HOUSE OF ASSEMBLY

Thursday 4 December 1986

The SPEAKER (Hon. J.P. Trainer) took the Chair at 11 a.m. and read prayers.

SITTINGS AND BUSINESS

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That Standing Orders be so far suspended as to enable the sitting of the House to be continued during the conference with the Legislative Council on the Occupational Health, Safety and Welfare Bill.

Motion carried.

STATUTES AMENDMENT (TAXATION) BILL

The Hon. J.C. BANNON (Premier and Treasurer) obtained leave and introduced a Bill for an Act to amend the Business Franchise (Petroleum Products) Act 1979, the Financial Institutions Duty Act 1983, the Land Tax Act 1936, the Pay-roll Tax Act 1971, and the Stamp Duties Act 1923. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

For many years some State revenue statutes have included provisions which have allowed State Taxation Commissioners to communicate information obtained in the course of their duties to other State and Territory Commissioners and the Commonwealth Commissioner of Taxation.

The extension of these provisions to encompass all State taxation statutes and provide a uniform basis for exchange of information between the States and the Commonwealth has been under review for some time and to this end various amendments to South Australian taxation Acts have been introduced when a taxation measure has been before Parliament.

In October 1985 Royal assent was given to the Taxation Laws Amendment Act (No. 2) 1985 (No. 123/1985) which contained the Commonwealth measures on exchange of information with State and Territory revenue authorities.

To be effective this Commonwealth legislation requires that a 'State Taxation Officer' be defined and that a reciprocal disclosure provision to the Commonwealth Commissioner be included in the relevant State taxation statutes. This Bill amends the relevant State legislation as necessary.

It is necessary to ensure the secrecy of information obtained from the Commonwealth or a State Commissioner as well as that acquired in connection with the administration of a State taxation Act. The opportunity is taken in this Bill to adopt a uniform set of secrecy provisions in the various Acts consistent with those incorporated in the Financial Institutions Duty Act in 1983.

Clause 1 is formal.

Clause 2 amends the Business Franchise (Petroleum Products) Act 1979, to incorporate a uniform secrecy provision.

Clause 3 amends the Financial Institutions Duty Act 1983 to include power to release information to the Commonwealth Commissioner of Taxation.

Clause 4 amends the Land Tax Act 1936, to incorporate a uniform secrecy provision (section 7a). New section 7 is a provision that will bring the Commissioner of Land Tax within the definition of 'State taxation officer' in Part III of the Commonwealth Act.

Clause 5 amends the Pay-roll Tax Act 1971 to incorporate a uniform secrecy provision.

Clause 6 amends the Stamp Duties Act 1923. Paragraph *(b)* brings the Commissioner of Stamp duties within the definition of 'State taxation officer' in Part III of the Commonwealth Act.

Mr OLSEN secured the adjournment of the debate.

TERTIARY EDUCATION BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 3 (clause 5)—After line 4 insert the following subclause:

(2a) If the Minister refuses to accredit a course, or proposed course, the Minister must cause a statement of his or her reasons to be laid before each House of Parliament within 12 sitting days after the refusal.

No. 2. Page 3 (clause 6)—After line 36 insert subclause as follows:

(7) The Minister must cause a statement of the reasons for giving a direction to be laid before each House of Parliament within 12 sitting days after giving the direction.

No. 3. Page 5, line 33 (clause 11)—After 'Parliament' insert 'within 12 sitting days after the thirtieth day of September'.

The Hon. D.J. HOPGOOD: I move:

That the Legislative Council's amendments be agreed to.

Members have the amendments in front of them. The effect of the three amendments relates to the same matter; that is, members in another place felt that, in circumstances where the Minister refused to accredit a course or proposed course, there should be some reporting to the Parliament on this decision and the matter should be laid before each House of Parliament within 12 sitting days after the refusal. The Government is quite happy with these amendments and urges them on the committee.

The Hon. JENNIFER CASHMORE: I am pleased that the Government is supporting these amendments, which were foreshadowed by the Opposition when the Bill was debated in this House. They are certainly practical and expand the rights of the tertiary education community and also expand the accountability of the Minister to that community. Each of the amendments involves parliamentary scrutiny of the Minister's actions and the opposition believes that the prospect of that scrutiny is sufficient discipline upon a Minister who is certainly given very wide and, I think I can say, unprecedented powers over tertiary education courses through the passage of this legislation. The Opposition supports the amendments.

Motion carried.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

In Committee.

(Continued from 3 December. Page 2719.)

Clause 5—'Casual vacancies.'

Mr M. J. EVANS: I move:

Page 2, line 35—After 'resignation' insert 'or on such later date, not more than 14 days in advance, as may be specified in the notice of resignation (but once the notice is received by the chief executive officer the resignation cannot be withdrawn)'.

It is a very straightforward amendment to facilitate those unusual situations where a member of local government wishes to resign and where it is convenient for him or her to do so a few days in advance. As the law stands, the resignation takes effect immediately upon being handed to the Town Clerk. It cannot be made prospective and that has, on some occasions, caused considerable inconvenience. I appreciate that it is not a frequent occurrence, but by offering a period of 14 days during which a resignation may be made in advance—and having done so it is then irrevocable under the amendment I am proposing, and such a resignation may not be withdrawn for obvious reasons—does enable a person to resign up to 14 days in advance, covering holiday and New Year periods, if they wish to resign at midnight rather than at the close of business for a particular reason. I commend the amendment as simply improving the efficiency and convenience of local government.

The Hon. B.C. EASTICK: I had expected that we would have heard from the Minister on whether or not he was going to support the measure. No word has been forthcoming. What the honourable member is seeking to do is a wise move and will give a refinement to the Act to allow for contingent circumstances where a person knows that he is going to leave the town or district, or where there is some unfinished business that requires him, because the returning officer and person resigning will not have opportunity for close contact over a period of time, to give this advice in advance effective of a particular date.

I do not believe that it will cause any major difficulties for local government. I checked with the Constitution Act and found that it is not a concession that applies to members of Parliament. However, I think the circumstances applying there are somewhat different. Therefore, on behalf of the Opposition I accept the suggestion that the course of action that the member seeks to put in place is reasonable. In consultation with the member, I suggested that there ought to be a time rather than an open-ended period associated with the measure. We talked of 10 days, and it has finally resulted in 14 days. That does not fuss me, but beyond 14 days I would start to be concerned as all manner of activities might take place that were not in the best interests of local government overall. I am prepared to accept the amendment.

The Hon. T.H. HEMMINGS: I am sorry that the member for Light felt that I should stand up. The Government has already indicated that the amendment moved by the member for Elizabeth is a perfectly reasonable one. I was just trying to speed up the process of our very busy day by keeping the number of words uttered to a minimum.

Amendment carried.

Mr M.J. EVANS: I move:

Page 2—
Line 42—Leave out 'and'.
After line 46—Insert new word and paragraph as follows:
and
(c) the member cannot be nominated as a candidate for the election to fill the vacancy unless he or she has submitted to the chief executive officer the return that was required to be submitted under Part VIII.

The purpose of these amendments is to rectify what I believe could become an unfortunate anomaly in the present provisions if a member of a council, for reasons best known to that person, declined to complete the required financial and pecuniary interest return and, having done so, forfeited a seat on the council, and then did not avail himself of, or failed in his request for, an appeal through the local court resulting in the holding of a by-election. It is now open for such a person to become a candidate at an election and to offer himself for re-election and, before being re-elected, not to complete the form and Part VIII return. I believe that that has a number of consequences.

First, it tends to expose the law to ridicule and, whether or not one supported initially the introduction of this Part, the fact is that it is now an entrenched part of our local government law, and I believe must be respected as such. Secondly, it exposes councils to considerable costs in what could become, if a person was so minded—and I am not suggesting in any way that this will be a frequent occurrence, but I think it is an eventuality which would be wise for us to guard against—an endless series of by-elections, not only involving the council in significant cost and inconvenience but, also, as I said, exposing the law to ridicule. I believe that this simple amendment will safeguard that position, without taking away any of the rights of a member of local government or of any candidate. On that basis, I commend the amendments to the Committee.

The Hon. T.H. HEMMINGS: The Government supports the amendments.

The Hon. B.C. EASTICK: This is where the Opposition parts company with the member for Elizabeth and the Minister. I am not averse to the proposition that has been put by the member for Elizabeth and have indicated that to him previously. I believe that it goes too far too quickly. Had the member put forward a proposition—in fact, if the Committee would accept a proposition—that he did not require that return to be completed in relation to the first by-election that would follow a person's resignation or enforced resignation by virtue of the provisions of the Bill, thus allowing the person to test the feeling of the public on the matter, I would have no adverse reaction.

However, I believe that it requires that, if a person has stood on principle, he be allowed to test that principle with the public which he seeks to represent. One might say that it puts off the fatal day. If he succeeds in his own by-election, he will then be in contravention of the other provisions of the Act and once again will be forced to resign from membership of the council, or his membership of the council will be withdrawn if he does not comply. In relation to that point, I think that the member for Elizabeth's amendment would be appropriate, but I do not believe that the person should be denied the right of taking his principles to the public in the first instance. One might say that it is tampering with the intent of another section of the Act; I do not resile from that, but I believe that, because local government provides a democratic right for persons who seek to be members of local government to put their platform or attitudes before the public, he ought to be permitted to exercise that right before the public.

I suppose that it is a matter of being overly cautious or taking the rights of the individual one step further than this will allow. If on the second occasion a person fails to submit his form, I recognise that it will be an additional cost to local government, and I regret that that is the case. However, I believe that it removes from the individual the right to submit his principles to the electorate which he seeks to represent. I will leave it to the Committee whether or not to accept the variation. I believe that we could all be accommodated if the course of action that I have suggested were to be adopted.

Mr M.J. EVANS: While I have some sympathy for what the member for Light is saying, I think the problem is that we are in a position of having laid down a certain procedure in the Act requiring a return under Part VIII. Rightly or wrongly, we have done that and that has been endorsed; it is now the law, and I do not believe that we can allow ourselves, the State or local government in general to be put in a position where there is almost an irresolvable clash

between testing that right in the public arena and Parliament saying, 'You shall not have that right in the Act.'

I think that once that decision has been made by a local government elected representative not to complete the return, in the full knowledge of the consequences of that decision, it would not be a viable option to then allow that person, so to speak, to set the public of his electorate against Parliament. I do not think that that really would be a desirable position for either this Parliament, or the council to be confronted with. It is not really possible to say that the electorate in that sense of a limited ward of one council of the State in effect can reject the combined judgment of Parliament and local government throughout the State. While I can appreciate what the honourable member is suggesting (and I appreciate his support for the amendment in the long term), I think that really it has to apply from day one, or it cannot apply at all.

The Committee divided on the amendments:

Ayes (18)—Mrs Appleby, Messrs Bannon, Crafter, Duigan, M.J. Evans (teller), Groom, Hamilton, Hemmings, Hopgood, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Robertson, Slater, Trainer, and Tyler.

Noes (13)—Messrs Allison, P.B. Arnold, and Blacker, Ms Cashmore, Messrs Chapman, Eastick (teller), S.G. Evans, Gunn, Ingerson, Meier, Olsen, Oswald, and Wotton.

Pairs—Ayes—Messrs Abbott, L.M.F. Arnold, Keneally, McRae, and Plunkett. Noes—Messrs D.S. Baker, S.J. Baker, Becker, Goldsworthy, and Lewis.

Majority of 5 for the Ayes.

Amendments thus carried.

Mr M.J. EVANS: I move:

Page 3, lines 6 to 12—Leave out subsection (6) and insert new subsection as follows—

(6) Where the office of a member of a council becomes vacant under subsection (1) the chief executive officer must notify the members of the council at the next meeting of the council and give notice of the occurrence of the vacancy in the *Gazette* (but the members of the council need not be notified where the member was removed from office by the council).

The purpose of this amendment is quite straightforward. The Bill requires that, where a member of council ceases to hold office, that fact must be reported to the council and to the Minister. Since the Minister really does not have a personal role to play in the filling of that vacancy by byelection, notification is more for the purposes of information and to ensure that the processes are subsequently performed in accordance with the normal and lawful procedures.

I believe it would be much more appropriate, given the relationship between local government and the Minister and the autonomous and statutory nature of local government, if that notification was placed in the *Gazette* so that it was available on the public record as a permanent indicator of that event and also so that the Minister and any other interested person, in government, in Parliament and in the community, was notified of the occurrence. I believe that the amendment expands the level of notification, makes the record far more permanent and official than presently provided, and better expresses the relationship between local government and the Minister. I commend the amendment to the Committee.

The Hon. T.H. HEMMINGS: The Government supports this amendment. While it is minor, it enables a wider group of people to know exactly what the intention of the council is, and we see no objection to that.

Amendment carried; clause as amended passed.

Clauses 6 to 8 passed.

Clause 9—'The voters roll.'

The Hon. B.C. EASTICK: I move:

Page 5—

Line 16—Leave out 'second' and insert 'first'.

Line 18—Leave out 'second' and insert 'first'.

This proposition came forward as a result of discussion by the Adelaide City Council. It was contained in a letter to the Minister and to other interested parties relative to a perception of the difficulties of the Adelaide City Council in completing the roll in adequate time. I believe that with a council as large as the Adelaide City Council and the complexities involved in determining the roll—and indeed in a number of other city councils and in distant councils with large electorates—the administration needs as much time as possible to make sure that the roll to be used for an election is correctly compiled.

The fact is that the Adelaide City Council and other councils have, from time to time, indicated their problems in obtaining adequate information from the Electoral Commissioner. That is no reflection on the Electoral Commissioner: it is a physical thing. I believe the Minister in another place suggested that arrangements have been made to provide to local government some electronically prepared tapes and/or disks to reduce the time required for the preparation of the rolls. However, not all staff within local government have the equipment which can obtain that information. Not all staff within local government necessarily have the expertise that can at relatively short notice take the information from the electronic data base and necessarily put it in the correct form for a roll.

