back in July 1986.

Council finally moved to take advantage of this lower rate and endorsed an unbudgeted $3 million loan from the Local Government Finance Authority to cover the transaction. But, had Mr Beamish followed the council's motions over four years earlier, the Local Government Finance Authority rate at the time would have been 13.5 per cent, compared with the overdraft rate which, during that four year period, at times reached 19 per cent.

By September 1990, interest charges, legal and survey costs, according to a confidential memo, had taken the total cost of Harbourside Quay land to $2.2 million. This land was eventually sold by the council to the State Government for $1.8 million in May 1991, although it was alleged that the council had no idea of the sale until after it had occurred. After taking into account inflation, the real loss to the council on this land transaction could have been as much as $500 000 over a four and a half year period. This was a scandalous and unnecessary cost to the taxpayer, created by Mr Beamish's failure to follow the motion agreed to by council. The 1990-91 Port Adelaide accounts reveal $163 000 for Harbourside finance costs not budgeted for.

But there were other complaints from the Labor Party. In 1988-89 a State Labor Member of Parliament wrote to the then Minister of Local Government complaining that elected members of Port Adelaide council were not provided with sufficient information.

I repeat what I said last week in speaking to this motion. Many of the sources of the information which I have revealed in this speech have come from paid-up members of the Labor Party in the Port Adelaide area who, like me, have had a long standing concern about the financial management and administration of the Port Adelaide council.

The impact of the Port Adelaide Flower Farm and other entrepreneurial activities is reflected in the high level of rates paid in the Port Adelaide council area. Port Adelaide council has easily the highest net debt per head of any local government area with a population of 20 000 or more and has had a relatively stable population over the past five years. Port Adelaide council has had a static population in the last five years, but net debt was $265.59 per person as at 30 June 1994. Unley, on $212.98 was a distant second. I seek leave to have inserted in *Hansard* a statistical table which sets out net debt per head for 17 South Australian local government areas with population of 20 000 or more. These 17 councils represent nearly two-thirds of the State's population of 1.45 million.

Leave granted.

South Australian Local Government areas with population of 20 000 or more:
Net Debt per head ($)
1988-89 to 1993-94

Local Government Areas with 20 000 plus population as at 30 June 1994	Estimated resident population as at 30 June 1994 (No.)	Increase in estimated resident population, 1988-89 to 1993-94 (per cent)	1988-89 Net debt per head (a) ($)	1989-90 Net debt per head (a) ($)	1990-91 Net debt per head (a) ($)	1991-92 Net debt per head (a) ($)	1992-93 Net debt per head (a) ($)	1993-94 Net debt per head (a) ($)
Whyalla (C)	24 649	-7.7	75.68	49.78	44.94	20.09	-134.94	-74.98
Elizabeth (C)	28 382	-5.4	127.54	117.68	120.33	106.76	56.93	-12.80
Enfield (C)	62 096	-3.1	188.67	117.27	84.19	112.07	78.37	21.31
Woodville (C) (b)	80 170	-2.9	93.33	116.73	156.12	170.88	164.28	n.a.
West Torrens (C)	43 881	-1.9	-6.02	-16.87	65.08	126.35	193.97	175.40
Unley (C)	36 471	-1.5	167.80	173.45	211.64	317.86	179.42	212.98
Mitcham (C)	62 636	-1.1	-50.92	-46.89	-27.59	-10.93	-65.37	-35.31
Port Adelaide (C)	39 128	0.1	208.48	281.97	389.07	282.97	301.20	265.59
Campbelltown (C)	45 662	0.3	20.24	5.01	-7.61	39.33	39.52	31.40
Burnside (C)	39 417	1.0	63.47	24.49	25.89	-6.13	-13.20	-104.02
Mount Gambier (C)	22 730	2.4	97.64	107.92	80.74	32.40	19.88	-28.36
Marion (C)	77 430	3.8	102.99	105.39	135.33	68.08	61.71	54.30
Salisbury (C)	111 711	5.3	163.68	142.00	171.75	152.59	173.71	140.46
Happy Valley (C)	37 848	12.0	171.69	186.61	204.40	174.31	189.66	177.76
Tea Tree Gully (C)	94 489	14.8	114.28	125.70	180.59	240.41	208.99	211.71
Munno Para (C)	36 423	18.7	308.54	347.89	309.99	298.28	298.37	280.33
Noarlunga (C)	91 977	18.9	20.01	12.11	46.04	31.98	0.03	-10.87

Source: 1988-89 to 1991-92 data are from ABS 5502.4 Local Government Finance South Australia;
1992-93 data are unpublished figures from ABS;
1993-94 data are figures compiled from councils' annual reports on the same basis as the ABS data.

(a) Net debt per head is calculated as long term debt less financial investments and bank balances divided by estimated resident population at the end of the period.

(b) Woodville and Hindmarsh Councils amalgamated during the 1993-94 year; the Woodville data are for the 1988-89 to 1992-93 period only.

(C) City Council.

(DC) District Council.

The Hon. L.H. DAVIS: Only Munno Para, which has seen its population explode by 18.7 per cent over the past five years, has a higher net debt coming in at $280.33 per head. But, quite clearly, Munno Para has big demands for new infrastructure and pressure on expenditure at many levels. Over the years there have been vociferous public attacks by ratepayers on the level of rates in the Port Adelaide district. There is another disturbing aspect of Port Adelaide council's rating of property. The Port Adelaide council adopts the Valuer-General's assessments, but sometimes decides to increase the value on industrial or commercial property using its own valuer. It is the only council that adopts this procedure in the whole of metropolitan Adelaide and I understand there has been considerable concern about this matter and that legal opinions have been sought.

It has the effect of increasing the amount of rates paid in the council area, but it can create gross inequity and penalises property owners who have been affected by the council's decision to ignore the Valuer-General's valuation. The Valuer-General's valuations across metropolitan Adelaide are calculated to provide an equitable basis for property owners in all council areas. But the Port Adelaide council is a law unto itself.

In summary, the Port Adelaide Flower Farm is not just a story about excessive entrepreneurial enthusiasm gone wrong: it is much more than that. There is clear and uncontestable evidence that: the original terms of the agreement establishing the Port Adelaide Flower Farm have not been observed; there has been no attempt made to monitor IHM's performance as the manager of the farm and as the marketer of the product; the Port Adelaide Flower Farm project should never have happened and no evidence of the inherent risks associated with the project were properly brought to the attention of council; a Department of Agriculture written report advising against the suitability of the site was ignored; for four years the Port Adelaide council has been seeking a restructuring proposal for the Port Adelaide Flower Farm, while all the time increasing the losses of the farm and escalating the burden to the Port Adelaide ratepayer; Port Adelaide council has been refused vital financial and statistical information regarding the performance of the Port Adelaide Flower Farm in recent years.

There have been clear breaches of the Local Government Act and regulations. Perhaps most importantly of all, no-one has ever questioned the credibility of IHM and Dr Brian Freeman.

I found out in nine days, by talking to 47 people, what Mr Keith Beamish apparently has been unable to find out in nine years.

If Mr Beamish did know some of the concerns expressed in the industry about IHM, why has that not been revealed to the council? If he does not know, then he has failed in his duty to properly investigate the credibility of IHM.

For example, the contract between the Port Adelaide council and IHM (Growers) Pty Ltd was signed on 2 December 1998. But, in fact, the name IHM (Growers) Pty Ltd was not registered with the NCSC, as it was then, until 2 May 1989. The company did not exist: in fact the company had formerly been Brian Freeman & Associates Pty Ltd.

This sloppy approach has characterised the history of the Port Adelaide Flower Farm.

There are no more excuses, the State Government should investigate the matter. The Port Adelaide ratepayers deserve it and so does the Australian flower industry. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 1.10 to 2.15 p.m.]

ADELAIDE-BELAIR RAIL SERVICE

A petition signed by 685 residents of South Australia, concerning the closure of Millswood, Hawthorn and Clapham Railway Stations, praying that the Legislative Council ensure that the Adelaide to Belair TransAdelaide train service continue to stop at the Millswood, Hawthorn and Clapham Railway Stations was presented by the Hon. Sandra Kanck.

Petition received.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 3 to 15.

PUBLIC SECTOR APPOINTMENTS

3. **The Hon. SANDRA KANCK:** Of the appointments to the Department of the Premier and Cabinet and Multicultural and Ethnic Affairs since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?

5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?

6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. R.I. LUCAS:

Of the appointments to the total agencies included since 11 December 1993:

1. 1 387
2. 365
3. 536
4. 2 260
5. 2 440
6. 2 108

Of the appointments to the Department of the Premier and Cabinet since 11 December 1993:

1. 7
2. 6
3. 2
4. 0
5. 0
6. 15

Of the appointments to the Department of Multicultural and Ethnic Affairs since 11 December 1993:

1. 5
2. 0
3. 1
4. 0
5. 0
6. 6

Of the appointments to the Office for the Commissioner for Public Employment since 11 December 1993:

1. 1
2. 1
3. 0
4. 0
5. 1
6. 1

4. **The Hon. SANDRA KANCK:** Of the appointments to the Treasurer's Department since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions I to IV, how many have been part-time?
6. Of each of the categories of appointee described in questions I to IV, how many have been full-time?

The Hon. R.I. LUCAS: Of the appointments to the Department for Treasury and Finance since 11 December 1993:

1. 29
2. 12
3. 11
4. 1
5. 1
6. 52

The above numbers include:

* appointments to the Treasurer's office, Asset Management Task Force, South Australian Government Financing Authority, SA Superannuation Fund Investment Trust, SA Superannuation Board, State Taxation Office and Casino Supervisory Authority;
* appointments under the CPA unemployed Graduate Program and yearly Graduate Program.

The above numbers exclude:

* 26 clerical trainees on a six or 12 month training program funded by the Commonwealth Government.

Of the appointments to the Office of Information Technology since 11 December 1993:

1. 35
2. 6
3. 1
4. 0
5. 1
6. 41

The Office of Information Technology was gazetted as an administrative unit on 1 March 1994 initially for a period of 12 months. The office was extended indefinitely in February 1995. During this time because of the temporary nature of the office, most appointments were made on a temporary basis. Currently the long-term requirements for the office are being resolved, which will enable permanent positions to be established.

Of the appointments to the Department for State Services since 11 December 1993:

1. 30
2. 1
3. 47
4. 46
5. 67
6. 57

The numbers include:

* Appointment to State Fleet, State Chemistry, State Forensic Science, State Print, State Records, State Supply, Central Linen and Corporate Services. State Clothing Corporation is not included as it is a statutory authority;
* GME Act and Weekly Paid Employees.

The numbers exclude:

* 22 clerical trainees who are/have been on a six or 12 month training program funded primarily by the Commonwealth Government.

5. **The Hon. SANDRA KANCK:** Of the appointments to the Minister's Department since 11 December 1993:

1.. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. R.I. LUCAS: Of the appointments to the Department for Education and Children's Services since 11 December 1993:

1. 103
2. 0
3. 30
4. 8
5. 37
6. 104

A number of issues need to be taken into account in the interpretation of this information:

* As no information was sought about the number of employees who separated within this same period, it would be dangerous to assume that the information tabled represented the total staff movements within this period.
* The information sought on part-time employees has been expressed in persons. The actual number of full-time equivalents may however be significantly different, depending on the fraction of time of these appointments.

6. **The Hon. SANDRA KANCK:** Of the appointments to the Minister's Departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. K.T. GRIFFIN: Of the appointments to the Attorney-General's Department since 11 December 1993:

1. 135
2. 4
3. 11
4. 38
5. 38
6. 150

A large number of temporary appointments consist of employees from the State Bank Litigation Project.

7. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Tourism and Industrial Affairs departments since 11 December 1993—

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. K.T. GRIFFIN: Of the appointments to the Department of Building Management since 11 December 1993:

1. 1
2. 0
3. 0
4. 0
5. 1
6. 0

Of the Department for Industrial Affairs since 11 December 1993:

1. 52
2. 3
3. 41
4. 0
5. 4
6. 92

Of the appointments to the South Australian Tourism Commission since 11 December 1992:

1. 18
2. 6
3. 15
4. 12
5. 0
6. 51

8. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Industry, Manufacturing, Small Business and Regional Development and Infrastructure's departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. R.I. LUCAS: Of the appointment to the Economic Development Authority since 11 December 1993:

1. 53
2. 5
3. 6
4. 4
5. 3
6. 65

Of the appointments to the Engineering and Water Supply Department since 11 December 1993:

1. 12
2. 0
3. 18
4. 22
5. 22
6. 30

These numbers exclude:

* 17 Career Start and 11 JobSkills Trainees along with 13 Vocational Students.

9. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Health and Aboriginal Affairs Departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. DIANA LAIDLAW: Of the appointments to the Department of State Aboriginal Affairs since 11 December 1993:

1. 10
2. 0
3. 5
4. 0
5. 0
6. 15

Of the appointments to the South Australian Health Commission—Central Office since 11 December 1993:

1. 19
2. 6
3. 53
4. 2
5. 11
6. 69

These numbers exclude:

* 19 Career Start and JobSkills trainees.

10. **The Hon. SANDRA KANCK:** Of the appointments to the Minister's departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. DIANA LAIDLAW: Of the appointments to the Ports Corporation since 11 December 1993:

1. 14
2. 0
3. 15
4. 11
5. 11
6. 29

Of the appointments to the Department of Transport since 11 December 1993:

1. 219
2. 12
3. 119
4. 25
5. 39
6. 336

These numbers include:

* appointments to the Transport Policy Unit

* 25 permanent appointments that moved from marine and harbors

These numbers exclude:

* 64 Career Start and JobSkills trainees.

Of the appointments to the Passenger Transport Board since 11 December 1993:

1. 0
2. 1
3. 6
4. 0
5. 0
6. 7

Of the appointments to the Department for the Arts and Cultural Development since 11 December 1993:

1. 65
2. 3
3. 11
4. 25
5. 41
6. 63

Of the appointments to the Office for the Status of Women since 11 December 1993:

1. 1
2. 0
3. 2
4. 1
5. 1
6. 3

11. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Housing, Urban Development and Local Government Relations and Recreation, Sport and Racing departments since 11 December 1993—

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. DIANA LAIDLAW: Of the appointments to the Department of Housing and Urban Development since 11 December 1993:

1. 57
2. 4
3. 9

4. 15
5. 11
6. 74

These numbers include:

* appointments to the Office of the Chief Executive Officer, State Local Government Relations Unit, Planning Division, Corporate Services, Strategy Policy Unit, Parks Community Centre.

These numbers exclude:

* 7 trainees at the West Terrace Cemetery

Of the appointments to HomeStart since 11 December 1993:

1. 34
2. 6
3. 1
4. 0
5. 10
6. 31

Of the appointments to the Office for Recreation, Sport and Racing since 11 December 1993:

1. 3
2. 1
3. 0
4. 1 895
5. 1 877
6. 22

These numbers include:

* 978 casual appointments for the 1994 annual Vacswim program, 9 full time, 969 on a part time basis; 917 casual appointments for the 1995 Vacswim program, 9 full time, 908 on a part time basis.

These numbers exclude:

* 17 temporary appointments under JobSkills and Career Start Traineeship Program.

12. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Mines and Energy and Primary Industries departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. K.T. GRIFFIN: Of the appointments to Primary Industries South Australia since 11 December 1993:

1. 56
2. 4
3. 11
4. 19
5. 9
6. 81

Of the appointments to the Department of Mines and Energy since 11 December 1993:

1. 49
2. 15
3. 7
4. 7
5. 6
6. 72

Of the appointments to the South Australian Research and Development Institute since 11 December 1993:

1. 20
2. 2
3. 4
4. 15
5. 15
6. 26

13. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Environment and Natural Resources, Family and Community Services and the Ageing departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. DIANA LAIDLAW: Of the appointments to the Department of Environment and Natural Resources since 11 December 1993:

1. 22
2. 153
3. 7
4. 8
5. 14
6. 176

These numbers include:

* 137 award appointments categorised under contract appointments

These numbers exclude:

* 67 Career Start and JobSkills trainees.

Of the appointments to the Department for Family and Community Services since 11 December 1993:

1. 120
2. 4
3. 17
4. 17
5. 63
6. 95

A large number of temporary appointments include employees on short term appointments for the Residential Care Unit.

Of the appointments to the Commissioner for the Ageing since 11 December 1993:

1. 1
2. 0
3. 0
4. 0
5. 0
6. 1

14. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Emergency Services and Correctional Services departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. K.T. GRIFFIN: Of the appointments to the South Australian Police since 11 December 1993:

1. 29
2. 0
3. 13
4. 6
5. 10
6. 38

Of the appointments to the Department of Correctional Services since 11 December 1993:

1. 43
2. 4
3. 30
4. 53
5. 29
6. 101

15. **The Hon. SANDRA KANCK:** Of the appointments to the Minister for Employment, Training and Further Education and Youth Affairs departments since 11 December 1993:

1. How many have been temporary or term appointments?
2. How many have been contract appointments?
3. How many have been permanent appointments?
4. How many have been casual appointments?
5. Of each of the categories of appointee described in questions 1 to 4, how many have been part-time?
6. Of each of the categories of appointee described in questions 1 to 4, how many have been full-time?

The Hon. R.I. LUCAS: Of the appointments to the Department for Employment, Training and Further Education since 11 December 1993:

1. 144
2. 106
3. 43
4. 30

5. 118
6. 205

These numbers include:

* 106 contract appointments appointed under the TAFE Act.

POLICE COMPLAINTS AUTHORITY

The PRESIDENT laid on the table reports of the Police Complaints Authority for the years 1991, 1992, 1993 and 1994.

Ordered that the reports be printed.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Education and Children's Services (Hon. R.I. Lucas)—

Response to Statutory Authorities Review Committee—Review of the Electricity Trust of South Australia.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the twenty-fourth report 1994-95 of the Legislative Review Committee.

QUESTION TIME

COLLINSVILLE MERINO STUD

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Treasurer a question about the sale of the Collinsville Stud.

Leave granted.

The Hon. R.R. ROBERTS: Can the Treasurer advise this Council whether a proper search was conducted of all the properties in the Collinsville portfolio to ensure that they were free from encumbrances that may or may not have affected the sale of those properties? If a search was not undertaken, why not?

The Hon. R.I. LUCAS: I will refer the honourable member's question to the Treasurer and bring back a reply.

TAXIS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about the taxi industry.

Leave granted.

The Hon. T.G. CAMERON: The Federal Government yesterday gave wide-ranging concessions to the States in return for an historic $23 billion competition reform deal in areas such as transport, electricity, agriculture and the professions. The Premier, Dean Brown, represented South Australia at this conference. One of the proposed areas of reform in the transport industry is the deregulation or the introduction of competition in the taxi industry. The Minister for Transport has stated that the passenger transport recommendations will be going to Cabinet. Whilst the Minister resiled from making any firm commitment re the PTB proposal, it is clear that the PTB submissions will be supported.

The five-year strategy for the issue of 20 new licences per year will not introduce competition into the industry. We have the PTB admitting that there is a demand for more taxis, service is down, taxiplate prices are soaring and regulation increasing. Now that the Premier has signed up to the new reform, known as the Hilmer report reform, the question remains to be answered: will the Minister do the same? After all, the Minister is required to administer the Act and so is the PTB in the public interest and not the industry's interest. My questions to the Minister are as follows:

1. Will the Minister support the Premier now that he is committed to the competition reform in the taxi industry?

2. Will the Minister review the PTB recommendations and place a submission before Cabinet to ensure that the PTB acts in the public interest?

3. As a matter of some urgency, will the Minister issue at least 100 new licences as an interim measure so that the long-suffering public of South Australia can get a fair go; that is, a better service or, in the case of the outlying areas and the Hills, some service at all, fewer delays and an end to a highly regulated and protected industry that every South Australian ratepayer has to pay for?

The Hon. DIANA LAIDLAW: I am unsure if Standing Orders allow me to question whether this is a new policy position on the part of the Labor Party or a personal campaign by the honourable member. I would like to know and I think the taxi industry would like to know if the Labor Party has now adopted a policy of immediately issuing 100 new licences. I see that most members opposite have their head down and do not seem to want to know anything about this new policy proposal being supported so strongly by the Hon. Mr Cameron. I am unsure whether it is a reflection on the fact that he does not speak to other factions within his Party or whether it is because he is so new that he does not understand some of the other traumas his colleagues have gone through in the past in respect of the taxi industry. Certainly, I commend his zeal. It is not a policy position that the Government would accept. I would however like to know, and I think the taxi industry would like to know—as would members—whether this is a personal crusade by the honourable member or a policy position by his Party.

In the meantime, I am able to confirm for the honourable member and everyone else interested in the taxi industry and the Hilmer report that the issue of taxis was not specifically raised by anyone during the COAG meeting yesterday. I spoke to the Premier about this matter last night. He told me that one question was raised by the media at the end of the conference, but that it was not an issue. It is understood that in terms of the agreement signed yesterday there are exemptions that the Commonwealth and the State can exercise. It would be the State's intention—and it was certainly my understanding and that of my colleagues before Premier went to this conference—that there would be an exemption for this State in respect of the taxi industry.

That exemption would be made on two grounds: first, our strong belief that the taxi industry is a service industry and, as such, deregulation would compromise that gaol. I have highlighted that from personal experience and some study in New Zealand about the impact of deregulation on taxi industry in that country. I do not intend to go through that again; it is on the *Hansard* record. However, service has not been the winner and certainly customers have not benefited from the deregulation that has been in force for some years in New Zealand. The second reason we would be exercising this exemption is based on the fact that the taxi industry is not a direct monopoly. It is subject, in terms of the licences and the like, to the regulatory force of the Passenger Transport Board, which is quite a different arrangement to that in the other industries that we are talking about, whether it be the national rail system, ETSA, EWS and the like. They compete

with other service providers for work in the passenger transport industry. So, we see it as a different category of industry. On that basis and because of our commitment to performance of service by the taxi industry, we will not deregulate.

That does mean, however, that we do not have high expectations of the taxi industry to perform in the public interest. That is why the issue of public interest is high on the functions—if not the first function—of the Passenger Transport Act. There is a lot of work out there for the taxi industry to go for and get, if it will get off its bottom and do so. That has been the basis of my discussions with the taxi industry: 'For heaven's sake, stop complaining about everything that is ever suggested as an improvement or reform; go and get so much of the work that is actually there at present.' The honourable member has made a fair distinction between deregulation and the issue of new licences. I do not see them as being directly related either, and I indicated, I believe yesterday, that I have received recommendations from the Passenger Transport Board and will seek to act on those in terms of taking the matter to Cabinet for consideration in the near future.

ALGAL BLOOM

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about algal bloom.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, I received a rushed reply from the Minister for Primary Industries to a question that I asked on 15 March about algal bloom on the West Coast near Coffin Bay. When I asked that question, there was no indication from the department that it was able to identify how the algal bloom had been caused. I understand that there has been considerable debate and argument about what has actually caused the large algal bloom that is threatening fish supplies and inland waterways that have been farmed for aquaculture in that area. Part of the answer that I received to my question about whether the algal bloom has been caused by land based pollution being carried into the sea is as follows:

> Staff from the department have been trying to piece together reports and essentially do some detective work to ascertain what may have caused such a large effect. At present, only two hypotheses have been put forward, the first of which relates to an oceanographic effect called an 'upwelling'. Under certain meteorological conditions, surface waters on the west coast of Eyre Peninsula are forced offshore. This causes deep water from below the Continental Shelf to rise to the surface. The deep water carries with it relatively high amounts of nitrogen and phosphorus based nutrients, which may trigger extensive algal bloom.
>
> The second hypothesis relates to the cyclonic depression which cut the main highway between Perth and Adelaide. Rainfall of this magnitude is most uncharacteristic of the area and was high enough and over a large enough area possibly to affect the region. The first reports of bloom seemed to have occurred about a week to 10 days after the rain event.

I am not quite sure how freshwater could bring about an effect such as algal bloom, given that it could possibly have been caused by an upwelling and an increase in nutrients.

People in the South-East believe—and this is a part of 'white man dreaming'—that the oil that is washed ashore on the southern beaches in the South-East occurs after tremors and underground activities have taken place in the area. For over 50-odd years there have been reports from fishers and others that there is a supply of oil in either the Southern Ocean or west of Kangaroo Island that seeps out of fissures in the earth's surface beneath the sea and is washed up on the southern beaches. The other part of 'white man dreaming' is that, if perhaps enough exploration programs are carried on in that area, they will be successful in finding oil—and I suspect they are possibly right. However, I proffer the position that there may be a third hypothesis relating to the algal bloom problem—or the blooming problem, one might say. My question is: will the department put in place programs, which may include seismographic searches, checking the Richter scale, the currents and wind directions and tidal movements, to investigate whether there is any causal link between earth tremors that are experienced along the south-eastern coast of South Australia and the as yet unexplained algal bloom?

The Hon. K.T. GRIFFIN: I will refer the honourable member's question to my colleague the Minister for Primary Industries and bring back a reply.

RAILWAY STATION CLOSURES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about railway station closures.

Leave granted.

The Hon. SANDRA KANCK: On 21 March in this place, I asked a question of the Minister relating to the closure of the Millswood, Hawthorn and Clapham railway stations. At that time, the Minister did not deny that the stations would close. I also raised in my question the complete lack of public consultation by the Minister and her disregard for community service groups, which continued to tend the gardens on the platforms and paint over graffiti unaware that the Government planned to close the stations. It was not until this week that the Minister circulated a special passenger bulletin which notified passengers about the closure. That bulletin stated, in part:

> Three poorly patronised stations, Millswood, Hawthorn and Clapham, will need to be closed to maintain an efficient service frequency. . . closing three stations actually benefits 94 per cent of Belair line users by cutting their travel time. . .

I am aware that an options paper was prepared for the Minister by Mr Tony Phelan of the Minister's department suggesting that the stations could be kept open but with a reduced frequency of service, and that this would enable a 30 minute service between the city and Belair to be maintained.

The Minister has stated in this place that only about 100 people per day use Clapham, Hawthorn and Millswood stations, and that this was an unacceptably low level of patronage. I informed the Minister that last Monday two public meetings (one in the afternoon and one in the evening) were organised by a group of concerned residents calling themselves Save Our Stations. These meetings, which were held in the Hawthorn scout hall, were attended by 260 people, who voiced their unanimous and angry condemnation of the Minister's decision to close the stations and her lack of consultation. During the meeting on the Monday afternoon, a motion was passed unanimously requesting a meeting with the Minister before any decision was made about the closure of the stations. I believe that a copy of the motion was forwarded to the Minister's office. Further meetings and protests are also planned. However, I am told that, since this meeting was requested, the Government has signed contracts for the demolition of the platforms, and that work will begin

over Easter. As members have heard, a petition requesting that the stations not be closed and containing almost 700 hundred signatures was today presented in this place. My questions are:

1. Will the Minister now admit, in the light of the attendance at the public meetings at the Hawthorn scout hall and today's presentation of a petition containing 685 signatures, that her claim that only 100 people per day use the stations is grossly misleading as regards the true number of people affected by the station closures?

2. Will the Minister accede to the request of Save Our Stations to keep the stations open and to meet with them about the closures, or will she maintain her blatant disregard for community wishes that the stations be kept open?

3. Is it true that contracts to demolish the platforms at Millswood, Clapham and Hawthorn stations were signed after the request for a meeting by Save Our Stations was made to the Minister?

4. Will the Minister now delay the demolition of the platforms at Clapham, Hawthorn and Millswood stations until after she has met with the Save our Stations group?

5. If the Minister believes that railway station closures can be justified by the benefits to commuters who use other stations on the same line, as she indicated in her special passenger bulletin, why has she not begun closing bus stops because of low patronage?

The Hon. DIANA LAIDLAW: The honourable member has confused a number of issues here. I do not know whether it is from ignorance or is deliberate, but I will try to help her through the issues. Her first question related—

The Hon. Anne Levy: Don't patronise her.

The Hon. DIANA LAIDLAW: If she is going out talking in this manner, it is important that she be well informed, and she clearly is not, so I will help her through the issues.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: The honourable member's first question referred to the use of the railway stations, and she went on to say that that does not reflect the true number of people who will be affected by the change. They are two entirely different sets of figures. The patronage figures are as I have outlined to this place in press releases and in bulletins that have been issued. In the year to December 1994, Millswood had 123 passengers per day; Hawthorn, 112; and Clapham, 72. I have indicated also that the average for the 23 daily train services is Millswood, five; Hawthorn, four; and Clapham, three. Those figures are not in dispute, although the honourable member has tried to confuse them with the number of people who may be affected by the change. Certainly, there would be a population pool of people who could be using those three railway stations but who, for reasons of their own, have not used them despite urgings from the former Government.

In fact, I understand that the former Minister of Transport (Hon. Frank Blevins) wrote to people in the area saying that there had been consideration since 1966 to close these stations because of poor patronage. Certainly, the former Government in 1991 and later made every endeavour to increase patronage through these stations. The honourable member has referred to efforts by 'adopt the station' groups, and efforts to beautify the stations. No matter what Government effort, expenditure—and there has been expenditure at these stations—and voluntary effort has been undertaken, the numbers have not improved. The numbers are beyond dispute. I have no doubt that many more people could be affected. I only wish they had been so agitated about this issue when they were given forewarning by Labor in 1991 that these stations would close. They have not used them.

I do not argue with the fact that there may be more people affected by the change: I only wish that the numbers were reversed and that the 600 a day had been using them, rather than the 123. If all the people who signed the petition actually damn well used the railway station, it would not be an issue before this place. Of course I am happy to meet with anyone and everyone on this issue. I have not seen the resolution that apparently has been forwarded to my office, nor the request for such a meeting, but I will make inquiries about that. As to the issue of the contract, I started this reply by saying that the honourable member had confused the issues, and she has.

What has happened since the One Nation package is that we have two issues. We have a decision to standardise the western line, which means that that line will no longer be available for passenger services operated by TransAdelaide. It will be a dedicated freight line, therefore platforms along that line will no longer be utilised. It was the decision of National Rail, supported by TransAdelaide, that there would be demolition of that western track on stations that will no longer be used and cannot be used unless we spend astronomical sums standardising the whole metropolitan rail system. That is certainly not envisaged in the foreseeable future.

The platforms and stations on the eastern side, which border the broad gauge line and which are to be continued in operation by TransAdelaide, remain. In fact, I have given undertakings to the honourable member's colleague the Hon. Mike Elliott that improvements will be made to those stations, and he has already acknowledged that in terms of Bellevue Hills. He has highlighted to me that work is required on other stations, and I am very happy to see what can be done to provide shelter, particularly in the forthcoming winter months. So, in relation to the western line, there is little point in saving those platforms when they will be no longer used on a broad gauge passenger service system in the metropolitan area. The other platforms on the eastern track and the stations there will be progressively improved in line with undertakings that I have already given to the honourable member's colleague.

TRANSADELAIDE

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport a question about TransAdelaide's costs.

Leave granted.

The Hon. G. WEATHERILL: In the *Advertiser* of 24 March I noted a letter to the Editor from a 14 year old student by the name of S. Verwaal of Surrey Downs, which read as follows:

> Lately I have noticed that all bus numberplates have changed from STA to TA before the numbers. Why is this necessary? How much did it cost? Does it improve the bus service? Does it make the buses go faster with only two letters, not three? With two numberplates on each bus, there must be a rather large pile of old numberplates somewhere!

I commend this young student for her or his observation, which set me thinking about all the paraphernalia that went with the change from STA to TA, such as the cost of new uniforms for staff; the cost of laying out and printing every timetable in the new format; the cost of all the stickers that now cover every conceivable spot that used to have 'STA'

printed on it; the cost of new stationery and the cost of new signs. The list is endless. My questions to the Minister for Transport are:

1. What has been the total cost of the change in the name from State Transport Authority to TransAdelaide?

2. What tangible benefit have customers received as a result of these costs?

The Hon. DIANA LAIDLAW: The student to whom the honourable member refers has observed and written about an event that actually took place in July 1994 when TransAdelaide was launched as a new organisation from the old STA. I would like to point out a number of things to the honourable member. First, no new uniforms were issued to TransAdelaide staff. I went down to meet with people who were volunteering their time to sew badges onto current uniforms and onto shirts. They were men and women family members and bus drivers who were good with the sewing machine, etc, who were doing this on a voluntary basis.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, for the love of it, as the Hon. Mr Elliott said, because they were as keen as the Government to get rid of the image of the old STA and everything it stood for. In terms of the layout and printing of the information timetables, if the honourable member caught the bus, train or tram he would understand that there has been a major change in format of the bus timetable: it is now bolder, brighter, easier to use, easier to read and easier to handle. That was a decision that the Government deliberately made to try to get the system more user friendly and responsive to the customer.

So, as part of the whole new format, we introduced these new timetables at the time of the change to TransAdelaide. It was a policy decision, and one that has been extremely well received. The list is not endless in terms of the expenses. I will bring back the overall costs, but I can assure the honourable member that most of the initiatives taken were sponsored by the private sector, which was keen to support this change—not private sector bus operators but those who already do business with TransAdelaide, whether in terms of providing fuel, advertising, catering or other matters. So, the expense was absolutely rock bottom. That was a decision by TA staff as well because, in terms of this new competitive mode that they have entered, they do not want to be extravagant on these matters.

I am not sure what more I can say with respect to the tangible benefits. The change of name to TransAdelaide was critical in terms of the morale problems that the Government had inherited in TransAdelaide. In the past I have indicated and will indicate again now that the difference in outlook, response, feedback, confidence and management-employee relationships between what we inherited 15 months ago and the position today is unbelievably terrific.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: And I have said before that I have been down to bus depots, indicated the changes in management and other matters and there has been standup applause from those in the work force who are pleased to see the new management style. I commend Mr Kevin Benger and others who are working so closely with the work force at present, something which has not happened in the past. This change is not only getting rid of the past bad image and morale problems of the STA but also creating a new base for TransAdelaide to compete for the delivery of services in the future, and it had to develop a corporate image for that purpose.

SCHOOL GRANTS

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about capital grants to non-government schools.

Leave granted.

The Hon. BARBARA WIESE: On 6 April the member for Unley in another place said that the President of the Institute of Teachers had told an absolutely outrageous lie on ABC radio by claiming that the Minister had $10 million squirreled away for bolstering funding to private schools. The president of SAIT was right and was referring to the Minister's extraordinary election promise to provide a $10 million interest subsidy on capital works undertaken by non-government schools. This promise was deferred at the last budget for 12 months—in other words, squirreled away. It seems that the member for Unley made his privileged attack on the President of SAIT without mentioning or acknowledging the Minister's promise and deferral of the funds for one year.