I believe that the proposition made in the first instance by the Chief Executive Officer of the Adelaide City Council is very reasonable. Members of both sides of the Committee have consistently said that they want the rolls to be correct; and they want local government elections to not only appear to be correct but to be correct. Contentious issues have arisen over the failure of a person to find his or her name on the roll. That argument came forward following the election about 20 months ago. A number of persons who believed that their name should have been on the roll could not find their name on the roll. In some instances they were given the opportunity of making a declaration, which meant they could vote. However, in other cases, because of ignorance on the part of some polling booth attendants, they were denied a vote.

I suggest that the last thing on earth that any member of Parliament would want is for a person to be denied a vote. I appreciate that it comes back to the handling of the issue by individual polling booth attendants. The chances of a polling officer being unable to permit a person to cast their vote is minimised if the roll is correct rather than if the roll is deficient because there has been insufficient time to correctly prepare the roll. On that basis I believe that the Committee should support the proposition that has been put by a senior local governing body and I am supported by a number of other senior local governing bodies since the matter was brought to their attention. The issue will not seriously affect rights applying under the Local Government Act: indeed, it will enhance those rights. On that basis I ask the Committee to support the amendments.

The Hon. T.H. HEMMINGS: The Government opposes the amendments. I understand that only the Adelaide City Council has made a complaint and request about this matter, although I am not disputing what the member for Light has said, namely, that since the amendments were floated in the other place other councils have possibly indicated their concern. However, the Government is firm on this matter: that closing of the rolls, with the information being received at the Electoral Commission, and finalising the rolls should be as close as possible to the election. It is pleasing to note the Electoral Commissioner's indication that a hard/tape copy will be provided the day immediately

following and that should create no problems for the Adelaide City Council.

Despite that, the Minister in the other place has indicated that, if the Adelaide City Council experiences problems after the 1987 election, the Minister will review the situation. The Government insists on opposing the amendments for the reasons I have stated (and for the reasons stated by the Minister in the other place). However, the door is open, and if there are problems after the 1987 election the Minister will examine them.

The Hon. B.C. EASTICK: I am disappointed at the attitude that has been taken. I believe it is a very genuine request by the City Council which, I assure the Minister, would be taken up by other councils if the matter was drawn to their attention. A very senior and effectively managed local governing body, with a complex electoral roll (probably more complex than that of any other local governing body in the State), has drawn attention to a deficiency which from its own experience involving both an election and a subsequent by-election has created a problem. I believe that it was the desire of the Government to respond positively to that cry for assistance, but unfortunately that does not seem to be the case.

Amendments negatived; clause passed.

Clause 10—'Date of elections.'

The Hon. B.C. EASTICK:

Page 6, after line 3—Insert new word and paragraph as follows:

and

(d) the councils to which the proposal relates consent to the suspension of periodical elections under this section.

In another place the Minister was pleased to accept a vital inclusion whereby the new provisions would cover the suspension of an election directly associated with a possible amalgamation, annexation or boundary variation, whatever the case may be. The second of the two provisions offered to the Government in another place was to indicate to local governing bodies that they still had control of their own destiny, and I refer to new paragraph *(d)*, the subject of this amendment.

It was to remove the opportunity for someone unmindful of local feeling on this matter to have sole responsibility for determining on advice to His Excellency the Governor the deferment of an election. I think it is reasonable—and I doubt whether there would be any question from either side—to indicate that the ultimate function of local government having control over its own affairs is the democratic right to allow its electors to express a point of view, whether it be by way of a poll or vote in a periodic election.

To deny local government the right to conduct a poll, when local residents believe that a poll ought to be held, is to take away the very basis upon which local government functions, that is, as a voice of its electorate; hence the Opposition's belief—and I know it is supported by the Local Government Association, as far as it has been possible to debate that issue within the organisation—that councils should have this democratic right.

I suggest that the amendment does not destroy the general intention that there be a deferment of elections where there is every expectation that an amalgamation, annexation or variation will take place. It gives local government that one further and final measure of control.

The Hon. T.H. HEMMINGS: The Government opposes this amendment. The Minister in another place remains firm in her opinion that this would go completely against the way in which the advisory commission operates, having the ability to give impartial advice to the Minister in relation to a suspension. Whilst all members in this House respect local government and its integrity in being the third arm of government, there is no getting away from the fact that, if a council chose to introduce emotional and hysterical argument surrounding boundary proposals, it could be manipulated at the time of an election to the best advantage of that council, which might want to use the powers that this amendment takes away from the advisory commission and the Government.

The Hon. B.C. EASTICK: The Minister spoke of emotional and hysterical local reaction, but I am talking about a local decision—be it emotional, hysterical, based on fact or anything else: it ought to be for the electors to make the decision as to their own destiny. What the Minister has done both here and in another place is to deny that right to local government.

The Hon. T.H. HEMMINGS: Both the member for Light and I recognise the point that I am making but I part company with him when he says that it should be the local community that creates its own destiny with regard to boundaries. The member for Light is prepared to accept that that hysteria and emotion should be allowed to take place in an election.

It is the view of this Government that the community should have control of its own destiny via the independent body, the Advisory Commission, which sees things in an impartial light. All the arguments, hysteria and emotion of boundary changes, whether it be during election time or otherwise, have been given to a commission, which, after receiving all argument from all sections of the community, gives impartial advice to the Government for that Government to act. I believe that that is something we have to maintain. I agree with the member for Light when he says that the community should have control over its own destiny but not in an atmosphere of hysteria and emotion.

Mr S.G. EVANS: I spoke briefly in the second reading debate on this matter where I said that I believed that the local people should be able to decide their own destiny; therefore, I support the amendment. It is wrong to suggest that because it is an emotional issue you should not give people the opportunity to make a decision. Most elections are decided in an emotional situation—even Federal and State elections—because they involve emotional issues such as more tax, less tax, control over freedom of information and whatever. If local people are emotive about their views and make those views available to the public, for one side or the other, that is how they feel and the community then has an opportunity to assess all sides and vote for what is best for them individually.

Local government is the form of government closest to the people. Councillors give their time virtually free, although there is some small recompense if they want to make use of the Act, but in the main they give their time for nothing. Councillors represent the people; the people elect them; and they have closer contact to the people than do most of us in this place. There is no organisation set up in this State by any Government, or any Act, that is completely impartial. We know that. Where Governments have a say on who can be appointed or how people are appointed, we know that the right philosophy to suit that Government can be put into operation through that advisory body, whatever the advisory body is. We experience that right through to the positions in courts—and I will not go into the question of the High Court. We know that it is the same as setting up inquiries through the system or trying to get a view from a community by a committee system. When the terms of reference are decided by Government, the Government ends up getting a result it wants, in the main, and the same applies to the advisory committee.

To say that it would be an impartial view is inaccurate. It might be assessed in greater detail by the committee

reviewing it or the commission, but they have a bias and a point of view, and none of us can sit in judgment and say that we are totally impartial. It is not possible, because we have a personal view which tends to reflect through to the eventual outcome even though there may be others who sit in with you making that decision.

I support the amendment in the strongest terms and I am disappointed to hear the Government say that local people do not have the capacity to assess their own emotions or their neighbours' emotions on an issue which affects them in so far as how their local government boundaries should be established, changed, abolished or amalgamated with another group.

To suggest that the community do not have that capacity, really makes me wonder how we can have faith in the community to elect us here: it is tantamount to saying that people do not have enough brains to select politicians to represent them in Parliament. If the assumption is that people in the community do not have the brains to make a decision about how council boundaries should be drawn up, taking it one step further, the claim could be that they are not clever enough to send the right people to this place. The decision on this amendment might decide whether they are or not. I support the amendment quite strongly.

The Committee divided on the amendment:

Ayes (13)—Messrs Allison, P.B. Arnold, Becker, and Blacker, Ms Cashmore, Messrs Eastick (teller), S.G. Evans, Gunn, Ingerson, Lewis, Meier, Olsen, and Oswald.

Noes (19)—Mrs Appleby, Messrs Bannon, Crafter, Duigan, M.J. Evans, Groom, Hamilton, Hemmings (teller), Hopgood, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Rann, Robertson, Slater, Trainer, and Tyler.

Majority of 6 for the Noes.

Amendment thus negatived.

Mr M.J. EVANS: I move:

Page 6, line 19—Leave out 'returning officer' and insert 'council'.

This amendment is not of great importance in the overall scheme, of things but it does embody an important principle, which I would like to bring before the Committee. Over the years there has been an unfortunate tendency that I have perceived in reading amendments to the Act to grant increasing powers to two people.

The Hon. M.K. Mayes interjecting:

Mr M.J. EVANS: One has been the Minister—yes, Executive Government, as the Minister of Agriculture has correctly perceived. I am glad that the Minister has also noticed that trend, because it is one that has become apparent to me and also to that other branch of Executive Government, the Town Clerk.

That trend has worried me, not because I have any lack of faith in either the Minister or our town clerks throughout the State, but I do believe that the elected groups, be it the Parliament, in the case of the State, or the councils, in the case of local government, have a significant role to play in the determination of matters of policy and substance, and leaving the executive administration to town clerks and the Minister. In this case I would like to draw the parallel with the State.

If a member of this Parliament were to suffer any unfortunate demise and a by-election be required, through resignation or any other cause, then the person who would choose the date of that by-election, in the case of this House, would be the Speaker. The Returning Officer for the State, Mr Becker, would proceed to conduct the election in accordance with the law and the timing laid down by the Speaker. That principle embodies clearly the concept of the elected official, the elected member of Parliament, the Speaker, on behalf of this House, making that determination of the policy questions of the dates of the proceedings and of course the Returning Officer, acting as the executive in undertaking that task in accordance with the law.

I ask the Committee to observe a similar parallel in relation to local government whereby the elected council determines the dates of the relevant by-election, leaving the Town Clerk as the Returning Officer or whoever else may be appointed to undertake that job and to then proceed in accordance with the Act and regulations to put that policy decision into effect. I naturally reject any implication of councils actually interfering in the election process. As the Minister correctly notes, that would be highly improper, but I believe, as no-one accuses the Speaker of interfering in the electoral process with the Returning Officer of the State and rightly so, so no-one accuses a council of doing the same if it merely sets the date in relation to a council election.

The amendment simply preserves in the Act the proper relationship between the council and its appointed officers, and one should seek to give that power to the appropriate body. In this case it is for the council to fix the date and for the Returning Officer to implement the administrative arrangements. So, to preserve this principle, I commend this brief, simple but important amendment to the Committee.

The Hon. T.H. HEMMINGS: I am very impressed with the eloquence of the member for Elizabeth's argument in support of his amendment. If the whole world was perfect there would be nothing wrong with the amendment. Especially in the light in which it was moved by the honourable member, it is not unreasonable. However, we are living with the practical reality of this world. In local government there could be a delay of anything up to four weeks and that could cause real concern, especially when we are dealing with supplementary elections, which are already causing concern to many councils. The member for Elizabeth has won me with his eloquence but, as to the practical running of council business in regard to elections, his amendment has gone down badly, and I oppose it.

Amendment negatived; clause passed.

Clauses 11 to 13 passed.

Clause 14—'Method of voting in elections.'

Mr M.J. EVANS: I move:

Pages 1 and 8—Leave out proposed new subsections (1), (2) and (3) and insert new subsections as follow:

(1) A person voting at an election (whether the election is held to fill one vacancy or more than one vacancy) shall make a vote on the ballot-paper by placing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference and consecutive numbers in the squares opposite the names of the remaining candidates so as to indicate the order of his or her preference for all candidates.

(2) Notwithstanding subsection (1)—

(a) (i) if the method of counting votes applying at the election is the method set out in section 121 (3), a ballot-paper is not informal if the person has voted for at least one candidate (but not all of the candidates);

and

(ii) if the method of counting votes applying at the election is the method set out in section 121 (4), a ballot-paper is not informal if the person has voted for at least the number of candidates required to be elected (but not all of the candidates);

(b) if a series of numbers (starting from the number 1) appearing on a ballot-paper is non-constructive by reason only of the omission of one or more numbers from the series or the repetition of a number (not being the number 1), the votes may be valid up to the point at which the omission or repetition occurs;

and

(c) a tick or cross appearing on a ballot-paper is equivalent to the number 1.

My final amendment is the most important one. The Committee has often amended and modified the electoral system pertaining to local government and the State electoral system itself. In the most recent case we established two methods of voting for local governments, one being the so-called 'bottom up' preferential system and the other being the proportional representation system. It is up to each individual council to make its choice between those two systems and between elections they can vary their choice and at the next election have a different system applying in a particular council.

While this is very desirable from the point of view of promoting various voting systems where they meet the best needs of the local community, it creates problems in respect of State-wide publicity which both the Local Government Association and the Minister of Local Government properly seek to disseminate at election time in order to encourage the public to vote, and in order to ensure that votes are formal and that voters understand properly the procedures involved.

At times of State elections the State Electoral Officer expends considerable sums of taxpayers' money and time in promoting to the public the correct voting methods and procedures to be used, to ensure formal, valid and full execution of the ballot-paper. Therefore, it seems to me that it is essential, no matter what electoral system is used to actually tally the votes within a given council or at State level, that at least consistent advice can be given to the public across the board. That not only simplifies the task of those such as the Minister of Local Government, the Local Government Association and the State Electoral Officer in promoting that advice, but it enables much more effective advertising campaigns to be mounted. It ensures that the public does not receive conflicting and contrary advice according to which precise council district they live in.

It also ensures that between councils and the State there is consistency of advice available. In some council areas local newspapers and State newspapers, such as in the metropolitan area, circulate between several council areas. I use the example of my own area of Elizabeth, Salisbury and Munno Para. In those three council areas one newspaper circulates and it would be most confusing if one or both or two councils were to adopt one system as provided in the Act and another adopted the alternative system. We would have advertisements and comments from electoral officials in those newspapers, in effect, advocating different rules for the public.

That is an untenable situation. Accordingly, I am suggesting a process whereby, without interfering in any way whatsoever with the actual mechanism of counting the votes, without seeking to alter the policy of the Government in relation to the way in which these votes are assessed and counted, we can provide for a system of uniform advice. That would be consistent also with the State electoral mechanism. To do that I am proposing to insert new subsection (1) which provides that the same publicity that is now given for the State can be given for all councils irrespective of which method of counting votes is used. One will place a 1 against the name of first choice and continue down the ballot paper. That simple advice is applicable across the State for all elections.

I have further echoed the provisions of the Bill which relate to the different methods of counting in the different elections, according to the choice of the council. That is not in any way affected as I understand, by my amendment. A person may then cast a formal vote in accordance with the subsequent provisions of the Bill already incorporated in the Government's proposal and which I have simply duplicated in the amendment for the convenience of drafting. That vote will be formal providing it complies with the normal conditions which include those other provisions that the Government has set out to ensure that the maximum of votes is counted as formal.

I accept that proposition as the Government has put it. The umbrella provision now contained in paragrah (i) will ensure uniformity across the State and with the State and between councils, and avoid any unnecessary confusion, simplify the process for the public, and ensure the best possible result in local government elections without having to interfere now or in the future with the method of counting the votes which may be decided upon from time to time by this Parliament or a particular council.

The Hon. T.H. HEMMINGS: The Government opposes the amendment. I understand what the member for Elizabeth is moving, and this Bill is similar to the State Electoral Act. One can ask why the Government accepted that principle in that Act but opposed it in this one. The real difference is that in State elections and State Government we are dealing with political Parties and people standing on one side or the other of the political spectrum, whereas most people will accept that Party politics do not enter into local government. That is one of the reasons we are opposing the amendment.

The member for Elizabeth talks about confusion out there in the electorate with ratepayers being confused by newspaper advertisements and different ways of suggesting how to vote. I took my mother-in-law to vote when she was about 77. Being a true democrat, on the way to the polling booth I used to try to persuade her to vote for the Labor candidate—in a democratic manner. She used to say to me, 'Son, your powers of persuasion are, as usual, working.' When she went into the polling booth I knew that she voted informal, because that was easy in the old days. Our Labor candidate in the northern region had to be happy with a majority of 74.6 per cent instead of a majority of 74.60001 per cent. That is being frivolous.

When one looks at the 1985 election one sees that the informal votes comprised only 1.6 per cent of the total vote cast. That is an achievement of the Act which made it so easy for otherwise informal votes in previous elections not to be counted in such elections. What the member for Elizabeth is advocating is, in the Government's view, not complete and utter confusion but a tendency towards confusion. It will confuse voters completely and tend to confuse returning officers. The member for Elizabeth and I share a sense of despair at the way returning officers all over the State sometimes come up with viewpoints or advice which tends to confuse not only the voters but also the candidates.

Under the amendment moved by the member for Elizabeth, voters will in effect be told to place a preference on the ballot-paper, but, notwithstanding that, it does not matter if they do not. In the Government's opinion that is not good for the Act and for what we are trying to achieve to increase the level of awareness within local government, and we therefore oppose the amendment.

Mr PETERSON: I am disappointed to hear the Minister say that, because I recall the debate on the State Electoral Act. At that time there was quite a bit of negotiation outside the Chamber. The whole principle was to keep it as simple as possible.

Mr Duigan interjecting:

Mr PETERSON: It is wonderful to have the assistance of the member for Adelaide. This is a simple system in that it does not affect the counting of votes. It is a simple system

that aligns itself with the State system. One of the big arguments about changing the electoral system for the State was that the various systems were confusing—the State against the Commonwealth as against local government—and we are trying to align them so that we have a common system. When one goes to a polling booth one would use the same system.

Mr Duigan interjecting:

Mr PETERSON: If I were to hear the interjection (which I am not permitted to do) I am sure somebody would ask, 'What about optional preferential?' It does not matter. If you poll the vote in the sequence you wish, how you count them is totally up to you. The point made by the member for Elizabeth is valid.

Many electorates in this State cover two or more local government areas. If those local government areas selected a different type of system for their elections, such as optional preferential, proportional representation or preferential, it does not matter because the vote will be there in a complete form. How we count those votes is up to the system, but to use a system where there is a possibility of confusing advertisements can complicate the situation.

The Minister also said that 1.6 per cent was the informal vote in the last council election, and that is a good result—a vast improvement. However, the potential in using a common system is to do away with the 1.6 per cent and make it a complete vote, although I suppose there will always be somebody voting informally. It had been suggested that we would not get it down to 1.6 per cent. People who go to vote for local government are there by choice and are not forced there as in State elections.

You have to attend the booth in a State or Commonwealth election; you do not in a council election. You go there in a conscious action to vote for somebody, and therefore, in my opinion, the vote should be made as simple, easy and effective as possible. I believe that to simplify the system and bring it into line is the way to do that. We should bring back the effectiveness of the vote with a common and simple system.

Mr M.J. EVANS: I, too, was a bit disappointed with the Minister's response because I do not think that he addressed in any way his opposition to the actual amendment. He spoke around that point at some length but did not actually address a fault with the amendment as such. He addressed a number of points which relate to the method of counting votes, but that is not affected by my amendment at all. I do not really see how confusion could exist among returning officers, if they are capable of understanding the Government's complex directions about the way in which votes are to be counted under bottom up or proportional representation.

If they are capable of undertaking that task, my amendment, which affects not the actual counting of votes but only the mechanism of publicity which goes out to the electorate, is indeed acceptable. Only the publicity is affected by it, not the counting of votes. Therefore, I do not believe that it is an argument against this amendment to say that returning officers will be confused, since they are not the intended recipients of this information; nor indeed do they need it, because they will not be required to do anything about it at all. The vote will be formal in accordance with the Government's previous directions.

It also means that when the experiment on these voting systems comes to an end, and if the system that I advocate is in place, the Government could amend those voting systems transparently with the voter. Therefore, no change would be required in the publicity that is advocated by the Government and by the returning officers, because, although the system of voting and the method of counting the votes can change, with my amendment the publicity to the voters need not change. That is an important point to bear in mind.

The other point of some consequence is that the very points that the Minister raised are also a direct negation of his own Government's electoral provisions in the State Electoral Act. For the Minister to say now that the provisions which his Government and his colleagues advocated, and for which he voted (as I did) in this House some 12 months ago are now unsatisfactory to the Government is very hard for me to understand.

Mr Tyler interjecting:

Mr M.J. EVANS: The member for Fisher speaks in terms of optional preferential voting as he did when my colleague the member for Semaphore was speaking. I think that that is indeed a red herring. As I have indicated, any system of voting (optional preferential, compulsory preferential, proportional representation, bottom up, top down—all those things where the Labor Party's policy is one or other of those matters) can all be fully accommodated under this system. As I said to that Committee before, and which obviously the member for Fisher did not fully appreciate (and I can understand that, given the Minister's comments which I think did confuse the issue), my amendment does not address or amend at all the Government's policy and propositions in relation to how the votes are counted. It only affects the publicity that goes out in relation to those votes. As indicated by the member for Fisher—and I do not debate the merit of that—an optional preferential vote would be perfectly valid under the system that is advocated here. There is no interference with his policy in that respect, and it can easily be accommodated, as it has been, in this amendment. That point needs to be well borne in mind when members of the Committee, including the member for Fisher, vote on this proposal, because it does not in any way interfere with their preferred or selected method of subsequently counting the votes that are cast. I think that is the point which the Minister has missed and which I ask him to take into account in reconsidering his attitude on this matter.

Mr PETERSON: The member for Elizabeth spoke of red herrings, and I wonder whether it is the Minister's intention to move into rural politics. He is establishing himself in Edithburgh at the moment, to make a move for Goyder, and I think that this is a piece of machinery.

An honourable member: A sinister plot.

Mr PETERSON: Yes—to enhance his move into rural politics.

An honourable member: A diabolical move.

Mr PETERSON: Yes, and we should really look at the Minister's motives in this matter. It is well known that he is establishing himself over there. I understand that a subbranch has been formed there by the Minister and I think that this is a plot to get him into rural politics at Edithburgh and out of the metropolitan area.

The Hon. T.H. HEMMINGS: I wish to protest. I am sure that the people on Yorke Peninsula would find me most acceptable, but I have gone on record as saying to the member for Goyder that I have no intention of kicking him out of Parliament. When I retire, I intend that he should represent me. For that reason, I oppose this clause.

The Hon. B.C. EASTICK: I appreciate the fact that the member for Elizabeth has put on the record a variation upon a variation, and I think it is right that the matter has been further debated. I regret that, although lip service has been given to bringing the Commonwealth Electoral Act, the State Electoral Act and the local government electoral

legislation into the one general direction so that the basic instruction which people learn when they enter a polling booth will apply, it does not apply. Whilst I have general sympathy for the proposition that the member for Elizabeth has put, I will not support it on behalf of the Opposition.

However, his comments will be taken into consideration along with the other comments that have been made and with the request of the Minister acting on behalf of his colleague in another place that he ask his colleague to consider the debate on this issue as part of the debate that will take place in the monitoring process following the 1987 elections. I think that that would be advisable and desirable.

I go one step further and, whilst not offering a solution at this moment, I suggest that that monitoring process should seek, so far as it is possible within the State sphere, to bring about as much commonality as is possible with the voting systems applying to the State, and for representations to be made federally so that the general direction to the public is consistent, whether Commonwealth, State or local government elections are being conducted. I hope that we have agreement on that being important in the best interests of an appreciation by the public of what voting is all about. However, I do not know whether it will be achieved.

I refer to one of the earlier pieces of legislation when I came to Parliament, namely, the inclusion in the 1972 statutes of the uniform company code which had been agreed between the various States and the Commonwealth and which was to be put into practice. By the time it left this House, the legislation was different from that which had left the Victorian House and the New South Wales House. The general direction in which all the States and the Commonwealth were going was somewhat destroyed. That should not daunt us from at least putting our toe in the water and seeking to achieve an identical practice in these three areas.

Amendment negatived; clause passed.

Clause 15—'Issue of advance voting papers.'

The Hon. B.C. EASTICK: I point out that paragraph *(d)* includes an amendment which was made in another place and which is consistent with a further amendment to clause 16 (7) that was made there. I believe that the suggestions that were made to the Committee in another place were worth while. They were embraced by the Government and they give an element of reality to the whole voting practice and access which people ought to have to information arising from the poll. By the same token, I fully appreciate the reason why no information ought to be given until the poll is concluded. The last thing that we want is harassment of persons based on some information of a private nature which was given or provided in an application made to a returning officer.

Clause passed.

Remaining clauses (16 to 28) and title passed.

The Hon. T.H. HEMMINGS (Minister of Housing and Construction): I move:

That this Bill be now read a third time.

The Hon. B.C. EASTICK (Light): I am somewhat concerned that the legislation is not as supportive of local government as it should be. I suggest that the denial by the Minister to permit polls in relation to amalgamations or to the suspension of elections is against the best interests of the community. It removes from the community a right that ought not to be removed.

During the Committee stage the Minister indicated that such decisions should not be made on emotional or hysterical bases. I suggest that it does not matter whether they are based on emotion or hysteria; it is an absolute right that the individual ought to be able to express. I draw a parallel with the situation in local government and that which applies to members of this House. The members for Elizabeth, Semaphore and Davenport and, to a lesser degree, the member for Flinders are here because the electors had the right to express a point of view that went against the grain of the major Parties' views at the time. It was an emotional event and, to a lesser extent, an hysterical event. The Government has effectively removed from individual local governing bodies the right of the electors to express their point of view on quite vital issues relative to those communities. I believe that the action taken by the Government in that matter is deplorable.

Bill read a third time and passed.

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) (APPLICATION OF LAWS) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2680.)

Mr MEIER (Goyder): The Opposition supports this Bill. Members probably would be aware that the Companies and Securities Act 1980 is applied in South Australia as the Companies and Securities Code. The code encompasses the general interpretation provisions for use in interpreting cooperative scheme legislation applied in South Australia. Section 35 of the interpretation code deals with bringing proceedings for indictable and summary offences. It is questionable whether at present the commission may prosecute summarily for offences punishable by imprisonment for a period exceeding six months.

It is considered inappropriate that the commission should not be able to prosecute some of these offences by complaint, and clearly it was not the intention of section 35 that that should be the case. To overcome this problem an offence against the relevant code that is not punishable by imprisonment or is punishable by imprisonment for a period not exceeding six months will now become a summary offence. As I said, this change is supported by the Opposition.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its support of this Bill.

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

COMMERCIAL TRIBUNAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2681.)

Mr MEIER (Goyder): The Opposition supports this Bill. I think it is important for this House to be aware of some of the background leading to the introduction of the Bill. The Commercial Tribunal was established in 1982 by the Tonkin Liberal Government to bring together separate jurisdictions exercised by a variety of tribunals and boards. It now comprises a Chairman who generally sits with two other lay persons, one of whom is drawn from a panel of members of the class to be licensed or registered and the other from a panel of 'consumers'. Presently, the Chairman of the tribunal is Judge Noblet, who was formerly Director-General of the Department of Public and Consumer Affairs.

There is a commercial registrar who must be a legal practitioner, because the Commercial Tribunal has been given jurisdiction this year in relation to commercial tenancies, second-hand motor vehicles, second-hand goods, land agents, brokers and valuers. One understands that the Government is of the view that there ought to be provision for deputy registrars. They need not be legal practitioners but, if they are not, they are not entitled to exercise any of the jurisdiction of the tribunal but may only act in an administrative capacity. The Opposition sees no difficulty with this provision.