I say that the Minister's election promise was extraordinary because, in the past, the State has not funded capital programs for non-government schools: that has been a responsibility of the Federal Government. The minutes of a meeting of the Advisory Committee on Non-Government Schools, held on 19 December, record that the Minister confirmed that the $10 million had been deferred for 12 months but that the Minister had requested advice from his Chief Executive Officer and the Independent Schools Board regarding planning for new schools so that he could argue in Cabinet for funds. In a twist, we now learn that the Minister's deferral of funds actually means there are no funds. The Minister has admitted that he will have to argue in Cabinet to obtain special funding to keep his promise this year. So, my questions to the Minister are:

1. Will the Minister honour his election promise to provide $10 million capital funding to non-government schools?

2. Will this be funded by Treasury or by cuts to funding to public schools?

The Hon. R.I. LUCAS: I thank the honourable member for her question. She was almost able to keep a straight face as she asked that question, obviously on behalf of the Institute of Teachers. The information in relation to the advisory committee could have come from only one source, but let me address that in a moment.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: Yes, but we know where it came from, don't we. The simple fact is that the Government took the decision last year, in times of great financial stress, to make cutbacks in Government school funding but also not to continue with some promises it had made to non-government schools in its education policy document. One of the commitments it made was to provide a $10 million fund which would be provided interest free to non-government schools building new schools in developing areas. The $10 million would have to be repaid, so the annual cost, if it was to be used, would be perhaps $700 000 to $800 000 a year if the commitment was maintained.

As a result of the Government's financial position, it made the decision that it needed to make cutbacks both in Government and non-government school spending. Whilst we promised that to the non-government schools, we still believe it to be, in broad principle—that is, the issue of assisting non-

government schools to build new schools in developing areas—a sensible policy commitment. At this stage it is a policy that the taxpayers and the Government of South Australia cannot afford.

No money was squirreled away, so the member for Unley (Mr Brindal) was 100 per cent correct. Indeed, the confusion in the question from the Hon. Ms Wiese, as drafted by the Institute of Teachers or its assistants, is quite evident, because the next part of her question said that the Minister had told the advisory committee that he would have to go to Cabinet to argue for funding. If I already have $10 million squirreled away somewhere I certainly would not have to go to Cabinet to argue for $10 million in funding. The facts are that I do not have $10 million squirreled away, as alleged by Clare McCarty and the Institute of Teachers, for this particular funding commitment.

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: No, again the statement was that we were not in a position to afford that particular commitment; not that we had $10 million here and we were going to put it into a little log somewhere and hide it away for 12 months, and mysteriously 12 months away we will pop it out and have another look at it. What we said was that if we had made a decision for this 12 months and could not afford it we would have to look at it again in the next 12 months and whenever, until we got to a stage where the Government believed it might be in a position to afford that commitment or a variation of that commitment.

So, the honourable member's question is confused internally when she argues, first, that the $10 million has been squirreled away then, secondly, and quite rightly, says that this issue would have to be taken up with Cabinet at some future stage as to whether or not money could be provided to assist in the development of new schools in the non-government sector in developing areas.

The Hon. Barbara Wiese: Are you going to keep your promise or not?

The Hon. R.I. LUCAS: With all other commitments, we will have to make that judgment at budget time. If the honourable member would like to put herself down as someone supporting the policy and wanting us to keep it, I will record that as a submission she is making to me and will bear that in mind, that the Hon. Barbara Wiese would like us to follow that commitment through and we will consider that with other submissions we have had from non-government schools saying that they would like to see that commitment kept.

There are a number of lies being spread at the moment through Government schools in relation to non-government school funding. There is one particular person in the southern suburbs who has written to every Government school in South Australia—or faxed them—alleging that the Government—

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, that's interesting—has increased funding to non-government schools this year by $52 million at a time of cutting Government school funding by $40 million. Given that the total amount of non-government school funding going from State Government to non-government schools in South Australia is $53.5 million to $54 million, the notion that there has been a $52 million increase is fanciful. Somebody rang this woman, who was obviously assisted to fax all Government schools in South Australia with this claim that non-government school funding had been increased by $52 million, and gently asked, 'Well, where did you get this information from?' Surprise, surprise: where did this information come from about $52 million? The defence was, 'Well, two things. First, we spoke to the Institute of Teachers and, secondly, we had it checked by the legal section of the Labor Party.'

The Hon. T.G. Cameron: We don't even have one.

The Hon. R.I. LUCAS: Hold on, before you say that, just check the legal trained people working for the members of Parliament here in Parliament House. Just be very cautious. Because, Mr President, there is a person here in Parliament House with legal training working for the Labor Party, as the Hon. Mr Cameron well knows.

The Hon. L.H. Davis: It is a one person legal section.

The Hon. R.I. LUCAS: Yes, it is a one person legal section.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: What we had was a deliberate lie being pedalled to every Government school in South Australia about a $52 million increase for non-government schools, which, when inquiries were made of this person, the response was, 'We got this information from the Institute of Teachers and we have had it checked by the legal section of the Labor Party.' We know where that is. I can locate the office, as can the Hon. Mr Cameron—he knows where the office is.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: There are a good number of lies being spread at the moment by people about non-government schools in South Australia, and the sad fact is that in South Australia one of the great strengths of our education system over recent years has been the cooperation between Government schools and non-government schools. That is a credit to past Ministers for Education and past Governments that fostered that with cooperative school developments at Aberfoyle Park and Golden Grove and with cooperative arrangements on Commonwealth committees in relation to Government and non-government schools. But now we have people, both in this Parliament and in the Institute of Teachers, trying to drive a wedge between Government schools and non-government schools in South Australia and trying to drive a wedge between parents, students and teachers in Government and non-government schools in South Australia. That is an absolute tragedy for Government and non-government school education in South Australia.

Certainly, a number of people are taking great offence at the attempts by both the Labor Party through their spokespersons, the Hon. Chris Sumner before her and the Hon. Carolyn Pickles, and through SAIT spokespersons like Clare McCarty at continually trying to drive a wedge—

The Hon. Barbara Wiese interjecting:

The Hon. R.I. LUCAS: I have answered that—between Government and non-government schools in South Australia. In conclusion, again I can only repeat that, in relation to the commitment of the $10 million, those decisions will be taken from budget to budget and the decision in relation to the coming 12 months will be released for all to see and hear when the budget is released in June.

MOUNT BARKER ROAD

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Mount Barker Road.

Leave granted.

The Hon. CAROLINE SCHAEFER: The Mount Barker Road has been identified for many years now as one of the most dangerous roads in South Australia and highly accident prone. Again this week we have seen another semitrailer roll over and distribute chickens all over the road and hold up much of the down track traffic flow for many hours, I believe. And yet, in spite of this, I am informed that this road does not have a high priority for improvement. My question to the Minister is: is that so and, if so, why?

The Hon. DIANA LAIDLAW: I am not sure where the honourable member has got her advice—perhaps it is from SAIT and the legal section of the Labor Party—but certainly the Mount Barker Road does have the highest priority in terms of State Government application for new funds to the Federal Government under the national highways system. In the past week I have sent Mr Brereton, as Minister for Transport—and this has been reinforced by correspondence between the departments—our budget priority list for 1995-96. The Mount Barker Road is the top priority for new works. But what was important in this submission is that we were able to provide the Federal Government with a revised cost benefit analysis. This cost benefit analysis was undertaken by the Department of Transport and a separate independent analysis was undertaken by Maunsell which had last undertaken such a cost benefit analysis in the late 1980s.

Maunsell, back in the late 1980s, indicated that there was a 1.24 cost benefit for any investment that the Federal Government would make in this road. That is pretty low, when one is competing for a reason to invest in this road, compared with the cases that the Eastern States were putting to the Federal Government, which is one reason why we have not had funding to date. The Department of Transport has done another assessment of this which indicates that the project would provide a 2.4 cost benefit. So that for every $1 spent by the Federal Government you could guarantee that there would be $2.4. The major reason for the change is that the earlier Maunsell study did not take into account the time lost by motorists generally for all the accidents that happen on this road—and that is the major source of frustration for so many people—and when you took that equation into account the cost benefit leapt from 1.3 to 2.4. At 2.4 that road stands up handsomely against all the applications and lobbying by the Eastern States for Federal investment of funds into national highways in those States.

We have now provided Mr Brereton—if he receives the money he desires for national highways in the forthcoming Federal budget—with the ammunition to argue for allocation of part of those funds for the Mount Barker Road. The first allocation of funds would be for detailed design and construct work. It is looking more heartening than it has for many years in terms of the Federal Government giving the go ahead for at least the start of the design and construct work on this road.

ENVIRONMENTAL REHABILITATION

In reply to **Hon T.G. ROBERTS** (7 March).

The Hon DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following response.

The Government's policy on rehabilitation of new dumps and disposal sites is that the licensee is responsible for rehabilitation which includes the requirements to undertake full planning approvals and compliance with the Development Act (1993) and any licence conditions under the Environment Protection Act (1993). A management program for the site is required which includes its future rehabilitation to what is an acceptable environmental and public health standard. Under the Environment Protection Act (1993) there are provisions for a licence holder to lodge with the Authority a financial assurance in the form of a bond to address rehabilitation requirements under the licence.

Locations which are old disposal sites or abandoned sites which have ceased operation before they were required to be licensed are difficult as the ownership of the land has changed and there was no responsibility for rehabilitation imposed at the time of the activities. There are potentially many sites which are not identified and which are usually only found following investigations for proposed development of the area. Currently the Office of the Environment Protection Authority is considering options and strategies to deal with these sites and their rehabilitation. Rehabilitation of these sites is on a case by case basis.

In the specific case of the management of the Brukunga Mine Site the Engineering and Water Supply Department has ownership of the site but there is a management committee, the Brukunga Steering Committee, which comprises representatives from the Department of Mines and Energy, Engineering and Water Supply Department and the Department of Environment and Natural Resources.

This Committee has the responsibility of rehabilitating the mine site and reducing the environmental impact of the runoff on the receiving waters of Dawesley Creek. The Committee has developed a catchment collection network in the mine site to collect acid drainage water so that it does not enter the creek. This water is then treated with lime to neutralise the water before being disposed via a wetland into the Dawesley Creek. This process does not collect all the acid drainage and as a consequence there is still a major impact on the ecology of the creek.

The Committee has also commenced rehabilitation of the old tailings dam area using digested sewage sludge from Heathfield and Bolivar sewage treatment works. The sludge is mixed with soil to produce a suitable medium for tree planting and for sealing the tailings dam. Over 20 000 native trees have been established on the tailings dam site and a waste land has been transformed into a forested area.

About eight years ago the Committee granted approval for Hills Liquid Waste Management to discharge cold digested septic tank sludge from local hills townships onto the site as part of the rehabilitation process. Disposal of the sludge has occurred on the southern slopes of the open cut mine and the tailings dam. The native trees have grown more rapidly in the areas where the septic tank sludge has been used than in areas where no sludge has been added. The sludge which has been disposed onto the slopes of the open cut mine has resulted in native grasses colonising the pyrite slopes of the mine.

The Brukunga Steering Committee has engaged a consultant to identify potential strategies on methods of rehabilitation and long term management of the area and are currently awaiting the consultants report on the strategy alternatives. The consultants are acid mine drainage specialists, highly regarded internationally. Until their report is received by the Committee the timing for rehabilitation is unknown. International experience with acid mine drainage suggests that rehabilitation will be a long process (decades) and expensive.

The Brukunga Mine site will be licensed under the Environment Protection Act and the Office of the Environment Protection Authority will be working with the Brukunga Steering Committee to develop an environmental improvement program to reduce the impact on the stream and down-stream users of the stream and to improve the environment of the site.

FILM AND VIDEO CENTRE

In reply to **Hon. ANNE LEVY** (8 February).

The Hon. DIANA LAIDLAW: The decision not to refund the 1994 membership fees was taken as an integral part of the policy and management package which marked the transition to the new film and video service which now guarantees all South Australians free access to material through the PLAIN local public libraries network.

Considering the complex legal and stocktaking issues associated with the transition to the new storage and borrowing arrangements, members of the former SA Film and Video Centre experienced little disadvantage during this period. As the honourable member will recall, all bookings were honoured and all videos continued to be available, thus meeting the Government's public interest objective to keep the system as open as possible.

None of the documentation from the former Film and Video Centre relating to membership and renewal of membership refers to

the refund of fees or the liability to do so. In fact on the rare occasion that a member made no borrowings in a year, even then no refund was made.

It appears that the fees received for the calendar year of 1994 was $57 000. This amount was actually collected in the financial year 1993-94. The Film Corporation advises only one or two renewals were received after 30 June 1994 and these were returned. My announcement in June 1994 that the centre was to close stopped any further renewal of membership.

In reply to **Hon. ANNE LEVY** (22 March).

The Hon. DIANA LAIDLAW:

1. The $10 000 sponsorship for the former SA Film and Video Centre was provided to run the Eleventh Adelaide International Film Festival (held 30 June-15 July 1994) and fell within the current 1994-95 financial year according to FSA records.

2. It was awarded to the Film and Video Centre; the $10 000 grant was actually approved in March 1994.

BLOOD TESTING KITS

In reply to **Hon. R.R. ROBERTS** (22 February).

The Hon. DIANA LAIDLAW: I have been advised that one request for an appeal has been received in my office.

There is provision for an appeal to the Supreme Court pursuant to section 42 of the Magistrates Court Act, 1991 for persons who have already been prosecuted and convicted in the Magistrates Court. Crown Law advice is that, it is unlikely that leave to appeal would be granted.

WETLANDS

In reply to **Hon. M.S. FELEPPA** (22 March).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

The Ramsar Convention lists wetlands that are considered to be internationally important, especially as waterfowl habitat. The broad aims are to halt the worldwide loss of wetlands, and to conserve, through wise use and management, those that remain. This convention was signed on 3 February 1971 in the small Iranian town of Ramsar by 18 nations. Now there are over 80 countries as contracting parties to the Convention.

Next year, Australia will be hosting in Brisbane the Sixth Conference of Contracting Parties during the 25th anniversary of the Ramsar Convention.

South Australia has just under 50 per cent of the total Australian wetland area declared as Ramsar sites. This area is contained in four sites: Coongie Lakes; Coorong and Lakes Alexandrina and Albert; Riverland; and Bool and Hacks Lagoons.

The Government is progressively developing management plans which address the Ramsar requirements of wise use of wetlands, monitoring ecological characteristics, etc. Currently, the Bool and Hacks Lagoons site has a plan that is being implemented; the Riverland site is being addressed as part of the planning for Bookmark Biosphere Reserve; the Coorong and Lakes Alexandrina and Albert have a Management Plan for the Coorong National Park; and planning for the Coongie Lakes site is in the process of being commenced. The Commonwealth has supplied $100 000 over two years to assist with this process.

The Government takes the management of these and other wetland sites seriously.

The general approach for responding to a threat to a declared Ramsar site would be to consult with the Commonwealth Government as the contracting party to the agreement, to work out a way of managing the threat and then, as a partnership, implement the management action.

At this stage there has been no threat to a declared Ramsar site.

ARTS GRANTS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about arts grants.

Leave granted.

The Hon. ANNE LEVY: Yesterday, in reply to a question on notice, the response from the Minister indicated that in the last round of arts grants there were an equal number of applications from men and women for these grants and a virtually equal number of men and women were successful in obtaining arts grants. However, the data also indicated that the average grant awarded to men was $3 616 whereas the average grant awarded to women was $2 628. This is a huge difference—almost $1 000—which, in such a total, is considerable. There could be a number of reasons for this.

It could be that the women are more modest in their applications and in consequence apply for smaller grants than do the men. It could be that in awarding these grants, while the total amount requested is not provided, the reductions made by those awarding the grants are greater for the women than for the men. I guess there are other possible explanations. Will the Minister ensure that a thorough analysis is made of this differential to determine whether it results from a difference in application or a difference in the awarding? The Minister may have to get statistical help from outside her department to enable that to be done.

The Hon. M.J. Elliott: Are you saying she has got no-one to add up?

The Hon. ANNE LEVY: She does not have anyone who knows what a variance is. Can she examine this difference in average grant between the sexes and see whether anything can be done to remedy this in future rounds? If it is the case that the male applicants are a bit more bumptious and the female applicants are more modest in their requests, can an evaluation be done on whether the women applicants are actually achieving more with less money are the men?

The Hon. DIANA LAIDLAW: Yes.

MBf

In reply to **Hon. R.R. ROBERTS** (23 March).

The Hon. R.I. LUCAS: The Premier has provided the following response.

1. The Premier has not promised a casino as part of the Wirrina project.

2. No.

SOUTHERN CROSS HOMES

In reply to **Hon. T.G. CAMERON** (22 March).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

1. The acquisition by SAAMC of the Southern Cross Homes holding in the Casino was seen as the best way for SAAMC to obtain value for its loan and for Southern Cross Homes to reduce its debt to manageable levels.

The corporate and financing structures of the ASER Group are quite complicated. It will be necessary for the current owners to review the structure and attempt to simplify it prior to sale. This should result in maximising the sale price by making it more attractive to purchases for the benefit of both SASFIT and SAAMC.

2. Interest holding costs will be incurred by SAAMC whilst it owns this asset, at the SAAMC average costs for funds. However, the overall holding costs to SAAMC will not change because SAAMC funded the loan to Southern Cross that enabled Southern Cross to purchase the investment in the first place.

3. SAAMC did not incur more debt on this transaction which is simply the exchange of one asset (a loan to Southern Cross Homes) for another (an equity interest in the Casino). The transaction was effectively therefore a debt-for-equity swap, there being no requirement for further funding from the Government or the people of South Australia.

4. As noted above, the purchase by SAAMC of Southern Cross Homes interest in the ASER Complex was considered to be the most expeditious manner in which to recover its loan. The purchase price offered by SAAMC is within a range of values which could be placed on the Southern Cross Homes interest depending on future revenues from the Casino.

STATE PAYMENTS

In reply to **Hon. R.D. LAWSON** (22 March).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

While the footnote to the table published in the *Government Gazette* (2 March 1995) was not intended to be all-inclusive but rather to indicate examples of the types of payments made under Special Acts, I agree that it could be misinterpreted.

In future any footnotes will be worded in a way which indicates more clearly the types of payments included under Special Acts. The comparative statement of the payments on the Consolidated Account for the quarter ended 31 March 1995 will include an expanded footnote. This will make it clear that payments under Special Acts during the year include the salaries and allowances of members of Parliament, the judiciary and statutory officers, payments made to capitalise Bank SA, together with superannuation and pension payments made in respect of members of Parliament, the judiciary and public sector employees.

RADIOACTIVE MATERIAL

In reply to **Hon. T.G. ROBERTS** (21 March).

The Hon. R.I. LUCAS: The Premier has provided the following response.

1. No.

2. There are on-going discussion between South Australia and Federal Government Agencies in relation to this matter.

3. I have sought clarification and assurances from the Commonwealth in relation to its often repeated claim that the Woomera Rangehead is being used only as a 'temporary' storage site.

BANK OF SOUTH AUSTRALIA

In reply to **Hon. T.G. CAMERON** (16 March).

The Hon. R.I. LUCAS: The Treasurer has provided the following response.

1. The Government, through the BankSA Sale Steering Committee and its advisors CS First Boston, has provided information in connection with BankSA to a number of interested parties, including some overseas Banks.

The release of information about potential buyers at this stage would commercially penalise the State.

The Government's approach to the sale is a careful and planned one and seeks to maximise the value of the sale of the asset for the benefit of this State. We have stated that full details will be provided to Parliament when there is something significant to announce without jeopardising the sale process.

2. On 16 March 1995, the Treasurer made a statement in the House concerning the Commonwealth Government's change of policy on the use of brand names by banks in Australia. The Government has been exploring this issue with the Commonwealth and is pleased with the sensible outcome. As a result of the change in policy, any new owner of BankSA would be able to continue to use the BankSA name when continuing operations of BankSA in South Australia.

The release of information on any aspect of the sale process, including on any conditions which may or may not be under discussion in that process, at this stage would commercially penalise the State.

MBf

In reply to **Hon. ANNE LEVY** (15 March).

The Hon. R.I. LUCAS: The Premier has provided the following response.

1. The Government sought facts relating to unsubstantiated allegations made in the Malaysian media against MBf.

2. No.

3. No.

POLITICAL DONATIONS

In reply to **Hon. T. CROTHERS** (15 March).

The Hon. R.I. LUCAS: The Premier has provided the following response.

The Liberal Party of Australia, South Australian Division, has provided much more information about this donation than is required by the Commonwealth Electoral Act. It is clear from the information provided publicly that there was no attempt by the donor to seek a benefit from the South Australian Government as a result of this donation.

KICKSTART

In reply to **Hon. R.R. ROBERTS** (15 March).

The Hon. R.I. LUCAS: The Minister for Employment, Training and Further Education has provided the following response.

Decisions can be made by regional KickStart committees to fund a limited number of community/business development activities where no immediate employment outcomes are apparent provided the overall target of 70 per cent employment outcome is reached.

The KickStart committee, on 4 November 1993, endorsed the approval of projects by any group of three committee members—one of whom must be the Chair of the committee. This condition was complied with the Chair, and two other committee members (one of whom was the Regional Economic Development Board Executive Officer and the other the local union representative) approved the project between meetings. This approval was subsequently ratified by the full committee at its meeting on Thursday, 8 December 1994.

Four positions (not the five as outlined by the Hon R. R. Roberts) were identified for funding in the application form and approved for a total of $1 500. On 19 November 1994, on the basis of this approval, two previously unemployed women were engaged by the Swimming Centre as the Manager and Assistant Manager. The attendance of a fifth person on the course was not part of the KickStart funding conditions of the grant and was funded independently.

The fact that the former CEO of the council was also the secretary of the Pool Management Committee is simply a reflection of the different roles many people in regional communities perform. There is certainly no evidence of nepotism or cronyism in the funding of the project which met all of the conditions of the grant by achieving the stated objective of generating two employment outcomes for two previously unemployed people.

The local regional KickStart committee has been operating for the past two years and is one of the most effective, efficient and well managed committees in the state. I can assure the honourable member that the highest standards have been maintained at all times in the administration of the program and the conditions of grant for this particular project were met.

SECOND WORLD WAR

In reply to **Hon. T. CROTHERS** (16 February).

The Hon. R.I. LUCAS: The Premier has provided the following response.

The Australia Remembers Committee in South Australia with the appointment of Mr Dick Fidock as Chairman was established by the Commonwealth Government with the support of the South Australian Government.

Numerous community groups and committees have been set up in South Australia to arrange functions and events to commemorate the 50th anniversary of the ending of the Second World War in the Pacific.

A copy of the Calendar of Events as at 20 February 1995 is enclosed.

The honourable member will note from the Calendar that one of the many events being arranged on the 15 August is a VP March along King William Street and a Remembrance Church Service which will, in addition to all other functions being organised during the year, pay tribute to South Australian veterans.

The Government of South Australia supports the Australia Remembers Committee in all its endeavours in arranging the various events.

TOWNSEND HOUSE

In reply to **Hon. CAROLYN PICKLES** (22 November).

The Hon. R.I. LUCAS: Preschool children with hearing impairment currently receive a range of specialist services. The teaching of signing is one approach used in the education of children with hearing impairment.

Approaches to teaching children with hearing impairment vary, depending on the needs of the child, family preference and medical and developmental factors. The different approaches are outlined below.

Signing

Some children with hearing impairment are taught signing. Signing is a system of hand postures and movements used to

communicate. There are different approaches in signing. These include Makaton, Auslan, Signed English.

Auditory/Oral approach

The auditory/oral approach focuses on working with children to maximise their use of available hearing and to develop language skills. Signing is not taught to children within this approach.

Total communication

An approach to the development of communication skills which considers not only spoken language but also the gestures, expressions and movements accompanying speech.

In addition, many preschool staff incorporate the teaching of signing in their programs. This inclusive practice broadens children's understanding and use of communication. It is often an element of programming despite the fact that there may not be any children attending who predominantly use this form of communication.

The Department for Education and Children's Services (DECS) is committed to the continued provision of quality preschool services with specialist support from teachers of the deaf for children with hearing impairment. DECS will continue to support the option where children with disabilities can be included in their local community preschools. This entails the need for a flexible responsive approach to the placement of specialist teachers of the deaf, so that the needs of individual children can be met in their local setting.

DECS currently has a number of specialist programs which provide support to children with hearing impairment in their local preschools. Services to preschool children with hearing impairment are currently provided by:

SERU (Parent Guidance Service)—Some children with hearing impairment attend their local preschool and receive support from teachers of the deaf attached to the Special Education Resource Unit (SERU). This service focuses on planning and implementing programs catering for children's individual needs in the context of the family and life experiences. The nature of the support may include hands-on support to the child; parent education; support to preschool staff to acquire signing skills; information about hearing impairment and hearing aids and the provision of resources relevant to support the child's development. Children who require education in signing and the auditory/oral approach receive support from SERU.

Children in Rural services

Preschool children with hearing impairment in country areas receive a visiting teacher service from teachers of the deaf attached to DECS District Education Offices. Support can be provided in the home for young children, and in the community preschool for children in their eligible preschool year. The level of visiting teacher support is determined by the needs of the individual child, as is the educational approach used by these teachers.

Preschool Support Program

A number of children are also receiving support through the Children's Services Office preschool support program. This additional staffing supports children to successfully access and participate in their local preschool program.

Cora Barclay Centre—is an independent organisation providing services to children with hearing impairment from birth to age eighteen. Funding for this service is provided through the Ministerial Advisory Committee: Students with disabilities.

A number of children begin early intervention programs at the Cora Barclay Centre. When these children are eligible for preschool programs, families may choose to enrol their child in their local preschool. Consultative support is offered by staff from Cora Barclay to local preschool staff. Information about hearing impairment, acoustics and the environment and the needs of that particular child facilitate a smooth transition. Currently Cora Barclay staff support two children in their local preschool for one and a half hours a week. The Cora Barclay Centre specialises in the auditory/oral approach to education.

We are committed to the continued provision of the services currently being offered.

EDUCATION QUALITY ASSURANCE

In reply to **Hon. CAROLYN PICKLES** (22 February).

The Hon. R.I. LUCAS:

1. A draft of the Quality Assurance Framework for Department for Education and Children's Services (DECS) was completed by November 1994, following significant literature research of the best practices in quality management, school effectiveness and evaluation. There was significant consultation with staff within DECS and contact with interstate and overseas developments. The formal consultation process included all DECS Divisions, all parent associations, all principal associations and representatives from the three Universities. The quality assurance framework places major responsibility for accountability and continuous improvement on individual units such as schools. This is in contrast to the essentially external monitoring used by the former Education Review Unit. The new model has been well researched and the objective is a self managing model of quality assurance which is world's best practice.

Two specific versions of the framework were released to schools and preschools in week 2 of the current school year, describing the general approach to quality assurance and inviting volunteer schools and preschools to participate in first phase implementation of quality assurance processes. Schools and preschools had until March 17 to respond and 167 sites have now volunteered to participate. Significantly more than anticipated did volunteer, leading to a need to select approximately 80 sites from the volunteers. The responses from those consulted and the comments from volunteering sites indicate a good acceptance of the model. Consistent with quality principles, the process will be open to continuous improvement. Those schools and preschools successful in being selected as first phase implementers of the framework will be part of an ongoing consultation process.

At the same time the Quality Assurance Unit (QAU) is working with all Divisions of DECS to support the adoption of the framework generally, within the Divisions and within volunteer units during 1995.

I am pleased to provide copies of the two documents recently released to schools and preschools.

2. The tasks indicated in my answer to a similar question last year listed a set of key tasks planned for 1995. While the unit is on schedule for most tasks it has not yet completed all its 1995 tasks.

With respect to 1994 the unit has completed key steps in the development of the Quality Assurance Framework as answered above. A key project, a review of Internal Audit procedures and their full integration into the operations of the Quality Assurance Unit, as a response to the Commission of Audit, is proceeding. Two key tasks have been outsourced. Firstly benchmark data about other organisations with effective internal audit procedures is being obtained. A second outsourced task, reviewing the model for auditing of schools has been placed and the report should be available in April, later than originally planned. The major emphasis of the QAU is to get the general framework for quality assurance operational.

As well as the implementation arrangements in schools and preschools the Quality Assurance Unit is currently engaged in the following activities

- implementation of the Quality Assurance framework within Divisions
- specific and detailed implementation within the Programs Division
- development of the design for the evaluation of the Cornerstones project.
- development of the design for the evaluation of Improving Physical Education & Sports In SA Schools.
- a review of a performance management training program in a cluster of schools
- joint planning with the Strategic Planning Unit, for quality assurance arrangements within the DECS Executive,
- a series of negotiated reviews in a small number of schools.

3. The mobile phone review was initiated by the previous Chief Executive of DECS as an initial task for the internal audit role of the Quality Assurance Unit.

The objectives of the review are:

1. To establish whether the current allocation and usage of mobile phones are providing good value for money.
2. To establish whether adequate controls exist on mobile phone usage.
3. To provide a vision and strategy for mobile and other telephone communication.
4. To provide a draft code of practice for mobile phone and other phone users.

The review is monitoring the trends in mobile phone use and has not yet been completed, given the urgency to complete other tasks on the QAU work schedule. A current anticipated completion date is April.

There are 183 mobile phones within DECS.

4. DECS does not publish a list of mobile phone numbers, nor does it intend to do so. The reason for this relates to the rationale for mobile telephones which are provided, in the first instance, to ensure that key mobile staff can be contacted or advised of messages from

their base office. The contacting of officers direct is, in most cases, discouraged. It is preferred that base staff advise officers of calls to be returned. The publication of contact numbers could lead to excessive use of mobile phones. Some officers, in some cases, have released their numbers to other key DECS staff. While the review will advise on the full cost implications of new approaches to communication it is clear that otherwise unproductive time when officers are in transit, can now be turned to productive advantage.

In reply to **Hon. CAROLYN PICKLES** (14 March).

The Hon. R.I. LUCAS:

1. I have previously answered this in response to your question asked in the Legislative Council on 22 February 1995.

2. The document 'Quality Assurance in Schools Information Pack' previously tabled provides a brief overview of the statement of purpose in terms of its content and function. The information pack also makes reference to the important part that current school documentation will play in the preparation of the statement of purpose. The booklet is designed as an outline of the Quality Assurance framework, for ongoing consultation.

Eventually, a statement of purpose will be developed by each school, CSO unit and division of DECS. It will highlight important contextual information, in terms of the specific nature and description of the school or unit and its community, detail the core business of the unit and identify specific improvement priorities that will be addressed.

The statement of purpose, whilst having an improvement focus will also address accountability demands through the requirement that it be a public document. Schools, divisions and units will be required to demonstrate the outcomes of their improvement priorities and the service described in their core business.

The phased implementation of the framework will allow for consultation to continue. Specific information from schools and CSO sites will be collected and used to prepare detailed information for schools and CSO sites to support the implementation of the quality assurance framework in 1996. This will include specific detail about how to prepare a statement of purpose.

The information already collected indicates a high degree of acceptance of the concept of a 'statement of purpose', and all trial work being done in divisions and other non-school units. This is evident by the large number of sites, that have volunteered to trial the quality assurance framework, including the preparation and publication of a statement of purpose.

3. As previously stated the statement of purpose will provide relevant contextual information, detail the core business of the site and identify specific improvement priorities.

The information contained within the statement of purpose document as with all publications from DECS divisions and units will be expected to comply with government policy and departmental regulations and guidelines.

However the statement of purpose is not intended as the document where a school or unit will detail every aspect of its operation and demonstrate its compliance with legislation, regulatory and policy requirements. Rather it is designed as the vehicle by which schools will identify their improvement priorities and the broad nature of the service they will provide and be held publicly accountable for providing.

The quality assurance framework will involve the collection and reporting of data concerning the performance of school and sites. Much of this data will be collected by the sites themselves through internal monitoring and review processes. The authenticity of this data will be the responsibility of schools and units and will be validated by the Quality Assurance Unit on a random basis.

However the quality assurance framework also includes the provision for compliance audits to be undertaken by census or sample and the results of which will be reported to the Chief Executive Officer.

4. The requirement for schools and units to have a 'statement of purpose' has only come about through the recent publication of the quality assurance framework.

Consequently a specific 'statement of purpose' has not yet been developed for DECS. In fact no division or unit, within DECS has a 'statement of purpose' as specifically defined in the quality assurance framework. However information relating to the key elements that might be found in a statement of purpose exists and has been published to the education community.

In particular a statement of the mission of DECS and its 1995 priorities has been published. I table this document, titled DECS Priorities 1995 for your information. It clearly articulates the commitment of DECS to quality teaching, learning and care provision and to continuously improving its service and performance.

PRISONS, DRUGS

In reply to **Hon. T.G. ROBERTS** (23 February).

The Hon. K.T. GRIFFIN: The Minister for Correctional Services has provided the following response:

1. The Department for Correctional Services has reviewed all of the recommendations and a strategy has been developed for their implementation. The Department has implemented the recommendations within its existing budget.

2. Assessment social workers will be redirected into the Induction and Assessment Unit by the end of April to assist in the assessment process. Extra training has been provided to these social workers in the specific area of assessment of dysfunctional drug use. Where appropriate, prisoners will be referred to the Prison Drug Unit for ongoing counselling.

A therapeutic community has been established at the Cadell Training Centre which accommodates known drug users and assists them to overcome their addiction before returning to society. The new Mount Gambier Prison will be established as a 'drug free' prison when it is commissioned.

EDMUND WRIGHT HOUSE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Tourism, a question about Edmund Wright House.

Leave granted.

The Hon. L.H. DAVIS: I declare my interest in Edmund Wright House. My wife and I were married there and I also celebrated my fiftieth birthday there. So, I have a special affection for what is undoubtedly one of the most elegant buildings in Adelaide. It has been described as an adornment to Adelaide and a little palace. Along with the Hon. Anne Levy, I attended a function to celebrate Len Amadio's contribution to the arts.

The Hon. Diana Laidlaw: I actually hosted it.

The Hon. L.H. DAVIS: I was going to come to that. As the Minister for the Arts interjected, she was the host of this very successful function at this special venue, which brought the doyen of the arts communities together to farewell Len Amadio. Many people at this function commented on the future of Edmund Wright House, remembering that it has been used for major events down through the years and in fact it is still used by several musical groups. Does the Attorney-General, representing the Minister for Tourism, have any knowledge of the Government's intentions with respect to this most important building?

The Hon. K.T. GRIFFIN: I made some comments on this issue the other day when questions were asked about the Office of Consumer and Business Affairs relocating to Chesser House and the Registrar of Births, Deaths and Marriages moving out of Edmund Wright House. I indicated on that occasion that so far as the Office of Consumer and Business Affairs is concerned efficiencies will be achieved and certainly it will be located in more congenial surroundings in terms of office accommodation for officers of the Registry of Births, Deaths and Marriages by moving to Chesser House.

However, the fact of the matter is that the Minister for Industrial Affairs, the Hon. Graham Ingerson, now has responsibility for the management of Edmund Wright House through the Department of Building Management. As I understand it—

The Hon. T.G. Roberts: It would be a good billiard hall.

The Hon. K.T. GRIFFIN: I do not think the Liberal Government would seek to demean Edmund Wright House by opening it up to a billiard hall. The Government is very conscious of the history of Edmund Wright House, the attractions it makes available to citizens and the important landmark it is for South Australia. There is certainly no intention on the part of the Government to do anything but to ensure its preservation. The Minister, through the Department of Building Management, as I said, has now taken over the management of Edmund Wright House and will be undertaking a series of discussions, including discussions with the Minister for the Arts and Cultural Heritage and other Ministers and agencies as well as the private sector and the existing users of the building to determine the best way that the building can be used in the future for the benefit of all South Australians.

Members interjecting:

The PRESIDENT: Order! I am having enough difficulty hearing members on my right without having members on my left continually yapping away like Pomeranian pups.

ROAD TRAFFIC (SMALL-WHEELED VEHICLES) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1991. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

The purpose of the Bill is to clarify the law in relation to the use of in-line skates, roller-skates, skateboards and other small-wheeled vehicles under the Road Traffic Act. Road Traffic Act Regulation 10.07(2)(a) bans the use of in-line skates, roller-skates and skateboards on the carriageway of public roads. It is also considered that section 61 of the Road Traffic Act which prohibits the driving of vehicles on footpaths, applies to in-line skates, roller-skates and skateboards.

Accordingly, since in-line skates were introduced in South Australia from 1991 there has been a lot of speculation in the press and elsewhere that on-the-spot traffic infringement notices would be issued by the police to in-line skaters that used the road or footpath. Meanwhile, skaters have either ignored the legal situation by knowingly using the skates or skateboards on a road or limited their use of these implements to private property.

In late 1992, the former Minister of Transport, Hon. Frank Blevins, responded to the public concerns about the rights and obligations of users of various types of small-wheeled implements by establishing a working party to examine the use of in-line skates and the like on public roads, including footpaths. The working party comprised representatives from the following Government departments and organisations: Department of Road Transport, South Australian Police Department, Local Government Association, the Road Accident Research Unit, the State Bicycle Committee and the Department of Recreation and Sport.

The working party recommended that the Road Traffic Act be amended to allow in-line skates and other forms of small-wheeled vehicles to use—

(a) footpaths with council approval;

(b) urban roads with no marked centre line or median strip; and

(c) shared use bicycle paths with bicycles and pedestrians.

Subsequently, the Government was alerted to the fact that in both New South Wales and Victoria measures were enacted over three years ago to provide for the use of ‘toy vehicles’ on footpaths (except where a council deemed otherwise); on minor roads; and on shared use bicycle paths.

Further discussions with local councils, the police and road authorities in both States have determined beyond doubt that the respective legislation had been a positive initiative because it finally provided the police with the necessary power to take action where appropriate, and in particular in respect to unruly behaviour by users of in-line skates. These discussions also confirmed that there had been considerable agitation among older people about the prospect of in-line skaters using footpaths, but that these fears had not been realised following the legal recognition of ‘toy vehicles’.

Earlier this year I reconvened the working party and extended the membership to include a representative of the Australian Retired Persons Association, the Office of the Commissioner for the Ageing, the Youth Affairs Council and the roller-blade fraternity. The expanded working party has endorsed in principle the use of in-line skates and other small-wheeled vehicles on footpaths (except where a council deemed otherwise), on minor roads and on shared use bicycle paths, as has been the practice in both New South Wales and Victoria over the past three years. This endorsement recognises that the use of in-line skates, roller-skates and skateboards is a steadily growing trend which necessitates clarification of the rights and responsibilities of their users.

The Bill that I introduce today to amend the Road Traffic Act addresses current deficiencies in our law by introducing a separate class of vehicle, to be known as small wheeled vehicles, with specific operational requirements. Small wheeled vehicles will be allowed on bikeways, footpaths, and other areas of road, but will not be allowed on the carriageway of a road where there is a centre line, median strip or other marked line. They will not be allowed to use bicycle lanes on roads. They will also not be permitted on any road, or a footpath, or other part of a road from which they are excluded by regulation or by appropriate signs.

As small wheeled vehicles are not equipped with lighting and would be difficult to see, they will not be allowed to be used between sunset and sunrise or during periods of low visibility—a decision which I know will displease representatives of small wheeled vehicles. In addition, in recognition of the risks associated with the use of these vehicles, particularly in regard to the potential for falling, users of all small wheeled vehicles will be required to wear a helmet of a type approved for use by bicycle riders. In recognition of the need to ensure that users of small wheeled vehicles act responsibly whether on the carriageway of a road, bikeway or footpath, clause 7(b) provides:

> the rider must exercise due care and attention and show reasonable consideration for other persons using the road.

In order to reinforce this due care responsibility it is proposed that a code of conduct be prepared based on the codes used in the United States of America and as adopted in Victoria.

A draft code of conduct endorsed by the working party has been prepared for community consultation and outlines that users should:

1. Always wear protective clothing, including wrist protectors.

- always skate under control and within your ability
- keep left when skating and overtake on the right hand side and always advise those that you are overtaking—"Passing"
- give way to pedestrians at all times
- skate in single file
- avoid areas of high traffic
- stay alert and be courteous at all times
- observe all regulations and obey all directions of local law or police officers
- skate at speeds which are appropriate to the environment that you are in
- learn how to skate in a quiet area before using high activity areas

The draft code will be distributed to schools and user groups and retailers and will form part of an extensive public awareness/education campaign.

Finally, I acknowledge that the Local Government Association and a number of Councils have expressed concern in relation to their liability arising from accidents involving the use of small wheeled vehicles on footpaths. Accordingly they have sought to include a provision limiting the liability of Councils. The Government has not embraced this proposal because at common law local authorities are not liable if injury results due to a Council's failure to repair the footpath. If the footpath, or roadway, was originally laid in a safe and proper manner then the fact that future events have made it unsafe and the Council has failed to repair it, will not lead to liability on behalf of the Council. At common law, local authorities will however, remain liable for injury resulting from misfeasance or their wrongful performance of a duty relating to footpaths, roadways and the like.

Mr President, the objective of the legislation is to provide some latitude in the use of small wheeled vehicles while, at the same time, providing protection for other users and having regard to the road safety needs overall.

The legislation is introduced today so that it is available for further comment and feedback prior to debate during the Budget session commencing on 1 June 1995. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement on a day to be fixed by proclamation.

Clause 3: Amendment of s. 5—Interpretation

This clause amends section 5 of the principal Act, an interpretation provision, by inserting a definition and amending others. "Small-wheeled vehicle" is defined to mean a skateboard, roller-skates, in-line skates, scooter or other vehicle of a kind ordinarily used by a child at play or by an adult for recreational or sporting purposes that is designed to be propelled wholly or partially by human power, but does not include a pedal cycle.

The definition of a "pedestrian" for the purposes of the principal Act is amended so as to include the rider of a small-wheeled vehicle. The definition of "vehicle" for the purposes of the principal Act is amended so as to exclude small-wheeled vehicles.

Clause 4: Amendment of s. 6—Application of Act to driving, etc., on roads

This clause amends section 6 of the principal Act, which provides that references in the principal Act to driving vehicles or riding animals or walking are to be taken as references to driving, riding or walking on a road (unless it is otherwise expressly stated). This amendment makes it clear that references in the principal Act to riding or driving a small-wheeled vehicle are to be taken as references to riding or driving such a vehicle on a road, unless the contrary is expressly stated.

Clause 5: Amendment of s. 33—Road closing and exemptions for road events

This clause amends section 33(7) of the principal Act, which empowers the police to give traffic directions for the purpose of conducting certain sporting and other events on roads. This amendment (together with the amendment made to the meaning of "pedestrian" by clause 3 of the Bill) makes it clear that those powers can be exercised in respect of a person riding a small-wheeled vehicle.

Clause 6: Amendment of s. 41—Directions for regulation of traffic

This clause amends section 41 of the principal Act, which gives members of the police force general powers to direct traffic. This amendment (together with the amendment made to the definition of "pedestrian" by clause 3 of the Bill) makes it clear that those general powers of the police can be exercised in respect of a person riding a small-wheeled vehicle.

Clause 7: Insertion of s. 99B—Use of small-wheeled vehicles

This clause inserts section 99B into the principal Act. Section 99B sets out a number of provisions that apply to the riding of a small-wheeled vehicle on a road. In particular, it provides that:

A person must not ride a small-wheeled vehicle on a road or part of a road that is prescribed by regulation (or that is within an area prescribed by regulation) or on or adjacent to which a traffic control device is erected, displayed or marked to indicate that the riding of a small-wheeled vehicle is not permitted on that road or part of a road. A person must not ride a small-wheeled vehicle on a section of carriageway that is alongside a continuous or broken centre line or a dividing strip or that is divided into marked lanes for traffic proceeding in the same direction or that is a bicycle lane, other than to cross directly between two sections of road on which the vehicle can lawfully be ridden. A person must not ride a small-wheeled vehicle on a road between sunset and sunrise or during a period of low visibility.

The rider of a small-wheeled vehicle must exercise due care and attention and show reasonable consideration for other persons using the road.

When on the carriageway of a road, the rider of a small-wheeled vehicle—

(a) must keep as near as is reasonably practicable to the left boundary of the carriageway;

(b) must, when passing a vehicle proceeding in the opposite direction, keep to the left of that vehicle;

(c) must not pass a vehicle that is in motion and proceeding in the same direction;

and

(d) must give way to any vehicle that is on or about to enter the carriageway (other than where the driver of that vehicle is required under the principal Act to give way to the rider as a pedestrian).

In addition, the rider of a small-wheeled vehicle must not ride abreast of a vehicle or of another small-wheeled vehicle, permit himself or herself to be drawn by a vehicle in motion or ride for more than 200 metres within 2 metres from the rear of a motor vehicle.

The rider of a small-wheeled vehicle must comply with the provisions of the principal Act (and the regulations) applicable to bikeways and with section 99A of the principal Act (which requires cyclists to give warning of danger to other users of footpaths or bikeways) in the same way as if the rider were the rider of a pedal cycle.

Subsection (2) provides that the driver of a vehicle must not permit the rider of a small-wheeled vehicle to attach himself or herself to, or be drawn by, the vehicle.

Subsection (3) is a definition provision. It provides that a "designated" road or part of a road is a road or part of a road prescribed by regulation (or within an area prescribed by regulation) or on or adjacent to which there is a traffic control device indicating that the riding of a small-wheeled vehicle is not permitted on that road or part of a road. It also defines "dividing strip" for the purposes of this section to mean a dividing strip, safety island, safety bar, safety zone, traffic island, roundabout and any strip of road marked off by lines on the road that divides the road into separate carriageways.

Clause 8: Amendment of s. 162C—Safety helmets

This clause amends section 162C of the principal Act. Section 162C regulates the wearing of safety helmets by persons riding pedal

cycles or motor cycles, and this clause extends the application of certain parts of that section to persons riding small-wheeled vehicles. Subsection (1) of section 162C is amended to make it an offence for a person to ride (or ride on) a small-wheeled vehicle unless the person is wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened. Subsection (2) is amended to make it an offence to ride a small-wheeled vehicle on which a child under the age of 16 years is carried unless the child is wearing such a safety helmet. Subsection (2a) is amended to make it an offence for a parent (or person having custody or care) of a child under the age of 16 years to cause or permit the child to ride or be carried on a small-wheeled vehicle unless the child is wearing such a safety helmet.

Subsection (3)*(a)* of section 162C is amended to empower the Governor to prescribe specifications as to the design, materials, etc., of safety helmets for use by persons riding small-wheeled vehicles. The existing exemption from the requirement to wear a helmet that applies under subsection (4) in the case of a person of the Sikh religion who is wearing a turban is extended to such a person when riding a small-wheeled vehicle.

Clause 9: Amendment of s. 176—Regulations

This clause amends section 176 of the principal Act, the regulation-making power. This amendment empowers the Governor to make regulations prohibiting, regulating or restricting the driving, standing or parking of small-wheeled vehicles on prescribed roads or parts of roads or on roads or parts of roads within a prescribed area.

The Hon. BARBARA WIESE secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Bill recommitted.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

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

Insert new clause as follows:

4. Section 3 of the principal Act is amended—

(a) by inserting after the definition of 'review officer' the following definition:

'reviewable decision' means a decision that is subject to review[1] and includes a provision of a rehabilitation and return to work plan that is subject to review[2];

1. See section 95.
2. See section 28B;

(b) by inserting after the definition of 'the State' the following definition:

'suitable employment' means employment (including work as a self-employed contractor) that is suitable for a partially incapacitated worker in accordance with the criteria prescribed in section 35(2)(a);

I indicate opposition to clause 4 with a view to inserting a new clause, as stated. To some extent, it is in an amended form from the amendments that were circulated earlier. In essence, what we seek to do is to insert a definition of 'reviewable decision' under the Act and to ensure that the provisions of a rehabilitation and return to work plan can be subject to review in accordance with the framework proposed under new section 28B. We also seek to delete paragraphs (c) and (d). Paragraph (c) defines 'suitable employment'. This is now no longer necessary as it was purely a cross-reference to section 35. Paragraph (d) defines 'indexation' and relates only to indexation of moneys in the commutation provision, which was moved by the Hon. Michael Elliott but which was not passed by the Legislative Council. That definition is, therefore, redundant, and it is proposed to remove it.

We then propose a new definition of 'suitable employment'. The alteration to the definition of 'suitable employment' is to ensure that employment as an independent contractor is capable of being taken into account for the purposes of section 35 second year reviews. The effect of this amendment will be to ensure that remunerative work as a self-employed contractor could also be taken into account in section 35 second year reviews and not purely the earnings which a worker earns as an employee in the strict sense.

The Hon. M.J. ELLIOTT: I do not recall this matter of including work as a self-employed contractor being debated in this context before. Why is it being introduced at this stage? Have I failed to recall some previous debate in this place that relates directly to this matter?

The Hon. K.T. GRIFFIN: I understand that, essentially, it is of a technical nature, but it will enable remuneration other than straight out salary and wages to be taken into consideration at the second year review in the context of that review process.

The Hon. M.J. ELLIOTT: I am not sure that it is essentially technical in nature. That is why I asked the question. I do not believe that this matter has been raised during the debate in this place, certainly not in the context of section 35. Its implications could be quite significant. Not only could we have arguments about whether or not work, as such, is available but the suggestion could be made that if you could not get a job, you could actually create one for yourself in some way.

That is a potential implication, and it is a significant broadening. There is no doubt that in some cases that may be relevant. For a person who has a trade such as carpentry you might be able to sustain an argument, but I do not think we can assume that just because a person has had skills in driving trucks he automatically has work as a self-employed truck contractor available to him. That is stretching things significantly farther. So I ask the question again: where has this come from? I see this as more than just technical. As I said, it appears to me to be new in terms of any debate we have had in relation to clause 35 up until now.

It has been suggested to me that this may have been directed at people who are already involved in work such as Amway. Such discussions had not related to section 35(2)(a), except in terms of people already being in receipt of some payment. However, the fact that the term 'suitable employment' is used in that clause for purposes other than just taking into account how much you may already be earning, shows that this drafting has some very wide, and I will assume at this stage unintended, consequences.

I indicated to the Government previously that I was prepared to look at the question of what other wages people may be earning, such as wages earned in a self-employed capacity with Amway etc, but this is doing far more than anything I had indicated a preparedness to look at. I cannot support this amendment as it stands. Frankly, in the overall context it is not one of the more important ones.

The Hon. K.T. GRIFFIN: My understanding is that there had been some discussion that, for the purpose of section 35(2)(a), there should be some reference to other remunerative work; that is, that the following factors must be considered (and given fair and reasonable weight) in assessing what employment or other remunerative work is suitable for a partially incapacitated worker. When it came to the drafting it was determined that it was appropriate to insert a new definition in paragraph (b). If this is an issue that will cause us to spend much time debating, I am happy to seek to move the new clause 4 in amended form by deleting paragraph (b).

As I understand it, it is really in the context of determining what factors must be considered in relation to the second year review and 35(2)(a). As I say, I am relaxed about it: we can knock out clause 4 and I will move the new clause 4 in an amended form. I move:

To strike out paragraph (b) from new clause 4.

Clause 4 negatived; new clause 4 as amended inserted.

New clause 4A—'Average weekly earnings.'

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

Page 2, after line 11—Insert new clause as follows:

4A. Section 4 of the principal Act is amended by striking out paragraph (c) of subsection (7) and substituting the following paragraph:

(c) if the average weekly earnings of a worker would, apart from this paragraph, be more than 1.5 times State average weekly earnings, the average weekly earnings will be fixed at 1.5 times average weekly earnings.

This amendment relates to the maximum ceiling for weekly payments under the Act. The current maximum ceiling is two times average State weekly earnings. The Government has argued in the past three months that this maximum ceiling is far in excess of what is reasonable and far in excess of national standards. The Government has argued that the maximum ceiling should be 1.5 times State average weekly earnings, which is still equal to the highest ceiling in Australian jurisdictions. In moving this amendment, the Government is prepared to indicate that it will not proceed with its proposed amendments, which would have excluded from the definition of 'average weekly earnings' the exclusion of all overtime payments and fringe benefit payments.

If this amendment is passed by the Legislative Council, the Government will be prepared to insert in the transitional provisions a saving clause that maintains existing weekly payments where they exceed 1.5 times average weekly earnings.

The Hon. R.R. ROBERTS: We oppose this amendment.

The Hon. M.J. ELLIOTT: We are opposed.

New clause negatived.

Clause 5 passed.

New clause 5A—'Rehabilitation advisers.'

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

After clause 5—Insert new clause as follows:

5A. Section 28 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) A statement made by or to a rehabilitation adviser about a worker who is participating in a rehabilitation program must not be disclosed in proceedings under this Act unless—

(a) the rehabilitation adviser and the worker consent to the disclosure; or

(b) the statement is relevant to an alleged breach of the obligation of mutuality; or

(c) the statement is relevant to an allegation of fraud or dishonesty in criminal proceedings against the worker.

This new clause relates to the confidentiality and privilege which attaches to statements between rehabilitation advisers and workers. The Government has modified its initial position which sought to delete section 28(3) of the Act. The Government is proposing, in this new clause, a compromise alternative which maintains existing section 28(3) and which provides two further qualifications to the circumstances in which that privilege would not apply. Those circumstances are cases where the statement is relevant to an alleged breach of the obligation of mutuality (section 36) or to an allegation of fraud or dishonesty in criminal proceedings against the worker (section 120).

The Hon. R.R. ROBERTS: We oppose the new clause. In our view, this is another attempt to water down the confidentiality which current applies to statements made by or to a rehabilitation adviser in respect of a worker who is participating in a rehabilitation program. We oppose this for the same reasons as we opposed the Government's first attempt to remove the confidentiality of communication between workers and their rehabilitation officers—that is, that it is obvious that rehabilitation is best progressed in an environment of trust and confidence. This attempt by the Government does not go as far as the Government's first attempt to remove the confidentiality of such communications, as this clause proposes to remove the confidentiality only of the situations set out in paragraphs (a), (b) and (c) of the clause.

While we would not object to the confidentiality being removed in the circumstances contemplated by paragraph (a), as in the present Act—that is, when the rehabilitation provider and the worker both consent—we see any other infringement on confidentiality of communication between workers and rehabilitation officers as being likely to interfere with the effectiveness of the rehabilitation process.

Given our fundamental commitment to the belief that the costs of the WorkCover system are most likely to be minimised by effective rehabilitation which gets workers back to work as soon as possible, we are strongly opposed to this new clause. We are particularly concerned with paragraph (b) of the amendment which relates to an alleged breach of the obligation of mutuality. It is the Opposition's view that the actions of a worker should be the relevant factors in determining whether there has been an alleged breach of the obligation of mutuality. Statements made to the rehabilitation adviser should not determine whether there has been an alleged breach of the obligation.

There are plenty of other sections in the Act which can cover cases such as this. For example, section 36 of the Act deals with breaches of mutuality by the worker in not complying with those provisions. It is not necessary to undermine the trust which should exist between the rehabilitation adviser and the worker by inserting paragraph (b) in the legislation. Rehabilitation advisers will be placed in an invidious position by paragraph (b), and others may become rehabilitation police. Paragraph (c) is not necessary, as any person summoned to give evidence in criminal proceedings would be bound to answer questions put to them.

Therefore, it is our conclusion that the existing provision should remain and that this new clause should be negatived. The present Act envisages cases where the rehabilitation adviser and the worker consent to mutuality being waived, and there is no need to change that provision. The Opposition opposes the new clause.

The Hon. M.J. ELLIOTT: I am not quite sure where all this has come from. In previous debate the Government did not itemise problems that currently exist or give examples of the sorts of problems it currently has. I seem to recall a comment last time that, to some extent, it seems like a third order issue. It is true, as the Hon. Mr Roberts said, that it is not so much what is said by a worker but what they actually do. It is a question of whether they are participating in return to work plans, and participating in a meaningful manner. Those are the sorts of questions that will be asked under the amendments to this Act, and that is fundamentally important. I do not believe that the Government has put any particular case to say that there are problems arising at present because the conversations between rehabilitation advisers and workers cannot be divulged. Where is the problem?

The Hon. K.T. GRIFFIN: There is one major problem, and that is in relation to fraud proceedings in section 120 of the Act. It is my information that the relationship between an injured worker and rehabilitation adviser is absolutely privileged, even in fraud cases. That, in my view, is an untenable position, that you cannot require the disclosure of information for the purposes of investigating fraud. I would have thought that this was not an unreasonable provision. It provides the protection for the rehabilitation program, except to the extent of the adviser and the worker consenting where there has been an alleged breach of the obligation of mutuality. I think you have to remember that an alleged breach of mutuality is not just, 'Hey, there has been a breach,' but some basis for alleging that there has been a breach and in the circumstances where it is relevant to an allegation of fraud or dishonesty in criminal proceedings. In each of those circumstances I would have thought that it was not unreasonable to allow the information to be discoverable and available in the court.

The Hon. M.J. Elliott: What about paragraph (b)?

The Hon. K.T. GRIFFIN: Let us take the failure of an injured worker to participate in a rehabilitation program. Under those circumstances I would have thought, again from the perspective of commonsense, if there is an injured worker in respect of whom it is alleged that the worker is not participating in accordance with the rehabilitation and return to work plan, that the extent to which the rehabilitation adviser and the worker have been in consultation and there has been an exchange between them should be relevant to the issue of whether there has been involvement and performance of the rehabilitation and return to work plan in good faith.

The Hon. R.R. ROBERTS: It is the Opposition's belief that the current provisions have been well tested. They have been tested many times, and we are not convinced that there is any need for change. Therefore, we are not convinced that this new clause needs to be inserted.

The Hon. M.J. ELLIOTT: I still say it is largely a third order issue. I am not sure how it has found its way in here. It does appear to me that if a person has direct evidence of fraud or dishonesty the provision covering that does not appear unreasonable. On the other hand, in relation to breaches of obligation and mutuality, it would appear to me that, at the end of the day, it is the actions of the worker which are important. I indicate to the Government that I would support this in amended form if paragraph (b) was removed, but not as it is.

The Hon. K.T. GRIFFIN: The difficulty is section 28 which provides:

> No statement made by or to a rehabilitation adviser in respect of a worker who is participating in a rehabilitation program shall be subsequently disclosed in any proceedings under this Act unless the rehabilitation adviser and the worker consent to the disclosure.

I am fairly flexible, but with that indication by the Hon. Mr Elliott of what he is prepared to support, rather than holding up proceedings, I seek leave to amend my amendment as follows:

> By deleting paragraph (b).

Leave granted.

New clause as amended inserted.

Clause 6—'Insertion of new section 28A.'

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

> Page 3 (new section 28A), lines 6 to 8—Leave out subsection (2) and insert:
>
> (2) If a worker—
>
> (a) is receiving compensation by way of income maintenance; and
>
> (b) is (or is likely to be) incapacitated for work by a compensable disability for more than three months (but has some prospect of return to work),
>
> the Corporation must prepare a rehabilitation and return to work plan for the worker.

This amendment relates to rehabilitation and return to work plans. Under section 28(2), as passed by the Legislative Council in Committee last week, the corporation must prepare a rehabilitation and return to work plan if a worker is or is likely to be incapacitated for work by a compensable disability for more than three months. The Government has been advised that this mandatory obligation should be qualified in one minor respect. The Government has been advised that some workers who may still be incapacitated for work by a compensable disability have returned to work on alternative duties but are in receipt of full pre-injury earnings, and therefore not receiving compensation by way of income maintenance under the Act. In these circumstances it would be wrong to impose a mandatory obligation upon the corporation to prepare a rehabilitation and return to work plan, if in fact the worker is not in receipt of income maintenance under the Act and has returned to the workplace and is performing a different range of duties. The Government amendment would not prevent a rehabilitation and return to work plan being prepared in these circumstances, but it would not make it mandatory, as the Legislative Council amendment would.

The Hon. R.R. ROBERTS: The Opposition opposes this amendment. This clause is like previous clauses—an attempt by the Government to unnecessarily tinker with an amendment on which there was fundamental agreement between the parties last week. The Government and the ALP supported the Democrat proposal to enact a new section 28A(2) which provided that:

> If a worker is (or is likely to be) incapacitated for work . . . for more than three months (but has some prospect of returning to work), the corporation must prepare a rehabilitation and return to work plan for the worker.

This amendment seeks to add an extra precondition to the requirement that the corporation must prepare a rehabilitation plan for the worker. This amendment seeks to make it a further precondition of the requirement of the corporation to prepare a rehabilitation plan that the worker be actually receiving compensation by way of income maintenance. There might often be cases where a worker was not receiving income maintenance but fulfils the other preconditions of the new section 28A(2), in which case we believe the corporation should and must be required to prepare a rehabilitation plan for that worker. We oppose this clause because of our strong commitment to rehabilitation and our belief that effective rehabilitation is the best way to bring down the WorkCover scheme costs.

The Hon. M.J. ELLIOTT: I do not think that I fully understood what the Government was hoping to achieve by subclause (2)(a). I am not saying there is a problem with it; I am saying that I do not think I have fully comprehended what it is setting out to do by its conclusion. On my reading, it need not be an additional hurdle.

The Hon. K.T. GRIFFIN: It is essentially to relieve some of the administrative workload, in the sense that there are some workers who are back at work with their employer, even if performing alternative work; they are not on income maintenance but they may still have a compensable disability. It is only in those circumstances that we are suggesting: why

should the corporation have to go through the business, in those circumstances, of preparing a rehabilitation and return to work plan for the worker? It is essentially that, if they are back at work—even if in some alternative work from that work they were performing when they were injured—not subject to any income maintenance, is it necessary to prepare a rehabilitation return to work plan?

The Hon. M.J. ELLIOTT: I think that I understand what the Government is hoping to achieve and I think I also understand the Opposition's concern, which is basically that a person could be, following an injury, perhaps not able to return to their former duties but go back to some other work, and that a worker might argue that since they have been injured at work that not only is it an obligation to have income maintenance or for work to be made available—and the latter has been done—but they might have some real prospect of returning to the sorts of duties they were carrying out before. I understand that and I take that a little bit further. What this clause says is, 'when the corporation must prepare a rehabilitation and return to work plan'. It does not mean necessarily that one cannot be prepared just because you are back at work.

I want to explore further that it would seem a bit of a nonsense that people would be back at work and demanding some form of vocational retraining as a right, which may or may not be relevant. It could be argued that surely the fact that, although one does not have an absolute right after three months, if people are back to work they may not need it as a right; however, if they are able to take it to review (and we will have to check that in relation to the rest of the clause), they should be able to argue at review that they be given a rehabilitation plan which enables them to recover the occupation that they once had.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott is correct. In certain circumstances the decision whether or not to have a rehabilitation and return to work plan is discretionary, but I point out that under section 28B, particularly in the amended form in which I am proposing to move it subsequent to this debate, a worker or employer may apply for a review of a decision to establish or not establish a rehabilitation and return to work plan or a provision of a rehabilitation and return to work plan on the ground that the decision or the provision is unreasonable. If that gets up and WorkCover exercises its discretion not to prepare a plan, that is reviewable.

The Hon. M.J. ELLIOTT: In the circumstances, if you had a person who was a trained electrician and suffered some sort of injury whereby they did not return immediately but where rehabilitation could have enabled them to return to those duties, I would have thought that, if under section 28B that had gone to review, a denial of a right to that sort of rehabilitation would have been overturned. Return to work or rehabilitation plans are not a right under the current Act and we are not taking something away. Any fair reading of this would be that a person would have a right to go to review and I would expect it would be granted under those circumstances. The alternative is that everybody after three months was incapacitated even if they are back at work and could demand as a right some form of rehabilitation or return to work plan which may not be relevant.

Amendment carried.

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

Page 3, lines 9 to 11—Leave out subsection (3) and insert:

(3) In preparing the plan, the Corporation—

(a) must consult with the worker and the employer out of whose employment the disability arose; and

(b) should if practicable—

(i) review medical records relevant to the worker's condition; or

(ii) consult with any medical expert who is treating the worker for the compensable disability.

This amendment relates to rehabilitation and return to work plans and the corporation's obligations to consult in preparing the rehabilitation and return to work plans. The Legislative Council in Committee introduced an obligation that the corporation must consult with any medical expert who is treating the worker for the compensable disability. During the course of that debate the Government raised a concern that this may be too inflexible, particularly where it was not practicable for a medical expert to be consulted. The Government's amendment introduces a limited degree of flexibility which allows the corporation to either review medical records relevant to the workers condition or consult with any medical expert who is treating the worker.

The Hon. M.J. ELLIOTT: This is reasonable. If the corporation failed to consult with a medical expert who had information which would have a significant impact on the way a plan was carried out it would find itself in trouble and have its plans going to review all the time if it tried that sort of thing. This seems reasonable and there would be cases of chasing up doctors, which is frustrating at the best of times in the current climate, even though we hope that they will behave better in future. It could frustrate getting on with preparing the plan.

The Hon. R.R. ROBERTS: It is very clear that the Democrats are supporting the Government's position and we will lose this clause, which disappoints me. I put on the record again our opposition to this clause. The clause seeks to amend clause 28(3) of the Bill. We do not oppose it in the form it was passed in the Bill in 98A. This latest amendment appears to be an unnecessary tinkering with the amendment by the Government. The debate has been confused enough without the Government seeking to revisit matters of fundamental agreement between it, the Democrats and the ALP. It is clear that the Democrats will not shift.

Amendment carried.

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

Page 3, lines 17 to 26—Leave out new section 28B and insert—

28B. (1) A worker or employer may apply for review of—

(a) a decision to establish or not to establish a rehabilitation and return to work plan; or

(b) a provision of a rehabilitation and return to work plan,

on the ground that the decision or the provision is unreasonable.

(2) On review of a rehabilitation and return to work plan (or in consequent appellate proceedings), the plan may be modified to the extent necessary to ensure that the plan does not impose unreasonable obligations on the worker or the employer.

(3) Proceedings on a review under this section (or consequent appellate proceedings)—

(a) do not suspend obligations imposed by a rehabilitation and return to work plan; and

This amendment is a compromise position that enables a review to be conducted on the ground that a decision to establish or not to establish a rehabilitation and return to work plan or a provision of a rehabilitation and return to work plan is unreasonable. The Government amendment also proposes that proceedings on a review do not suspend obligations imposed by rehabilitation and return to work plans.

The Hon. M.J. ELLIOTT: I note that this picked up one aspect that the Labor Party had flagged when we last debated section 28B, namely, the question of what happens when a plan has not been established. It picks up that in saying that a decision not to establish a rehabilitation plan is capable of review. I indicated that I supported the Labor Party in wanting that included and I am pleased to see that the Government has picked it up as well. Although there has been other redrafting, I do not believe that I found any other changes of substance.

The Hon. K.T. GRIFFIN: I am not aware that there are any other changes of substance.

The Hon. R.R. ROBERTS: This relates to the circumstances where a worker or employer may apply for a decision regarding rehabilitation, so as to ensure that the worker or employee can apply for a review of the decision to establish or not establish. To establish or not establish is the important part of a rehabilitation and return to work plan. The deletion of proposed 28B(3)(b) ensures that any decision regarding rehabilitation and return to work plan can be reviewed in the ordinary and proper way and is not restricted simply to a Clayton's review as proposed before. That is a conciliation conference only.

Amendment carried.

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

Page 33 (New section 28C), lines 33 to 38—Leave out paragraphs (a), (b) and (c) and insert:

(a) professional associations representing the providers of rehabilitation services of the relevant kinds;
(b) the Self-insurers Association of South Australia Incorporated and associations representing self-managed employers; and
(c) associations representing employers (including the South Australian Employers Chamber of Commerce and Industry); and
(d) associations representing employees (including the United Trades and Labor Council).

This relates to the duty of the corporation to consult with interested parties on proposed regulations setting forth standards and requirements for rehabilitation programs and return-to-work plans. The Government amendment includes an obligation on the corporation to consult with the Self-insurers Association of South Australia and associations representing self-managed employers.

The Hon. M.J. ELLIOTT: I support the amendment as redrafted.

Amendment carried; clause as amended passed.

New clause 6A—'Compensability of disabilities.'

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

Page 3, after line 38—Insert new clause as follows:

Amendment of s30—Compensability of disabilities

6A Section 30 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Subject to this section, a disability arises from employment—
(a) the disability arises out of or in the course of employment; and
(b) the employment contributes materially to the disability.

This concerns the eligibility for compensation and is a final compromise position by the Government in an endeavour to place some controls on the outer boundaries of the current statutory test that a disability must simply arise out of or in the course of employment. The Government amendment proposes that section 30 also specifically provide that the employment contributes materially to the disability. The Government acknowledges that this is a much lower test than that proposed in both its original Bill and its modified Bill. The Government, however, believes that this amendment is important because it will at least provide an opportunity for courts to disallow claims that are required to be accepted under the current provisions despite the disability having an extremely remote connection to employment of the worker.

The Government notes that the submission by the Australian Plaintiff Lawyers Association of 3 April 1995 in relation to the Government's modified Bill claimed that the current position under the Act is that the employment must be a material contributor to the incurring of the disability. The Government argues that this position should specifically be set out in the statute to enable the courts to be given a specific legislative direction as to the required connection between employment and the disability. In effect, this is a reflection of what the Australian Plaintiff Lawyers Association says is the current legal position, and we take the view that that ought to be reflected now specifically in the statute.

The Hon. M.J. ELLIOTT: The Government originally set about amending this clause in a quite different way and, in my view, a very harsh way. This clause is one of the linchpin clauses in the whole Bill. Any substantial change to this clause will have substantial effects on the working of the whole of the Bill. After all, this is the clause that determines whether or not a disability is compensable. I do not know whether or not this amendment has a material effect. It is one that has been before me for a very short period of time. If it did what the Government claimed it did, it probably would not cause me concern, but I do not know that that is what it will do. I am not prepared to tinker with such an important component of the legislation unless I am absolutely convinced that I understand what the effect will be. It is not just a question of philosophy in this case. I know who I think should be compensable and who should not. However, I do not know the effect of this amendment and whether or not it will draw the boundaries where I understand they should be and where I believe they should be. On that basis, I am opposing the amendment.