In conjunction with the appointment of deputy registrars, there is a procedure for review by the tribunal of decisions made by any registrar. Again, the Opposition sees no difficulty with this. In the principal Act there is no mechanism for enforcement of orders of the tribunal other than orders for the payment of pecuniary sums. The Bill proposes overcoming this difficulty by making a failure to comply with a non-pecuniary order a contempt of the tribunal. That contempt may be punishable by fine upon prosecution for a summary offence or by the tribunal itself. Any prosecution would be dealt with in a court of summary jurisdiction. Because a finding of contempt is a matter of considerable seriousness, there ought to be an appeal as of right to the Supreme Court and the tribunal should be bound by the rules of evidence in dealing with a contempt. To this end, the Hon. Trevor Griffin in another place moved an amendment to section 13 of the Act which was accepted by the Government in the Upper House and which became clause 5 of the Bill. This amendment covered the concerns of the Opposition in this area.

Our other concerns with this Bill were taken care of with the amendment to clause 6a which deals with the rights of appeal of parties appearing before the tribunal. The Commercial Tribunal now exercises a wide range of power in five different areas of legislation. This clause protects the parties from a miscarriage of justice or abuse. The Opposition supports the legislation.

Mr S.G. EVANS (Davenport): In the brief time available to consider this Bill, I have no objections to it, but I point out again the ridiculous process whereby Bills are introduced, in this case on 2 December, to be passed two days later, that is, on 4 December. This Bill relates to an area of commercial activity and judgment of such activities, and it could have far-reaching effects on individuals, within or outside business. It is ludicrous that we are unable to organise this place so that Bills are introduced in plenty of time for consideration by the House and, more particularly, by members who want to go out, ask for the view of people in the community who have an interest in this field and report back.

There is no way that people in the commercial field could obtain a copy of a Bill which affects their activities and report back to the House within two days. It is impossible, and any reasonable Parliament or Government would determine that a fortnight is required to consider Bills, except for emergency legislation. I support the Bill according to my understanding of how it will affect people, but I say again that we must change Standing Orders so that no Bills, except emergency legislation, can be introduced less than 14 days before the debate is expected to proceed.

The Hon. G.J. CRAFTER (Minister of Education): I thank members for their indication of support for this measure which, after all, improves the administration of this jurisdiction. The second reading explanation states that, in addition, it overcomes minor anomalies. I point out to the member for Davenport that this matter was introduced and read a second time in the Legislative Council some weeks ago. As I said yesterday, I do not know whether the honourable member wants the House to wait until he has time to consider these measures. If he has a particular interest in a measure, it seems to me that he could simply consider it after its introduction in the other place and have the necessary consultation before it is introduced here. There is a need to act expeditiously in matters such as this.

The Bill is designed to improve a service to the community, that is, the administration of this important tribunal. It has commercial implications for the community in this State and I do not think that we as a Parliament should unduly delay measures of this kind. I would argue that, if members are particularly interested in a Bill, they should follow it through both Houses of Parliament.

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

PRIVATE PARKING AREAS BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2682.)

The Hon. B.C. EASTICK (Light): The Private Parking Areas Act was enacted in 1975, but it has not fulfilled the expectations of its original purpose. As a result, this Bill is before the House. In fact, it was introduced in another place in the last session, there was some debate, the Bill was held over, and it has now been returned. This measure has been the subject of considerably more debate, and I stress that because, while its purpose was quite firmly supported by members on both sides, the legalistic aspects in ensuring that the provision would be successful in practice required a number of additional amendments in another place.

I believe that, subsequent to many of those additions or amendments being put forward by the Minister and a large number having been put forward by my colleague the Hon. Mr Griffin, what has been delivered to this House is something that will be acceptable to Parliament as a whole. I have received no indication that the Minister is against what has been presented to us. I point out that the legislative intent of this measure is to provide for an owner to enter into an agreement with a council to enforce the Act; it removes the need for a driver to be requested to move before an offence is committed; it provides for offences if signs are disobeyed; and it protects the car parking rights of a *bona fide* disabled person. I believe that that final aspect needs the commendation of Parliament as a whole.

There has been an element of harassment of some disabled persons. Regrettably, on occasions there has been a degree of beligerence by some such persons which has not made their position (or that of others in genuine need) as well appreciated by the public as might have been. I hope that, arising out of the debate which has taken place and the measures that will be put in place by this legislation, the disabled who require special consideration will be properly catered for. I am not infrequently concerned to see that many people who are not disabled make use of the disabled persons parking areas. I recommend that the courts or the councils (depending on which is responsible for bringing prosecutions) make an example of those who abuse the rights of persons who are to be protected by this measure.

The Bill also regularises signs and road markings. I notice that the definition of and interpretation of what are roads and what are markings took up a large part of the debate in another place. I hope that it has now been placed in proper perspective. It provides that both owners and drivers

are guilty of an offence. In that context there is need for concern. However, I believe that, properly adjudicated, the measure will not create any concern to an owner who is not responsible for the offence. It provides—as will be the case with red light cameras when that measure is debated at another time—for the thorough consideration of the onus of proof.

It should be clearly understood that, where a person has a legitimate answer to a claim that they were not responsible for the vehicle at any time, the legitimacy of that claim should be accepted without continuing harassment to find an alternative answer. I do not suggest that due regard should not be given to the offence. However, I believe that the position of a person who is the owner of a vehicle which is abused by a person who is a paid driver or who is perhaps the employee of a garage which is servicing the vehicle is properly considered. The member for Henley Beach has been well to the fore in this area. He and I have had some dialogue about the regrettable pressures that are sometimes placed on owners to prove their innocence when a clear case of innocence can be made, even though it does not necessarily fulfil the requirements of a court or a legal adviser. The harassment which takes place in relation to those owners is something that we should seek to move away from. That apart, we have gone some way in this measure.

The Bill also allows for the expiation fees on reports by authorised council officers, which is in concert with the provisions of the ownership and entering into an arrangement (which I have mentioned previously) between an owner and a council. When the Bill was first introduced an early contention related to an offence by a pedestrian being rated in monetary terms as high as is the case for offences involving a vehicle. In each case the fine was $200. If a pedestrian really goes out of his or her way to create a hazard, perhaps the $200 fine should equate with an offence by a motor vehicle. However, I point out that a person using a motor vehicle indiscriminately is a far greater danger under all normal circumstances than would be a pedestrian. I suppose we could argue about that, just as we could argue whether or not a pedestrian on a roadway is not perhaps just as great a hazard to a motorist as is a dog or another motor vehicle. They can all create accidents and problems. There was some question in my mind (and in the minds of others) as to equating an offence by a pedestrian as high as an offence involving a motor vehicle. With those brief comments, I support the Bill.

Mr PETERSON (Semaphore): It is always a pleasure to follow the excellent contributions of the member for Light. As usual, he leaves very little to be said. However, there is one area that I will touch upon.

Members interjecting:

Mr PETERSON: It is the last day. I always say nice things about him.

The SPEAKER: Order! Christmas salutations can wait until later in the sitting.

Mr PETERSON: My deepest apologies, Sir. I refer to the disabled parking component. Basically, the legislation is much wider than that, but that component has caused nearly every member in this House some concern over the past few years. We had the Year of the Disabled when all sorts of efforts were made, programs were set up and (allegedly) the disabled were recognised. However, as with all of these programs, the disabled were then forgotten. Disabled parking has been a problem in my experience, particularly in shopping areas, which is private property in that sense. People with serious disabilities trying to obtain parking in these areas have been thwarted by able-bodied people using disabled parking areas.

I can recall a current affairs program which concentrated on people who parked in disabled parking areas. Even though it was an interstate program, the events depicted were typical of what happens throughout Australia. The program showed the total disregard that many people have for the disabled. In that regard, I think the legislation is good. As I say, I have had personal experience with a constituent who was disabled. He had very great difficulty in convincing people that they should not park in the area that he rightly claimed was for his use. At that stage there was no support or help for him. This measure will assist people like him.

I refer to the isolation that it seems we work in. I have commented on and criticised Federal Governments and Federal candidates before because they ignore what is happening on the State scene. In fact, only yesterday I was given an article about disabled parking written by a Federal candidate. I think the article appeared in the *Messenger Press*. I think it covers the situation very well. It shows the isolation that people work in. The article, headed 'Candidate Criticises Selfish Shoppers,' states:

> Selfish able-bodied shoppers are using car parking spaces set aside for disabled shoppers at the Westfield Marion Shopping Centre, according to Hawker Liberal candidate Kim Jacobs. 'This misuse of disabled car parking spaces has two unfortunate effects,' he said. 'It forces disabled shoppers to park further away from the shops and forces them to use spaces which are not wide enough for them. This can cause them considerable difficulty not only in parking, but, depending on their disability, in getting into and out of their cars.'
>
> Mr Jacobs said shopping centres should police their car parks and fine people who abuse the disabled spaces. 'However shopping centre management will not have the time or money to police the car parks all the time,' he said. 'The only real solution is for people to recognise the importance of leaving disabled car parks for the disabled.'

This again indicates the ignorance of the situation, and that is what we are trying to rectify with this legislation. It is an attempt to reverse the non-acceptance of the situation within the State Parliament. One cannot help but see the different world in which some of these people live. I support the Bill and, in particular, the provisions concerning disabled parking.

Mrs APPLEBY (Hayward): Since I first requested consideration be given to the changes now before us, I feel that the Bill is a major recognition of the requirements for disabled persons in fulfilling a lifestyle in the mainstream of the community. The time and effort that I have been pleased to contribute to this matter has, I hope, ensured that appropriate importance is again given to a group of people who have been frustrated by an Act of Parliament which never, but which should have, addressed their requirements for mobility and access to community resources.

I am delighted to contribute to this debate on behalf of disabled persons in the community who, for far too long, have been denied access to specific parking places set aside by owners of private parking areas, these areas bearing the international symbol for the disabled and provided out of courtesy to those among us who do not have normal mobility but wish to participate in the social environment and have access to the normal resources which those of us who are able-bodied take for granted in our everyday activities.

I am sure that when the Private Parking Areas Act 1965 was first formulated it represented an attempt to provide some assistance to those who, for commercial purposes, provided parking on privately owned property. However, it is clear that in 1986 the nature of these provisions falls very short, and I applaud the Government for this Bill, which

addresses many of the anomalies but, in particular, the matter of disabled persons parking. The Bill's definitions of 'disabled persons parking area', 'disabled persons parking permit' (which is precisely and clearly defined), 'loading area', 'no standing area', 'permit parking area' and 'restricted parking area' collectively will ensure an understanding of the rights of the owners and users of private parking areas.

My request for amendments was first made in May 1984, and I have continued to support the need for change to this ineffective piece of legislation. There has been consultation on this matter with a number of people, and the input from individuals and groups in the community, as well as Government and non-government agencies, indicated that they have taken seriously this very important need for disabled persons. Reports are continually being made to me by persons from such areas as regional shopping centres. As my own office is in a regional shopping centre, I receive a number of complaints daily of people, deliberately in some cases (and I think we have to accept this), parking in spaces set aside for disabled persons. When challenged they blatantly abuse the disabled person or the person responsible for that disabled person. I can find no words to describe that.

Regional shopping centres have provided double width parking spaces for the disabled close to entrances, thus affording easy access for these people. I have personally experienced some of the abuse and know of the terrible frustration that these people feel. Not only do domestic vehicles use these spaces set aside, which are symbolised for disabled persons, but also delivery vehicles park there. I have frequently telephoned a company (which is easily identified by the name on the vehicle), only to be told, 'So what! What can you do about it?' When this Bill is passed and enacted we will be able to do something effective about it, and that is far overdue. No longer will the people concerned be able to blatantly disadvantage the disabled in the community who, wishing to act normally, use the resources that all of us accept as being normal for social living. People will now be penalised heavily for that indiscretion.

I cite an example to indicate this problem. The Minister and I, while present with some disabled people in the Marion shopping centre car park adjacent to a disabled persons parking space, were discussing with those people their needs, and an able-bodied person parked a car in a disabled persons car park. When challenged by the Minister and me, this person turned around and said, 'So what! We have rights, too.'

People need to assess what rights belong to whom and how effective those rights need to be to make all of us equal. I want to thank the organisations and individuals who have helped me in this matter. Westfield Marion management has been most helpful in addressing the requirements of this legislation. The Seacombe Lions Club has been very effective in assisting the disabled in the fight to obtain these changes to the legislation and has encouraged many disabled people not to be frustrated over the indiscretions taking place. In October this year I asked the Minister of Transport to consider repealing the provisions of Part IIID of the Motor Vehicles Act (which deals with parking permits for disabled) and have them incorporated in the Private Parking Areas Act. When this Bill is passed, and given the explicit detail of disabled permits, I hope that the Minister will be in favour of the request at some stage in the near future, and that we will see all aspects of parking and the required permits for disabled incorporated into one piece of legislation in order to ensure a proper interpretation of the provisions by everyone concerned. I commend this Bill to the House.

Mr FERGUSON (Henley Beach): I commend the member for Hayward for her persistence over the years in having this matter rectified by way of legislation. She has indeed been persistent in this matter, and I congratulate her on the fact that it has now reached this stage and the measure will soon be law. I take this opportunity to speak about the Bill's provisions concerning the onus on owners. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

PETITION: BLACKWOOD RESERVE

A petition signed by 2 068 residents of South Australia praying that the House urge the Government to retain the Blackwood forest reserve land as public open space and establish a joint Government-community management committee was presented by Mr S.G. Evans.

Petition received.

PETITIONS

Mr BECKER: I rise on a point of order, Mr Speaker. With the change of parliamentary sittings on Thursday morning, I find it difficult when constituents deliver petitions to me on a Thursday morning.

The SPEAKER: Order! What is the honourable member's point of order?