The Hon. R.R. ROBERTS: The Opposition opposes this amendment. Without going into a long dissertation, this is another attempt by the Government to restrict the eligibility criteria for workers' compensation. Instead of the Government's previous test that the employment had to be the sole or major cause of the disability, this revised test seeks to add a requirement to the existing eligibility criteria that employment contributed materially to the disability. The Government has been extremely persistent on this, but we are not persuaded that there ought to be any movement. The Government seems determined to try to take this State back in time to workers' compensation eligibility criteria that have not applied for some decades. We are opposed to this.

The Hon. K.T. GRIFFIN: The Australian Plaintiff Lawyers Association in its submission—

Members interjecting:

The Hon. K.T. GRIFFIN: It is not really. They quite clearly say that the present work related—

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Well, one is entitled to draw some conclusions from the expressed words of the correspondents. The fact of the matter is that they cannot have it both ways: they can not write in expressing a complaint and purporting to state what the law is and then back off by saying, 'Well that is what the law is, but even though you are reflecting it in the amendment we do not agree it should go in.' That is having a bob each way and I think it is unfortunate. Just to get it on the record, the association states:

At present work-related disabilities are compensable if they arise from employment with the exception of stress disabilities, diseases and secondary disabilities. This means that an injury will be compensable if it arises in the course of or out of employment. To arise out of employment, the employment must be a material contributor to the incurring of the disability.

It is all very well for members to say that the Australian Plaintiff Lawyers Association does not regard that as a justification for the amendment, but it is really to seek to use invisible ink. The Government has tried to set some parameters because the courts are constantly pushing out those parameters. If members look at the 1990 decision of the Workers' Compensation Tribunal in O'Connell Catholic Church Endowment Society in relation to Mary Raptis they will see that it states:

It is well settled that it is not necessary that incapacity results solely from a work injury. It is sufficient if it is actually operative as a factor in producing incapacity or, to put it another way, was a material contributing cause.

Again, we are seeking to crystallise that into something that tries to set some limits rather than the courts moving further and further out as though they are approaching the speed of light, where, of course, the mass has expanded to infinity. At least I believe that is the theory as a person who is not experienced or knowledgeable in the law of physics.

New clause negatived.

Clause 7—'Psychiatric disabilities.'

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

Page 4 (new section 30A), lines 14 and 15—Leave out 'by the employer'.

This amendment relates to the stress provisions of the current Act as amended by the Legislative Council in section 30A. The Government is prepared to accept the amendments made by the Legislative Council, but with one amendment to section 30A(b)(iii). Under the existing Act, compensability of the stress claim is excluded if the disability arose wholly or predominantly from reasonable administrative action taken in a reasonable manner by the employer in connection with the worker's employment.

A recent decision by the Workers' Compensation Appeal Tribunal has highlighted the problem with the phrase 'by the employer'. In that case, a reasonable administrative direction was given to a worker by a third party associated with the employer but not by the employer in the strict sense. The Government proposes to delete the phrase 'by the employer' in order to overcome this problem. The worker's position in relation to this clause will still be protected as the administrative action would still need to be reasonable, it would still need to be given in a reasonable manner, and it would still need to be in connection with the worker's employment.

The Hon. R.R. ROBERTS: The amendment is opposed.

The Hon. M.J. ELLIOTT: Sometimes when you amend the law in a hurry in response to one case you create greater difficulties for yourself or a whole series of unintended consequences. While I have been involved in discussion in relation to this legislation, a number of examples of that sort have been brought to my attention. The courts have been critical of piecemeal change to this legislation. There are probably a number of different ways in which this provision could have been amended to achieve the goal of tackling the one particular case that has been raised. I understand that, at this stage, it is built on one particular case.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Yes, but I am saying that there are probably a number of different ways. The Government has opted for a particular route by simply striking out the words 'the employer'. I suggest that that has the potential to create a range of unintended consequences, because I do not think it is sufficiently specific regarding the sorts of experiences that the Government seeks to address. Certainly, it addresses the problem raised by the Government, but I cannot support the amendment.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: In fact, that would not have covered that particular case either, because it was not done on behalf of the employer.

The Hon. K.T. GRIFFIN: I am advised that, in that particular case, it was done on behalf of the employer. However, it seems to me that that may involve an amendment of less concern to the honourable member. If he were likely to be amenable to that, I am happy to move it in an amended form. It is intended to provide 'by or on behalf of the employer', and it would then cope with the agency and contractual relationships which are relevant in those circumstances.

The Hon. M.J. ELLIOTT: This will create an increasingly sideways diversion. In this case, it was not done by or on behalf of the employer. This person worked for a building manager. In the particular case to which the Attorney refers, the action was carried out not by someone who worked under the employer but by the building owner, who did not employ or work on behalf of the employer. By amending on the run, the Government might still have missed its mark and, in any case, I would have thought that 'by or on behalf of the employer' would be covered by the existing wording.

Amendment negatived; clause passed.

Clause 8—'Compensation for medical expenses.'

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

Page 4, line 26—Leave out 'the reasonable value of the service' and insert 'a reasonable amount for the provision of the service'.

This is a drafting amendment relating to proposed new section 32 regarding medical fees. The Government is prepared to accept the Legislative Council's Committee amendment, which proposed that scales of charges be set by regulation rather than the current provisions of the Act whereby scales of charges are set by the corporation. However, the Government wants to ensure that the current scales of charges will be applied until such time as new regulations are promulgated. This amendment proposes that the language of the current Act be used in preference to the slight rewording made by the Legislative Council. The Government is concerned that any change in wording could lead to an unnecessary argument as to whether the current gazetted rates are reasonable amounts or of reasonable value. The Government will also make a further consequential amendment in the transitional provisions regarding this matter.

The Hon. M.J. ELLIOTT: Agreed.

The Hon. R.R. ROBERTS: Agreed.

Amendment carried.

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

Page 5, line 6—Leave out 'or'.

This is, essentially, a drafting amendment. As currently proposed by the Legislative Council, regulations made by the Governor can relate to scales of charges or treatment protocols. The Government's amendment proposes to leave out the word 'or' so as to enable both scales of charges and treatment protocols to be promulgated by regulation.

The Hon. M.J. ELLIOTT: Agreed.

The Hon. R.R. ROBERTS: Agreed.

Amendment carried.

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

Page 5, lines 11 to 18—Leave out subsection (13) and insert:

(13) Before a regulation is made prescribing a scale of charges, or a treatment protocol, the corporation must consult on the terms of the proposed regulation with—

(a) professional associations representing the providers of medical services of the relevant kind; and

(b) the Self-Insurers' Association of South Australia Incorporated and associations representing self-managed employers; and

(c) associations representing employers (including the South Australian Employers' Chamber of Commerce and Industry); and

(d) associations representing employees (including the United Trades and Labor Council),

and a treatment protocol relating to treatment by recognised medical experts may only be prescribed if the Australian Medical Association agrees with the proposed treatment protocol.

This amendment seeks to substitute proposed new subsection (13) concerning consultation with interested parties before the corporation prescribes a scale of charges or a treatment protocol. The amendment proposes that consultation also occur with the Self-Insurers' Association of South Australia and associations representing self-managed employers. The amendment also proposes that a treatment protocol relating to treatment by a recognised medical expert should only be prescribed if the Australian Medical Association agrees with the proposed treatment protocol. The Government has negotiated this matter with the AMA and is prepared to make this concession given that the existing treatment protocols have been agreed with the AMA.

The Hon. M.J. ELLIOTT: I have problems with the last three lines of this amendment which refer to treatment protocols. In moving my amendment which sought to establish protocols by regulation, my intention was to ensure that all parties were on an equal footing, so that the corporation could not simply tell everyone what to do, and there would be a real need for consultation. That is what this amendment is about. By adding these last few lines to the amendment, the Government gives the AMA the power of veto over protocols. The AMA could use that veto over protocols to undermine everything that this Bill is trying to achieve in this area. For instance, the AMA may have some concern about what is happening with fees and it could say, 'We'll use this power of veto in relation to protocols unless you do what we want with regard to fees.'

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I move to amend the Hon. Mr Griffin's amendment as follows:

Leave out 'and a treatment protocol relating to treatment by recognised medical experts may only be prescribed if the Australian Medical Association agrees with the proposed treatment protocol.'

I do not see why the AMA should be in a special position. I cannot imagine that physiotherapists or chiropractors or a range of other groups would be any more delighted than the AMA. However, I make the comment that chiropractors already have their own guidelines because they cooperated with WorkCover, and they have management plans which are all set out and which have to be filled out looking at things such as treatment goals, etc. If only we had this in relation to some of the other medical provisions and various types of injuries, we would be much further advanced than we are currently.

These changes are long overdue. I make quite plain that in seeking to amend the Government's amendment I am not trying to deny justice to the AMA or any other group. The protection of this Parliament is offered by way of regulation if it is felt that inadequate consultation has been carried on or if it feels that some injustice has been done. I expect that all groups will get together with goodwill and sort this out. I note from feedback that I have received that the AMA may have got a bit of a shock when it went looking for support regarding these amendments and when it saw how little support there was. I think that the AMA discovered that there is a great deal of frustration in employer and employee groups and others regarding WorkCover and the involvement of doctors. I hope the AMA will forget all the politics and threats it was making regarding strike action which would have made the most radical of left wing unions blanch. I hope and expect that they will participate, and I expect that, as long as the AMA and all other groups go in with goodwill, this Parliament will ensure that the outcomes are fair for all concerned.

The Hon. K.T. GRIFFIN: I understand the argument that the honourable member is putting in relation to his amendment to my amendment. The position in the amendment that I am moving is the result of some consultation between the Government and the AMA. I will not be opposing the honourable member's amendment to delete those three lines.

The Hon. R.R. ROBERTS: We are opposed to the proposition in its original form. I understand what the Hon. Mike Elliott is saying. In opposing the amendment as proposed by the Attorney-General, I must observe the Government's attitude. The treatment protocols and the cost amendments have been on public display since the inception of the initial Bill in December. Very late in the piece last Thursday the AMA began to lobby and indicated strict disapproval of these matters. Lo and behold we have within a couple of days an amendment giving a very powerful union, the AMA, a right of veto. The Government blithely sought to ignore the 15 000 workers who braved the 38 degree heat on 15 February and sought to withstand the groundswell of public abhorrence of its Bill yet, when this powerful union comes along and says that it is not happy, the Government grants it the right of veto. We will be supporting the amendment as proposed by the Hon. Mr Elliott and oppose the Government's original amendment.

The Hon. Mr Elliott's amendment carried; the Hon. Mr Griffin's amendment as amended carried; clause as amended passed.

Clause 9—'Weekly payments.'

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

Page 6 line 16—Leave out 'and (6b)'.

The amendment is consequential upon a subsequent Government amendment seeking to reinsert existing sections 42A and 42B, loss of earning capacity and lump sum payments. The amendment is consequential upon the retention of those provisions.

The Hon. M.J. ELLIOTT: That is supported.

Amendment carried.

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

Page 6—

Line 17—Leave out 'commuted or'.

Line 19—Leave out 'commutation or'.

These amendments are consequential upon the removal of the existing commutation provision in section 42 of the Act and its replacement with a proposed new redemption provision.

The Hon. M.J. ELLIOTT: It is my understanding that employer and employee groups, having met and discussed the issue of redemption, have come to an agreement as to a form of words that they believe will satisfy both their interests, which are the two interests that are paramount in this legislation. When discussing redemption earlier I indicated that, if those two groups could reach agreement, I would support that agreement. They have done so, and there might be a few other areas in this legislation that are also capable of being handled by those two groups working together cooperatively, because at the end of the day they are the two groups with the most important interests in this legislation. I support these amendments.

The Hon. K.T. GRIFFIN: I understand also that there have been negotiations between employer and employee interests and that the redemption provisions have been agreed in a form that satisfies both interests.

Amendments carried.

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

Page 6, after line 19—Insert new paragraph as follows:
(d) by striking out from subsection (6B) '4A' and substituting'4B'.

The Hon. M.J. ELLIOTT: That is agreed.

Amendment carried; clause as amended passed.

Clause 10—'Discontinuance of weekly payments.'

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

Page 7, line 5—After 'the discontinuance of weekly payments is' insert 'authorised or'.

This is a drafting amendment. Current section 36(1)(e) of the Act enables the corporation to discontinue weekly payments if the discontinuance of weekly payments is authorised or required by some other provision of this Act. When the Government's proposed section 36 was drafted, the provision altered to 'weekly payments is required by some other provision of this Act'. The amendment seeks to insert the words 'authorised or'. This would make the amended clause consistent with the current Act and with the current provisions of section 36(2)(c) in relation to the reduction of weekly payments, which also relate to the reduction being authorised or required by some other provision of the Act.

The Hon. M.J. ELLIOTT: That is supported.

The Hon. R.R. ROBERTS: Supported.

Amendment carried.

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

Page 7, lines 18 and 19—Leave out 'an approved rehabilitation program' and insert 'a rehabilitation program under this Act'.

This amendment is to be taken in conjunction with the amendment on the supplementary sheet rather than on the main sheet of amendments to clause 10, page 7, lines 21 and 22, leave out paragraph (e). As I understand it, section 26(1) of the principal Act provides:

The corporation shall establish or approve rehabilitation programs with the object of ensuring that workers suffering from compensable disabilities achieve the best practicable levels of physical and mental recovery and are, where possible, restored to the work force and the community.

What we are seeking to do is to refer to a rehabilitation program under this Act so that it deals with both those which may be approved and those which may be established. The redraft of paragraph (e) picks up the same point, so that instead of referring to 'an approved rehabilitation program', which is only one part of section 26(1), we want to just refer to 'a rehabilitation program under this Act'. So, it deals with those programs which are either established or approved.

The Hon. R.R. ROBERTS: We oppose the amendment.

The Hon. M.J. ELLIOTT: Will the Hon. Ron Roberts tell me what is the problem, which I have not picked up at this stage?

The Hon. R.R. ROBERTS: My instructions are that the clause as it stands for an approved rehabilitation program is sufficient. I do not know why we have to have a change to 'a rehabilitation program under this Act'. I am advised that it is a much more acceptable proposition in its present form. I have no further instruction on it.

The Hon. K.T. GRIFFIN: If I could repeat what we are trying to do, it is to pick up the provisions of section 26(1) which provide that the rehabilitation program may be established or approved. It is the duality of those programs. If we refer only in proposed subsection (1A) paragraphs (d) and (e) to an approved rehabilitation program it misses programs which may be established but which do not fall within the category of an approved program. In my view it is essentially drafting, but it tidies up the drafting to make it consistent.

The Hon. M.J. ELLIOTT: I do not have any difficulties with it. The term 'approved rehabilitation programs' is contained within the Act in section 26(1), although you do not have the difficulties raised by the Minister. I am not sure whether the term 'approved return to work plans' is used in our amendments to new section 28B; in fact, we talk about establishing plans but I do not think we talk about approval as such. It may or may not be read that 'approved' relates to new section 28, but it seems to me that if you talk about 'under this Act' you cannot possibly be talking about any other rehabilitation return to work plan because those are the only ones under this Act that are established.

The Hon. T.G. ROBERTS: Is the Attorney-General prepared to make it consistent with section 26 by putting 'established' and 'approved' in the amendment?

The Hon. K.T. GRIFFIN: I suppose we could do it, but I am informed that it will mean going back through the Bill and the principal Act to make sure that there is a consistency of approach. It seems to me, on the drafting that we have before us, that one can only talk about a rehabilitation program under this Act, whether it is established or approved. There is no other basis upon which you can have a rehabilitation program which is recognised. 'Rehabilitation' and 'return to work plan' have special connotations under the Act. Although in ordinary circumstances I would be happy to accommodate the Hon. Terry Roberts, the fact is that at this stage of the debate it will mean a computer search to pick up all the places where we need to amend it in the principal Act and the Bill, and for no real purpose. We do not achieve anything by doing it because what is in the drafting will accommodate the concern which the honourable member has.

The Hon. R.R. ROBERTS: I am advised that we are seeking the words 'established and approved' rehabilitation under this Act. There are concerns from the people who advise me that these plans may have some draconian application and 'established and approved' under this Act provides the sort of safeguards that we would be looking for.

The Hon. M.J. ELLIOTT: One of the problems I have had with this legislation is it is very difficult to work out when there is a real issue and when there is not because some people are tilting at windmills all the time. When you are working in that atmosphere it makes it incredibly difficult. I cannot, for the life of me, see how this can have any draconian interpretation. We are talking about plans or programs that have to be established under regulation and individual plans that can be reviewed. In fact, if anything, it is giving a

protection because it is saying you cannot have any rehabilitation plan or program unless it is established under this Act. I do not think there is any other way that that can occur except under sections 26 and 28. I want real and substantial problems and I am not hearing one at this stage, and it makes it difficult because when you have one it sometimes gets lost in the chaff.

Amendment carried.

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

Page 7, lines 21 and 22—Leave out paragraph (e) and insert:

(e) the worker fails to comply with an obligation under a rehabilitation and return to work plan under this Act; or.

Amendment carried.

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

Page 8, after line 4—Insert new paragraph as follows:

(ab) by striking out from subsection (3a) '21 days' and inserting '14 days';

This amendment concerns the period of notice that is required to be given for the discontinuance of weekly payments. The Government has consistently argued that the current requirement to give 21 days is excessive and, if grants for discontinuance exist, then the corporation should be entitled to discontinue weekly payments with minimal notice. The Government Bill had proposed seven days' notice. The Legislative Council in Committee had maintained the existing 21 days' notice. The Government now proposes a compromised position of 14 days' notice.

The Hon. M.J. ELLIOTT: I will not support this. It needs to be recognised that there are many people in this State who live very much a hand to mouth existence. They do not have reserves that they can draw upon and to be without remuneration for any period of time can be quite diabolical. If one is to take an attitude of innocent until proved guilty—and we are allowing people to be able to appeal decisions under which they can establish their innocence—starving the people in the meantime does not seem to be a terribly civilised way of behaving. I was considering moving an amendment in relation to this amendment and the next one to make it quite plain that, if a person is found guilty, any payments they receive could be recovered by way of a debt. I understand that it is already possible for WorkCover to do that under the Act by way of regulation. If the regulations do not allow that, then that has been of its choosing. I cannot see that anyone can put up an objection to say that, if a person is found guilty and received payments they should not receive, they should not lose them. But, by the same token, if we are to recognise that we will give people some time to decide whether or not they will appeal—because that is a big decision and can be quite an expensive decision to make—to simply deny them payments whilst their guilt has not been established, either by their acknowledging it by not appealing or by the fact that they have appealed and lost, is unfair. On those grounds, I am opposing this amendment.

The Hon. R.R. ROBERTS: We are opposing this amendment also for much the same reasons.

Amendment negatived.

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

Page 8, lines 6 and 7—Leave out paragraph (iii).

This amendment relates to an amendment made by the Legislative Council which introduces into the Act, for the first time, a requirement that notice of discontinuance be given for the discontinuance of weekly payments where the worker has been dismissed for serious and wilful misconduct. The Government opposes this amendment by the Council. It weakens the existing provisions of the Act which does not require notice to be given in these circumstances. It is inconsistent with the provisions of section 58B of the Act which do not require the employer to give notice to WorkCover of his or her intention to dismiss a worker for serious and wilful misconduct. A worker dismissed in these circumstances has the right to issue proceedings for unfair dismissal and, if successful, would be able to receive back payment of wages. A worker in these circumstances would also be able to apply for a review of WorkCover's decision to discontinue weekly payments and the body hearing the application for review would be able to reinstate weekly payments. The Government believes that this amendment will lead to workers continuing to receive wages from WorkCover even after they have been dismissed by their employer and even after that dismissal was based upon the worker's serious and wilful misconduct. In these circumstances, the Government opposes the change made by the Legislative Council and this amendment seeks to delete that change.

Amendment negatived.

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

Page 8, after line 8—Insert paragraph as follows:

(c) by striking out from subsection (3a)(c) '37 or'.

This is a drafting amendment consequential upon the repeal of section 37 of the Act.

Amendment carried; clause as amended passed.

Clauses 11 to 13 passed.

Clause 14—'Weekly payments and leave entitlements.'

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

Page 9, lines 13 to 22—Leave out paragraphs (a) to (d) and insert 'by striking out "over a continuous period of 52 weeks or more" and inserting "over a period of 52 weeks or more"'.

This amendment relates to the Government's proposals to eliminate double dipping by workers receiving income maintenance payments by WorkCover but also claiming an entitlement to annual leave payments. The amendments proposed in the Government Bill were accepted by the Legislative Council. The Government has received subsequent advice that, whilst these amendments may achieve the objective of eliminating double dipping, they could establish an administratively cumbersome process whereby WorkCover ceases weekly payments for a period, the employer then makes annual leave payments, WorkCover then resumes weekly payments at the end of the notional period of annual leave and the employer then endeavours to obtain reimbursement from WorkCover.

The Government is now proposing an amendment which would continue to require WorkCover to make all payments to the worker but avoid this administratively cumbersome process. The Government amendment proposes to deal with the problem of double dipping on annual leave payments with a minimum of legislative change. The Government proposes to delete the word 'continuous' from the existing section 40(3). It is the existence of this word that has led to the double dipping entitlement where, in limited situations, a worker can make a brief return to work approaching the end of his or her 12 month period of leave—that return to work triggering an entitlement to four weeks under the relevant award—and the worker then going off again shortly thereafter on Workcover, therefore triggering an ongoing entitlement to Workcover payments because the worker had not made a full return to work. The elimination of the word 'continuous' will enable the employer's liability to make annual leave

payments to be satisfied where the worker has made this brief return to work and his or her absence has therefore not been for a continuous 52 weeks.

The Hon. R.R. ROBERTS: I move:

Page 9, lines 13 to 22—Leave out paragraphs (a), (b), (c) and (d) and insert 'by striking out subsection (3) and substituting the following subsection:

(3) Where a worker has received weekly payments for total incapacity for work over a continuous period of 48 weeks, weekly payments for the ensuing four weeks are taken to satisfy the employer's liability regarding annual leave for a year of employment that coincides with, or ends during the course of, that aggregate period of 52 weeks.

We are opposed to the Government's proposition. In moving this amendment I point out the following: we accept that there is an anomaly in the current section 40(3) of the principal Act, namely, that a person could be absent from work for 51 weeks and four days, return to work and subsequently put in for annual leave, effectively resulting in a yearly payment of 56 weeks plus leave loading. Whilst we put that these are rare occurrences I am unaware of any such examples having occurred. We realise that the potential is there for that to occur. Our amendment adequately rectifies the anomaly and we do not believe that any other change to section 40 of the principal Act is warranted or necessary. We therefore oppose the Government's amendment regarding clause 14 in the current Bill and move our amendments. In conclusion, we suggest that the Government's proposed amendment creates an iniquitous situation where a worker could be due to go on annual leave, suffer an injury, require two weeks hospitalisation and two weeks recuperation before returning to work to be advised that there is no compensation for them. I ask the Committee for its support.

The Hon. K.T. GRIFFIN: This one is a very difficult one to deal with on the run. Even with the Hon. Ron Roberts' amendment there is a problem because it focuses on a continuous period of 48 weeks, so if in the forty-seventh week the worker goes off, it triggers the double dipping concept as I see it. The problem is with the word 'continuous', so you do not achieve anything by limiting the period to 48 weeks but continuing to refer to the word 'continuous'.

The Hon. M.J. ELLIOTT: This one really is on the run. I knew that there were some amendments sitting on the desk but I had not been aware that this one was forthcoming, noting that it seems to have departed Parliamentary Counsel at 3.09 p.m. The whole issue is probably a third or fourth order issue and, having made a comment about some concern about some people opposing almost everything, another category of things that happen here is what I call the WorkCover clauses, in relation to which I have not necessarily found employer bodies jumping up and down about something but somebody has a bee in their bonnet that there is a problem, although they do not have a real life example of one. This might be one of those. We find ourselves not only debating it but having new amendments to it at the last moment, which throws things into total chaos.

The Hon. K.T. Griffin: Controlled chaos.

The Hon. M.J. ELLIOTT: Most of the chaos has been controlled, although I am not sure that this piece of chaos has been. I was not convinced that there were any problems with the Government's amendment. I will support it, but will be keeping an eye on it to see whether any real life cases emerge that are causing difficulties. I will leave it at that.

The Hon. K.T. Griffin's amendment carried; clause as amended passed.

Clause 15 passed.

Clause 16—'Redemption of liabilities.'

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

Page 9, lines 27 and 28—Leave out all words in these lines and insert 'Section 42 of the principal Act is repealed and the following new Division is substituted:'.

This amendment proposes the repeal of existing section 42 of the Act in relation to commutation and a substitution by the new provision enacted by the Legislative Council in Committee in relation to redemption. The Government believes that it is unnecessary to retain the existing section 42 commutation provision, particularly in view of the fact that the Government will retain the existing sections 42A and 42B dealing with lump sum payments for the loss of earning capacity which are actuarially commuted payments. With the retention of the LOEC payments and the proposed new redemption provision, there is no need for a third alternative lump sum provision in the existing section 42 of the Act.

The Hon. M.J. ELLIOTT: We will we support it.

Amendment carried.

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

Page 9, line 31—Leave out '42A' and insert '42B'.

This amendment is consequential.

Amendment carried.

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

Page 10, lines 1 to 3—Leave out paragraph (a) and insert:

(a) the worker has received competent professional advice about the consequences of redemption; and

(ab) the worker has received competent financial advice about the investment or use of money to be received on redemption; and.

This amends the subsection in a way that I understand has already been negotiated between representatives of employers and employees.

The Hon. M.J. ELLIOTT: The Democrats support the amendment.

The Hon. R.R. ROBERTS: The Opposition supports the amendment.

Amendment carried.

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

Page 10, lines 11 to 22—Leave out subsections (4) to (6) and insert:

(4) If the corporation notifies a worker in writing that it is prepared to enter into negotiations for the redemption of a liability by agreement under this section, the corporation is liable to indemnify the worker for reasonable costs of obtaining the advice required under this section up to a limit prescribed by regulation.

(5) If agreement is not reached within three months after redemption is first proposed (by the worker of the corporation), either party may apply to the tribunal for reference of the matter to a conciliation conference. (6) The tribunal will then appoint a conciliator, and a conciliation conference will be held, in accordance with the rules of the tribunal.

(7) At the conciliation conference, each party must disclose information in the party's possession that may be relevant to the failure to reach agreement (including representation made by an employer about the redemption proposal).

(8) The conciliator must make every practicable attempt to help the parties to settle their differences by agreement.

(9) However, if agreement is not reached a party cannot be compelled to agree to redemption of the liability.

(10) The corporation may accredit professional and financial advisers for the purpose of giving advice under this section (but a worker is not required to obtain the necessary advice from an accredited adviser).

(11) However, the corporation incurs no liability for advice given by an accredited professional or financial adviser.

This amendment seeks to make some amendments to the review provisions. Again, it is part of the negotiated package

of amendments between representatives of employers and employees.

The Hon. M.J. ELLIOTT: The Democrats support the amendment.

Amendment carried; clause as amended passed.

New clauses 16A and 16B.

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

Page 10, after line 32, insert new clauses as follows:

Amendment of heading

16A. The divisional heading immediately preceding section 42A of the principal Act is repealed and the following heading is substituted:

DIVISION 4B—COMPENSATION FOR LOSS OF EARNING CAPACITY

Amendment of s.44—Compensation payable on death

16B. Section 44 of the principal Act is amended by striking out from subsection (13) '4A' twice occurring and substituting in each case '4B'.

This is consequential upon the LOEC provision going back in.

The Hon. M.J. ELLIOTT: I would like to put on the record at this stage that there is some significant concern about LOEC both in the employer and the employee community. I am aware that WorkCover sees that it has the potential to create some savings and that for some employees it is appreciated. On the other hand, I am also aware that for some injured workers it has the potential to be a major problem. I think this is an issue that is going to have to be a high priority for further consideration and it is one of the first order issues that will need to be addressed by the parliamentary committee that I have moved an amendment to establish. It is my belief that, whilst I will support the Government at this stage for the reinstatement of LOEC, a decision will probably be made in the very near future for its removal. I would expect that that may be assisted by what I think will be a quite successful redemption program. It could also be assisted if the Tax Commissioner changes his mind about how LOEC will be treated.

New clauses inserted.

Clauses 17 and 18 passed.

Clause 19—'Determination of claim.'

The Hon. R.R. ROBERTS: I move:

Page 11, lines 15 to 17—Leave out paragraph (b).

This amendment deals with section 53 of the Act in respect of determination of claims. In seeking to move these amendments at this stage to the Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Bill I wish to make the following observations on section 53(7). This was inserted into the principal Act arising out of what was known as the 'Norm Peterson amendments'. Mr Peterson's amendments read:

. . . the corporation may, in an appropriate case, redetermine a claim.

This section of the Act quite clearly opened a Pandora's box. It would have enabled insurers to redetermine previously accepted claims at any stage of the compensation process. There was no definition of 'appropriate' and there were no guidelines as to its use. It quite clearly would have let the a gross injustice but, more to the point, litigation of a very expensive nature regarding the word 'appropriate'. Given this fact, the previous Labor Government failed to gazette the matter so that section 53(7) lay inactive. The section was in fact proclaimed by the new Liberal Government in February 1994. It was proclaimed in its form simply stating that people may, in an appropriate case, redetermine a claim. The result of this, I am informed, was that the insurers very promptly carried out the worst fears of workers' representatives; that is to say, they immediately began to redetermine previously accepted claims as being rejected. This was done on very spurious grounds in many cases. One law firm, Wallmans, stated a case to the Supreme Court regarding the retrospectivity of the Peterson amendments to section 53(7). The court, of course, held that it was not retrospective. However, prior to this occurring, many, many workers had been severely traumatised by this unscrupulous action by insurers. It was in fact a backdoor attempt to push workers to the wall to cheaply settle their claims.

The Hon. Mr Elliott was made aware, by the electorate at large, of the gross injustices and the problems emanating from section 53(7). In June 1994 he moved in this Council amendments to rectify this and to ensure that such as injustices could not occur. The amendments he moved were retrospective to February 1994, out of what was considered to be an appropriate case. Those amendments that were accepted by Parliament were section 7A in the principal Act, which currently provides:

For the purposes of subsection (7), an appropriate case is one where

(a) the redetermination is necessary to give effect to an agreement reached between the parties as to an application for review or to reflect progress (short of an agreement) made by the parties to such an application in an attempt to resolve questions by agreement; or

(b) the claimant deliberately withheld information that should have been supplied to the corporation and the original determination was, in consequence, based on inadequate information' or.

(c) the redetermination is appropriate by reason of new information that was not available and could not reasonably have been discovered by due inquiry at the time that the original determination was made;

(d) the original determination was made as a result of an administrative error, and the redetermination is made within two weeks of the making of the original redetermination; or

(e) the determination is made in prescribed circumstances.

7B. A regulation made for the purposes of section 7A(e) cannot come into operation until the time for disallowance has passed.

8. The redetermination of a claim does not give rise to any right on the part of the corporation to recover from the worker moneys paid under a previous determination unless the previous determination was made in consequence of a worker's fraud.

What we are saying is that those amendments were wise amendments by the Hon. Mr Elliott. They provided as fairly as possible to all parties the ability to redetermine a claim in a wide number of cases where it would be appropriate to do so. They do not allow an open ended right to redetermine a claim. The Government's amendment to section 53(7) has two obnoxious characteristics: it seeks to remove the two week limit for administrative errors and to leave it totally open ended; and it seeks to add a clerical or arithmetical error. I point out to the Committee that the Act already contains provisions for clerical or arithmetical errors to be corrected. Section 36(7)(a) provides that, if the corporation overpays a worker by way of weekly payments in consequence of an arithmetical or clerical error or if the corporation makes overtime payments on an incorrect assumption, it has the right to recover those moneys from the worker as a debt. There is no need for this amendment by the Government unless it is for mischievous purposes. I suggest that those purposes are to allow insurers to redetermine claims at will. This is not acceptable to the Opposition, and I trust that it is not acceptable to the Hon. Mr Elliott given his initial amendment in June last year.

In conclusion, these amendments that I put forward seek to do two things: to delete proposed subsection (d)—that leaves us with Mr Elliott's more than adequate amendments inserted in 1994—and to delete the transitional provisions which seek to make the provisions of section 53(7) retrospective to the commencement of the Act; that is, unacceptable claimants who had entitlements and rights and based their future on those rights should not now be exposed to a right to redetermination by the corporation when the courts, before the insertion of section 53(7), held that once a determination was made it was final.

I commend my amendments to the Committee, and urge the Committee to join with me in supporting these amendments, which are fair and which remove the Government's proposed amendments which are in no way necessary, fair or equitable. It will be necessary when we come to the transitional provisions of the Act to insert the second part of the Opposition's proposal, and the Opposition will propose to delete clause 28(1)(c).

The Hon. K.T. GRIFFIN: The Government opposes the Opposition's amendments. We are talking about the determination of a claim. I suggest that the reference to section 36(7) relates to the discontinuance of weekly payments which may be made without a determination having been made. I would have thought that, as a matter of equity, if a payment is made as a result of an administrative, clerical or arithmetical error, it would be fair and reasonable that that be amended, whether it be in favour of the employer or WorkCover and the employee. Protection already exists: redetermination under the current section 53(8) does not give rise to any right on the part of the corporation to recover from the worker money paid under a previous determination unless the previous determination was made in consequence of a worker's fraud.

As I have said, I think that is fair and reasonable. If that is inaccurate and if an error has been made administratively, clerically or arithmetically, why not allow it to be corrected. This is all that this amendment seeks to do. The present provision in section 53 is rather narrow: it relates only to an administrative error, and of course action must be taken within two weeks. It is correct that we are trying to remove the two week period, because that is too limiting. If an error is made, whether it is picked up within two or four weeks, I would have thought that it is fair and reasonable that it be picked up and adjustments made, bearing in mind again the protection of the worker in relation to the recovery of overpayments under section 53(8).

The Hon. M.J. ELLIOTT: This issue was debated at some length in 1994 and at no length on the last occasion. This subclause was an oversight on my part: it was not a matter of my having changed my mind but of my not having picked up what it provided. I think some important issues surround this matter. As pointed out by the Hon. Ron Roberts, under section 36(7) the corporation can tackle questions of arithmetical or clerical error, two aspects which sensibly have been added to this clause. Importantly, the worker is then in a position to seek a review, and payments will be made during the next couple of years while that review is undertaken.

I am not quite sure why the Government should want to duplicate something that clearly is covered under section 36 and in another clause as well. At the very least, it seems to be very untidy. Perhaps it emanated from previous amendments over the years, but I do not think that having two clauses which essentially do the same thing (one offers protection and one does not) seems particularly sensible. Even if they both offered the same protections, why stipulate it in two places when essentially they are doing the same task? As I said, this matter was debated at length. I inserted those words deliberately, and I have not been persuaded to a different position: I simply overlooked this matter the first time. I support the Hon. Mr Roberts' amendment.