Mr BECKER: My point of order is whether I can today present a petition that was received this morning. If I cannot, Sir, will you consider changing Standing Orders? With the change of parliamentary sittings on Thursday morning, it is difficult for organisations to present petitions to members of Parliament to be presented in the House on Thursday.

The SPEAKER: Order! Will the honourable member resume his seat. I cannot accept that point of order. A fair amount of time is involved in the preparation of petitions for presentation to Parliament.

Mr BECKER: That is why I raised my point of order. This petition is from a licensed marine store dealer and has 8 000-odd signatures.

The SPEAKER: Order! Will the honourable member resume his seat. I cannot accept the honourable member's point of order, although I am naturally sympathetic to his problem.

QUESTIONS

The SPEAKER: I direct that the following answers to questions without notice be distributed and printed in *Hansard.*

PRISON SENTENCE

In reply to **Mr BECKER** (27 November).

The Hon. FRANK BLEVINS: James Dean Miller pleaded guilty before Judge Lewis, in the Northern District Criminal Court to housebreaking and larceny. The value of the goods stolen was $30 750. His Honour sentenced Miller to imprisonment for three years and fixed a non-parole period of 18 months. I am informed that a problem did arise regarding his sentence because a report of his prior offences did not

record a recent sentence (including the fixation of a non-parole period) imposed in the Port Lincoln Magistrates Court. However this problem was drawn to the attention of the Crown Prosecutor, who arranged to have the matter re-listed to correct the mistake. The court did not re-list the matter until Friday, 28 November, when His Honour revoked his original order and extended the existing non-parole period by 18 months. On that basis, assuming full remissions, Miller should be released in about a year's time.

NON-SMOKERS HOTEL

In reply to **Mr HAMILTON** (27 August).

The Hon. G.F. KENEALLY: Both the Minister of Health and the Minister of Tourism concur that the concept has merit. The Minister of Health advises that, as far as he is aware, the Hilton Hotel is the only hotel in South Australia which sets aside rooms for non-smokers. It has a whole floor set aside for this purpose consistent with the chain's world-wide policy on this issue. However, whether a private tourism operator decides to take up this idea would depend on market forces and economic factors. It would appear that with the level of debate about passive smoking that currently exists in the community and the wide discussion this issue has had within the hotel trade that if any hotelier in this State believed that this was a viable proposition, then action would have already been taken in this area. The Minister of Tourism has indicated that she would certainly encourage the hospitality industry to provide facilities similar to those recommended by the member for Albert Park. As a first step, she has written to the tourism publication *Grapevine*, highlighting the idea to the industry and suggesting that this unique attraction may be a boost to local tourism, providing some positive benefits. It is envisaged that in the years to come more and more hotels will begin to cater for people who object to tobacco smoke and that this may in time lead to exclusive smoke free hotels.

ADELAIDE INTERNATIONAL AIRPORT

In reply to **Mr HAMILTON** (5 November).

The Hon. G.F. KENEALLY: The provisional master plan for Adelaide Airport indicates the likely extent of the airport's development up to the year 2010 based upon forecast revenue passenger movements and fleet consists. It also indicates an ultimate airport site use based upon present land holdings and maximum air space availability of the airport. The master plan is for the domestic and international terminals in a single regular public transport terminal reserve running parallel to the present 05-23 runway. This terminal reserve, which will incorporate the present international terminal, will be approximately 680 metres long and 75 metres wide, although the width is subject to reassessment as development proceeds. Approximately one-third of the reserve will be occupied by the fully developed international terminal. The cost of the future developments are not known at this time, but it is expected that the newly formed Federal Airports Corporation will be seeking estimates of those costs when it becomes fully operational in April 1987. Likewise, the staging of the developments over time leading up to the year 2010 is expected to be a matter of importance to that corporation. The Government will continue to monitor progress through its representation on the Adelaide Airport Consultative Committee.

CHILD MAINTENANCE

In reply to **Ms GAYLER** (28 October).

The Hon. G.F. KENEALLY: The State Government generally supports the principles outlined in the Commonwealth Government's discussion paper on the proposed reforms to the child support and maintenance system. The Government will be making a submission on the various policy, procedural and administrative issues raised in the discussion paper. Some discussions have already taken place between officers of the Department for Community Welfare, the Taxation Office and the Department of Social Security officers responsible for implementing the reform proposals. It is the intention of the Commonwealth Government to include in the scheme those parents who separate after its introduction. However, a custodial parent will have the option of enlisting the assistance of the Child Support Agency to enforce an existing maintenance order or agreement. When the proposed new formula for maintenance payments has been determined, those custodial parents who seek to have existing court orders or agreements for maintenance reviewed will be able to make an application to the Family Court.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Mines and Energy, on behalf of the Minister of Transport (Hon. G.F. Keneally)—

Pursuant to Statute—

Committee Appointed to Examine and Report on Abortions Notified in South Australia—Annual Report, 1985.

S.A. Local Government Grants Commission—Annual Report, 1986.

S.A. Waste Management Commission—Report, 1985-86.

Libraries Board of South Australia—Report, 1985-86.

By the Minister of Mines and Energy (Hon. R.G. Payne)—

Pursuant to Statute—

Department of Mines and Energy—Annual Report, 1985-86.

By the Minister of Education, on behalf of the Minister of Employment and Further Education (Hon. Lynn Arnold)—

Pursuant to Statute—

The University of Adelaide—Annual Report and Statutes, 1985.

By the Minister of Education (Hon. G.J. Crafter)—

Pursuant to Statute—

Builders Licensing Board of South Australia—Auditor-General's Report, 1985-86.

Credit Union Stabilisation Board—Report, 1985-86.

Credit Unions, Registrar of—Report, 1985-86.

Corporate Affairs Commission—Report, 1985-86.

Corporate Affairs, Commissioner of, Administration of Building Societies Act—Report, 1985-86.

By the Minister of Aboriginal Affairs (Hon. G.J. Crafter)—

Pursuant to Statute—

Maralinga Lands Parliamentary Committee—Report, 1986.

LIGHT COLLEGE OF TAFE

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

Light College of Technical and Further Education—Nuriootpa Branch.

Ordered that report be printed.

QUESTION TIME

NEWSPAPER POLICY

Mr OLSEN: Has the Premier had discussions with Mr Rupert Murdoch during the past 24 hours about Mr Murdoch's takeover bid for the Herald and Weekly Times group, and will he say, in view of conflicting statements by the Secretary of the South Australian Branch of the Australian Labor Party, on the one hand, and the Prime Minister and the Victorian Premier, on the other, whether the South Australian Government intends to intervene in this matter.

This morning Mr Murdoch had discussions with Mr Cain about the implications of this takeover and the House would be interested to know whether the South Australian Premier has been given the same courtesy and, if so, the outcome of those discussions. Mr Cain has endorsed the takeover. In the *Age* this morning he says:

Market forces should dictate newspaper ownership and the Government should not get involved in corporate takeovers.

The Prime Minister has said much the same thing in Adelaide this morning—sentiments with which I agree. However, in this Mr Hawke and Mr Cain are at odds with the State ALP Secretary, Mr Schacht, who has said on ABC radio today that Mr Murdoch is not a long-term friend of the Australian Labor Party and the State Government would have to look very seriously at any newspaper monopoly in Adelaide, implying that there should be some sort of Government intervention.

The Hon. J.C. BANNON: The answer to the question is 'Yes'. I have had discussions with Mr Murdoch, who has said to me that certainly the initial intention is to retain the two newspapers in South Australia in the current competitive editorial posture which they have at the moment. As to the longer term, a number of factors could influence that. It may be that, in view of the monopoly that it confers on one organisation in South Australia as far as metropolitan media are concerned, the Trade Practices Commission may require a divestment of one of those newspapers. Obviously, that will have to be addressed by the organisation if such a ruling is made.

In terms of my views, I have already made them public. I begin from a point of view which certainly conforms with that expressed by Mr Schacht as to monopoly control by one organisation of media. If that leads to a common editorial policy of media outlets, that is undesirable and is not in the interests of the State or the public.

In saying that, I draw a distinction between ownership and control and editorial policy. For instance, it has been a factor that for some years now the Herald and Weekly Times organisation has had a controlling interest in the Adelaide *Advertiser*. However, that newspaper has been free to pursue its own editorial policies and has done so. It has not been required to reflect a group or proprietor's view. If the same attitude is taken to the Adelaide *News* and the Adelaide *Advertiser* when under common ownership, the situation is one that I would find acceptable.

Mr Olsen: They said it would.

The Hon. J.C. BANNON: That of course is still to be judged and, whether an undertaking in that area is sufficient, without a demonstration either in structure or other terms, and whether that demonstration is sufficient not to require the divestment of one of the papers has to be seen.

As to the question of Mr Murdoch's acquisition of the Herald and Weekly Times group and its implications for South Australia, I certainly have nothing other than admiration for Mr Murdoch's skills and ability in newspaper management and development. He has particular affinity and connection with South Australia because the Adelaide *News* was his first publication. It formed the basis on which he first moved to the Eastern States and then established an international publishing empire which, if you like, has turned full circle in his acquisition of his father's former paper the *Herald* and the group that controls it.

The discussions that I have had with Mr Murdoch, the Managing Director of News Ltd and with the Chairman and Managing Director of the *Advertiser* assure me that, while the State's interests have to be closely looked to in terms of diversity of view and opinion, there are no particular or major problems in the takeover bid as it stands. We will simply have to await the outcome and determine what action, if any, will be appropriate. I might add that in this respect the State does not have any specific powers that it can exercise. We are talking about corporation conduct, which involves shareholdings, section 92 considerations of interstate trade, and so on, and this means that in a sense the State Government is not in a position to directly intervene in the process. However, I can assure all honourable members that we will work vigorously to preserve the State's interest, which is in a lively, active and competitive media environment. That serves the State well and I hope it will continue. Mr Murdoch has assured me that it is his intention that that be so.

The SPEAKER: I advise that the Premier will take questions that would normally be directed to the Deputy Premier, the Minister of State Development and the Minister of Lands; that the Minister of Mines and Energy will take questions normally directed to the Minister of Transport; and the Minister of Housing and Construction will take questions otherwise directed to the Minister of Labour.

SOLAR ACCESS

Ms LENEHAN: Will the Minister of Mines and Energy outline to the House the results of an investigation carried out by his department into the question of solar access for residential buildings? In 1978, a working party of the Law Reform Committee of South Australia, under the chairmanship of the Hon. Mr Justice Zelling, produced a wide ranging discussion paper on legal aspects relating to the use of solar energy in South Australia. This paper touched only briefly on the solar access question and made no specific recommendations on protective measures.

Mr Lewis: Is that a comment?

Ms LENEHAN: No, it is a factual account of the background to my question. The report made no specific recommendations on protective measures which might be adopted. This matter was referred to the South Australian Energy Council and ultimately to the Energy in Buildings Consultative Committee, an advisory committee serviced by the Department of Mines and Energy. This committee established a working group to examine the solar access question in detail. Will the Minister share with the House the findings of this committee and what, if any, action is the Government taking on the recommendations of this committee?

The Hon. R.G. PAYNE: I can share with the House, as the honourable member put it so nicely, the report from the committee.

Mr Gunn interjecting:

The Hon. R.G. PAYNE: In fact, I have had it since 1985. I received the report then: however, because of the recommendations, it triggered other action. The assurance of a basic level of solar access protection is seen as a necessary step, given the likelihood of increasing numbers of solar systems, mostly water heaters, being installed in marginal solar access areas.

Members interjecting:

The Hon. R.G. PAYNE: It is an important matter about which many people are concerned and it needs to be tackled in a careful way so that people's rights are not unduly infringed in this regard. Any system of solar access protection must strike a balance between the interests of solar system users and those of property developers. A basic level of protection should be available to all solar users, both present and future, through controls introduced under the Planning Act 1982 and administered by local government. Development control principles relating to solar access should be incorporated into a supplementary development plan under the Planning Act. They were the recommendations made.

On receipt of the report, my colleagues the Minister of Environment and Planning and the Minister of Local Government and I considered the extent to which the Government should proceed on this matter. We accepted the desirability of proceeding with the development and implementation of a set of principles to ensure a basic level of solar access protection in South Australia, and that, as recommended, the mechanism of a supplementary development plan was the way to go.

Officers from the Departments of Mines and Energy, Environment and Planning, and Local Government have prepared such an advisory principle, and it will be incorporated into the residential supplementary development plan referred to earlier. A lengthy public review process is involved in the development and ratification of supplementary development plans, as members know, under the Planning Act, and therefore the public will consequently be given ample opportunity to comment on what is proposed in this matter.

BUSHFIRE RISKS

The Hon. B.C. EASTICK: I direct my question to the Premier. Will the Government clarify widespread confusion about measures being taken to minimise bushfire risks? The Opposition has received many calls from members of the public in recent weeks about action being taken by the Electricity Trust and the CFS to minimise bushfire risks. In the case of ETSA there is confusion about exactly how the trust intends to implement its decision to black out power if we ever again have circumstances like those which prevailed on Ash Wednesday.

In its annual report tabled recently the trust, in spelling out its new policy, referred to the possibility that, in the event of such power cuts becoming necessary, it may take some days to restore supply. This possibility has caused considerable concern to people who need power to operate firefighting equipment on their properties, and also businesses which depend on refrigeration equipment in particular. While the Premier told his Estimates Committee on 7 October that before any such policy was adopted 'a great deal of care would be needed to explore all the ramifications of it', an ETSA advertisement in today's *Advertiser* indicates the trust intends to pursue this policy. In these circumstances, the Government should explain exactly how it will be applied and what may be done to overcome some of the obvious problems involved.

There is also confusion in near metropolitan and country areas about the application of new arrangements by the CFS in determining fire bans. This confusion is highlighted by an extensive article in this morning's *Advertiser* which states, concerning response to the new arrangement:

> Clouds of disgust are swirling and eddying through country districts. Above all, people are afraid.

In this case, the concern appears to be based on a misunderstanding of how the new arrangements will apply.

The Opposition fully supports responsible and effective measures to minimise bushfire risks. However, in view of how important it is for people who may be affected to fully understand just what measures are being taken, the Government should take further action to clarify current measures being taken by ETSA and the CFS. It is on that basis of the diversity of ministerial involvement that I pose the question to the Premier.

The Hon. R.G. PAYNE: I appreciate the concern expressed by the honourable member who raised the question and the concern that has been brought to him by constituents and others who have a very great interest in this matter. I can advise him that his concern was shared by the Deputy Leader, who is not currently in the House, who brought a deputation to me about 10 days ago. Those involved were quite worried at the ETSA announcement with respect to cool stores and abattoirs, and so on, throughout some of the more likely bushfire areas.

The Hon. D.C. Wotton: I've had a question on notice for two months about the same issue.

The Hon. R.G. PAYNE: Perhaps the honourable member ought to get in touch with his own Deputy Leader and find out what answer he got.

An honourable member interjecting:

The Hon. R.G. PAYNE: There is no need. This is too important a topic for us to try to score off one another. I accept the question from the member for Light in that way. ETSA was illustrating what would be, if I can put it this way, a 'worst case scene', wherein another Ash Wednesday was imminent—that date in February 1983 referred to by the member for Mitcham the other day. In that scene, it will quite clearly, on safety grounds alone, possibly be necessary for disconnection to take place. However, on an earlier occasion this matter was also raised with me by the member for Newland, and I pointed out in that answer that ETSA was endeavouring to set up what it termed green belts or green zones in which electricity connections would be maintained and made as fireproof as possible prior to any bushfire season, so that pump and tank supplies could be maintained on a safety and firefighting basis.

Obviously, that is very important and it clearly shows that ETSA is addressing this whole matter not just on a one-off basis saying, 'We have to disconnect because it might be dangerous,' but is considering the overall situation. In addition, I have asked ETSA, and ETSA has agreed, to ensure connection to the types of industry that I just outlined, such as cool stores and so on for apples and pears (and that area was referred to by people who come to see me with the Deputy Leader), and ETSA is working toward implementing that. Where possible, supply to those areas would be in the 'extra special' category which applies to pumps and tanks. I am sure that the honourable member would see that that would be very reassuring to those people.

Those who made up the deputation said that their minds had been put to rest considerably by that discussion, at which the General Manager of ETSA and the Chairman of the board were present. I believed that, if there was to be a deputation, we might as well involve those people instead of doing things second or third hand. As a result of that meeting, ETSA undertook to study the situation as closely as possible and to provide whatever assistance could be given in the circumstances to which I have referred. That is under way.

There is no doubt that bushfires can be caused by electrical distribution systems—that is a fact of life. The difficulty that ETSA faces in obtaining insurance and ETSA's desire not to cause injury, damage or suffering means that it must be prudent in the circumstances. The Bush Fire Advisory Council is addressing that matter as well. ETSA, local government and all other areas of representation that members would expect to be involved are involved. It is not an easy question. I believe that what the honourable member was suggesting was that perhaps a clarification statement should be issued to make things clearer.

The Hon. B.C. Eastick interjecting:

The Hon. R.G. PAYNE: Yes, I do understand. I will not address the honourable member's remarks about the CFS, because I do not have direct responsibility for that area. However, I assure the honourable member that that matter will be considered as soon as possible by the Minister concerned.

CAMPBELLTOWN PRESCHOOL

Mr GROOM: Will the Minister of Children's Services say whether as a consequence of representations, staffing for 1987 at the Campbelltown Preschool Centre at Braemore Terrace has now been resolved satisfactorily? The Minister may recall that early in November I wrote to him in relation to staffing for 1987 for the Braemore Terrace Kindergarten, because the kindergarten had been told by the Children's Services Office that it would lose its ethnic assistant.

During 1986 the ethnic assistant worked 10 hours a week at the centre as well as conducting an afternoon program for 3½ year olds, totalling an additional six hours a week, and had held this position for the past 10 years. The Minister will be aware that my district has special needs with regard to the ethnic community, as about 25 per cent of people are of non-Anglo Saxon background, being primarily Italian. That is almost twice the State average. The ethnic assistant has been essential in encouraging the ethnic community, particularly the Italian community, to send their children to the preschool centre.

Some 10 years ago, when the ethnic assistant was first appointed, there were virtually no children from ethnic backgrounds at the school, whereas now, of the 74 children enrolled, 39 are from ethnic backgrounds, 28 being Italian. The Italian community, in particular, needs to be encouraged to use the facilities of the preschool centre, and this requires the community to have confidence—

An honourable member interjecting:

Mr GROOM: No, it is not—in the ability of the preschool centre to have appropriate teaching staff to provide the necessary support, assistance and understanding.

The Hon. G.J. CRAFTER: I thank the honourable member for bestowing this question upon me. First of all, I want to say that I appreciate the representations that the honourable member has made in attempting to meet the needs of his constituents in these circumstances. I am also very appreciative of the staff within the Children's Services Office and within the respective kindergartens who have within the existing resources been able to reallocate those positions so that those specific needs can be addressed. I think that this is an excellent example, in difficult economic circumstances, given our existing resources, of making the most efficient and best use of those skills. The Government recognises the importance of ensuring that Early Childhood Services caters for the needs of children and families from diverse cultural backgrounds, and the Children's Services Office is taking steps so that more people with bilingual skills are employed in its mainstream personnel structure.

The importance of the presence of a person who speaks Italian in encouraging the community to bring their children to a preschool has been recognised by the Children's Services Office, and I think, it has been the situation all too frequently in the past that persons from non-English speaking backgrounds have shown some hesitancy about placing very young children in such centres. For this reason, a new role has been developed for the staff person who has been working on a part-time basis at the preschool to which the honourable member refers.

That person will now work as a support and resource person for a number of kindergartens in those inner eastern suburbs, including the Campbelltown and Rostrevor areas. In the course of this work, that person will continue to spend some time each week at the Campbelltown preschool, and I believe that this arrangement will ensure the most effective delivery of services for people in these suburbs.

CIGARETTES

The Hon. JENNIFER CASHMORE: I address my question to the Premier. Does the Government have legal advice that, under its legislation that is designed to present avoidance of the tobacco tax, either Queensland-based traders who mail order cigarettes to South Australia will have to be licensed or those who consume cigarettes bought in this way will have to be licensed and, if so, will the Government take any action following the proclamation of the legislation against an organisation called the Smoko Club? Over the weekend, a leaflet was distributed throughout metropolitan Adelaide by the Smoko Club, which has a registered office at 131 Elizabeth Street, Brisbane. It advertised savings of up to $7.40 a carton through the purchase of cigarettes through mail order from Queensland.

While the Premier told Parliament last week that under the Government's proposed new legislation a licence would have to be held either by Queensland-based traders involved in mail order selling of cigarettes or those who buy cigarettes in this way, the Smoko Club has made it clear in this leaflet that it will not take out a licence, and it also suggests to its customers that they will not need a licence so long as they do not re-sell the cigarettes.

As this leaflet amounts to the first sign of open defiance of the Government's move I ask the Premier to spell out for all those South Australians who intend to take advantage of the Smoko Club's offer the legal basis upon which the Government believes that mail order cigarettes will be covered by its new legislation and what action the Government intends to take to ensure that its legislation does not encourage further tax avoidance.

The Hon. J.C. BANNON: I am certainly not going to publicise the activities of these people. Regarding legal advice to the Government, I will not lay that before the House. I must say that I totally deplore the irresponsible activities of this group. What concerns me most is that it may well encourage minors to take advantage of this and in so doing,

of course, they will be committing a breach of the law. The company that is seeking to garner this business will be in breach of the law, and we addressed this question in the preparation of the legislation which has been before this House. We certainly intend to do what is possible within the Constitution to ensure that it does not happen. I guess the first step is to ensure that they get no undue publicity.

BOATING ACT

Mr ROBERTSON: Will the Premier, acting on behalf of the Minister of Marine, take steps to ensure that the noise and safety provisions of the Boating Act are enforced to protect other beach users along metropolitan foreshore beaches from injuries caused by the irresponsible handling of sailboards and jet skis? In particular, will the Minister ensure that negotiations are conducted with Brighton council to ensure that regulations and provisions under the Boating Act are enforced for the benefit of all beach users at Brighton?

Brighton council has in the past zoned Brighton beach in an attempt to keep sailboarders and swimmers apart. At present some confusion exists in the minds of beach users concerning the position of children who paddle in canoes, kayaks, surf skis, and the like, as to whether they in fact should be in the swimmers zone or the sailboarders zone, given that they are riding on floating craft.

I am assured that the zones run perpendicular to the beach and, as the Leader of the Opposition and anybody who has sailed on a sailboard would realise, the more high tech sailboards find it very difficult to sail any closer than about 45 degrees to the wind. Therefore, zones that are perpendicular to the beach are relatively unworkable. The net result of that is that many sailboarders ignore the zones. There is also concern on the part of swimmers that they will be hit on the head by falling masts, some of which are up to five metres long, or run down by sailboarders who do not know how to control their craft.

In addition, there is the new hazard of jet skis to be faced in the coming summer. I am reliably informed that a franchise dealer in jet skis has approached Brighton council for permission to hire out jet skis on the beach. I am assured that jet skis can travel at speeds in excess of 40 km/h and that, when the rider falls off, through ignorance or inexperience, the craft will then continue to circle at speeds of up to 40 km/h, which of course is a hazard to swimmers. In view of that fact, and the fact that jet skis represent a technology leap in beach use, will the Minister ensure that the users of jet skis and sailboards are kept well and truly away from swimmers in the coming summers?

The Hon. J.C. BANNON: I will refer that question to the appropriate Minister. I think it is a matter of concern that should be dealt with. I myself have observed an accident involving a jet ski, which was most unfortunate. It is obvious that there need to be proper rules and regulations applying to such usage. I will ask the Minister to provide a report.

ELECTORATE OFFICE STAFF

Mr BECKER: Can the Premier explain to South Australian taxpayers why they pay for two full-time staff at his electorate office of Ross Smith when 18 metropolitan members of Parliament with more constituents than he has run their offices with one staff member? I have been informed that, at considerable cost to taxpayers, the Premier employs at his electorate office one personal assistant, whose salary is approximately $24 000, as well as one electorate assistant whose salary is approximately $21 500. Both staff members are paid by the Department of Housing and Construction.

The Premier's electorate office services just over 19 000 voters, considerably less than the number of constituents represented by the members for Albert Park, Baudin, Bragg, Bright, Fisher, Florey, Hanson, Hartley, Henley Beach, Mawson, Mitcham, Peake, Playford, Price, Ramsay, Spence, Unley, and Newland.

Before the Premier reminds us that he is the Premier, I wish to remind him that these two staff members are employed at taxpayers' expense in addition to a veritable cast of thousands he conceals on the eleventh floor of the State Administration Centre.

The SPEAKER: Order! The honourable member for Hanson has been here long enough to know when he is straying into debate, argument and comment, and the Chair would not be quite so lenient were it not perhaps for the yuletide season.

The Hon. J.C. BANNON: That is a pretty pathetic question, and framed in a way that does the honourable member no credit at all. 'I have been informed', he said, as if this was something that he sort of winkled out. He certainly was informed—by me, in response to a question that he asked me in which I set out the position. There was absolutely no secret about it. In fact, preceding Premiers have had more than one person employed in their electorate office. The honourable member said that there was no point in my saying that I was the Premier and that my needs were greater. I guess I could quite easily transfer one of those individuals to the offices on the eleventh floor of the State Administration building, but unfortunately people come from all electorates (including the member for Hanson's when they are dissatisfied with the service that they have had from him) to ask me if I could take some action, and it would be absolutely impossible for one person to deal with these matters.

The situation that prevails in my office and the staffing there is the result of proper, in department investigation of the work load—which goes well beyond the specific electorate requirements. That is a fact of life; there is no way of avoiding it; and I defy anyone to prove otherwise. In fact, it is providing a service which is absolutely essential. I suggest to the honourable member that, if he is searching for things to raise, he find a somewhat more productive area than trying to ensure that constituents—and I repeat: constituents from his district as well—do not get proper service.

Members interjecting:

The SPEAKER: Order! I call the Leader of the Opposition to order.

MOTOR VEHICLE EXHAUST POLLUTION

Mr DUIGAN: I direct my question to the Premier, representing the Minister for Environment and Planning. Will the Premier inquire into whether any discussions have been or could be initiated or whether any procedures could be established to determine what, if any, actions can be taken to reduce the level of motor vehicle exhaust pollution in Hindley Street? In the *Sunday Mail* of 30 November last, the Manager of the State Government's Air Quality Branch, Mr Alex Smith, was quoted as saying that vehicle pollution in Hindley Street was 'bordering on levels where we are beginning to be concerned'. He expressed a personal opinion that he thought it would be a very good idea to close

Hindley Street. He indicated on a number of occasions that these were his personal comments and that he was in the process of preparing a report on the pollution controls that had been imposed in South Australia over the past 10 years and that the report would be tabled in Parliament.

Over 18 months ago, Mr Smith was quoted in the *Advertiser* as saying that he believed that the air pollution levels in Hindley Street regularly exceeded World Health Organisation standards. He also expressed the opinion that Hindley Street was the worst affected area in South Australia in relation to air pollution. In that same article, the member for Hartley was referred to as giving his support for a mall on the basis of the figures pertaining to this. In view of the continuing information about the high pollution levels in Hindley Street, can any avenue be pursued to ensure that the various authorities that are concerned with environmental quality and traffic management in the city can be brought together to address this very serious problem?