The Hon. K.T. GRIFFIN: There is a distinction between the two areas. Section 36 deals with an overpayment; the amendment to section 53 relates to an error made in a determination. So, there are differences between the two. I can take the matter no further.

Amendment carried; clause as amended passed.

Clause 20—'Employer's duty to provide work.'

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

Page 11, after line 22—Insert new paragraphs as follows:

; or

(d) the employer currently employs 10 or more employees, and the period that has elapsed since the worker became incapacitated for work is more than 2 years; or

(e) the employer currently employs less than 10 employees, and the period that has elapsed since the worker became incapacitated for work is more than 1 year.

There was some debate the first time through the Committee about the limit for which employers should be required to hold jobs open for an injured worker. We were proposing a mandatory 12 months, as I recollect. The Hon. Mr Elliott said that he would be prepared to give some consideration to that on the basis of distinguishing between small and larger employers. We proposed that employers with more than 20 employees should hold open the jobs for two years, and the small employers with fewer than 20 employees up to one year. We have now softened that approach even further and suggest that the cutoff point ought to be 10. That is the proposition that I move.

The Hon. M.J. ELLIOTT: The section referred to under this clause is one where there is a great deal of dissatisfaction from both employer and employee groups. I understand the problems some employers have: I also understand that some employers seek to avoid their responsibilities, and it appears that some unreasonably do so and manage to get away with it. That is why I said that not all employer groups are unhappy with this section. I have had examples given to me where WorkCover has been unnecessarily heavy-handed but then, as I said, I have had virtually the reverse complaint from some employee groups in some circumstances. It indicates to me that this is a clause that needs fixing. Even what the Government is proposing will not fix it: it might make it slightly better for some of the employers but still will not make it better for many.

I would have thought that the sorts of tests the Government is including would have stood up underneath what this section already provided. It certainly will not solve any of the problems that some of the employee groups are pointing out. At this stage I can agree to paragraph (e), but reducing 20 to 10 and saying that any employer who employs fewer than 10 employees might be required to hold a position open for one year. As far as any other employers are concerned, that is an issue that needs revisiting, not just from the employers' perspective: we need to get the clause right as a whole.

The Hon. R.R. ROBERTS: We are opposed to any changes in this clause. This was originally passed by the Legislative Council and we accepted that. We do not accept any weakening of the intent of what passed. Provisions similar to this, or the requirement to hold the job open, have been there for some time. This is a question of the rights of

individual workers and something that we ought to strive for. We have to go back to the base principles, that someone has been injured in employment, has a right to employment and every opportunity should be taken to return to that employment within that employer's establishment.

There are other responsibilities of rehabilitation, retraining and replacement. Once you diminish the fundamental right of an injured worker to have the opportunity to go back to his original workplace, you are starting down a very unhealthy track. I oppose any weakening of the clause. However, I accept what the Hon. Mr Elliott is saying. We are opposed to any alteration to this clause.

The Hon. K.T. GRIFFIN: I suggest that it would be appropriate to put the two paragraphs separately in the amended form: that the figure 20 would be the figure 10 in each case, and you put the amendment to paragraph (d) first, paragraph (e) secondly. Obviously, the Government would prefer to have paragraphs (d) and (e) but we recognise the compromise that the Hon. Mr Elliott is proposing and would be supportive of paragraph (e) as well as paragraph (d).

Paragraphs (d) and (e) inserted; clause as amended passed.

Clauses 21 and 22 passed.

New clause 22A—'Delegation to exempt employer.'

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

Page 12, after line 24—Insert new clause as follows:

Amendment of s.63—Delegation to exempt employer

22A. Section 63 of the principal Act is amended by striking out paragraph (a) of subsection (1) and substituting the following paragraph—

(a) the powers and discretions under the following sections:

Section 26	
Section 28A	
Section 32	(but not section 32(11) and (13))
Section 35	
Section 36	
Section 38	
Section 39	
Section 41	
Section 42	
Section 42A	
Section 42AA(3)	
Section 42B	
Section 43	
Section 44	
Section 45	
Section 53	
Section 45	(but not the power to approve recognised medical experts for the purposes of section 53(2))
Section 106	
Section 106A.	

This amendment is a consequential amendment to section 63 of the Act which concerns the delegation of powers to exempt employers. In view of a number of amendments being made to the Act by the Parliament, it is necessary to provide, in section 63, specific recognition of the powers of the corporation in those new sections capable of being delegated to exempt employers.

New clause inserted.

New clause 22B—'The Compensation Fund.'

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

Page 12, after line 24—Insert new clause as follows:

Amendment of s.64—The Compensation Fund

22B. Section 64 of the principal Act is amended by striking out paragraph (c) of subsection (3) and substituting the following paragraph:

(c) the costs of the system of review, conciliation and appeal established by this Act;

This amendment is designed to extend the range of matters upon which the compensation fund may be expended. It will be available, among other things, for additional resources for the appeal tribunal.

New clause inserted.

Clause 23—'Adjustment of levy in relation to individual employers.'

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 upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clause passed.

Clause 24 passed.

The Hon. K.T. GRIFFIN: It is not the Government's intention to proceed with this rather extensive package of amendments in relation to clause 24A. That does not mean that we are resiling from the desire to have the review process thoroughly examined. Informally there has been a proposal made, and that is to establish a forum or working group which will comprise representatives of the Opposition, Government and Australian Democrats as well as unions and employees, with some specialist assistance designed to focus on this issue of the review process.

I think everybody recognises that it is a very complex issue. It is causing a great deal of problems for employers, employees, WorkCover and the Government. It is important for us to sit down and examine carefully what processes there presently are, what alternatives there may be, the whole question of case flow management, which has been such a success in the District Court and Supreme Court, and begin to examine the way in which disputes can be resolved in the process. It is on that basis that I do not intend to proceed with this new clause.

The Hon. M.J. ELLIOTT: Review has been one of the big issues which has been debated in the context of this Bill. Employers say that change and review is absolutely crucial; employee groups have been implacably opposed to any real change to review. I have put on the record, and I have said to employee groups, that I believe there is a need for a change to review. I suggest to them that even some of the apparent strengths they see in review potentially can become weaknesses. The review officers themselves are appointed by the Minister. They are due to be replaced every five years and, over the next couple of years, the Minister, if he so chose, could fill the review panels with people who are distinctly anti-worker, and the potential to take matters to the tribunal would be limited—I am not saying he would do that, but the potential is there. Just because they assume that the review process is a relatively amenable and friendly one at this stage, I do not think that it will necessarily remain that way.

I have a concern that review is taking a very long time, and if one is serious about rehabilitation you do not want people sitting in review trying to have substantial matters which may impact on it being looked at. If a modified review is capable of giving decisions more quickly, many of which will not be challenged, that will be a good thing for all concerned, for employer and employee alike. The major challenge is to make sure that if we make a substantial change it is fair at the same time. I had grave concerns about the Government's first model, but in the past 48 hours it has come forward with a significantly different model. I still have some concerns about that as well, although I believe that in some aspects it is much closer to the sort of structure that I might find attractive.

The Government has to acknowledge that perhaps there were problems. The Government kindly supplied to me correspondence that it had received in relation to dispute resolution. WorkCover had some consultants look at the dispute resolution as proposed in its Bill as it stood until a couple of days ago. It is important to put on the record what these consultants said:

> Expected outcomes of implementation of the Bill in its present form. We expect problems to emerge within 12 months unless these issues outlined above are addressed. These problems are: an initial significant increase in tribunal matters; a steady drop in standards of claims officer decisions both in the corporation and within insurers and exempts; an increase in workload of review officers; an increase in the disputation rate in comparison with other States; an increase in legal costs/administration costs; and a higher unit cost per dispute.

The Government has in fact abandoned that model, but it does show that something which it felt quite good about, when an independent consultant looked at it, it made some comments which would be of concern. That consultant did go on and make a number of recommendations about what might be done. It is fair to say that the Government has set about in its amendments to try to address a number of those but, on reading some of the suggestions—and I am not saying the model suggested here is perfect or indeed might be anything like the final model—one would note that the Government, having set about picking up components of it, did not pick up what I would have considered to be other very important components, particularly the concept of internal review which keeps a very close monitoring role in relation to claims management itself. In fact, the Government's model is too distant from claims management and monitoring of it.

I will not go into the ins and outs of other concerns I have with the Government's model, but certainly I had concerns about the way it proposed representation might work. I did have concerns about costs, although it has started to address those. I would rather we do this and get it right and not do a bit of a patch up now and another patch up in a couple of months time because, as the consultants suggested in relation to the earlier model, within 12 months serious problems will emerge. I certainly have the impression, having spoken with all the significant interest groups—the employer and employee associations, the Labor Party, and the Liberal Party (and of course I can speak for the Democrats)—that those five groups would enter into genuine discussion. While some are not necessarily acknowledging there is a need for change, they recognise that perhaps change will happen and it is better to be included than excluded. It is important to be involved and to make sure that the new structures are fair.

I would also stress there is a need not to procrastinate. I must say that, over the past couple of months, there were times when I felt there was a little too much procrastination and not enough getting down to the substantive issues. That sometimes left me in the position, as I was trying to reach my final position, of also appearing to procrastinate as I was seeking to get to the bottom of what were some people's concerns. Those concerns sometimes were very genuine but not always well expressed. Sometimes it was tilting at windmills and sometimes it was just opposing any change at all. I indicate again this is an area where there will be change. It is an area where there needs to be change, otherwise I would not say that it will happen. I hope and expect that all parties will be intimately involved and perhaps some of the goodwill that we have seen in recent times in relation to some issues like redemption might carry over and we might perhaps see those important interested parties—employers and employees—together playing a significant role to achieve an outcome which need not necessarily disadvantage either of them.

The Hon. R.R. ROBERTS: It is encouraging that at this late stage of the discussions in respect of this Bill that, in the dying moments of the Parliament, we were able to convene a conference between the Government negotiators, members of the UTLC and the Australian Labor Party, and there was an agreement which has been outlined earlier by previous speakers. There was agreement that we would put aside this question and it would be put to a five part committee. There were a couple of important bases on which that agreement was reached. One was that the Government would develop consensus legislation. The other important platform was that there be would no fewer rights for workers pursuing reviews than they have now. I put that on the record. I could go on at some length about my disappointment in the process—I have done that on other occasions—but it is encouraging that at last we seem to be able to arrive at a position where we can tackle legislation on the basis of achieving good legislation instead of these maximus positions that are being put and stubborn refusal to move away from things that were impossible in the first place. I support the proposition of the Attorney of not pursuing this matter at this time.

The Hon. K.T. GRIFFIN: I did not set the time frame within which I understand the negotiations are to proceed. It is hoped that this can be pushed along with a view to trying to resolve the issue by the beginning of June so that there can be some legislation introduced into the Parliament during the budget session.

[Sitting suspended from 6.3 to 7.45 p.m.]

Clause 25—'Copies of medical reports.'

The Hon. R.R. ROBERTS: I move:

Page 13, lines 21 to 25—Leave out subsection (1) of proposed new section 107A and insert:

(1) The Corporation must, within seven days after receiving a request from a worker's employer, provide the employer with copies of reports in the Corporation's possession prepared by medical experts so far as relevant to—

(a) the worker's capacity to carry out duties that the employer may have available for the worker; or

(b) the employer's role in the rehabilitation of the worker.

We are replacing section 107A to ensure that employers only get the information they really need to assist the work capacity of an injured worker in the context of a return to work or rehabilitation program. Anybody who has worked in the workers compensation area would know that highly personal material is found in many psychiatric and other medical reports. In almost every case it will not be relevant for the employers to know the sexual history or family background of the worker.

The Government amendment is far too broad and it imposes a substantial penalty in respect of the duty of employers not to disclose confidential information. If the Government is serious about preventing employers from abusing the privacy of workers, it would agree to the penalty increase. We have had this debate on another occasion in respect of privacy. We have attempted to overcome the problem we foresaw and reiterate that it is our view that the only relevant information that needs to be provided is that which is in reference to the capacity of the worker to undertake any work that may be available in the employer's premises. This provides basically what the Attorney-General as representative of the Government wants and overcomes

some of our problems and I ask for his support for both measures.

The Hon. K.T. GRIFFIN: What the Government had proposed was that, in order to allay the concerns of some members in relation to clause 25, we would place a prohibition upon the disclosure of confidential information about a worker in a report obtained under the section. We were trying to balance that off. The honourable member is trying to deal with the issue of availability in a much narrower sense than in the provision now in the Bill as clause 107A. The Government's view is that this amendment ought to be opposed, but its amendment to add a subsection (3) would to a large extent meet the concerns of the honourable member.

The Hon. R.R. ROBERTS: I thank the Attorney-General for his amendment with respect to the distribution of the information. I accept that and will be supporting it, but it is important to define the sort of information that ought to be freely available to an employer. There are many recorded cases of incidents that I will not canvass tonight where this sort of information has been abused. One employer had provided what I would consider confidential information to the husband of a woman involved in a case. We are trying to meet some of the requirements of the Government. We do not do that lightly, either, but in a spirit of trying to resolve the Bill at the earliest possible juncture we have accepted some requirement to provide information, but it ought to be restricted to the capacity of the employee to provide duties that may be available and to the employer's role in the rehabilitation of the worker. I ask for the support of the committee and the Hon. Mr Elliott in particular.

The Hon. M.J. ELLIOTT: I will not support the Hon. Ron Roberts' amendment. The clause in the Bill as it currently stands does not relate just to medical experts. The amendments certainly seek to tackle the same problem. The Government is seeking to pick up the issue of purposes of proceedings under this Act, although my understanding is that it can gain access to them under discovery, so to that extent it does not make a significant difference in terms of what the Government has done. I do not see any other substantial difference. I was intending to, and still will be, supporting the Government's further amendment to the clause.

The Hon. R.R. ROBERTS: I record my disappointment that we have not been able to attract the support of other members of the Committee in respect of this important issue of confidentiality and rights to privacy. However, it seems clear that we will not win this amendment. It is our intention to support the Attorney's subsequent amendments in respect of this matter. I will not divide on this occasion.

Amendment negatived.

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

Page 13, after line 26—Insert subsection as follows:

(3) An employer must not disclose confidential information about a worker in a report obtained under this section except as may be necessary—

(a) to assist the worker's rehabilitation and return to work; or

(b) for the purposes of proceedings under this Act.

The Hon. R.R. ROBERTS: I move to amend the Hon. Mr Griffin's amendment as follows:

After paragraph (b) of proposed subsection (3)—Insert:

Maximum penalty: $8 000 or imprisonment for two years.

The Hon. K.T. GRIFFIN: The Government does not accept the Hon. Mr Roberts' amendment. I know that there has been some discussion in which he indicated that he would prefer to have a specific penalty rather than the general provision of the legislation. However, one has to remember that there are many provisions in the principal Act and the Bill that do not have specific penalties. In those circumstances, under section 122 of the principal Act, where there is no specific penalty, the maximum fine is $2 000. It would seem to me that that is appropriate in these circumstances.

The Hon. M.J. ELLIOTT: What is the current penalty?

The Hon. K.T. GRIFFIN: For an offence where there is no specific provision then it is $2 000 under section 122. It seems to me that to put in a penalty of imprisonment for two years in relation to this sort of offence is draconian in the extreme. I would very much oppose that. I think it is quite reasonable to leave it as the general penalty of $2 000 maximum.

The Hon. M.J. ELLIOTT: I will not support the amendment. My expectation is that probably the courts, faced with a maximum penalty of $8 000 or $2 000 would probably not make much of a different judgment, in any case. Certainly, two years imprisonment seems to be a fairly hefty penalty.

The Hon. R.R. ROBERTS: It is a form of words that we see often. The reality of the case would be that, unless it was an absolutely horrendous breach that caused untold harm, one would never even consider a gaol term. However, it fits within the general principles, as I understand them, in the way this would be put. I would expect that the maximum penalty would be $8 000 and I would assume that penalties would be somewhere in between, depending on the breach. Fortunately, there have not been many of them, but they are significantly traumatic when they do occur. In fact, it could be $2 000, $3 000 or any range of penalties up to a maximum of $8 000. We are talking about the maximum penalty, not the minimum penalty. Therefore, I take the point that the Hon. Mr Elliott made, that in many cases the decision would throw out a figure. But this would give the person making the judgment of the severity of the case a greater range. I suggest to the Hon. Mr Elliott that, unless the circumstances were so bad that there should be a two-year penalty, the two years would hardly ever be used, but the parameters would be there to make judgments on the severity of breaches of this Act, with a maximum penalty of $8 000.

The Hon. K.T. GRIFFIN: If the Parliament puts two years there it will be signalled to the courts as a very serious offence if it is breached. It is all very well for the honourable member to say that he would not expect the imprisonment period to be used; the fact is that if it is in the clause then—

An honourable member interjecting:

The Hon. K.T. GRIFFIN: The $2 000 penalty is fine; it applies for many other general offences, some of which are more serious than this. It seems to us that we should leave it at the $2 000 penalty; that is reasonable.

The Hon. R.R. Roberts' amendment negatived; the Hon. K.T. Griffin's amendment carried; clause as amended passed.

Clauses 26 and 27 passed

New clause 27A—'Amendment of Schedule 3.'

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

Page 14 after line 6—Insert new clause as follows:

Amendment of Schedule 3

27A. Schedule 3 to the principal Act is amended by striking out the item—

Permanent loss of the capacity to engage in sexual intercourse. . . . . ..70;.

This amendment concerns lump sum entitlements for non-economic loss and, in particular, the deletion from the third schedule of the disability relating to the permanent loss of the capacity to engage in sexual intercourse. The Government's

Bill proposed the use of the Comcare guide in lieu of the existing third schedule—an American Medical Association guide. The Government is prepared to abandon its argument for the use of the Comcare guide provided two amendments are made to the operation of the existing third schedule and AMA guide.

The first of these amendments is the deletion of the existing provision in the third schedule relating to the permanent loss of the capacity to engage in sexual intercourse. This provision has been used in the third schedule as a top-up by workers to maximise their entitlements to the third schedule and to aggregate in addition to other disabilities, such as back or hand disabilities, a further claim for an entitlement relating to the permanent loss of the capacity to engage in sexual intercourse. The Government amendment will close this loophole, but will retain the use of the AMA guide, which contains specific provisions that will still compensate the genuinely injured worker who suffers disabilities to sexual organs.

The second amendment that the Government considers necessary to the third schedule is an amendment to address the problem of aggregation of multiple disabilities. The Government has agreed to deal with this issue through regulation, and will move to have a regulation prepared on this matter in operation prior to the commencement of these amendments. In moving away from the Comcare guide, the Government is also concerned that the third schedule does not contain a 10 per cent disability threshold. The Comcare guide would have done so. The failure of the third schedule to contain a 10 per cent disability threshold continues to provide access to non-economic lump sums for workers who have degenerative conditions and disabilities which are low level disabilities largely the consequence of the vicissitudes life. The Government will closely monitor claims of this type and it may be necessary for the Government to come back to the Parliament with further amendments in this regard.

The Hon. R.R. ROBERTS: I move:

To amend the Hon. K.T. Griffin's amendment as follows:

Leave out all words in the clause after 'by striking out the item' and insert:

Permanent loss of the capacity to engage in sexual intercourse where the loss of that capacity is associated with another disability that is compensable under this schedule. 35;

Permanent loss of the capacity to engage in sexual intercourse where the loss of that capacity is not associated with another disability that is compensable under this schedule. . . . . 70.

We oppose the Government's amendment. Our amendment creates a two tier system for evaluation and compensation where the capacity to engage in sexual intercourse has been permanently lost. We are of the view that where a sole permanent incapacity is sustained by the worker, the existing assessment of this incapacity should still apply. In other words, the injured worker should be able to receive up to 70 per cent of the prescribed sum. However, where the loss of capacity to engage in sexual intercourse is consequential on a back or some other injury, we seek to limit the maximum amount payable in respect of the loss of capacity to engage in sexual intercourse itself to 35 per cent of the prescribed sum.

We see this as a fair and reasonable outcome which addresses allegations that the loss of sexual capacity provisions have thus far been unduly generous to workers. There is quite a story behind this. I will not engage in a long outline, but one of the reasons this claim has been used as a top up (as referred to by the Attorney-General) is because of other unfair amendments to the Act over time. I refer specifically to section 43(3) of the Act, which allows limited access to restitution for back and upper back injuries, in particular. That sort of legislation, which is unfair to workers, leads to situations where people represent injured workers in their best interests and in line with their responsibilities as advocates, and it must be remembered that it is possible for an advocate, especially a lawyer, to be sued for incompetence or undue care in respect of these matters.

Much of this could have been overcome by the reintroduction of section 43(3) of the principal Act. However, at this late stage opening up that argument again would not be sufficient. The Opposition is also mindful of the debate on a previous occasion during which the Hon. Mr Elliott indicated that he thought we would have to recommit this matter, because he felt some change was warranted. As I said, if it is the only incapacity suffered by a worker, I believe that he should suffer no disability. If it is a consequence of a back injury, it could be argued that there is a compensation element in respect of the back injury. There is also another argument, which I do not necessarily accept, but in the spirit of compromise it is quite clear that the Opposition is committed to there being no reduction in benefits and we must get the best deal we can on the day. So, we are endeavouring to put to the Hon. Mr Elliott a proposition that accepts that there will be some compensation for the principal injury, but some consideration needs to be given to the consequences of that injury, because there is a real and substantial interference, in most cases, with the sexual life of that particular employee.

It is not because we actually agree with the principle, but in the spirit of trying to provide a reasonable outcome for injured workers and in the interests of what we believe is a just situation, we have reluctantly come up with this amendment for which we hope we will get some support. In discussion, the Hon. Mr Elliott indicated that he does not believe that genuinely injured workers ought to be disadvantaged. I ask the Hon. Mr Elliott to consider these workers to be in that category, and I ask for his support for our compromise position which, I reiterate, is very much a compromise but, nonetheless, it is a just situation.

The Hon. M.J. ELLIOTT: I will focus first on the issue of sexual dysfunction. There are two categories of cause: first, a direct physiological impact upon the organs themselves (that is quite adequately covered by the AMA guidelines); and, secondly, an indirect impact caused by some other injury. It seems to me that if you are sexually incapacitated as a consequence of some other injury, the scale of compensation for that injury should be taken into account as that is one of the possible side effects, rather than getting into a case by case analysis of whether or not a particular individual suffered in relation to regulatory of sexual intercourse, etc. Doctors have enough problems trying to work out the level of stress from which people suffer, but trying to work out how much their sexual capacity has been impacted upon other than by looking at direct physiological effects would be next to impossible. I do not think that we would want to call in a worker's doctor and an employer's doctor to try to work it out.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That's right. The point I make is that the level of compensation for injuries to backs, arms, etc. should take into account the fact that they will have a secondary impact. This is probably the one real secondary

disability that is contained in the third schedule. Everything else is a direct injury and cannot be seen in any other way. Most relate to loss of limbs or parts of limbs or some sort of a direct injury, whereas sexual incapacity is something that is said to have happened because of, say, the loss of fingers or a shoulder injury. I am not saying that these other injuries do not have an impact; what I am saying is that, in respect of those injuries themselves, when allocating a percentage of a prescribed sum it should be taken into account that they may have other effects. That is how I feel about sexual incapacity when looked at in the narrowest sense.

There is no doubt that some people justify this because they say that the other levels are too low; therefore, we must support this to make up for that situation. That is not a terribly satisfactory way of rectifying the problem; in fact, it could damage the whole system in the process, because it could start to affect its credibility. One of the things that I find intriguing in this debate when I talk to employers is that they are more upset about issues other than levies. Although the debate in the media has largely centred on levies, employers are more upset about some of the other strange things that happen under the system. The fact is, and most honest people would admit, that this is an area which is being abused. Some people seek to justify the abuse; nevertheless, it is happening. While some people seek to justify it, they must realise that that very abuse is undermining the credibility of the system amongst some employers who say, 'We are prepared to pay a levy and we want people to get fair benefits.' We cannot assume that all employers will take the line of 'We must cut the levies to the absolute bone and we must be able to match Queensland', because from my discussions with employers it is apparent that many do not believe that. Most employers are reasonable people, as are most employees, and the internal credibility of the whole system must be safeguarded.

I think that issue is contained within this provision. Many people privately say it must go, yet if you take them into the public arena on this issue suddenly they say the opposite. That is disappointing. I have been on the record for some time saying that this issue must be tackled. I do not say that it is has been tackled entirely satisfactorily, but I expect that, like so many things in this legislation, it will be revisited—as much as I hate to think that that will happen. Already, the Federal Government's Comcare guidelines are about to go through more change during the next couple of months. What they will be changed to I do not as yet know.

In relative terms we are talking about legislation that is still less than 10 years old. It is an area that is still maturing, and we must expect some change. Hopefully, that will be a refining change and not a radical overturning, because I think that the fundamentals of what we have been trying to achieve for a long time with this legislation are right, as long as politics—be they Party politics or be they industrial politics—do not mess it up in the meantime. I am not supporting the amendment of the Hon. Ron Roberts. I understand why he is doing it, but I think there are important reasons why it should be opposed.

The Hon. Ron Roberts' amendment negatived; new clause inserted.

Clause 28—'Transitional provisions.'

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

Page 14, lines 11 to 21—Leave out paragraphs (a) and (b) and insert:

(a) the amendments made by this Act do not affect—

(i) the principles on which weekly payments for a period of incapacity before the commencement of this Act are assessed;

(ii) the principles on which compensation for non-economic loss is assessed if a determination of that compensation had been made before the commencement of this Act;

This makes clear that the amendments made by this legislation do not affect the principles on which weekly payments for a period of incapacity before the commencement of this Act are assessed, or the principles on which compensation for non-economic loss is assessed, if a determination of that compensation had been made before the commencement of this Act, or compensation for non-economic loss relating to loss or impairment of the capacity to engage in sexual intercourse, if an application or request for such compensation had been made before 12 April 1995.

The Hon. R.R. ROBERTS: The Opposition is opposed to this. We believe the transitional provisions should not be retrospective and, if there are to be changes to the Act, they ought to be prospective, not retrospective. It is a breach of the principles that have been established in respect of this Act, even in my time. I can remember when the Hon. Mr Gregory wanted to implement something similar and we had an extremely passionate and logical contribution by the Hon. Mr Stefani in respect of retrospectivity, and the Attorney-General made an equally emotional and accurate assessment at that time; that when the alterations to legislation do take place they should only take place from the time the legislation comes into force or, at the very worst, for injuries that occur in future, not before today. We oppose the measure.

The Hon. K.T. GRIFFIN: I think the honourable member misunderstands the import of the amendment. It is really designed to protect against any sort of retrospective application. Clause 28 deals with transitional provisions. Leaving out paragraphs (a) and (b) of clause 28, 28(1) provides:

> This Act applies to disabilities arising from traumas occurring before the commencement of this Act. . . and disabilities arising from traumas occurring after the commencement of this Act. . . subject to the following qualifications.

It seems to me that what we are trying to do is protect the principles on which weekly payments for a period of incapacity before the commencement of this Act are assessed, principles on which compensation for non-economic loss is assessed if a determination of that compensation had been made before the commencement of this Act, or compensation for non-economic loss relating to loss or impairment of the capacity to engage in sexual intercourse, if an application or request had been made before 12 April 1995.

The Hon. R.R. ROBERTS: This amendment will mean that income maintenance and compensation for non-economic loss will immediately have to be determined by reference to the harsh provisions of the amended Act immediately on the commencement of the amending legislation. Clause 28 as it stands is far preferable. It is fairer, because workers with traumas occurring before the commencement of this Act will effectively have their income maintenance determined according to the old law. When those workers were injured they had an entitlement of 100 per cent of their pre-injury income for 12 months, followed by an entitlement of 80 per cent of their income thereafter, subject to their medical condition, employment and so on. The latest Government amendment is retrospective in that workers already injured and in full expectation of income maintenance entitlements

that have existed for years will find their income maintenance cut immediately on commencement of the Act.

Similarly with the compensation for non-economic loss, clause 28 of the Bill provides that workers injured prior to the commencement of the Act will have six months in which to apply for non-economic loss compensation pursuant to the old law. This is unfair. The Government amendment would negatively impact on compensation entitlements immediately upon the commencement of the Act, even though workers have been injured prior to the commencement of the Act and may only have held off from applying for non-economic loss because they were waiting for their medical condition to stabilise. Circumstances such as these should not lead to significant discrepancies in entitlement. We are opposed to the measure.

The Hon. M.J. ELLIOTT: I want to make sure there is no misunderstanding. If we look at the Government's proposed amendment as it now stands in relation to (a)(i), it says:

> The principles on which weekly payments for a period of incapacity before the commencement of this Act are assessed;

What changes potentially can occur in relation to weekly payments before and after the passage of this Act, or the assessment of them?

The Hon. K.T. GRIFFIN: As I understand it, second year review, which is sections 35, 36 and 38.

The Hon. M.J. ELLIOTT: I clearly understand that those changes have occurred, but what is the real effect in relation to this subclause?

The Hon. K.T. GRIFFIN: One of the principles on which weekly payments are assessed is whether or not the obligation of mutuality has been breached. Therefore, I think it is important to recognise, in looking at this issue, that that at least be recognised in the way in which the amendment is drafted.

The Hon. M.J. ELLIOTT: After some consideration, there is one very clear error in this drafting, in that paragraph (ii) does not do anything. It is redundant and would have had some relevance if there had been changes to levels of benefits and the like. I do not think it does anything and, if anything, just creates some confusion. I understand what paragraph (i) is trying to achieve, though there is one phrase used there that may create some difficulty, and that is this question of period of incapacity. I understand that the Act comes in on a particular day and that, as of that time, the rules in relation to obligation, mutuality and so on are meant to apply. I am wondering how a court might sought out whether or not it has to wait for a particular period of incapacity to finish before it can bring in those change of rules or exactly how it will cope with those words.

I am not sure whether the period itself is relevant at all and whether or not perhaps we should be looking at the principles in which weekly payments before the commencement of this Act are assessed. I raise that by way of a question at this stage, but I certainly do believe that paragraph (ii) is redundant and that is before we enter into perhaps any other debate. I do not see any other problems with paragraph (i), other than that this period of incapacity creates some uncertainty—that a few thousand dollars will be earned. I will leave those questions with the Minister or with the Hon. Ron Roberts.

The Hon. K.T. GRIFFIN: I think I have now got it under control. It is complex and difficult to determine double negatives and a few other things, but if one looks at clause 28(1), what we have now amended applies to disabilities arising from traumas occurring before the commencement of this Act and disabilities arising from traumas occurring after the commencement of this Act, so it applies. What is in our amendment in paragraph (a) is in a sense a saving provision, so the statement in the first three lines of subclause (1) does not have retrospective effect. So, in respect of a period of incapacity before the commencement of this Act, with anything happening before this Act comes into operation, if the weekly payments have been calculated on the basis of the principles under the old Act, this new Act (because of the way in which the first three lines of subclause (1) have been drafted), does not apply to retrospectively require the reassessment of those weekly payments before the date upon which this Act comes into operation.

Where that period of incapacity continues from under the old Act to the new Act, it is my understanding that in those circumstances the new principles will apply, but not so as to change the weekly payments which were actually calculated and paid before the commencement of this Act, but they may be reviewed in relation to that continuing period of incapacity after this Act comes into operation. That is the way in which it operates. I was trying to read too much into it. I thought that there must be something more subtle than that in it, but it is simply to protect the injured workers from having the weekly payments actually made to them before this Act comes into operation reassessed and therefore some of the moneys having to be refunded. It is as simple as that now that I have grasped the principles of it. From the Government's viewpoint, we are comfortable with the deletion of paragraph (ii) and, if it will facilitate the consideration of the issue when we get to it, I am happy to seek leave to move it in amended form.

The Hon. T. CROTHERS: I am afraid that I am somewhat confused. If what the Attorney says is correct and money has to be refunded, surely that is a form of automatic retrospectivity. Can the Attorney tell me the difference between a worker injured under the old Act and the situation proposed under the new Act? An injury is an injury is an injury. You cannot in respect to that be a little bit pregnant! You are either injured or you are not. That concerns me. If the Attorney's explanation stands the litmus tests that he himself has put on it, that then is by sleight of hand. If there has to be a refunding of compensable moneys paid under the old Act that, then, is sleight of hand retrospectivity. Will the Attorney address himself to those questions that are causing me concern?

The Hon. K.T. GRIFFIN: I did not intend to cause the Hon. Mr Crothers any concern. I was trying to explain the effect of clause 28, which applies to disabilities arising from traumas occurring before the commencement of the Act and those occurring after the commencement of the Act. The amendment will apply to all disabilities arising from traumas whenever they occur, but where there was a period of incapacity before the date of commencement of this Bill, we are saying that, by this provision, which is part of the amendment that I have moved, there cannot be any application of different principles to, for example, the weekly payments calculations prior to the commencement of this Act such that there would be required to be any reimbursement of anything which might be overpaid. That is a red herring which I am sorry triggered the honourable member's antennae. There is nothing in here that requires the re-calculation of weekly payments made before the date when this Act comes into operation—nothing at all. They are preserved in relation to and—

The Hon. R.D. Lawson interjecting:

The Hon. K.T. GRIFFIN: There is no retrospective adjustment to anything that occurred or in relation to anything that was paid before the date of commencement of this Act.

The Hon. R.R. ROBERTS: I am advised that the transition provisions provide for retrospectivity in the sense that the amendments moved by the Government to section 35 of the principal Act shall operate in relation to any and all workers who have been in receipt of an entitlement for two years or more. The reality we fear is that hundreds of notices will be issued for reviews.

The Hon. M.J. ELLIOTT: I will make one suggestion to the Attorney in relation to subclause (1). It is really a matter of clarification, whether or not the word 'falling' should have been placed before the word 'before'. Essentially it is a tidying up thing, which I think perhaps clarifies this period of incapacity.

The Hon. K.T. GRIFFIN: I seek leave to amend my amendment, as follows:

By inserting 'falling' after 'incapacity' and by deleting subparagraph (ii).

Leave granted; amendment amended; amendment as amended carried.

The Hon. R.R. ROBERTS: I move:

Page 14, lines 22 and 23—Leave out paragraph (c).

I oppose this transitional provision purely on the basis that the Opposition, supported by the Democrats, has deleted earlier this evening the Government's proposed amendments to the principal Act in relation to section 53(7)(d). The Hon. Mr Elliott in his June 1994 amendments to the Norm Peterson section 53(7) made section 53(7)(a), (b), (c), (d) and (e) retrospective to the operative date being 24 February 1994. The entire section was not made retrospective due to the fact that it would effect workers' substantive rights.

The Hon. M.J. ELLIOTT: I support the amendment. It is consequential on the arguments that we have had previously.

Amendment carried.

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

Page 14, lines 29 to 36—Leave out subsections (2), (3) and (4).

They are all consequential in relation to the review and appeal provisions not being proceeded with.