The Hon. J.C. BANNON: I thank the honourable member for his question, and I will certainly refer the matter to my colleague. The levels of exhaust pollution in Hindley Street have been of concern for some time. It would also be fair to say that there has been a range of other problems—social, behavioural and environmental—in that concentrated sector of the city. It is very much a magnet for many people for recreation, entertainment and activities of that kind, as well as being a very busy shopping sector. It has been under study for some time by the Air Quality Branch and the honourable member has already referred to the intention of that branch to report to the Minister who in turn, I imagine, intends to report to Parliament.

I understand that the problem is particularly acute on weekends (particularly Friday and Saturday nights) when there is virtually a continuous stream of traffic in both directions going up and down Hindley Street—doing a 'Hindley' I have heard it referred to—some going for business or entertainment purposes and others simply to join the throng. There is no problem with that in itself, but obviously it increases the exhaust emission problem.

What one can do about it I am not sure, and I guess we will have to await the report to see whether, first, the situation is so serious that it warrants drastic action and, secondly, what sort of action should take place. The Hindley Street traders work very closely with the Adelaide City Council, the police and the State Transport Authority to ensure that Hindley Street is regulated on a reasonable basis. I think that that liaison and that combined group of traders play an important part in ensuring that Hindley Street remains extremely accessible and continues to be the kind of centre it is.

However, there is no ignoring the problems that that causes, and I think the honourable member is right to raise the issue. I can only suggest to him that I will ask the Minister to look into the matter and report directly to the honourable member and, in the course of that, canvass the various parties concerned to see whether joint solutions can be found to the problems. I might add that I do not think we should be concentrating totally on the problems of Hindley Street. There are many occasions on which it is clear that it provides a tremendous venue for entertainment and exciting activity in our city, and that is to be favoured, as long as it does not result in anti-social and other unfortunate side effects.

SOUTH AUSTRALIA

Mr INGERSON: Has the Premier yet been asked to approve the sale of the yacht *South Australia* and, if so, how much has it been sold for and how much of its loan of $1.4 million does the Government expect to recoup?

The Hon. J.C. BANNON: The answer is 'No', discussions have been continuing in Perth and certainly an announcement will be made when those discussions have been concluded and a report has been made to me.

HOSTEL AND NURSING HOME ACCOMMODATION

Ms GAYLER: Will the Minister representing the Minister of Ethnic Affairs in another place ask his colleague to make urgent representations to the Federal Government in support of the need of the elderly Italian population in South Australia for hostel and nursing home accommodation? The Italian senior citizens village at St Agnes, known as Villagio Italia, has been planning for more than three years to provide hostel and nursing home accommodation for the growing population of the elderly Italian community. The board of management of the village has been frustrated at delays and has disappointments, and has repeatedly been missing out on funding, most recently the funding announced in September 1986. The village now says that it has wasted three years and thousands of dollars of fund raising moneys in its attempt to secure funding. The correspondence arising from this matter makes quite a hefty pile. Meanwhile, a Commonwealth report of the ethnic aged working party urges major expansion of accommodation for the ethnic aged.

In the case of the South Australian Italian community, it is the largest ethnic community and it has 32 people waiting for immediate accommodation in that complex. Those people are drawn from a cross-section of Adelaide's suburbs. In spite of this, the village has been refused funding on the basis that it is located in the north-eastern suburbs and not in the west. However, I am advised that a high proportion of Italian citizens in the eastern and north-eastern suburbs are in need of this kind of accommodation.

The Hon. J.C. BANNON: I am not aware of the circumstances described by the honourable member, but obviously, if the situation is as she describes, it certainly requires some urgent attention, I will refer the matter to my colleague in another place and I will ask him to obtain a report for the honourable member as soon as possible.

MOBILONG PRISON

The Hon. H. ALLISON: Will the Minister of Housing and Construction say whether Cabinet has yet awarded a contract to install the security system at the new Mobilong Prison and, if it has, whether the South Australian company, Vision Systems, was invited to tender? When the Opposition suggested in a question to the Minister on 22 October that Vision Systems may be excluded from tendering for this contract and the contract awarded to an overseas company instead, the Minister said that the matter would be reviewed. In seeking further information, I note that recently the Premier presented an Austrade award to a division of Vision Systems, something he referred to in the House on Tuesday when he recognised that equipment manufactured by Vision Systems was the best of its kind in the world.

The Hon. T.H. HEMMINGS: The honourable member is quite correct: when I responded to a question from the member for Heysen some four or five weeks ago, I said that an evaluation would be undertaken on the different

systems being offered to the Government. That evaluation has taken place. All systems being offered to the Government have been looked at by my department, the Department of Technology, the Department of State Development and the Correctional Services Department. The Government has made its decision but, because it is a security matter, if the honourable member sees me immediately after Question Time, I will give him a full briefing on the matter.

DRINK DRIVING CAMPAIGN

Mr HAMILTON: Will the Minister of Mines and Energy, as the Acting Minister of Transport, as part of the Government's anti drink driving campaign and in the lead-up to Christmas and New Year celebrations, give publicity to the dangers of alcohol remaining in the bloodstream for up to eight hours after a heavy drinking session? I am advised that the old idea of sleeping it off does not work, and if a driver has had a sufficient amount of alcohol, particularly the night before, police advice indicates that alcohol cannot be removed quickly from the body. I am advised also that the removal of alcohol from the bloodstream occurs at a rate of between .015 and .02 per hour and that rate cannot be changed, despite the intake of coffee or food, or having a sleep. Therefore, a driver travelling to work after so-called 'sleeping it off' still can be picked up for having a blood alcohol content in excess of .08 per cent. Could the Government give publicity to this aspect, bearing in mind the coming festive season parties?

The Hon. R.G. PAYNE: I thank the honourable member for his question. As Acting Minister of Transport, I suppose that I should not usurp the role or any plans that my colleague already has in train with respect to publicity about road safety generally in the pre Christmas period. I am sure that members will appreciate that matters are probably already in train which will deal with that unfortunate aspect of the festive season where people occasionally seem to take risks with their lives which they do not normally take at other times of the year.

I am prepared to say that people should not drink and drive. I agree with the honourable member that, if one drives even many hours after having an excessive amount of alcohol, it is extremely risky. If I remember correctly, one of the first people apprehended under the random breath testing legislation was a person who had been to a party, who had quite a few hours sleep, but he was apprehended the next day and much to that person's surprise, he was found to be in excess of the .08 limit.

I commend the member for Albert Park for being so assiduous in advocating all forms of publicity associated with road safety. In fact, the honourable member, in a newsletter which he circulates widely in his area each year, draws to the attention of all his constituents the dangers inherent in drink driving and points out any changes in the law that have taken place and, generally, those areas that are topical at the time the newsletter goes out. That is a commendable activity by the honourable member which will continue to be accepted by his constituents whose approval will be registered accordingly at the ballot box.

ETSA TREE PRUNING

The Hon. D.C. WOTTON: Is the Minister of Mines and Energy aware of the policy of the Electricity Trust whereby, on completion of a tree pruning program that is currently being carried out by ETSA or by contractors on its behalf, the responsibility for ongoing maintenance as regards future pruning will rest with the landowners, as will all future liability, and does the Minister support such a policy? A few weeks ago I attended a public meeting that had been called to discuss methods of electricity distribution in the Adelaide Hills. At that meeting it was indicated that this proposal was ETSA policy or was being considered as policy. Although it is generally accepted that the owners of small house blocks should accept some responsibility, it has been made clear, both at that meeting and since, that the ramifications on the part of local government and larger private property owners, especially those properties that carry service lines to adjacent properties, will be significant indeed.

The Hon. R.G. PAYNE: I thank the honourable member for the question. He said that he heard at a meeting that this was to be policy, but I do not know why that statement was made. This question is being considered, as it needs to be, and I think the honourable member admitted that himself when he indicated that he did not have much of a quarrel with action in that area by the landholder or occupier in the case of the smaller city block. The question of how much responsibility for tree control is to be accepted by landholders where the properties are much larger needs to be addressed. That perhaps is what should have been said at the meeting: this area is being examined and is under consideration.

LAND TITLE ENCUMBRANCES

Mr FERGUSON: Can the Minister, representing the Minister of Lands, say whether his colleague's department would be prepared to review the law in respect of encumbrances to land titles? I refer particularly to an estate in my district which was built more than 25 years ago and where a series of encumbrances were taken out on the titles, including the following:

(1) erecting more than one dwelling house with the usual outbuildings;

(2) no improvement to cost less than $11 000.

(3) the area of masonry in the external walls to be less than 50 per cent of the total area;

(4) the roof of any building not to be constructed of asbestos cement, fibreglass or any rubber or plastic composition, unless the roof has a greater pitch than 10 degrees;

(5) fences to be constructed of brushwood, masonry, timber, asbestos, mesh or metal, etc.;

(6) all television antennae and electricity cables, or any cable whatsoever, to be underground; and

(7) no signs or hoardings to be allowed.

The problem with these encumbrances is that they were secured by companies that have now gone out of business, such as Ardco Pty Ltd, Pringle Pty Ltd, Gladesville Pty Ltd and Aston (Australia) Pty Ltd. These companies were used during the taxation minimisation years as shelf companies and many of them probably finished up at the bottom of the River Torrens. The difficulty is that, because these encumbrances are still on the titles, many financial institutions will not lend money on those titles. Further, because these companies are now hard to trace (indeed, some of them went to the Northern Territory and have since disappeared), it is extremely difficult to have the titles cleared.

I have discussed this matter with Mr Brian Martin of the Delfin group of companies, which uses encumbrances consistently both at Golden Grove and West Lakes and he agrees that, as the original encumbrances on West Lakes

properties were placed there more than a decade ago, they are now of little use. Indeed, as the shrubs and trees now screen the antennae, for example the original encumbrances are of no use. Will the Premier ask the Minister of Lands to consider this matter?

The Hon. J.C. BANNON: I will refer the question to my colleague and ask him to provide a report.

MINISTER'S CRITICISM

Mr S.G. EVANS: Will the Premier take action to have the Minister of Employment and Further Education apologise to the Elizabeth City Council and its Deputy Town Clerk (Mr Kozned) for the slur cast against them by that Minister in this House on 28 November? I will explain my question by reading correspondence that has been sent to me by the Town Clerk (Mr W.B.C. Robinson) of that council, as follows:

Dear Sir,

I refer to a report in the *Advertiser* of 28 November (copy enclosed) wherein it is stated that the Minister of Employment and Further Education criticised this council and its Deputy Town Clerk in Parliament. In response I submit the enclosed report to my council which I trust will put the matter in perspective and on a factual basis rather then rhetorical. No inquiry was made of me or my staff by the Minister or his staff for verification prior to the matter being aired in Parliament. My council is concerned and upset by this incident and trusts that some form of reparation may be forthcoming for the damage to the image of this council, its officer as named by the Minister under parliamentary privilege and the young people of this city.

I have a copy of a report that was sent to the Elizabeth city council. It states:

The Minister of Employment and Further Education, Mr Arnold, has taken one small item from a report to council and, in Parliament on Thursday, blew it right out of proportion in an apparent effort to discredit Elizabeth city council. Such an attack is unwarranted.

The report also states:

It is fact that Roughcut have run six discos and one concert from 21 June to 3 October 1986. It is fact that the Roughcut discos organisers have been interviewed by Mr Kozned, Deputy Town Clerk, regarding complaints re excessive noise, inadequate supervision of patrons, resulting in damage to the theatres and five letters have been sent to Roughcut in this regard. It is fact that council hired the theatre to Roughcut at a 50 per cent discounted fee for the first four discos to assist and encourage the promoters in their endeavour to provide entertainment for young people. It is fact that the police have attended by request at the Rocktagon discos on occasions and on occasions patrons were removed for unruly behaviour and damage to council property.

It is fact that council is from time to time suffering damage to property at other facilities such as the recreation centre and swimming centre from the actions of small groups of mischievous young people. We have been endeavouring to contain and control this problem by increased supervision and with the assistance of the police with whom we have an excellent liaison.

We do not seek adverse publicity and reflection on the youth of our city, the great majority of whom are responsible young people, the great majority of whom can quite easily be tarred by the ill behaviour of a small minority away from parental control.

It is fact that Roughcut, of their own volition, has cancelled the remaining three bookings for discos due to lack of patronage.

The record of this council in providing for its young people stands:

This year, purchased for $110 000 a property in Elizabeth North to ensure its continuation as a youth drop-in-centre and is subsidising by grant the operation of the centre.

Provided roller skating facilites at the recreation centre at a cost of $30 000 when the commercially operated rink closed because of lack of patronage.

I will not read all of the other information, but the last paragraph states:

Under parliamentary privilege Mr Arnold has slurred this council, Mr Kozned, its Deputy Town Clerk, and at the same time has done a disservice to the young people of the northern suburbs. An apology would be in order.

The Hon. J.C. BANNON: I certainly do not intend to take any action as far as the Minister is concerned. I am very surprised that the member for Davenport, who has not any particular brief, I would have thought, for citizens in Elizabeth—his electorate being a fair way from Elizabeth—has taken up the matter. Let me say that the Minister of State Development and Technology is not someone who casts slurs. His whole public record suggests that what he says he says on the basis of information, and he does not say it lightly. I think that the starting point which assumes that some kind of slur has been cast unwarrantedly is wrong.

Secondly, as I understood the Minister, what he was addressing was a sensational treatment of this event based on a claim that 30 arrests had been made. This certainly would have been an extremely grave incident if 30 arrests had been made in consequence of it. In fact, as the Minister said, no arrests were made. That was the information from the police, and the letter to which the honourable member has referred does not mention that, yet that was the whole basis of the point that the Minister was making.

He did not say that there were no problems or that they should be brushed under the carpet. What he said is that, if you are going to address these things constructively, you do not make outrageous claims that have no basis in fact. The claim that 30 arrests had taken place when there were none was such a claim. That is what he was saying. In saying that I do not think he was casting a slur and I did not find anything in the material that the honourable member has referred to that refutes the fact that that statement was made and that statement was wrong. So if any apology is warranted, I would have thought that at least it ought to be centrally corrected, because that was the basis of the whole report and the sensational treatment of it.