Amendment carried; clause as amended passed.

Schedule 1—'Amendment of Parliamentary Committees Act 1991.'

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

Page 15, line 25—Leave out 'six' and insert 'eight'.

This relates to the membership of the parliamentary committee that the Government is prepared to accept and go along with. However, we have taken the view that we ought to increase the membership to four members of each of the House of Assembly and the Legislative Council. Members will remember that whether it is four, six, eight or 10, there is always equality of numbers between the two Houses in relation to membership of joint committees on the basis that the two Houses are equal in the legislative process. The Government feels that there would be a benefit in having eight members—four from the House of Assembly and four from the Legislative Council—as members of this committee. It is an important area of interest and it is our view that it would give a wider representation of members to have that greater number.

The Hon. M.J. ELLIOTT: It is a fairly large team being put together for a committee that will probably meet less often than some of the other standing committees. I would have thought that if committees are meeting more often you might want the numbers to ensure that you always have a quorum, but this is the other way around. Has the Government given any thought as to how the Party composition might work? Traditionally it has worked such that there has been an equality in that the Government has half and the other Parties have half. How would that work in the context of four from each House? I do not know whether or not the Labor Party is attracted to this notion.

The Hon. K.T. GRIFFIN: Under the Parliamentary Committees Act, the presiding member has both a deliberative and casting vote, the casting vote being in the event of an equality of votes. The Chairperson is normally a member of the Government. So, it does not matter whether the vote is 4:4 or 3:3 in that respect, because in the event of a tied vote the Presiding Member would have a majority. No consideration has been given to the exact composition, but my understanding is that the House of Assembly was concerned that at least one additional Government person should be present to involve them in the deliberations of the committee on this important issue.

The Hon. M.J. ELLIOTT: No substantial reason has been given to change the pattern that exists in standing committees. I think this would be probably the largest committee of any sort which the Parliament has had, other than the wine tasting committee. I think that a committee of that size is not a good idea as when committees get larger they become less efficient rather than more so. So, I do not support the amendment to increase the size of the committee.

Amendment negatived; schedule passed.

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

Page 16, after schedule 1—Insert new schedule as follows:

SCHEDULE 2

Amendment of WorkCover Corporation Act 1994

The WorkCover Corporation Act 1994 is amended by inserting after paragraph (b) of section 14(4) the following paragraph:

(c) a regulation authorising the Corporation to enter into a contract or arrangement under subsection (3) lapses three years after the date on which it is made (but a further regulation may be made from time to time to replace a regulation that lapses or is about to lapse under this paragraph).

This schedule relates to the life of regulations permitting the delegation of claims management functions to private sector bodies. The Government has agreed to impose a three year sunset provision on the existing delegation power unless further regulations have been promulgated prior to that date and the period for disallowance of those further regulations has passed. It is the Government's intention to refer the operation of the regulations to a parliamentary committee not more than 12 months prior to the expiration of the three year period and not more than three months prior to the expiry for the purposes of providing a report on their operation and recommendations with respect to the repromulgation of regulations.

The Hon. M.J. ELLIOTT: I support the amendment. This matter was discussed during the second reading debate I think it is important that with outsourcing there be a monitoring program, of which the parliamentary standing committee will be an important part, and that we are satisfied that outsourcing has produced the benefits that it claims to

produce; if not, there will not be a renewal. Some real concerns have been raised by a number of members in this place, and I think this is one way of keeping a very close eye on the performance of the outsourced claims management.

I meant to ask a question earlier, and I will use this moment to put it on the record. Today, I received a telephone call from a person who had or was in need of a transplant following a work injury. I understand that WorkCover has flatly refused to become involved in picking up the costs.

The Hon. K.T. Griffin: Under the current scheme?

The Hon. M.J. ELLIOTT: Yes, under the current scheme, but I am not sure whether the new scheme would make any difference. I simply ask the Minister for a response to this question regarding WorkCover's reaction to transplants caused by workplace injuries.

The Hon. K.T. GRIFFIN: I will be happy to obtain the information for the honourable member and provide an answer by letter. If the honourable member has a specific case in mind, I would be happy if he would provide that information to me to enable me to give him a more specific response, otherwise it will be somewhat of a general one. It depends on the injury, the nature of the transplant and a whole variety of factors which, unless specified, will make it more difficult to provide an answer with precision.

New schedule inserted.

Long title.

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

Page 1, lines 6 and 7—Leave out 'and to make a related amendment to the Parliamentary Committees Act 1991' and insert 'and to make related amendments to the Parliamentary Committees Act 1991 and the WorkCover Corporation Act 1994'.

Amendment carried; long title as amended passed.

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

That this Bill be now read a third time.

The Council divided on the third reading:

AYES (10)

Davis, L. H.	Elliott, M. J.
Griffin, K. T. (teller)	Irwin, J. C.
Kanck, S. M.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Schaefer, C. V.	Stefani, J. F.

NOES (7)

Cameron, T. G.	Crothers, T.
Feleppa, M. S.	Levy, J. A. W.
Roberts, R. R. (teller)	Weatherill, G.
Wiese, B. J.	

PAIRS

Pfitzner, B. S. L.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.

Majority of 3 for the Ayes.

Bill thus read a third time and passed.

ROAD TRAFFIC (BLOOD TEST KIT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 March. Page 1384.)

The Hon. DIANA LAIDLAW (Minister for Transport): I am happy to support the second reading of this Bill and the Bill in general, although I have an amendment. I sought advice from the Crown Solicitor, which I will read because it explains the amendment. The advice states:

You have asked my advice on the possible implications if the above Bill is passed in its present form. The Bill will insert the following provision into section 47H of the Road Traffic Act:

3. The Minister may, by notice published in the *Gazette*—

(a) approve the form of a blood test kit for the purposes of section 47G(2a)(b);

(b) vary or revoke a notice under paragraph (a).

This Act as it is now merely provides that if a person requests, he or she must be given a blood test kit in a form approved by the Minister. There is no method specified as to how the Minister's approval is to be made or signified. In the absence of any such specification the Minister's approval is simply a question of fact, which may be established at trial by application of the rules of evidence.

That suggests that I would have to go to court and give evidence that the approval specified by signature was in fact valid because it was my signature. The opinion continues:

If the Bill is passed in its present form I am of the opinion that there is little chance that the amendments will have any effect on past convictions or pending proceedings. The amendment would be interpreted by a court as requiring ministerial approval from the date of commencement of the Act to be made by a notice in the *Gazette*. In the interpretation of statutes there is a presumption that, in the absence of some clear statement to the contrary, an Act will be assumed not to have retrospective operation. The approach of the courts is summarised in the following well known statement of Dixon CJ in *Maxwell v Murphy*, (1957) 96 CLR 261, as follows:

The general rule of the common law is that a statute changing the law ought not, unless the intention appears with reasonable certainty, to be understood as applying to facts or events that have already occurred in such a way as to confer or impose or otherwise affect rights or liabilities which the law had defined by reference to the past events.

If the amendment were construed as requiring the Minister's prior approval to be made by notice in the *Gazette*, it would apply to facts which had already occurred in such a way as to alter existing rights or liabilities as was discussed by Dixon CJ. If the amendment were so construed, it would be open to people charged with the relevant offence to say that section 49G(2a) of the Road Traffic Act was not complied with and that the blood alcohol evidence was not admissible. This is a very unlikely interpretation of the amendment as it would create an unjust result.

Nevertheless—and this is important in terms of the Bill—in order to make the situation completely beyond doubt, the Bill could be amended to include a provision to the effect that the Minister's approval be by notice published in the *Gazette* but that that does not affect the validity of any ministerial approval given prior to the commencement of the amendment Bill. It simply provides that the gazettal will be required in future—and the Government accepts that—but that the gazettal will not affect any approval that I have given in the past.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I have gazetted it, nevertheless.

The Hon. R.R. Roberts: So that one is right? But prior to that?

The Hon. DIANA LAIDLAW: Well, there wasn't an approval. I acknowledge that this is a sensitive precaution, so that there is not doubt when there has been a doubt in the past. I am happy to support the Bill, but I will move the new clause which simply confirms what would be accepted in law anyway because of the case decided by Dixon CJ that the Bill would not have retrospective application. My new clause simply confirms what is accepted as a precedent in the law.

The Hon. R.R. Roberts: It is a point of discussion during the Committee stage.

The Hon. DIANA LAIDLAW: Yes, I can discuss it further in the Committee stage if the honourable member wishes, at the time I move the new clause.

The Hon. R.R. ROBERTS: I thank the Minister for her contribution and support of the Bill. I take on board her indication of a new clause, which we will discuss when we get to the Committee stage. I commend the Minister on taking this action because it is, I think, an important piece of legislation—although only small in the scheme of things having regard to the legislation which passes this House—which will, in future, put beyond doubt the situation where people with blood alco tester levels of .19 can slip through the net, so to speak, and be found not guilty when, clearly, they are in the range where they are a danger to themselves and the public. I think that we need to close this loophole for the benefit and safety of South Australians and allow for the reasonable application of the intention of the law.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

New clause 4—'Prior approvals not affected.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 20—Insert new clause as follows:

4. The enactment of subsection (3) of section 47H of the Road Traffic Act 1961 does not affect the validity of an approval given by the Minister for the purposes of section 47G(2a)(b) of that Act prior to the commencement of subsection (3).

When I addressed the second reading of this Bill I outlined the reasons why I would be moving this new clause. I do not intend to go over the matter again, but simply say that this complements the initiative that was taken by the honourable member—an initiative which I accept as necessary in the circumstances. The new clause is, I suppose, best described as an act of caution on the part of the Government because it could be argued that by precedents accepted by the court since 1957 the Bill would not have retrospective application. The new clause confirms the legal precedents.

The Hon. R.R. ROBERTS: I heard the advice that was given to the Minister and I think I understand it, but I want to clarify it. This new clause will ensure that the gazettal that was made after the Cabinet meeting a couple of months ago—I cannot remember the exact date—is not affected, but there is the question of law which I raised in this place during questions and seeking information on this, and some legal opinion has questioned the ministerial minute as the method of approval. I expect that to be tested because I know that some legal counsel have had people wanting to test it. I am trying to clarify, through the Minister, that she is talking about the gazettal that she made as a consequence of the identification of the problem. Will this affect somebody's rights at law prior to the Minister's last gazettal?

The Hon. DIANA LAIDLAW: This approval was initially signed on 22 July. That approval was gazetted on 9 March. There was some debate about whether or not that gazettal was necessary at the time but it confirmed the 22 July approval which I had given by signature. This new clause does not affect that situation; it is just a matter of precaution because, by legal precedents, the Bill would not have the affect that the honourable member suggests would be covered by my new clause. My new clause simply clarifies the situation in law in terms of precedents that would arise from the Bill in any case. It is not something tricky or devious: it is simply a complementary measure that some would argue is not necessary but it is one the Government believes is a wise precaution in the circumstances.

The Hon. R.D. LAWSON: I think I can put in slightly different words the sentiments of the Minister. If it were not for the new clause now proposed the argument would be open that the ministerial decision and gazettal of 22 July was ineffective.

The Hon. R.R. Roberts interjecting:

The Hon. R.D. LAWSON: The gazettal of 9 March. It could be argued that that gazettal on 9 March is not covered by the amendment because it predated the amendment. In order to overcome that difficulty this additional amendment is proposed by Parliamentary Counsel. It certainly does meet the objectives of the Hon. Ron Roberts.

The Hon. R.R. ROBERTS: I thank the Hon. Mr Lawson for providing his professional experience in this matter. I am assured now that the 9 March gazettal is covered so that anybody from 9 March on, who falls under this net, will not be able to escape. But I am trying to clarify the question in relation to people's rights prior to that.

The Hon. Diana Laidlaw: 22 July. That was the verdict proved and that is still valid.

The Hon. R.R. ROBERTS: I do need to clear this up because that is the subject of the argument and the defendant was acquitted on the basis that the ministerial approval by minute was not valid.

The Hon. DIANA LAIDLAW: With all due respect for the honourable member who, in fact, first raised this matter in this place—and it has required a great deal of my attention since that time—the defendant was picked up and sought the blood alcohol test before 22 July, and that is why he was let off. If it had happened after 22 July that would not have been the case. Regarding the gazettal of 9 March, it was argued by Crown Law and other eminent lawyers that the gazettal itself was not required, that a ministerial signature has been a standard practice for ministerial approvals for aeons, but it was a matter of precaution that I gazetted the blood alcohol kits. It is a matter of precaution again that I move this amendment at this time. There was no legal question about the signature and approval given on 22 July, in terms of the case the honourable member has highlighted that took place in Port Pirie late last year.

The Hon. R.R. ROBERTS: I have read my notes again, and what the Minister is saying is correct, but there is also a question—which we do not need to argue about today—as to whether the minute was in fact a proper approval. But that will be thrashed out somewhere else, I understand. I am prepared to accept the amendment.

New clause inserted.

Title passed.

Bill read a third time and passed.

BENLATE

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

That this Council calls for—

1. An immediate halt to the sale of Benlate in South Australia;
2. An urgent investigation by the Department of Primary Industries into the detrimental effects of Benlate on crops and human health;
3. The State Government to support affected growers in their legal action against the manufacturers of Benlate, should the investigation confirm detrimental effects.

(Continued from 16 November. Page 813.)

The Hon. J.C. IRWIN: I rise to speak on this motion of the Hon. Mike Elliott following a contribution already made by the Attorney-General representing, as he does, the Minister for Primary Industries in this place and my colleague the Hon. Caroline Schaefer. Some points already made need to be clarified and be restated. As a farmer and a gardener,

albeit a very small gardener, I am declaring an interest very seriously as one who has used Benlate. The issues of damage to horticultural crops following use of Benlate has been investigated for a period of some four years by officers of the Department of Primary Industries.

As I understand it, the legislative position was that, until recently, registration and deregistration of agricultural chemicals was a State responsibility under the Agricultural Chemicals Act 1955. There was, however, a national agreement whereby the State registration was to be consistent with the system of national clearance of chemicals. The clearance was undertaken by the National Registration Authority (NRA) set up under the Agricultural and Veterinary Chemicals Administration Act 1992 (Commonwealth) and also given power under the Agricultural and Veterinary Chemicals Act 1988 (Commonwealth).

Following further agreement at a national level, the situation has now changed. The Agricultural and Veterinary Chemicals Code Act 1994 (Commonwealth) now provides for registration of agricultural chemicals to be done by the NRA. Each State has complementary legislation. In this State it is the Agricultural and Veterinary Chemicals (South Australia) Act 1994. These Acts and a range of related Acts and regulations all commenced on 15 March 1995—only very recently. The South Australian Agricultural Chemicals Act continues but its effective role is now very much reduced and non-existent in the area of deregistration.

I refer now to the role of the department. The role of the department has included investigation of grower complaints, commencing in 1991 with complaints of two cucumber growers in the Virginia area, followed by complaints by orchid growers and flower growers more recently. A total of nine complaints have been dealt with. Samples of Benlate have been tested at Government expense and tests have been conducted on specimens of the plants alleged to have been affected. Information has been sought from Du Pont, the chemical manufacturer. Advice has been given to assist growers affected by crop losses. Information has been provided to growers on occasions concerning current knowledge of the disputes between growers and Du Pont both in South Australia and overseas.

In the United States Du Pont has paid out hundreds of millions of dollars in compensation to growers. I understand these have been principally, if not all, private settlements rather than court decisions. All of the payments relate to Benlate DF (Dry Flowable), not Benlate WP. Many of the claims apparently arose from contamination of Benlate with sulphonylurea herbicides. Testing in South Australia has not uncovered any contamination of Benlate with other chemicals. The South Australian analysis results in almost all cases have pointed to causes such as fungal disease or cultural practices rather than Benlate or contaminated Benlate as the most likely cause of the crop losses. However, in at least one case departmental officers suspect that Benlate DF has been a contributor to the losses. Analysis has not been able to produce any conclusive results to prove such a link. Further tests are currently being undertaken in the United Kingdom at South Australian departmental expense.

Du Pont has vigorously defended the safety of its product when used appropriately. At one stage it offered to pay for a research program and assistance for the two cucumber growers but this offer was not taken up.

In 1991 Du Pont took a decision to withdraw Benlate DF from the market in Australia. This was done without public notice. The department was not aware of this withdrawal until 1992. Until it was deregistered in 1993 (Du Pont let its registration lapse), Benlate DF continued to be registered under the Agricultural Chemical Act. Registrations have continued in some other States of Australia.

The recent change on 15 March 1995, to which I alluded earlier, through the State and Commonwealth legislation for national registration of farm chemicals, will assist in removing some problems. Better provision now exists for removal of registration when concerns become apparent. There is an effective duty on companies to disclose information which is detrimental to continuing registration and penalties for non-compliance.

The department has spent considerable resources over the past four years in investigations, which is appropriate for a registration and regulatory agency. There are clearly limits, however, to the requirements for the expenditure of State resources.

In summary, first, the department has investigated or conducted sample testing in relation to all grower complaints. Secondly, there has been no proof that crop damage has been caused by Benlate or any contaminate. Thirdly, the Minister for Primary Industries has only limited powers under the Agricultural Chemical Act and no action has been identified which could be undertaken on known evidence. Fourthly, the advent of the new national scheme has removed State powers of deregistration and given those to the National Registration Authority.

In conclusion, the Government takes the view that it is and has been providing assistance to growers. It has no legal liability but has nevertheless been anxious to ascertain the cause of the problems and assist growers in so doing. The Government cannot give any commitment in relation to legal and other fees and costs. The Government sees no need to support or oppose this motion. The Government's position is clear and the fact that this resolution may pass on the voices should not be construed other than in the context to which I have referred.

The Hon. M.J. ELLIOTT: I realise that the information the Hon. Mr Irwin has used has probably largely been supplied from the Minister's office, so I will not get personal about this, but the Government has copped out badly on this issue. A few elected people and some bureaucrats will have to be brought to account very soon in relation to this matter. I initially raised the issue of Benlate in the Legislative Council on 19 October 1994. I moved for this Council to call for an immediate halt to the sale of Benlate in South Australia. If that need be Australia, then that is fine. I called for an urgent investigation by the Department of Primary Industries into the detrimental effects of Benlate in crops and human health. Finally, I asked the State Government to support affected growers in their legal action against the manufacturers of Benlate should the investigation confirm detrimental effects. The motion was not voted on in the last session leading up to Christmas.

The information contained in my speech of 19 October 1994 is still applicable, although there have been further developments. For example, growers at Shady Grove plantation and nursery in South Carolina have been successful in legal action against Du Pont over Benlate damage. They have been awarded $7.3 million in actual damages and $9.6 million in punitive damages. The Hon. Mr Irwin did not acknowledge that, whilst there have been large out-of-court settlements, in virtually every case that has gone to a

decision, the decision has been in favour of growers and there have been a number of those now. I gave just one example.

Du Pont has lost all but one case that has been resolved to my knowledge. A Western Australian grower has lodged a statement of claim against Du Pont. The only point that needs clarifying in relation to statements I made in my speech last time (and there was one error) related to when I said that Benlate DF had been seen by a grower as being available at Callington in September 1994. It turns out that it was available at a nursery on Callington Road in Strathalbyn. I apologise for that error, but it is the only error of fact of which I am aware in the speech I gave last time.

Since raising the issue, stronger reasons have emerged for supporting my motion. Members may have read recent newspaper reports on the issue which reveal damning evidence about the chemical. In the *Advertiser* of 8 February 1995, reporter Colin James reveals details of a confidential internal document, a document which I have seen. All these documents referred to by Colin James I have seen and have copies of. The memo concedes that it was 'very likely' its biggest selling fungicide, Benlate DF, might have damaged crops. That was conceded within their own internal memoranda.

The article says that the high level Du Pont memorandum reveals that executives were advised to adopt an 'innocent until proven guilty' stance over allegations that Benlate DF had caused crop damage worldwide worth hundreds of millions of dollars. In a memo obtained by the *Advertiser*, nine top executives of Du Pont were told that the company should 'simply tell the grower that we do not believe Benlate can be the cause and leave it to them to prove us responsible'. The article further states:

> A Du Pont executive, Mr Michael Duffy, says in the memo that while a Du Pont scientific investigation in the US had found 'no single trace level contaminate in 1990 Benlate DF,' 'potential for crop injury' did exist if 'added stress factors' such as 'disease, heat stress and over application' were present.

One of the things mentioned was heat stress because it becomes relevant if you look at most of the cases that I have become aware of here in Australia. Again, that is from an internal Du Pont memo. Further, it states:

> 'Reported injury was very likely' from a batch of 1989 Benlate DF, which was contaminated with atrazine.

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: The batch was made in America, but that is not to say that the batch has not been here. There were problems with 'older stocks' and 'manufacturing upsets' had led to some Benlate DF with well above the labelled amount of active ingredient and higher than normal levels of DBU (dibutyl urea) which 'could cause injury'. While he did believe Benlate caused long-term damage, Mr Duffy says in his memo that he would not agree to testing of soil samples or 'anything aimed at trying to exonerate the product'. He was saying that they should not test to try to prove that they were not guilty. The clear implication is that, if they tested to prove they were not guilty they were more likely to find that they were. He went on to say:

> I think that we need to have an innocent until proven guilty mindset and not the opposite. I know that we need to listen to our customers and to be responsive to their needs, but we also have a responsibility to the company to reject claims outright that simply cannot be valid.

Mr Duffy wrote his memo one month after the American head office of Du Pont learned that three South Australian growers had lodged compensation claims ranging from $40 000 to $400 000 for alleged damage to their crops. Days before this article of 8 February, Mr James also reported how Du Pont's Australian executives warned their American head office would 'have no leg to stand on' if it were sued after withdrawing Benlate DF from the Australian market.

In an article of 4 February, Mr James wrote about further memos obtained by the newspaper. The article says that Du Pont Australia Limited internal memorandums were sent to the *Advertiser* by an American lawyer who successfully sued for $US10.5 million or $A14.2 million after a group of Arkansas farmers claimed Benlate DF killed their crops. The article says:

> The Du Pont documents obtained by the *Advertiser* reveal the company's top Australian executives wrote to the American head office in August 1991 about the withdrawal of Benlate DF from the Australian market. Du Pont Australia had issued a recall notice to retailers about an American-made batch of Benlate DF in June 1991, saying the product was suspected of containing traces of herbicide.
>
> . . . One memo reveals that Du Pont (Australia) executive, Mr Ian Powell, told his American superiors, 'Any withdrawal of Benlate DF from the (Australian) market would cause a spate of claims,' he said. 'Any publicised withdrawal will cause an avalanche,' Mr Powell warned. If withdrawal is not handled carefully we will have claims going back for three years for DF (dry flowable) and up to seven years if WP (wettable powder) is put under the microscope.
>
> 'We will have no leg to stand on and, while many claims may be "disclaimed", costs for pay out and compensation could easily exceed $A10 million. Mr Powell's memo said Du Pont representatives had 'done a great job stabilising the situation in the field', that 'Benlate DF has continued to be imported' and that 'sales are flowing'. It suggested a proposed shipment into Australia of 12 tonnes of Benlate should go ahead, but another shipment of seven tonnes should be cancelled and replaced by the fungicide's predecessor, Benlate WP.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: Nothing wrong with it!

The article continues:

> Another memo written by Mr Powell on 20 August 1991 said he was 'anxious' for Du Pont's head office in the US to support a decision 'that no general statement on a worldwide withdrawal (of Benlate DF) be made'. 'This would be disturbing and have expensive ramifications on our local business,' said his memo.

The continuing uncertainty surrounding the effects of Benlate upon plants and human health is sufficient to warrant a full investigation. This is especially so because the damage recorded is considerable. The South Australian Parliament should also take heed of the scientific results coming from a United States laboratory, which is identifying contaminants in Benlate. The successes of growers against Du Pont in legal action in the US is also relevant to our understanding of the origin of the damage, for the courts' findings prove that Benlate is linked to plant damage.

The Hon. Ron Roberts MLC and the Hon. Caroline Schaefer MLC have both responded to the motion in speeches of their own. I wish to address some of the issues and claims asserted in their speeches and also to challenge the news release issued by Du Pont to members of the Legislative Council in November. It was wrong and it was misleading. I am pleased that the Opposition will be supporting the principles espoused in my motion. The Hon. Mr Roberts says that the Department of Primary Industries has been involved in investigations for some time. However, I see that the Government has a responsibility to continue these investigations until the matter is completed and the cause is resolved.

He also spoke of the assistance that has already been given to Mr Antonas, a cucumber grower at Penfield Gardens by the Department of Primary Industries. In Mr Roberts'

opinion, this financial and analytical assistance has been considerable and the department has granted him a deferred debt with its Rural Finance Division. Mr Antonas suffered hail storm damage and frost damage to his property. At that time, in 1981-82, he was growing tomatoes and he was given a loan of about $30 000 through Rural Assistance. He tried to pay off the loan but his offer was not accepted as the department said that he had been making regular repayments. He therefore used his money to expand his business.

He has had no rural assistance as a result of Benlate. The department had paid for one American analysis and to prepare his claim for damages in 1992. However, I am aware that other growers exist who have not received the same levels of assistance as Mr Antonas. It is not enough that one grower has received some assistance which, in the Hon. Mr Roberts' view, had almost exhausted the avenues available to assist him. The problems faced by the other 10 or so growers need to be addressed and the department should offer assistance to all growers affected, and proper assistance.

The Hon. Mr Roberts also said that the department knew of only three cases of alleged Benlate-caused damage. However, about 10 growers were at a meeting with the Department of Primary Industries in early October 1994, which means that the department has been aware of these other cases. It is quite outrageous that the department should have given the Hon. Mr Roberts such misinformation.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: I was not blaming you. They gave you information, yet they had had a meeting with 10 growers and said that only three were affected. The Hon. Mr Roberts spoke of the technical difficulties in proving traces of contaminants in Benlate DF and concluded that no conclusive method is readily available. However, I believe that reliable methods of testing have evolved in laboratories in the United States and the United Kingdom. Scientists at the Florida Department of Agriculture worked exclusively on the chemical Benlate for eight months and came up with startling results. Research has found that sulfonylureas, or herbicides, are present in plants and soils treated with Benlate. Samples from South Australian growers have been sent to the United States for testing. The Department of Primary Industries sent a sample of Benlate DF used by Mr Antonas to a United States laboratory. As the Hon. Mr Roberts said, 'This analysis indicated that two of the herbicides were present in the sample.' However, a problem remains in that the usual confirmatory techniques were not used by the analyst. For reasons that are not outlined, the analyst declined to issue a statement comparing results from Mr Antonas's sample with samples of Benlate that he tested.

As I mentioned in my earlier speech, Florida scientists have also found that the active constituent of Benlate, benonyl, breaks down into butyl isocyanate (BIC) and dibutylurea (DBU), which are toxic to plants. I believe that we may rely upon this testing, the results of which were published in the well-regarded *Journal of Agricultural and Food Chemistry* in April 1994. Other studies have also found BIC to be particularly toxic to cucumbers, one of the crops that has been affected here in South Australia in several places. Du Pont representatives explained these findings of the breakdown products of BIC and DBU by saying that the presence of dibutylurea in Benlate has been known in the scientific community for 20 years.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: No-one said anything different. In fact, when I spoke in this place last time the same point was made by Malcolm Thompson, a lecturer in chemistry at Flinders University. I said that it was well-known and for that reason there should have been far more caution. Du Pont asserts that its testing has not found any contaminants in Benlate DF at levels known to cause crop damage. It is worth recalling one of the memos that I quoted earlier, which indicates that they are saying one thing publicly and have quite different knowledge privately. However, as I highlighted in my initial speech, the recent testing by the Florida Department of Agriculture scientists links DBU with adverse effects on plant growth and physiology.

The Hon. Ms Schaefer also relies on the Du Pont studies, which assert that the contaminants would not be present in high enough concentrations to account for any observed damage. However, evidence has emerged which suggests that the Du Pont findings should be challenged. In a court case in Hawaii last year it emerged that Du Pont scientists and lawyers had acted in a false and misleading manner. The plaintiffs in that case raised evidence of Du Pont's actions in an earlier case in Georgia and alleged that Du Pont's laboratory tests had found that the fungicide had contaminated soil in Georgia, but that Du Pont's lawyers saw the laboratory report and did not disclose it to the Georgia plaintiffs despite a court order to turn over laboratory reports. Instead, they presented an expert unconnected with the laboratory who testified in the Georgia trial that the soil was not contaminated. That has all come out in evidence in the United States courts.

Evidence from the Hawaii trial also showed that scientists from the Alta Analytical laboratory in California reported to Du Pont lawyers that they had found sulfonylureas in soil samples taken from Georgia, Alabama and Hawaii at contamination levels ranging from 27 to 595 parts per trillion. There are laboratory notes, of which I have copies, where the scientist says of the Alston and Bird lawyers, 'They want us to go back and try to confirm (de-firm) suspected positives.' The court heard how this data was passed to the Alston and Bird lawyer, Liz Gilley, by phone, and that she responded by writing, 'Confirmed that you have agreed to keep confidential all information prepared, generated or obtained as a result of the work which you are performing at my request.'

This trial provides evidence for the fact that, through its legal representatives and scientists, Du Pont has engineered for findings to be concealed and represented that lower levels of contaminants were found in samples of Benlate. These allegations of falsifying results have significant implications, and they seriously impeach Du Pont's credibility. The Hon. Caroline Schaefer also stressed the difficulties of conclusive testing in her speech to the Legislative Council on 16 November 1994. One of the central problems is that the department does not have the equipment to test for Benlate contamination adequately. The fact that DPI testing cannot find Benlate is the cause does not mean that it is not the cause of the damage.

Although the Hon. Ms Schaefer may say, 'We do not have sufficient evidence to conclude that the use of the chemical in an appropriate manner caused damage to the crops', she also cannot say that there is sufficient evidence to prove that it does not cause damage. Until scientific testing proves in no uncertain terms that benlate is not a cause of the plant damage, it follows that the existence of the present uncertainties means that benlate cannot be excluded as a possible cause. As the department cannot assert that its testing is totally reliable and effective, neither can it rule out the possibility of contamination. Therefore, it is of vital import-

ance that the Department of Primary Industries continue to investigate the detrimental effects of benlate in order to resolve the present uncertainties. The department should be involved in making sure that there is a good analytical laboratory in South Australia. I note that we have the State Chemistry Laboratory, which the Government appears to be targeting, perhaps for closure or privatisation. Instead, such a laboratory should carry the most up-to-date equipment to do a whole range of jobs, including this job which is beyond the State Government locally at this stage.

If we consider all the evidence I have presented, it is difficult for the Department of Primary Industries to deny that there is a problem with benlate. There is enough evidence for us to doubt the argument put forward by Du Pont and the DPI that insufficient links exist between the plant and health damage and the product benlate. The existing doubts and uncertainties are strong grounds for initiating investigations to ensure a comprehensive understanding of the matter. The Hon. Ms Schaefer questions the need for further review, although the reasons she gives for not continuing with the investigation are inadequate and meaningless. In her view, benlate DF does not need to undergo further investigation because it was removed from the market three years ago. She says, 'Any further investigation into this chemical would not have a substantial impact on primary production apart from any benefit to the growers currently claiming damages due to its use.' However, as I have said, the department has a duty to the affected growers to find the cause of their substantial plant damage.

Contrary to what the Hon. Ms Schaefer suggests, it is imperative that the department investigate the components and effects of benlate WP. In her speech, the Hon. Ms Schaefer says that benlate WP is a safe and cheap fungicide, and she is concerned with the effect that cancellation would have on the supplier and users. The fact that benlate is the only treatment known for at least one fungal infection is irrelevant if the treatment is as dangerous as some evidence suggests. The Hon. Ms Schaefer says that there is only one recent allegation that benlate WP is the cause of plant damage, and that is from the Warnocks at Mount Compass. I believe that it is irresponsible for the Hon. Ms Schaefer to dismiss the damage caused to the Warnocks' carnation crop by explaining that the department has identified a common fungal infection as the likely cause.

I find it quite amazing that someone can actually drench something with a fungicide, following which the plants go into a decline, and then say that what killed the plants or deformed them was a fungus. That is a nonsense. I know of one orchid grower who dipped half his plants. The half that he dipped died, and the Department of Agriculture tried to tell him that they died because of a fungal infection. You do not dip plants with a fungicide and say that they died from a fungal disease when the plants beside them that were not dipped did not die. As the Hon. Ms Schaefer herself said, the department lacks adequate equipment to test for the presence of complex contaminants such as SUs or breakdown products such as DBUs. Therefore, the report that came back to the Warnocks from the Northfield Research Centre said that it found fusarium. However, as Jayne Warnock explains in her letter to the Hon. Caroline Schaefer:

> When we read the report that they had found fusarium we were not really concerned, because plants under stress are susceptible to contracting fungal disease, as indicated also from America. The symptoms our carnations showed were not consistent with just fusarium, but as far as the department was concerned, it was an easy way out, we believe.

However, the Warnocks are not the only South Australian growers who used benlate WP and suffered detrimental effects. A carnation grower in the Riverland also used benlate WP with disastrous results. I have a report by Trevor Glenn from the Riverland Analytical Laboratories which describes the unexplained decline in flower quality and plant health. He investigated for the possibility of herbicide damage yet discovered none. That carnation growing operation has since failed, and the grower alleges that benlate WP is the cause.

Contrary to the Hon. Ms Schaefer's suggestions, there is scientific evidence that benlate WP contains similar contaminants to benlate DF. The data from the testing by University of Florida scientists reveals that percentages of DBU were found in benlate WP as well as benlate DF. I seek leave to insert in *Hansard* a table of a purely statistical nature, which summarises the results carried out by the University of Florida and published in the Journal of Agriculture and Food Chemistry.

Leave granted.

Table 1. Summary of DBU and NBAC levels found in Formulations[a]

Formulation Lab ID	Lot	Date of Manufacture	DBU Per cent	DBU SE	NBAC µg/g	NBAC SE
DFA	BATCH 813	15 June 1989	2.53[d]	0.36	71.7	1.8
DFB	216870326	December 1987	1.49	0.12	52.8	1.1
DFC	U0401900267P2	April 1990	0.65	0.06	56.8	2.6
DFI[g]	U071590-687	July 1990	0.36	0.03	45.3	4.2
DFF[g]	_09-90 0220 p02	March 1990	0.13	0.03	84.6	3.8
DFF[g]	_17-90_370 p02	May 1990	0.17	0.03	102.0	4.2
DFG[g]	_0220 p 02	March 1990	0.15[c]	0.04	101.6	5.1
DF5065	U83189	August 1989	3.49	0.55	249.2	9.6
DF5070	U062490-616	6 June 1990	1.62	0.13	210.8	4.2
DF5071	(from grower)	[b]	2.23	0.22	192.8	3.7
DF5073	U073190-738	2 July 1990	0.44	0.04	117.5	6.8
DF5077	U080790-753	5 August 1990	0.78	0.07	126.2	12.4
DF5080	U061490-579	7 June 1990	1.18	0.05	196.8	7.8
DF5081	U072490-715	5 July 1990	1.01	0.07	159.4	5.0
DF5082	286	21 January 1989	3.71	0.35	381.5	10.0

Table 1. Summary of DBU and NBAC levels found in Formulations[a]

Formulation Lab ID	Lot	Date of Manufacture	DBU Per cent	DBU SE	NBAC µg/g	NBAC SE
WPA[g]	F042391E	April 1991	0.45	0.06	0.0	0.0
WPB[g]	EP42_61MS1	[b]	3.44	0.41	37.9	2.4
WTC	_E70519B_	[b]	8.85[c]	0.20	28.8	0.9
WPD	F0524916	May 1991	0.64	0.06	0.0	0.0
WPE	F60505H	prior to 1989	7.52	1.11	191.9	7.4
DF1	277	October 1988	7.05	1.04	455.3	24.7
DF3[g]	6-U062090-596	1 June 1990	0.33[d]	0.02	70.3	2.5
DF4[g]	2498	August 1988	6.71[d]	0.63	219.2[f]	
DF5	210502-B	[b]	5.74	0.53	305.8	10.2
DF6[g]	12	[b]	0.59	0.03	143.8	3.3
DF7	R 19-7655	[b]	6.17	1.32	206.7	7.9
DF8[g]	U062490-615	5 June 1990	0.36	0.01	71.2	1.0
DF9[g]	U072490-717	4 July 1990	0.30[d]	0.02	63.3	6.0
DF10	-	[b]	6.80[d]	0.71	297.2	13.4
DF11	U9989-0190P5	September 1989	4.85	0.44	271.3	13.0
DF12	BDF187	[b]	0.8	0.08	113.2	4.1
DF13	0318880B727	[b]	1.85	0.15	206.2	9.2
DF16	-	[b]	5.10[c]	0.03	87.6	2.8
DF17[g]	Batch 813	15 June 1989	2.22[c]	0.10	269.0	11.3
DF18[g]	B_2 48	[b]	7.43[c]	0.68	556.3	9.2
DFds	-	[b]	0.50[c]	0.03	*e*	
WPds	-	[b]	0.38[c]	0.02	*e*	
benomyl 99%	-		0.21[c]	0.01	*e*	

[a] DF, dry flowable formulation; WP, wettable powder formulation; benomyl, pestinal technical grade benoyl used as control; DBU analysed in quadruplidate and NBAC analysed in duplicate, except where noted. [b] No manufacturer date available. [c] Analysed in duplicate. [d] Analysed six times. [e] Not analysed. [f] Analysed once. [g] Opened by our personnel.

The Hon. M.J. ELLIOTT: If members take the opportunity to look at this table, they will see that the levels of dibutylurea are high not only in the dry flowable form but also in the wettable powder form. They will also see that there is an amazing variability between batches. So, it is quite possible that you could use the wettable powder or the DF powder on a number of occasions and have a batch which has low levels of DBU and then get a startlingly different result the next time you use it, because there is a variation. The variation can be a matter of 70 times as much between the lowest figure that I can see on this table and the highest. So, there is a significant variation in levels of dibutylurea, the highest level being 7.5 per cent of a contaminant to break down product, the lowest level being about .13 per cent.

A scientist in the US, Dr Stuart W. Turner has tested both benlate DF and WP and confirmed that both these products evolve phytotoxic gas (BIC). He found that the benlate DF product evolves about 10 times more phytotoxic gas than the benlate WP formulation. Dr Turner also conducted tests on over 100 properties and documented the phytotoxicity damage from the use of benlate DF and benlate WP. I think it is significant to note that from these tests he found that one particular formulation, the benlate DF, produced 10 times as much of this BIC as the wettable powder form. That explained why most of the damage has been linked to benlate DF, but there are still the odd cases of people reporting damage from benlate WP.

The benlate WP used by the Warnocks was tested by Dr Malcolm Thompson and he found high levels of dibutylurea in their product. Although his testing facilities are not as good as those in the States, he found that their product was one of the dirtiest of all the benlate that he has tested in South Australia. My recollection is that the Warnocks had had that product at the same time, although there is no used by date on it, and perhaps that is one of the reasons why the level of dibutylurea found was so high. Therefore, there are strong reasons to believe that benlate WP may also be potentially dangerous and that the problem is not just with benlate DF. As I have shown, the phytotoxic breakdown products are the same. Moreover, sulphonylureas may also be found if testing were to be done. Because this formulation of benlate is still readily available, the department must undertake a serious and comprehensive program of testing on benlate WP. While the link between the product benlate and health defects has not been conclusively proved—and this was not a matter that I concentrated on during my earlier address—I think it is imperative that this area be investigated, not only to look for children who are born without eyes and other health problems. I have experienced just in Australia a number of cases of people who have had their spleen removed. In fact, most people who have had problems with their crops and used benlate also suffer from a quite serious physical complaint—and it seems highly probably that there is a link.

I said that I would challenge the assertions made by Du Pont in a news release sent to all members of the Legislative Council. Du Pont states that South Australia is the only State in Australia where it is claimed that benlate has caused damage to crops. That statement is incorrect. Contrary to this assertion by Du Pont, I am aware personally of several instances of plant damage in New South Wales and Queensland, and several growers in Western Australia, one of whom is beginning legal action. There is no doubt that Du Pont is

aware of these claims, because the individual growers have contacted the company, and in many cases Du Pont has entered these affected premises and removed plant samples for testing.

Yet it writes to members of this Chamber and tells us that South Australia is the only place where there have been allegations. Mr John Wright from Coopernook in New South Wales had 35 years of experience in growing orchids, yet he saw obvious damage occurring after he dipped his plants in Benlate DF several years ago. He has lost $100 000 worth of plants and his business has suffered considerably. Moreover, Du Pont is aware of Mr Wright's claims that Benlate has caused damage to crops, for a Du Pont consultant, Ms Karen Jessup, came onto his property. Therefore, the assertion in the release that 'claims that Benlate has caused damage to crops are limited to a few farmers in South Australia' is untrue.

Mr Jack Dirou, a strawberry grower from Ormiston in Queensland applied Benlate to his crop of plants which he grew in the open for about three years. He estimated his loss at $4 000, and contacted the Department of Primary Industry, which conducted tests. It responded with the information that it had discovered positive findings of herbicide. A letter was later sent by Du Pont saying that no herbicides were found. A grower of eucalyptus trees in Western Australia saw obvious damage after spraying Benlate DF on his crops in early 1991. He had used Benlate WP for many years and, during one period of spraying, he ran out of the Benlate WP part way through. Benlate DF had just become available at his local hardware store and he sprayed it onto the remaining third of his plants which, unfortunately for him, were the youngest of his crop.

The damage was fast and obvious, and he estimates that he lost $150 000 worth of plants. He contacted Du Pont when he saw the recall notice, and it supplied Benlate for trial tests, one of which was conducted by an experienced scientist. He found that Du Pont was not ultimately interested in the results of his testing and is now bringing legal action against his supplier, which he plans will begin early next year, and I have seen a copy of his statement of claim. The instances of Benlate damage are not isolated to South Australia and, furthermore, Du Pont is aware that these claims have been made interstate. The news release also states that Du Pont has 'no recorded problems with Benlate when used according to labelling instructions'. I argue that problems exist with this labelling system.

I criticise the system of labelling, which fails to respond to the situation of plant damage in Florida, in particular, and which does not warn against the problems that have been linked to the use of Benlate. The National Registration Authority has taken no notice of the health reports that have outlined the problems that arise when Benlate is sprayed in closed greenhouse environments. No notice has been taken of the birth defects in New Zealand and the United Kingdom, as the label does not warn against use during pregnancy. Finally, the labelling system also fails to recognise that people from varied cultural backgrounds with a basic understanding of English use the product.

I wish to reiterate the qualifications of Dr Malcolm Thompson from Flinders University, because he was criticised in the Du Pont letter. He is a senior lecturer in organic chemistry and his qualifications are Bachelor of Science with Honours, PhD and FRACI Chem. The news release from Du Pont is both offensive and incorrect when it refers to him simply as 'an organic chemist' and as 'Mr' Malcolm Thompson when his true title is 'Dr'. Du Pont is only revealing its pettiness and ignorance by refusing to acknowledge Dr Thompson's true title and true qualifications.

The inaccuracies within Du Pont's news release go further to discrediting it. One enormous frustration I have had with this matter is that I filed a freedom of information request with the department last year (I do not have the date with me, but it was October or November) seeking information. In January I was informed that the information was available and that when I had paid up my $700 or $800 I could have it. The normal thing is that, if you make a request and there is a large number of documents, the department will say 'There is a large number of documents and we need you to be more specific.' In this case it informed me that the documents were available and it had a bill waiting for $700 or $800. That happened before Christmas.

I wrote a letter back to the department and said that clearly I would like to identify which information I can have, and expressed the concern that it may have been trying to simply fob me off by using the expense. I did not receive a reply to that letter and, after speaking to the head of the department, Mr Madigan, in late January, I wrote another letter, and I have not had a reply to that at this time, either. So, I have made a freedom of information request with which games have been played. That must lead me to the conclusion that the bureaucrats are covering their own backsides. They have been totally uncooperative, and one would have to ask what it is they fear I would find by looking at documents that I am quite entitled to look at under the Freedom of Information Act. The way that it has treated this matter is a gross abuse of the system.

The Hon. R.R. Roberts: You may have to amend the Freedom of Information Act.

The Hon. M.J. ELLIOTT: There are some channels available, but I find it quite offensive that the games are played in the first place and I have to go through this three ring circus. It is plainly wrong. I wanted to know what sort of information it had available. I want to know what sorts of tests it has and has not done. If it has done good testing, I can see it. One is left to conclude that, if it will not show me what testing has been done, perhaps it itself realises that it is inadequate. Once one is refused information, one always wonders what is it that someone is trying to hide. I find quite offensive the behaviour of the department in this matter. As I said, I have not even had the courtesy of replies to some of the correspondence.

To conclude, the Department of Primary Industry has a continuing obligation to investigate the detrimental effects of Benlate on plants and human health until a solution is found. It is of vital importance for nursery growers in South Australia that the Government support my motion and conduct investigations to resolve the matter. There is evidence that Benlate WP may also be responsible for plant damage. I think the evidence in relation to DF now is overwhelming: there have just been too many court cases run, too much information has been accumulated by the Department of Primary Industry in Florida, in particular, and in other places. It is beyond dispute that DF is causing damage: the only dispute possible is whether DF caused the damage with particular growers here in South Australia.

I believe that in all probability it has. I also believe that, whilst WP is nowhere near as dangerous to crops as DF, it does have its dangers and that the few cases that have been reported of WP causing damage are also quite likely to be accurate. In many of these cases we are talking about very experienced horticulturalists, people who are considered

experts in their field. They have a pretty good idea of what is going on with their crops. As recognised by the Hon. Ron Roberts, these growers are in a weakened state through the loss of their products: some have lost everything and will need assistance from the Government in legal action. This is especially so when we consider that these growers will take on Du Pont, one of the largest companies in the world.

What I have stated so far has been largely fact as accumulated. Having gone through all that material, I would proffer my view as to what I think is actually going on, and I guess I can say it is an educated guess from some of my scientific background, looking at the cases that have occurred in Australia and where the cases have happened elsewhere. It is my belief that Benlate is a particular problem when used in greenhouses. One may have noted that one of the memoranda that I quoted mentioned the fact that, if there is heat stress, the damage is far more likely. Heat is an important factor, and heat in a glasshouse is to be expected. I also am aware of a case in Western Australia where a flower grower found that he was not having problems with Benlate during spring but that he was during summer, and again the heat factor in the greenhouse seems to be important. I think that heat is implicated.

I suspect that humidity also may be implicated, and the enclosed conditions of a greenhouse would allow any gases being produced—and I gave the example of some gases that are produced—to be trapped, and they would concentrate in the fairly still air that one finds in a greenhouse. It is my guess that under greenhouse conditions Benlate is by far the greatest risk. That is probably also true in relation to human health as well, for exactly the same reasons.

There have been a couple of examples—the eucalypt grower in Western Australia and the strawberry grower in Queensland—of where damage occurred in the open. I do not think that the greenhouse is the only problem, but I think it is by far the greatest problem. What is noticeable is that most legal cases have taken place in Florida and Hawaii—two places where temperatures are likely to play a significant role. It may prove that Benlate used in field conditions on broadacre crops may have no difficulties unless it is contaminated accidentally by sulphonyl ureas and other unintentional constituents, which unfortunately appears to have happened in a few cases.

I realise that this motion has no binding effect on the Government but I make it clear here and now that, unless the Government produces evidence which shows to any reasonable person that the damage has been caused by some reason other than Benlate, I will continue to pursue this matter. If it means going to Florida and to its Department of Primary Industries and coming back with suitcases full of documents or going around the lawyers who have had to fight the cases in the United States, if I have to go to that extreme I will. It is preferable that the Department of Primary Industries does its job, and does its job so that everybody can see what it has done, so that any fair-minded person can say that it has acted appropriately. I urge members of this place to support the motion.

Motion carried.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1725.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): On behalf of my colleague, the Attorney-General, I thank members for their contributions to the second reading of this most important piece of legislation. I understand that there is to be an amendment during the Committee stage, and I look forward to productively addressing that at that time.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. R.R. ROBERTS: I move:

Page 2, lines 9 to 26—Leave out paragraph (f) and insert:

(f) by inserting 'or distribution' after 'transmission' in paragraph (b)(i) of the definition of 'electrical or metal trades work' in subsection (1);.

Since I lodged the amendment I have taken the opportunity to discuss the matter with the Minister for Industrial Affairs. This matter has been under considerable debate for a long time. This process has stood the working party and construction industry superannuation board stages, and agreement has been reached. A consensus opinion is reflected in this legislation. As I indicated in my second reading contribution, I was contacted by the Secretary of the Electrical Trades Union in South Australia (Bob Geraghty) who, on scrutinising the Bill, found that there was an anomaly which concerned his members.

My colleague, Mr Ralph Clarke in the Lower House, did move an amendment to try to overcome this particular anomaly and at this late stage it seems that we do not need to go over that debate again. The Hon. Julian Stefani in earlier debates in this place has touched on this. We are all aware that this legislation introduces important and significant changes which has the agreement of employers and all the unions that are party to it. I put it to Minister Ingerson that I would seek from him an undertaking that he would take up the matters of concern with Mr Geraghty, and he has given me an unequivocal assurance that he intends to pursue these with Mr Bob Geraghty, the Secretary of the Electrical Trades Union. Given that, it is not my intention to proceed with this amendment, and I seek leave to withdraw it. I indicate that I will support the amendment indicated by the Attorney-General.

Leave granted; amendment withdrawn.

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

Page 2, line 19—After 'transmission' insert 'or distribution'.

This amendment seeks to amend the definition of electrical and metal trades work to include work on distribution lines. As the Hon. Ron Roberts has said, this matter was brought to the Government's attention in another place. It is considered appropriate to make the change as it merely addresses changes which have already occurred in the electrical contracting industry. In the past, distribution line work which was undergoing cabling was previously the sole responsibility of ETSA. It is now performed by the private sector, making it defined employment for the purposes of this Act.

Amendment carried; clause as amended passed.

Clauses 4 to 21 passed.

Clause 22—'Substitution of schedule 3.'

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

Page 14, line 29—After 'that form of employment' insert 'with the same employer'.

This amendment seeks to amend the circumstances in which employees who are currently registered with the scheme

under the wider definition of electrical and metal trades work are able to remain registered after this Bill comes into effect. The Government's Bill provides for the continued registration of employees working on maintenance, repair and servicing work, provided the employee remains in that same form of employment even if the employee changes employer. The amendment limits continued registration of circumstances where the employee remains both in that same form of employment and with the same employer.

The Hon. R.R. ROBERTS: Has this amendment been agreed to by the principal parties or is it a new amendment?

The Hon. K.T. GRIFFIN: I understand that, subsequent to the introduction of the Bill, it was brought to the attention of the Government that the industry working party had agreed and recommended to the then Minister of Labour to limit this continuity provision to employment with the current employer. The Bill in its present form, as I have indicated, enables such employees to continue their registration in cases where they change employer. The Government has been advised that the working party was concerned that this could lead to an anomalous situation where employers with several employees working on maintenance, repair and servicing work could only be required to register those employees who had been registered under the earlier definition. My advice is that the amendment is consistent with the report and recommendations of the tripartite industry working party and has the full support of the tripartite Construction Industry Long Service Leave Scheme Board.

The Hon. R.R. ROBERTS: I thank the Attorney for his explanation and indicate support.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

PIPELINES AUTHORITY (SALE OF PIPELINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1878.)

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contribution to the second reading debate. There are only one or two issues that I will respond to during the second reading. There will be a number of other issues that I will take up during the Committee stage. The Hon. Carolyn Pickles asked whether or not the sale should go ahead. As the Treasurer has indicated in another place, the Government's view is that the sale is an essential part of the Government's assets sales program aimed to remedy the State's parlous debt position and therefore, from the Government's viewpoint, it is essential that the sale go ahead.

The Hon. Sandra Kanck in her contribution raised one or two issues on which I would like to address some comments. First, the Hon. Sandra Kanck raised the issue of the relationship with this legislation and Federal competition legislation. As the honourable member will, I guess, be aware in the past 24 hours the States and the Commonwealth signed up the competition reform principles and the die is most certainly cast now in terms of competition policy regime. I understand the honourable member's position in relation to that and her caution, perhaps even cynicism about that, but the die is cast. The Governments, both the Liberal and Labor, State and Commonwealth, have now signed up with that particular competition reform policy. South Australia is in the position where it must pass its access regime now and not wait for the Commonwealth to come in, otherwise it would lose another matter to the Commonwealth.

The other issue that the Hon. Sandra Kanck raised was a question concerning the new pipeline owner's financial viability. In relation to that, I am advised that one of the key issues in selecting a purchaser will be the purchaser's financial position. In addition, the Government will be ensuring that the purchaser has the technical expertise to continue the operation in a safe and reliable manner. These are also of vital interest to the two existing key customers, ETSA and the Gas Company, and have been addressed during negotiations on the new gas haulage agreements. There are other matters obviously that we will take up during the Committee stages of the debate.

I want to address some general comments in relation to some of the amendments that will be moved in the Committee stages. A large number of those are technical amendments and some have also arisen largely as a result of further consultation with industry. The major matters to be addressed in the amendments are: first, to ensure that the establishment of the statutory easement does not impinge on rights already conferred upon parties under several State indenture Acts; secondly, to limit the pipeline owner's access to outlying land to areas adjacent to the pipeline, rather than to areas fanning out at either ends of the pipelines. Without such limitations unrestricted access to suppliers and customers plants would have inadvertently been provided to the pipeline owner.

There is an amendment in relation to the powers of the Auditor-General and related amendments in relation to the issue of the IDC, which we will address in Committee. Also, in a further case the Crown Solicitor has offered further advice that one subsection may have conflicted with another subsection, which has resulted in the new section 38. There are some consequential amendments to sections of the Petroleum Act 1940, which would have been slightly inconsistent with specific provisions in several State indentures, existing licences and other existing agreements and the amendments that I will move will remedy such inconsistency.

The amendment Bill was intended to provide for no compensation regarding the establishment of a statutory easement since there is expected to be minimal change to existing arrangements. However, the drafting of that section—new section 41—inadvertently extended far beyond its intended coverage. The Government's amendment will fix that problem.

Finally, schedule 2 of the amendment Bill deals with certain superannuation arrangements and the original drafting of the Bill overlooked that the reference within the Superannuation 1988 to final salary is in some cases to an annual amount while in other cases reference is to a fortnightly amount. The Government's amendment will rectify this oversight. The amendments to the superannuation provision are merely technical in nature and do not effect any change in substance.

I will be moving one amendment to the Natural Gas Pipelines Access Bill 1995. This amendment has arisen from further consultation with industry and will allow the Minister to nominate additional persons such as the Cooper Basin producers to be parties to an arbitration if the Minister

considers that these persons have a material interest in the outcome of the arbitration. I thank honourable members for their contribution to the second reading.

Bill read a second time.

In Committee.

Clause 1—'Interpretation.'

The Hon. SANDRA KANCK: I want to explain why I am in a position of supporting this Bill in its advised form. I said yesterday that I thought it should be held up until early June, but I had a meeting with the Treasurer earlier today and he explained that the offer documents for those companies interested in buying the pipeline have to be finalised by 1 May, so it is essential that they know what legislation they are operating within. I have taken a position in my second reading that South Australia needs to control this process and we do not want the Commonwealth coming in and gazumping us. Therefore, I have had to change my position in the past 24 hours from delay to one of letting it through. As I explained to the Treasurer, yesterday when I spoke I said that I had one hand behind my back forcing me to support it but now I have two hands tied behind my back.

The Hon. T. CROTHERS: The Opposition supports the matter. We understand the Federal/State arena and I understood what the Minister said in addressing the matter, but the concern we have would be for the employment of those people who work under long and harsh conditions and who serve the Pipelines Authority. We would hope and trust that at the end of the day, when the marriage of purchase is consummated, those people with respect to futuristic employment will be as well looked after as is possible for the Government to so do.

Clause passed.

Clauses 2 to 4 passed.

Clause 5—'Interpretation.'

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

Page 1, after line 25—Insert definition as follows:

'adjustment period' means a period commencing on the commencement of Part 4 and ending on a date fixed by proclamation;.

I have spoken broadly to all the amendments. Whilst I would be pleased to explain in gory detail each amendment—and I look anxiously at the Hon. Barbara Wiese and the Hon. Sandra Kanck—if there is broad agreement I do not intend to. If there is a specific issue or problem, I will leave it to the honourable members to raise it and we will discuss it in more detail.

The Hon. BARBARA WIESE: I indicate that the Opposition will be supporting the amendments that the Minister plans to move relating to statutory easements and the superannuation provisions for employees, so we can certainly move through those quickly from our perspective.

The Hon. SANDRA KANCK: I similarly indicate that the Democrats will be supporting all the amendments and certainly do not require a great amount of detail and explanation. I was given that detail when I was briefed by officers from the Asset Management Task Force and have been suitably impressed by the arguments put to me then.

Amendment carried.

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

Page 2, after line 17—Insert definition as follows:

'outlying land' in relation to a pipeline, means all land that is outside the boundaries of the servient land but within five kilometres of the centre line of the pipeline (measured in a horizontal plane to each side of the centre line at right angles to the centre line);.

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10—'Functions of the Authority.'

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

Page 5, lines 2 to 5—Leave out paragraph (a) and insert—

(a) the Minister may, by instrument in writing signed before the end of the adjustment period, vary the boundaries of the statutory easement (with retrospective effect so that the statutory easement is, on its creation, subject to the variation) to avoid conflicts (or possible conflicts) between the rights conferred by the easement and other rights and interests; and.

Amendment carried.

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

Page 5, lines 18 and 19—Leave out 'land outside the boundaries, but within five kilometres, of the servient land ('outlying land')' and insert 'outlying land'.

Amendment carried.

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

Page 6, line 14—After 'other land' insert 'on either side of the pipeline'.

Amendment carried.

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

Page 6, lines 33 to 35—Leave out paragraph (b) and insert—

(b) rights related to the pipeline subject to Pipeline Licence No. 2 under the Petroleum Act 1940 are preserved but the preserved rights do not limit or fetter the following rights under the statutory easement—

(i) the right to maintain a designated pipeline (and associated equipment) in the position in which it was immediately before the commencement of this Part; and

(ii) the right to operate the pipeline (and associated equipment); and

(iii) the right to repair the pipeline or associated equipment or replace it with a new pipeline or new associated equipment in the same position; and.

Amendment carried.

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

Page 8, line 4—After 'land' insert 'or other property'.

Amendment carried.

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

Page 8, lines 7 and 8—Leave out paragraph (b) and insert—

(b) to avoid unnecessary interference with land or other property, or the use or enjoyment of land or other property, from the exercise of rights under the statutory easement.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 9, after new section 28—Insert new section as follows:

Reference of proposed sale agreement to the Industries Development committee

28A. The Treasurer may not make a sale agreement unless the proposed agreement has been inquired into and reported on by the Industries Development Committee under the Industries Development Act 1941.

As members would be aware, the Government also has an amendment relating to the Industries Development Committee. However, the Opposition's amendment concerning this matter goes further than the Government's amendment in that it requires that a sale agreement must be inquired into and reported on by the Industries Development Committee under the Industries Development Act 1941.

The Government appears to claim an unqualified mandate for sale of State assets. The reality is that the Government can, at best, claim a qualified mandate for such sales. Its mandate is qualified by the necessity to ensure that the public interest is met. The only vehicle to ensure this is for the

Parliament to have oversight of major issues in any sale. This can be achieved without harming any commercial interests by referring the matter in detail to the Industries Development Committee. It should be noted that the Government was elected promising not only asset sales but also greater parliamentary accountability. The Liberal Party's parliament policy states:

> The role of State Parliament should be enhanced to improve representation of the people and to make the Government more accountable to the people through Parliament.

The Opposition supports these sentiments and seeks to apply them to the scrutiny of assets sales. This is a basic issue of accountability to Parliament of the Government in the disposal and management of assets belonging to the people of South Australia. The issues surrounding PASA include both important matters of public financial as well as broader economic and policy matters.

Assets sales do not always improve the position of State finances over the medium to long-term. The issue is one of whether the sale price of any asset actually exceeds the net present value of the future income stream that can be used either to provide services or to reduce debt. PASA appears quite capable, over time, of returning revenues of about $25 million per annum to State coffers. This is $25 million per annum over a period of about 15 to 20 years that the Government does not need to borrow at interest. If revenue from the sale of PASA affects a reduction of debt that achieves a reduction in interest charges greater than PASA's income stream. The sale will benefit the State's public finances.

However, this may not be the case with PASA. The reason is that any private buyer will be liable for company tax not paid by the public sector and this will depend to depress the sale price. In addition, factors such as the requirement for a return to shareholders in a private company and the fact private investors generally face higher interest rates on borrowings all tend to reduce the price that can be obtained on sale. This may or may not be the case with the PASA sale. However, the public, through Parliament, has every right to be assured that the sale of assets, which were paid for through their taxes, will benefit the health of the State's public finances over the longer term. The consequences of not doing so are that ordinary South Australians in will in future face higher levels of the debt, lower community services, higher taxes or some combination of the three.

We also need to consider the extent to which assets such as PASA are strategic. PASA was developed by the State because private interests would not do so. It subsidised the transportation of gas to consumers and businesses, lowering cost of doing business in South Australia. The sale of PASA alienates from the South Australian Government yet another lever with which to promote the attraction of new industries. In addition, the implications of possible foreign ownership and control require thought.

Finally, the possibility of future super profits cannot be disregarded. There may, for example, be opportunities for co-generation with Roxby Downs. In public hands, these would augment State finances. If the private owner achieves super profits, the proceeds will be split between the owners and the Federal Government. I know that the Government is concerned about such questions as commercial confidentiality, and will be concerned about parliamentary scrutiny of such issues that may be deemed to be commercially confidential.

However, the reality is that a listed company facing takeover or considering sale is required to provide high levels of disclosure as well—such issues as ratification of the proposal by a general meeting of stockholders, shareholders being given detailed rationale for any proposal. Shareholders may require that they be given expert reports on whether the offer is fair and reasonable. In the case of PASA, the stockholders are the citizens of South Australia. They have the right to be assured through their parliamentary representatives that the sale is in their interests.

The Opposition therefore has put forward the amendment that I have just moved. In speaking to that, I want to indicate that we obviously prefer that amendment to the one that is being proposed by the Government, which is really nothing more than a sham, in our opinion, because it provides for a meeting to be convened on not more than 48 hours notice and for members of the Industries Development Committee to be briefed on matters relating to a sale. There is not proper time given to the Industries Development Committee under the Government's proposal to enable the proper scrutiny of any sale proposal by the parliamentary committee, and the Government's proposal is therefore unacceptable to us. I certainly recommend the Opposition's alternative to the Committee and I hope that it will be supported.

The Hon. R.I. LUCAS: It is probably useful at this stage to have a broad discussion, but not too lengthy I hope, about this amendment and subsequent amendments to new clause 33A. The Government's position is that it accepts that there does need to be a package of accountability measures. It is therefore prepared in the light of the discussion and debate that has gone on since debate in another place and, since then, between members. I acknowledge as the Hon. Sandra Kanck has acknowledged that there has been productive discussion between herself and the Treasurer as recently as today. I also know that there has been discussion with representatives of the Labor Party and others since the Bill was first discussed in another place. I think there is now acceptance that there needs to be introduction of what might be broadly termed 'accountability measures' in relation to the role of the Parliament and other officers, like the Auditor-General.

The Government's position is that it will be moving a package of amendments. Put briefly, it will involve both the IDC and the Auditor-General. First, the Auditor-General will be under a new provision. The Treasurer will have to ensure that the Auditor-General is kept fully informed about the progress and outcome of negotiations for a sale agreement under this Act. The Auditor-General, as members in this Chamber know, is an extraordinary powerful person and position with access to appropriate resources for that position to, in effect, provide some important measure of accountability in relation to issues such as this sale. It is therefore appropriate that that position or person, together with the resources available, have a role. Therefore, as part of this accountability package an amendment will be moved to provide for that formally and explicitly within the legislation.

The first point I wish to make regarding the role of the IDC is that it is important to note that the IDC's operations are such that the four members of the IDC from another place (two from either Party in the House of Assembly) are involved, whether it concerns the Hon. Barbara Wiese's amendment or the Government's amendment. All members from the House of Assembly and no members from the Legislative Council, irrespective of which amendment is successful, will be involved in parliamentary oversight or scrutiny because of the confidentiality of the IDC. The IDC operates in that way under its Act, and I think members acknowledge that.

The amendment, as part of the accountability package that the Government is moving, provides that before the Treasury executes a sale contract, the Treasurer must brief the members of the IDC on the terms and conditions of the proposed agreement. As the Hon. Barbara Wiese said, the matter is discussed at a meeting which must be convened with not more than 48 hours' notice for the purpose of giving a briefing or answering questions on written briefing papers. Some confidentiality provisions are written into the particular amendment that is moved. It will be an opportunity for members of Parliament, both Labor and Liberal, irrespective of who is in Government—obviously at present it is a Liberal Government with a Labor Opposition—to put whatever questions they wish to the Treasurer regarding the terms and conditions of the proposed agreement at a meeting of the IDC. All these things are balanced; there is a mix, and the Government sees an appropriate balance being reference to the IDC in the terms suggested by the Government and reference to the Auditor-General.

I do not intend to prolong the debate, as I understand there has been much debate and discussion about it, and we could go on at length in this Chamber. Members have their views about the various packages. I think it is useful to have had broad debate on this clause, and if this amendment is defeated it will be a test for the further amendments which will be moved later.

The Hon. SANDRA KANCK: The Democrats will not support this amendment, although philosophically I would like to because I have pressed in many other pieces of legislation to bring in maximum accountability. However, in the past 36 hours, as a result of briefings, telephone calls and meetings, it has been made clear to me that such a provision would scare off potential buyers. I keep coming back to the position that I still want South Australia and not the Commonwealth to make the decision. Hence, I feel obliged to support the Government's amendment, which will be moved a little later. That amendment was given to me in draft form yesterday. I indicated that I would accept it, provided a provision about the Auditor-General was inserted. As my request has been accommodated, I will accept the Government's amendment rather than the Opposition's.

The Hon. BARBARA WIESE: Clearly, the numbers are against my amendment. I will not labour the point, but I want to express the strong disappointment of the Opposition that this amendment will not be supported by the Legislative Council, because it is the only amendment that will provide reasonable accountability and proper scrutiny of any proposal that the Government may have for the sale of the Pipelines Authority. From the Opposition's point of view, this is an extremely important matter. However, I note that the Democrats have decided to support the Government's position on this issue. This would normally be a matter on which the Opposition would call for a division, because it feels it is so important. However, in view of the lateness of the hour, on this occasion I will not do that. But I want it stated on the record that the Opposition views this as a particularly important amendment, and I am very disappointed that it will not receive support.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 9, after line 7—Insert new section as follows:

Conditions of sale of pipeline

28A. A sale agreement must be subject to a condition requiring the purchaser to ensure that the pipeline is used predominantly for the haulage of natural gas for consumption or use in South Australia.

This appears to be a fairly self-evident condition of sale. It is proposed that it be a condition of sale that the pipeline be used predominantly for the haulage of natural gas for consumption or use in South Australia. Members might respond to that by saying, 'Well, what else would it be used for', but in one of my briefings I was told that, at the moment, the gas pipeline is operating near to capacity. I consider other ventures that might occur, one of the most obvious being the long proposed petrochemical plant at Port Bonython. Unless some sort of provision such as this is put in place, I fear that the pipeline could be used to send gas to Port Bonython as a priority over our needs for power generation and fuel supply for the remainder of consumers in South Australia. That is why I seek to insert this proposed new section, even though it seems in the first instance to be very self-evident.

I have been discussing this amendment. It appears that it does not comply with the Commonwealth access regimes and competition policy principles. I must say that I feel intensely frustrated by this. It means that we as a State are being prevented from protecting our own interests, and the amount of protection that this State will have will only be as good as the contracts that are negotiated. If we do not get them right, a whole lot of other things go down the tube. For instance, I can envisage a situation where we do not get enough gas coming through to the Torrens Island Power Station and much of the State would be suffering from brown-outs. That will be dependent on whether or not we get those contracts right now, but I find that, because my amendment does not comply, I am forced to withdraw it.

The Hon. R.I. LUCAS: I thank the honourable member for her contribution and for her patience and understanding in the discussions that we have had over the legislation generally but particularly in relation to this provision. The Government understands the strong views which the honourable member has expressed both publicly and privately. The issues which she raises, in particular in relation to potential brownouts and matters such as that, are issues which the Government, in the negotiation of the contracts, will keep in mind to ensure that the interests of South Australian consumers and industry are protected. I acknowledge the issues which the honourable member raises and I thank her for her patience in the consideration of this provision.

The Hon. SANDRA KANCK: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 10, after line 11—Insert new section as follows:

Industries Development Committee to be informed of proposed sale contract

33A.(1) Before the Treasurer executes a sale contract, the Treasurer must brief members of the Industries Development Committee (the 'Committee') on the terms and conditions of the proposed agreement and, if possible, must attend a meeting of the Committee (to be convened on not less than 48 hours notice) for the purpose of giving the briefing or answering questions on written briefing papers.

(2) Members of the public are not entitled to be present at a meeting of the Committee under this section.

(3) A person who gains access to confidential information as a direct or indirect result of the Treasurer's compliance with this section must not divulge the information without the Treasurer's approval.

Maximum penalty: Division 4 fine.

(4) Section 20[1] of the Industries Development Act 1941 does not apply to proceedings of the Committee under this section.

(5) Non-compliance with this section does not affect—

(a) the validity of anything done under this Act; or
(b) the validity or effect of sale agreement.

[1]Section 20 of the Industries Development Act 1941 confers on the Committee (subject to certain qualifications) the powers of a Royal Commission of Inquiry.

This amendment is consequential on the earlier debate, and I do not intend to repeat it.

Amendment carried.

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

Page 10, after line 11—Insert new section as follows:

Auditor-General to be kept informed of negotiations for sale agreement

33A. The Treasurer must ensure that the Auditor-General is kept fully informed about the progress and outcome of negotiations for a sale agreement under this Act.

Obviously there will need to be renumbering of the new sections as there are two sections 33A. This amendment is consequential on the previous debate.

Amendment carried.

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

Page 10, lines 34 and 35—Leave out subsection (1) and insert:

(1) The Minister may grant the Authority a lease (a 'pipeline lease') of land of the Crown over which a leasehold interest had been created (in favour of the Authority or some other person) before 1 July 1993.

Page 11, after line 27—Insert:

(11) The rights conferred by a pipeline lease, or by this section, on the holder of a pipeline lease, are subordinate to rights relating to the pipeline subject to Pipeline Licence No. 2 under the Petroleum Act 1940.

Page 12—

Lines 10 to 12—Leave out subsection (2).

After line 15—Insert new section as follows:

Minister's power to qualify statutory rights

38A. The Minister may, by instrument in writing signed before the end of the adjustment period, limit rights, or impose conditions on the exercise of rights, over land outside the servient land arising under—

(a) a statutory easement; or
(b) a pipeline lease; or
(c) a provision of this Act.

Page 12—

Line 26—Leave out 'operate a pipeline' and insert 'operate a designated pipeline'.

Lines 36 to 38—Leave out section 41 and insert:

Exclusion of liability

41. The creation of a statutory easement, or the grant of a pipeline lease, under this Act does not give rise to any rights to compensation beyond the rights for which specific provision is made in this Act.

Page 15—

Line 2—After 'regulations' insert 'and proclamations'.

After line 4—Insert subsection as follows:

(3) A proclamation cannot be amended or revoked by a later proclamation unless this Act specifically contemplates its amendment or revocation.

Amendments carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Insertion of schedules.'

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

Page 16—

After line 13—Insert subsection as follows:

(6) This section is subject to any contrary provision made by statute or included in a licence.

Lines 28 to 32—Leave out new section 80qb and insert—

Separate dealing with pipeline

80qb. Unless the Minister gives written consent, a pipeline cannot be transferred, mortgaged, or otherwise dealt with separately from the pipeline land related to the pipeline, nor can pipeline land be transferred, mortgaged or dealt with separately from the pipeline to which it relates.

Page 17, after line 14—Insert new section as follows:

Non-application to certain pipelines

80qd. Sections 80qa, 80qb, and 80qc have no application to the pipelines subject to Pipeline Licences Nos 2 and 5, or the pipeline land relating to those pipelines.

Page 18—

Lines 34 to 36—Leave out paragraph (b) and insert:

(b) entitled to a benefit under section 34 or 27 (as may be appropriate) of the Superannuation Act 1988 (as modified under subsection (6)); and.

Lines 39 to 43, page 19, lines 1 to 5—Leave out subsections (3) and (4) and insert:

(3) Where an old scheme contributor who is a transferring employee and who has reached the age of 55 years as at the transfer date dies after the transfer date, a benefit must be paid in accordance with section 38 of the Superannuation Act 1988 (as modified under subsection (6)).

(4) Where a new scheme contributor who is a transferring employee and who has reached the age of 55 years as at the transfer date dies after the transfer date, a benefit must be paid in accordance with section 32 of the Superannuation Act 1988 (as modified under subsection (6)).

Page 19, lines 10 to 18—Leave out subsection (6) and insert—

(6) For the purposes of subclauses (2), (3) and (4)—

(a) the item 'FS' wherever appearing in section 32(3) and 34 of the Superannuation Act 1988 has the following meaning:

FS is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before the transfer date adjusted to reflect changes in the Consumer Price Index from the transfer date to the date of termination of the contributor's employment with the purchaser of nominated employer; and

(b) the item 'FS' wherever appearing in sections 27, 32(2), 32(3a), 32(5) and 38 of the Superannuation Act 1988 has the following meaning—

FS is the contributor's actual or attributed salary (expressed as an annual amount) immediately before the transfer date adjusted to reflect changes in the Consumer Price Index from the transfer date to the date of termination of the contributor's employment with the purchaser or nominated employer; and

(c) section 32(3a)(a)(i)(B) of the Superannuation Act 1988 applies as if amended to read as follows:

(B) an amount equivalent to twice the amount of the contributor's actual or attributed salary (expressed as an annual amount) immediately before the transfer date adjusted to reflect changes in the Consumer Price Index from the transfer date to the date of termination of the contributor's employment with the purchaser or nominated employer; and

(d) section 34(5) of the Superannuation Act 1988 applies as if amended to read as follows:

(5) The amount of a retirement pension will be the amount calculated under this section or 75 per cent of the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before the transfer date adjusted to reflect changes in the Consumer Price Index from the transfer date to the date of termination of the contributor's employment with the purchaser of nominated employer (whichever is the lesser).; and

(e) the expressions 'transfer date', 'purchaser', 'nominated employer' in the above provisions have the same meanings as in this Schedule.

Page 19, line 27—Leave out 'section' and insert 'clause'.

Page 20—

Line 10—After 'to preserve accrued benefits' insert '(and the relevant section will apply subject to this Schedule).'

After line 27—Insert subclause as follows:

(10) For the purposes of this clause—

(a) the items 'AFS' and 'FS' wherever appearing in sections 28(4), 28(5) and 39(3) of the Superannuation Act 1988 mean the contributor's actual or attributed salary (expressed as an annual amount) immediately before the transfer date adjusted to reflect changes in the Consumer Price Index from the transfer date to the date of termi-

nation of the contributor's employment with the purchaser or the nominated employer; and

(b) section 39(6)(b) of the Superannuation Act 1988 applies as if amended to read as follows:

(b) the contributor's actual or attributed salary for the purposes of calculating the pension were that salary immediately before the transfer date adjusted to reflect changes in the Consumer Price Index between the transfer date and the date on which the pension first became payable;;

(c) the expressions 'transfer date', 'purchaser', 'nominated employer' in the above provisions have the same meanings as in this Schedule.

Pages 21 to 24—Leave out Schedule 3 and insert Schedule as follows:

Schedule 3
Description and Map of Statutory Easements

	Width (m)	Start Point	End Point
Mainline (1)	18 12↑6[1]	Middle of the insulating joint at the outlet of Moomba Meter Station, situate within section 717, Out of Hundreds (Strzelecki), (M1)	Survey marker above the pipeline situate on the north-western boundary of allotment 1 (DP 25326)[2], Hundred of Munno Para, being south of the Gawler River. (M2)
Mainline (2)	15 10↑5	Survey marker above the pipeline situate on the north-western boundary of allotment 1 (DP 25326), Hundred of Munno Para, being south of the Gawler River. (M2)	Survey marker above the pipeline situate on the south-eastern boundary of Part Section 3069 and the north-western boundary of Whites Road, suburb of Bolivar, Hundred of Port Adelaide. (M3)
Mainline (3)	18 12↑6	Survey marker above the pipeline situate on the south-eastern boundary of Part Section 3069 and the north-western boundary of Whites Road, suburb of Bolivar, Hundred of Port Adelaide. (M3)	Centre line of Mainline Valve No. 30 at the inlet to Torrens Island Meter Station, situate within section 453, Hundred of Port Adelaide. (M4)
Taperoo Lateral	15 7.5↑7.5	Tee on Mainline where the lateral to Taperoo branches off, situate within section 453, Hundred of Port Adelaide. (T1)	Centre line of 80 NB blow-off valve at the inlet to Taperoo Meter Station, situate within allotment 101 (FP 32808)[3], Hundred of Port Adelaide. (T2)
Wasleys Loop (1)	25 16↑9	Face of flange at the upstream end of the isolating valve to the scraper launcher at the outlet of Wasleys Pressure Reduction Station, situate within allotment 2, (DP 15928), Hundred of Grace. (L1)	Survey marker above the pipeline on the southern boundary of allotment 2 (DP 19550) and the northern boundary of Stanton Road, suburb of Virginia, Hundred of Munno Para, being south of the Gawler River. (L2)
Wasleys Loop (2)	15 10↑5	Survey marker above the pipeline on the southern boundary of allotment 2 (DP 19550) and the northern boundary of Stanton Road, suburb of Virginia, Hundred of Munno Para, being south of the Gawler River. (L2)	Survey marker above the pipeline, situate on the western boundary of allotment 4 (FP 40178), Hundred of Port Adelaide, being on the east side of Bolivar Channel near St Kilda. (L3)
Wasleys Loop (3)	25 16↑9	Survey marker above the pipeline, situate on the western boundary of allotment 4 (FP 40178), Hundred of Port Adelaide, being on the east side of Bolivar Channel near St Kilda. (L3)	Centre line of Mainline Valve No. 31L at the inlet to Torrens Island Meter Station situate within section 453, Hundred of Port Adelaide. (L4)
Port Pirie Lateral	15 |5↑10|	Tee on Mainline where the lateral to Pt Pirie branches off situate within section 278, Hundred of Whyte. (P1)	Face of 80 NB flange at the inlet to Pt Pirie Meter Station, situate within closed road A (RP 7019)[4]—CT 4089/955, Hundred of Pirie. (P2)
Whyalla Lateral	25 17↑8	Centre line of blow-off valve at the outlet of Bungama Pressure Reduction Station, situate within allotment 3 (DP 24997), Hundred of Pirie. (W1)	Face of flange at the downstream end of the scraper receiver isolating valve at the inlet to Whyalla Meter Station situate within allotment 6 (FP 15068), Hundreds of Cultana and Randell. (W2)
Port Bonython Lateral	25 8↑17	Tee on Whyalla Lateral where the lateral to Pt Bonython branches off, situate within section 253, Hundred of Cultana. (Y1)	Centre line of the isolating valve at the inlet to Pt Bonython Meter Station, situate within section 239, Hundred of Cultana. (Y2)
Burra Lateral	15 7.5↑7.5	Tee on Mainline where the lateral to Burra branches off, situate within the road west of section 588, Hundred of Hanson. (B1)	Face of 50 NB flange at the inlet to Burra Meter Station, situate within allotment 2 (FP 1258), Hundred of Kooringa. (B2)
Peterborough Lateral	3 1.5↑1.5	Face of 80 NB flange at the outlet of Peterborough Meter Station, situate within allotment 11 (FP 34199), Hundred of Yongala. (E1)	Centre line of the isolating valve at the inlet to the Peterborough Power Station, situate within Kitchener Street, Peterborough township, adjacent to allotment 88 (DP 1050) Hundred of Yongala. (E2)
Mintaro Lateral	20 5↑15	Tee on Mainline where the lateral to Mintaro branches off, within allotment 3 (DP 12055) Hundred of Stanley. (01)	Centre line of the isolating valve at the inlet to the Mintaro Meter Station, situate within allotment 3 (DP 12055), Hundred of Stanley. (02)
Angaston Lateral (1)	15 4.5↑10.5	Tee on Mainline where the lateral to Angaston branches off in Wasleys Pressure Reduction Station, situate within allotment 2 (DP 15928), Hundred of Grace. (A1)	Survey marker above the pipeline situate on the north-western boundary of allotment 3 (DP 26607) and the south-eastern boundary of Seppeltsfield Road, Hundred of Nuriootpa. (A2)

Schedule 3
Description and Map of Statutory Easements

Angaston Lateral (2)	12 3↑9	Survey marker above the pipeline situate on the north-western boundary of allotment 3 (DP 26607) and the south-eastern boundary of Seppeltsfield Road, Hundred of Nuriootpa. (A2)	Centre line of mainline valve at the inlet to Angaston Meter Station, situate within part section 67 (CT 3740/14), Hundred of Moorooroo. (A3)
Nuriootpa Lateral	5 3.5↑1.5	Face of 80 NB insulating flange at the outlet of the Nuriootpa Meter Station, situate within section 71, Hundred of Moorooroo. (N1)	Upstream face of the insulating flange adjacent to Nuriootpa township isolating valve, situate within the road adjoining Section 136, Hundred of Moorooroo. (N2)
Tarac Lateral	3 1.5↑1.5	Tee on Nuriootpa Lateral where the lateral to Tarac branches off, situate within the road adjoining Section 136, Hundred of Moorooroo. (R1)	Face of insulating flange at the inlet to Tarac Meter Station, situate within section 136, Hundred of Moorooroo. (R2)
Dry Creek Lateral	3 0.9↑2.1	Centre line of 300 NB underground valve at the outlet of Dry Creek Meter Station, situate within section 482, Hundred of Port Adelaide. (C1)	Downstream end of underground isolating valve in Dry Creek Power Station, situated within allotment 16 (FP 9554), Hundred of Port Adelaide. (C2)
Safries Lateral	20 10↑10	Tee on Snuggery Lateral where the lateral to Safries branches off, situate within section 163, Hundred of Monbulla. (F1)	Face of flange at the downstream end of the isolating valve at the inlet to Safries Meter Station, situate within sections 423, Hundred of Penola. (F2)
Snuggery Lateral	20 8↑12	Face of insulating flange at the outlet of Katnook processing plant, situate within section 336, Hundred of Monbulla. (S1)	Face of flange at the downstream end of isolating valve of scraper receiver at inlet to Kimberly Clark Australia Meter Station, situate within allotment 50, (DP 31712), Hundred of Hindmarsh. (S2)
Mt Gambier Lateral (1)	20 12↑8	Tee on Snuggery Lateral at Glencoe Junction where the lateral to Mt Gambier branches off situate within allotment 11 (DP 31711), Hundred of Young. (G1)	Face of flange at the downstream end of the isolating valve of the scraper receiver at the inlet to Mt Gambier Meter Station, situate within allotment 1 (DP 31778), Hundred of Blanche. (G2)
Mt Gambier Lateral (2)	20 12↑8	Downstream end of tee at the outlet of Mt Gambier Meter Station, situate within allotment 1 (DP 31778), Hundred of Blanche. (G3)	Centre of the insulating joint where the responsibility for the gas transfers to the Customer, situate within section 685, Hundred of Blanche and being north of Pinehall Avenue. (G4)

Notes: (1) The arrow represents the normal direction of flow of the gas as of the date of the legislation. The figures indicate the width of the Statutory Easement on each side of the centre line of the pipeline looking in the direction of the flow.
(2) DP denotes deposited plan in the Lands Titles Registration Office.
(3) FP denotes filed plan in the Lands Titles Registration Office.
(4) RP denotes road plan in the Lands Titles Registration Office.

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Amendments carried; clause as amended passed.
Title passed.
Bill read a third time and passed.

NATURAL GAS PIPELINES ACCESS BILL

Adjourned debate on second reading.
(Continued from 23 March. Page 1668.)

Bill read a second time.
In Committee.
Clauses 1 to 22 passed.
Clause 23—'Parties to arbitration.'
The Hon. R.I. LUCAS: I move:

Page 13, after line 10—Insert paragraph as follows:
(ab) any other person who has, in the Minister's opinion a material interest in the outcome of the arbitration and is nominated by the Minister as a party to the arbitration; and

This amendment to the Bill is proposed following representations by SANTOS Limited. Although not directly involved, SANTOS has a view that producers have a material interest in the access regime and it should be possible for them to be represented at any arbitration. Provision is made in the suggested amendment for the Minister to authorise the producers to be represented at an arbitration of an access dispute.

The Hon. BARBARA WIESE: The Opposition supports this amendment.

Amendment carried; clause as amended passed.
Clauses 24 to 48 passed.
New clauses 48A, 48B and 48C.
The Hon. BARBARA WIESE: I move:

After clause 48—Insert new heading and clauses as follows:

PART 6A
MINISTERIAL POWER OF DIRECTION

Ministerial power of direction

48A. (1) If the Minister is satisfied that a direction under this Part is necessary to the interests of the State, the Minister may direct the operator of a pipeline to provide access to the pipeline for the haulage of natural gas in accordance with the terms of the direction.

(2) The terms contained in a direction under this Part must provide for access to the pipeline on fair commercial terms.

Obligation to comply with direction

48B. The operator of a pipeline must comply with a direction under this Part.

Effect of direction on contracts and awards

48C. The operator's obligations under a direction are subordinate to obligations under a contract or award, and if the operator cannot comply with both, the rights of pipeline users under contracts and awards are abated to allow for compliance with the direction.

In her second reading speech relating to the Bill that we have just dealt with, the Hon. Ms Pickles clearly underlined the need for continuing regulation of the operator of the pipelines authority assets. The appropriate regulation is in the form of ministerial powers of direction. That is the basis for proposed new clauses 48A, 48B and 48C. The proposed new clauses 48B and 48C are consequential upon 48A. The proposed clause 48A is clearly aimed at preventing the situation where the pipeline operator refuses access to the pipeline, except on the basis of onerous conditions or exorbitant prices. Therefore, the Minister should have the power to direct the pipeline operator to provide access to the pipeline for the haulage of natural gas in those sort of circumstances.

At the same time, we are not expecting the pipeline operator to make unrealistic sacrifices and new subsection (2) therefore provides that access will be permitted in these circumstances on fair commercial terms. That way the pipeline operator will not be unfairly put upon. In relation to new section 48B, clearly there must be some sort of obligation on the operator of the pipeline if a direction is given by the Minister pursuant to this part. New clause 48C is proposed as a matter of caution, in case the situation ever arises where a ministerial direction results in conflict between the operator's obligations under that direction on the one hand, and the operator's obligations under existing contracts or awards on the other hand. We have thought it prudent to provide that the obligations under the ministerial direction will take precedence in this situation.

The Hon. R.I. LUCAS: Again, I understand there has been some discussion on this particular issue, but the Government's position is strongly opposed to this amendment. I am advised that under the competition principles agreement that this sort of ministerial power of direction is not possible. It would render the access regime ineffective and so subject to the Commonwealth access regime. In all these areas the operation principles have to be independent and therefore cannot allow for ministerial powers of direction.

The Hon. SANDRA KANCK: I indicate that with regret, again because of this problem with the competition principles, that the Democrats will not be able to support it. I said I had both hands tied behind my back; I think now I have both hands tied behind my back and some thumb screws being applied. As much as I would like to support it, there is no point in doing so because we will find the Feds trumping us again.

New clauses negatived.

Clauses 49 to 52 passed.

New clause 52A—'Haulage charges to be subject to price regulation.'

The Hon. BARBARA WIESE: I move:

After clause 52—Insert new clause as follows:

52A. Haulage charges are subject to regulation under the Prices Act 1948.

The legislation provides for 'light-handed third party regulation' of prices after the conclusion of the present 12 year contract period. After this time the State loses control of prices and the owner will be able to use its monopoly position to increase prices to the detriment of each and every South Australian, and the competitiveness of the industries reliant on a cheap and readily available gas supply. The claim that any concern to ensure fair and reasonable prices is opposed in the Hilmer Report is a nonsense. In cases of monopoly the Hilmer Report makes explicit reference to the case for price controls. The existing Bill is quite unsatisfactory in regard to the issue of future pricing arrangements. If this has been the advice of the Federal Government, it is incorrect. It is also to be noted that the Federal Government will receive substantial taxation revenue once PASA falls into private ownership, giving perhaps other grounds for the interpretation of such advice.

The Hon. R.I. LUCAS: The Government again strongly opposes for the same reasons that we opposed the introduction of new clauses 48A, 48B and 48C and I therefore do not intend to repeat the argument at this hour.

New clause negatived.

Clause 53 and title passed.

Bill read a third time and passed.

MINING (SPECIAL ENTERPRISES) AMENDMENT BILL

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

MINING (NATIVE TITLE) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE ARRANGEMENTS) BILL

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

CONSUMER CREDIT (SOUTH AUSTRALIA) BILL

Returned from the House of Assembly with the following amendments:

No. 1 *Clause 3, page 1, lines 25 to 27 and page 2, line 1*—Leave out all words in these lines.

No. 2 *Clause 5, page 3, line 5*—Leave out 'section 17 of' and substitute 'the Appendix to'.

No. 3 *Clause 6, page 3, lines 15 to 34*—Leave out all words in these lines and substitute the following:

(2) Schedule 2 to the *Consumer Credit (South Australia) Code* applies in relation to any such regulation.

(3) To the extent to which a provision of any such regulation of a savings or transitional nature takes effect from a day earlier than the day of the regulation's notification in the Government Gazette of Queensland, the provision does not operate in this State to the disadvantage of a person (other than the State or a State authority) by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

No. 4 *Clause 7, page 4, lines 4 to 8*—Leave out all words in these lines and substitute the following:

'Legislature of this jurisdiction' means the Legislature of South Australia;

'the Code' or 'this Code' means the *Consumer Credit (South Australia) Code:*

'the jurisdiction' or 'this jurisdiction' means South Australia.

No. 5 *Clause 7, page 4, lines 9 to 10*—Leave out all words in these lines and substitute the following:

(2) The *Acts Interpretation Act 1954*, and other Acts, of Queensland do not apply to—

(a) the *Consumer Credit Code* set out in the Appendix to the *Consumer Credit Act* in its application as a law of South Australia; or

(b) the regulations in force for the time being under Part 4 of the *Consumer Credit Act* in their application as regulations in force for the purposes of the *Consumer Credit (South Australia) Code.*

No. 6 *Clause 8, page 5, line 4*—Leave out all words in this line and substitute 'The jurisdiction that is expressed to be exercisable

by 'the Court' under the *Consumer Credit (South Australia) Code* and the *Consumer Credit (South Australia) Regulations* is'.

No. 7 *Clause 9, page 5, line 11*—Leave out 'State' and substitute 'Government'.

No. 8 *New clause, page 6, after line 2*— Insert the following new clause:

9A Special savings and transitional regulations for South Australia

(1) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act or of an Act of Queensland amending the *Consumer Credit Code* set out in the Appendix to the *Consumer Credit Act.*

(2) If such a regulation so provides, it has effect despite any provision of this Act, including the *Consumer Credit (South Australia) Code.*

(3) A provision of a regulation made under this section may, if the regulation so provides, take effect from the day of assent to the Act concerned or from a later day.

(4) To the extent to which a provision takes effect from a day earlier than the day of regulation's publication in the *Gazette,* the provision does not operate to the disadvantage of a person (other than the State or a State authority) by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

No. 9 *Clause 10, page 6, line 4*—Leave out 'The scheme legislation of South Australia' and substitute 'This Act'.

No. 10 *Clause 11, page 6, lines 6 to 18*— Leave out this clause.

No. 11 *Clause 12, page 6, lines 19 to 24*— Leave out this clause.

No. 12 *Schedule, page 7, lines 9 to 12*—Leave out all words in these lines.

Consideration in Committee.

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

That the amendments be agreed to.

The information that has been provided to me is that these amendments are all drafting amendments which, when the Bills had passed the Legislative Council, were discovered as requiring attention. I can remember these amendments being run past me briefly I think last week prior to them being put on file in the House of Assembly. The assurance was that they did not alter the substance of the scheme and were consistent with technical and drafting amendments which had been brought to the attention of officers upon subsequent consideration of the issue.

Part of the basis for the errors in the first place was, as I understand it, that because we were looking to meet some deadlines as a result of the agreement with Ministers, certain issues had not been adequately addressed and that the haste was the reason for the errors having been made. I am not in a position to identify what the technical issue is in relation to each of the amendments. If what I am saying is wrong, I undertake to let the Opposition and the Australian Democrats know by letter. That is not much comfort to them I know, but on my recollection of the information provided to me, I repeat that there is certainly nothing of a sinister nature in the amendments but they are necessary to meet technical and drafting objectives in relation to this package.

The Hon. ANNE LEVY: I support the amendments as moved by the Attorney, although he has the advantage on me if he first saw these last week: I first saw them 10 minutes ago and I would have appreciated seeing them at the same time as he did. I certainly am not in a position to understand the technical reasons why these changes are being made. On a quick look through, it seems to reword a large number of the clauses of the Bill and reorder some of the matters, but to a non-lawyer there does not seem to be any change. I am happy to accept that they are just technical amendments, necessary for legal reasons. The Bill when before us was completely non-controversial, so I presume that this reordering and slight rewording is likewise equally non-controversial and I support the amendments.

The Hon. K.T. GRIFFIN: The honourable member probably has a valid point to make in relation to her view that she would like to have seen the amendments when I saw them, but, as I said, they were run past me, and that is what I mean, literally. I understand there was some urgency to get them on file. I did not absorb all the detail as I should otherwise have done because of other business in this place. I regret that two honourable members did not get them at the same time. I cannot change history, but note that that was the circumstances in which it occurred.

Motion carried.

CONSUMER CREDIT (CREDIT PROVIDERS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

CO-OPERATIVES (ABOLITION OF CO-OPERATIVES ADVISORY COUNCIL) AMENDMENT BILL

Returned from the House of Assembly without amendment.

PLUMBERS, GAS FITTERS AND ELECTRICIANS BILL

Returned from the House of Assembly without amendment.

TRUSTEE (INVESTMENT POWERS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Returned from the House of Assembly without amendment.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

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

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment:

Insert clause 28

Section 67 of the principal Act is amended

(a) by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) the incidence or costs of claims for compensable disabilities suffered by the employer's workers

(disregarding claims of a classes excluded from the ambit of this paragraph by regulation);

(b) by inserting after subsection (4) the following subsections:

(5) The corporation may establish rehabilitation and return to work programs for disabled workers on terms under which an employer who participates in the program by providing employment for disabled workers and complying with the other conditions of the scheme is entitled to reduction of the levy that would otherwise be payable by the employer on a basis set out in the scheme;

(6) The terms and conditions of a rehabilitation and return to work scheme established under subsection (5) must be promulgated by regulation.

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

That the House of Assembly's amendment be agreed to.

This amendment was suggested by the Hon. Mr Elliott and I indicate support for it. That obviously means that it will be carried.

The Hon. M.J. ELLIOTT: I thank the Attorney-General for moving my amendment. Now I will explain it to him. The first part of the amendment, (a), part (b), relates to the question of secondary disabilities. I made the point in earlier debate that, as I understand it, secondary disabilities now account for 5 per cent of the injuries and 30 per cent of the value of the claims. The consequence of that is that the burden among employers is being shared unevenly. Some employers are ducking their responsibilities and going to a great deal of trouble to have almost all injuries deemed to be secondary. That does two things: first, it means that they avoid what they should be rightly paying and someone else ends up paying for them. Secondly, it also fails to send the right messages to them about the levels of occupation health and safety in the workplace. For both of those reasons, I think it is important that the concept of secondary disability needs to be looked at more carefully.

It is intended that this matter will then be tackled by way of regulation. So there will still be the prospect of secondary disabilities being excluded from the ambit of the paragraph, but I think the regulations will be a little more prescriptive with a few more rules stating when things will be deemed to be secondary and when they will not. In relation to paragraph (b)(5), I seek to give the corporation more flexibility regarding levies, in particular, so that it might offer a reduction in the levy if an employer takes on disabled workers. I am trying to make it easier to find work for injured workers. If we really intend to return people to work and rehabilitate them, if a reduction in levy will help that to occur that can only be a good thing.

The Hon. R.R. ROBERTS: The Opposition opposes this amendment, and it opposed it when it went through in the first place. This amendment refers to costs, etc., and the Opposition submits that this ought to be dealt with by the committee that is being set up to look at reviews.

Motion carried.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 12.28 to 1.10 a.m.]

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a statement in relation to the conference.

Leave granted.

The Hon. K.T. GRIFFIN: I inform the Council that the conference on the Bill is still proceeding, and it will be necessary for the conference to continue during the adjournment of the Council and to report on Tuesday 30 May 1995. This is covered by Standing Order 254.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council at its rising adjourn until Tuesday 30 May 1995 at 2.15 p.m.

In doing so, I advise members that there is still a short period for the transmission of messages between the Houses to conclude this session. I therefore use this opportunity in the adjournment motion to thank members for their patience and forbearance during this session. A number of important pieces of legislation have passed. Again it has been a generally orderly end to the session, although it is an hour and 10 minutes longer than I thought. It is a bit after one o'clock now, so it is a bit later than perhaps we would have all otherwise wished. Certainly we will not have an all night session or anything along those lines.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: The honourable member makes a very important point, which I acknowledge. The Leader of the Opposition, the Hon. Carolyn Pickles, is absent, but I thank her and the Hon. Michael Elliott, Leader of the Australian Democrats, for their leadership and assistance to me in the conduct of the procedures of the Council. It has been a generally orderly session of the Council. Complicated legislation such as WorkCover, whenever it arises, always causes some problems in relation to the programming of the proceedings of the Chamber. It seems to arrive every year, and these days it seems to be at least two or three times a year. We can only hope that on this occasion we do not see it for a couple of years or so, but I will not hold my breath. It always causes problems because it is a very difficult piece of legislation, and I thank the Hon. Mr Elliott and the Hon. Carolyn Pickles in her absence.

I thank all members for their assistance. In particular, I thank the two Whips, the Hon. Jamie Irwin and the Hon. George Weatherill, for their patience. Sometimes our colleagues in another place are a touch critical about conventions and proceedings in this Chamber. Democrat members do not have to worry about their colleagues in the Lower House, so I address these comments to Labor and Liberal members.

I am sure that Labor members occasionally get the odd touch of criticism from their Lower House colleagues about our conventions and the proceedings of the Legislative Council, but one of the great credits to the Council is its operations, the informal arrangements that have worked pretty successfully. If there happens to be the odd member who, for whatever reason, misses a vote here or there, the pairing arrangements are very sensible, in my judgment and that of all members, I am sure. We generally reflect the voting strength within the Chamber and it has worked pretty well. It is particularly to the credit of the two Whips, and I want to thank them on behalf of members.

I thank you, Mr President, for your patience. I note that the equivalent person in another place has had to take fairly stern action this evening and one member has a holiday for three

days, I think. It is probably testimony to the fact that members of the Legislative Council are much better behaved, so you do not have to take such stern action, and I thank you for that. I thank the table staff and all the staff of Parliament House: *Hansard*, the attendants, catering staff and everyone who helps the efficient operation of Parliament. One of the interesting changes we have made in our proceedings is to have a 10 or 15 minute break during the evening session, rather than sitting from 7.45 through to midnight, our going home time. It has been sensible to try to have a 10 minute break midway through; it allows the staff time for a cup of tea. Most of us can get away but the staff are tied to the desk. That has been a worthwhile change in the operations of our Chamber.

I wish all members a safe Easter break. As To those members who are playing in the all important cricket game tomorrow, such as the Hon. Mr Elliott, I hope they get home very quickly to have a good sleep. I hope the Hon. Terry Roberts is catching up on his sleep, because he will be opening the batting for the Parliament for about the sixth or seventh year in a row. We have a good Left wing, Right wing combination opening the batting for the Parliament, and the Hon. Terry Roberts looks after the Left wing opening stance of the partnership for the Parliament against the press. It will be an enjoyable day.

The Hon. Diana Laidlaw: What do you do?

The Hon. R.I. LUCAS: I do some sledging, have the occasional drink, and I did some creative accounting that enabled the Parliament to win last year against the press. I wish members a good Easter break: I know it will involve most of them in a lot of work. I wish them well and, again, thank them on behalf of the Government and Government members.

The Hon. R.R. ROBERTS: On behalf of my colleague the Hon. Carolyn Pickles, who is not with us tonight, I rise to respond on behalf of the Opposition and, in doing so, endorse the remarks of the honourable Leader in respect of the cooperation that has been shown to members of the Opposition from Ministers and the working relationship with the Democrats, in particular. That sort of cooperation has been helpful in getting a lot of the legislation through this place.

Again, as we invariably find at the end of the session, we have this bank up. The cooperation that is generally displayed here has been lacking in other places, but at this late hour I do not propose to dwell on that, other than to encourage those responsible for the running of the business of the Parliament to go into the consultation. It is pleasing to see that, in respect of the review provisions for WorkCover, probably for the first time in my memory here, there has been an organised attempt to get some consensus legislation before this place. I hope that it will be successful and will set an example for cooperation, which is generally reflected in the overall operations of the Legislative Council.

Finally, I endorse the remarks directed particularly towards the table staff and the *Hansard* staff, who are exceptionally patient and always seem to make our speeches turn out reasonably, even if they are absolutely appalling when they are delivered.

The Hon. L.H. Davis: You've noticed.

The Hon. R.R. ROBERTS: Well, some of yours are used as an example. Mr President, I think that overall you have treated us all equally, though not always well. I also endorse the remarks and best wishes of the Leader for a happy Easter for everybody. I look forward to coming back in June to a happy and cooperative workplace.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I echo the sentiments of the previous two speakers. After nine years one would think that one had learned something here. I looked at my watch at about 10.30 when speaking to my wife on the phone and almost said, 'I reckon I'll be home by midnight.' But I have learned something, because I did not say that. As usual, it has taken a few more hours than one would expect. I suppose it would be fair to describe the conditions today as bad, but they have probably been better than most last days, which are usually appalling. I think it is probably as good as we can hope to get, despite our best efforts, but we can continue to work on that.

I thank members of the other two Parties. Despite our differences, we manage to cooperate to the extent that we make things work in this place, and I think they work as well as can be reasonably expected. I thank the table staff, *Hansard*, the messengers and other people in this place who really make sure that everything comes together. I wish everybody a pleasant break.

The PRESIDENT: I thank all members for their cooperation. At no stage have I even thought of naming anybody, because there has been no incident in this session where that was necessary.

The Hon. Anne Levy: We'll work on it.

The PRESIDENT: I have no doubt that you will work on it. I thank particularly the Whips, because without them my job would be more difficult. We have allowed a little elasticity with regard to divisions and so on, because the new addition to the top of Parliament House has meant that Opposition members have had to travel further to get here. We have reached an agreement on that which has worked rather well without having to change Standing Orders. I express my thanks to the table staff. Both Jan and Trevor continually amaze me with their knowledge and the way that they keep me on the rails.

Tonight was unusual because the amendments came in very late. From my position it looked as though we were legislating from the galleries with the amount of to-ing and fro-ing that was going on. I do not think that it is a good idea in a Parliament like this. There are lobbies and meeting rooms, and in normal circumstances the briefings should have been completed, but tonight was a rare occasion, and I accept that. However, I do not think it is helpful to the Parliament. In future, we ought to look at that. If we want assistance on the floor of the Parliament and we need to change Standing Orders, we should do that. Legislating from the galleries is not helpful. I would like to thank those people who assisted me in the Chair when it was necessary for me to have a small break, in particular, my Deputy President, Mario, who very frequently comes to my assistance. In conclusion, I hope you all have a blessed Easter.

Motion carried.

PIPELINES AUTHORITY (SALE OF PIPELINES) AMENDMENT BILL

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

NATURAL GAS PIPELINES ACCESS BILL

The House of Assembly intimated that it had agreed to the

Legislative Council's amendment.

ADJOURNMENT

At 1.30 a.m. the Council adjourned until Tuesday 30 May at 2.15 p.m.