My final point is that I am surprised that the member for Davenport sees it necessary to take up the cudgels for the city council of Elizabeth. I am glad that they have written to him: he obviously has a bit of spare time out of his electorate to deal with that. I suggest that the most productive thing that Elizabeth council can do would be to direct its question to the Minister and talk to him about it. He is a reasonable man and I am sure he will listen and give them a fair hearing. I do not believe an apology is warranted for his putting that fact before the House.

WATER QUALITY

Ms LENEHAN: Is the Premier, representing the Minister of Water Resources, aware of water quality problems currently being experienced in the southern area? Can he provide the House with the reasons for this recent deterioration in water quality? I have been contacted by a number of constituents who have expressed their concern to me about the recent deterioration in the quality of water in the southern suburbs.

Mr Lewis interjecting:

Ms LENEHAN: It has not been a deluge, but it has been more than a gentle trickle. Their complaints have ranged from staining of the bath to disfiguration and discolouration of clothing and in some cases articles of clothing have been completely destroyed. Obviously, my constituents have also contacted Gavin Easom, as I note in this morning's paper that he has an article entitled 'Mud in your eye' and I would like to share with the House what he has to say about the quality of water:

Many residents in the deep south, especially around Reynella, are complaining bitterly about the quality of tap-water in the

region. According to some, it's not on when a splash in the face becomes mud in your eye.

Whilst that is a humorous way of dealing with a very serious problem, I was contacted by constituents who said that after they removed themselves from the shower they were covered in a sort of red mud. Therefore, I ask the Premier, representing the Minister of Water Resources, to provide me with the information that I seek.

The Hon. J.C. BANNON: Obviously, the Minister of Water Resources will be able to provide a more detailed response to the honourable member. Let me say that it is for these reasons that the Government is embarking upon a massive capital expenditure for the filtration plant that will serve that area. It has a high priority in our capital works program. The project is going to design and to budget and, as soon as we are able to get it on stream, we will. It will make an immediate difference. I know that the people of the south have been waiting for quite a while to get this filtration plant, but the program has been systematically undertaken and the honourable member well understands the enormous costs involved.

Incidentally, it would have been finished before this if the previous Government had maintained the program commitment that was in place when we left office first in 1979. However, I assure the House that that project is proceeding and that we will see it coming on.

Members interjecting:

The Hon. J.C. BANNON: In response to the member for Light, I accept the fact that the Federal Government has certainly withdrawn or not honoured what we felt, and indeed the previous Government had a right to feel, was going to be the priority of funds accorded to it. Despite that, we are finding the capital funding necessary and we are proceeding with it.

Members interjecting:

The Hon. J.C. BANNON: I might say that—

The SPEAKER: Order! The noise level in the Chamber makes it very difficult to filter out the Premier's reply from amongst all the interjections.

The Hon. J.C. BANNON: It will certainly have a major effect when it comes on stream, because the northern filtration plant, which goes through marginals such as Goyder, Custance, and one or two others and eventually gets to Whyalla—another marginal seat, I suppose one could say, through Stuart, so let us have none of this nonsense about marginals—has just come on stream and has already shown its benefits. Indeed, someone rang in on a radio talkback session the other day—

Mr Lewis interjecting:

The SPEAKER: Order! I call the member for Murray-Mallee to order.

The Hon. J.C. BANNON: They said that the filtered water that was now coming through had made a tremendous difference, and so it should. That is the experience that people in the south will have in the not too distant future.

PERSONAL EXPLANATION: SACOTA

Mr OSWALD (Morphett): I seek leave to make a personal explanation.

Leave granted.

Mr OSWALD: Last Thursday I presented to the House a carefully researched paper on recent activities of SACOTA and the sacking of Mr Bob Randall, the former member for Henley Beach, as its Executive Director.

Members interjecting:

The SPEAKER: Order! I call honourable members to order. I have pointed out to the House previously that personal explanations should be heard in silence. The honourable member for Morphett.

Mr OSWALD: Using a ministerial statement on Tuesday this week the Minister of Recreation and Sport sought to denigrate that paper and then attack me over the accuracy of statements in it. Since Tuesday I have had the opportunity to be further briefed by my advisers, including Mr Randall himself. I am advised that the Minister, in his response, played with words to protect the officer of his department, Mr Martin. To say that Mr Bennett did not approach Mr Martin formally is a clear example of his play on words. The Minister carefully chose the word 'formally'. I take as an example Mr Randall's appointment to SACOTA. Mr Bennett talked to Mr Randall informally on two occasions. (once with the Chairman of the board, Mrs Pash, present) before a formal approach was made on behalf of the board. It is easy to make plans and talk about a position before a formal approach is made. The Minister is trying to throw up a smokescreen in saying that Mr Martin—

The SPEAKER: Order! I remind the honourable member that he is supposed to be making a personal explanation which must deal closely only with those points on which he claims to have been misrepresented and he cannot indulge in any form of debate in which he makes criticism of another member. The honourable member for Morphett.

Mr OSWALD: —was not interested in the position because the remuneration was too low. What the Minister did not say or did not know was that this year's budget proposals presented to the board showed a significant increase from $24 000 to approximately $35 000 as a sum for the Executive Director's remuneration.

Ms GAYLER: On a point of order, Sir, I ask you to rule that the honourable member is not dealing with a personal explanation about how he claims to have been misrepresented.

The SPEAKER: Order! The attention of the Chair was distracted elsewhere, so I have not heard the last two or three sentences of the honourable member for Morphett. If he is pursuing the course that he was following when I called him to order a couple of minutes ago, he is definitely out of order.

Mr OSWALD: The Minister had the freedom to criticise the paper that we presented and called into doubt the material that I put forward. I have sought leave of the House to come to my defence and to put on the record the accuracies of my remarks which the Minister chose on Tuesday afternoon to denigrate and establish in the eyes of the House that I had been quite inaccurate. I am proceeding on those grounds, point by point.

A percentage of all funds raised was also discussed as an incentive for future Executive Directors. This was drawn up without Mr Randall's input and presented to a board meeting from which Mr Randall was excluded. On the issue of Mr Martin's role relating to Mr Randall's dismissal, I am told that Mr Randall was out of the State when a special board meeting was called. He was never informed officially that a board meeting was to be held. In fact, he arrived home on Friday evening to find a letter of termination of his contract waiting for him. The Minister is right when he says, 'Mr Martin left the room whilst the vote was taken', but that did not stop Mr Martin attending the meeting for up to one hour before and putting his viewpoint, thus having a significant influence as a spokesman for the Minister.

I accept the Minister's comments about the withdrawal of Mr Martin as his representative. However, I wish to place on record that it took place after Mr Randall's report was prepared, after Mr Randall's dismissal and after the

report of the independent consultant, Dr Leon Earles, was prepared. Whilst I agree with the Minister's action, I think it was a bit late.

In relation to SACOTA's Healthy Lifestyle program, I thank the Minister for the information. He has told us that $10 000—just under half the grant allocated—is invested in Telecom bonds and that a request has been made for an extension of time. He has not told us how and when—

The SPEAKER: Order! This is starting to get into comment. I caution the honourable member to choose his words from this point on very carefully.

Mr OSWALD: —in future and how the money will be used. That is the end of the statement.

WRONGS ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill now be read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Wrongs Act. It sets out the principles to be used by the courts in assessing damages in relation to injuries arising from motor accidents. The Bill is linked to the Motor Vehicles Act Amendment Bill 1986 and together the Bills form a package aimed at reducing the pressure on third party insurance premiums.

The Government is aware of the community's concern at the escalating premiums for third party compulsory insurance. These premiums continue to rise because of the effect of inflation on awards, because of increased hospital and medical costs and because of new and expanded heads of damages awarded by the courts. As a result of the failure of premiums to reflect these increases over time, there has been a steady deterioration in the compulsory third party fund. In fact, figures recently released show that in the 1985-86 year the fund suffered a loss of $89.2 million .

As a result of the increasing deficit, the State Government Insurance Commission conducted an inquiry into the compulsory third party fund. The report was released earlier this year and sets out a number of recommendations aimed at reducing costs; reducing delays and improving procedures; and reducing the road toll.

The Government has examined each of the recommendations in turn and has decided to implement a package of amendments at this time. It is likely that some of the remaining recommendations will be implemented by legislation at a later date, once their full effects have been properly assessed. In addition, I advise that the Government is in the process of setting up a study to examine the administrative and financial implications of establishing a no fault motor vehicle accident scheme in South Australia. The study will review previous reports on the establishment of such a scheme in this State and will monitor the movements interstate in this area. The aim of the study will be to produce options for a more equitable scheme of motor vehicle accident insurance which will better serve the long-term needs of the South Australian community.

In turning our attention to the Bill currently before Parliament, I advise that some of the amendments are not strictly in accordance with the SGIC recommendations. The Government has acted on the presumption that the community is prepared to accept the introduction of limits on the levels of damages in an attempt to reduce the pressure on premiums. However the Government also recognises the needs of victims of road accidents to receive adequate compensation. Therefore the Government has assessed each of the recommendations with a view to balancing the gains to the fund against the potential loss to victims.

In introducing these amendments I must caution, that the flow through to premiums will be slow. The amendments will not result in an automatic reduction in premiums nor will they provide immediate relief from the need for further premium increases. As the amendments only apply to causes of action which arise after the commencement of the Act, there may not be any significant effect on premiums for two to three years.

The single most important recommendation made by SGIC is that the sum of $60 000 be fixed as the maximum award for damages for non-economic loss. Non-economic loss covers damages for pain and suffering, loss of amenities of life, loss of expectation of life and disfigurement. The Government has accepted this recommendation.

Accordingly, the Bill provides for the court to grade the non-economic loss suffered on a scale of 0-60. That value is then multiplied by the prescribed amount, an amount which will originally be set at $1 000. This 'grading' approach has been adopted so that the most serious cases do not suffer disproportionately by the imposition of the limit. In addition, the prescribed amount will be indexed so that the limit will maintain its relative value.

SGIC has estimated that by the introduction of a limit of $60 000 on non-economic loss, the fund could save as much as $43 million on 1986 figures. The Bill also provides for limits to be imposed in relation to small claims so that: no payment is made for loss of earning capacity during the first week of the disability period; and payments for non-economic loss are made only where the disability period is greater than seven days or where the expenses incurred for medical and hospital expenses exceed the prescribed amount, which will initially be set at $1 000.

The justification for imposing such limitations is that small claims are very costly to administer and often provide victims with seemingly excessive payments in respect of pain and suffering for minor injuries. The Government is of the view that limits can be placed on such claims without causing undue hardships to accident victims.

The Bill also provides for limits on the range of persons who will be entitled to make a claim for nervous shock. Payments for nervous shock are made where nervous shock is suffered by a person in the proximity of injury or peril caused to a third party by the negligence of another. The law was extended in the 1983 case of *Coffey v. Jaensch* so that it covered the case where a wife suffered nervous shock from what she saw and was told at a hospital on the night of an accident and on the following day.

The proposed amendment does not significantly alter the law as it currently stands and contrary to the SGIC recommendation it recognises the result in the case of *Coffey v. Jaensch*. However, by defining by statute the operation of nervous shock in cases involving motor vehicle accidents, the Government seeks to prevent any further expansion of this head of damage.

The new section 35a (1) *(e)* provides for the discount rate used by courts to be set by legislation. The 'discount rate' is used by the courts in calculating the present value of

future economic loss. Where moneys for pure economic loss would increase with inflation the appropriate rate to be used in such calculations is the anticipated difference between the rate of inflation and the nominal rate of interest that could be earned on investment.

Several years ago the High Court effectively fixed this rate at 3 per cent and this is the rate used at present in common law settlements in South Australia. However, interest rates are currently higher than has historically been the case and a real rate of 5 per cent or 6 per cent would be more appropriate at the present time since 3 per cent ignores the returns which can currently be achieved by prudent investment. Queensland and New South Wales have, already, legislated to set the discount rate at 5 per cent and other States are also moving to increase their discount rates. The effect of any increase in the discount rate is to reduce payouts.

Paragraph *(f)* of the new section 35a (1) provides for the abolition of manager's fees. Since 1984, manager's fees have been awarded by the courts where an accident victim, by reason of age or because of injuries, is unable to manage his financial affairs. The victim is now entitled to a sum of money for management of the award received. However, the Government does not consider such fees to be warranted as a professional manager should be able to earn higher investment returns than the average person and any fees payable to the manager should be covered by these higher returns.

The Bill further provides for a limit to be placed on payments for gratuitous services. The purpose of this award of damage is to compensate a victim for gratuitous services rendered by a spouse, parent or other person. Services covered can include caring for an accident victim, travelling to visit an accident victim and transporting an accident victim to medical facilities. It could be argued that the performance of such functions on a voluntary basis is part of a family relationship or friendship. However, in performing such tasks a relative or spouse may incur costs or suffer financially. The courts have seen fit in recent years to compensate for such costs or losses. Such payments, however, are not made to the person who incurred the costs or suffered the loss but to the accident victim. There is no obligation on the accident victim to pass the damages on to the person concerned.

The SGIC report recommended the abolition of payments in relation to:

(a) expenses incurred by relatives and others in visiting the plaintiff; and

(b) the value of services gratuitously rendered by relatives and others.

The proposed amendment does not go as far as suggested by SGIC. The Bill retains the head of damage of gratuitous services but limits the amounts which can be awarded under the head of damage and restricts the range of people whose services will be taken into account when making such an award. The SGIC recommendation has not been adopted as it is considered that if payments for gratuitous services are not recognised, victims may replace these payments with claims for professional nursing or institutional care resulting in even higher payouts by the fund.

Some consideration was also given to allowing the provider of the service a direct claim against the insurer. However, the Government did not consider this to be desirable as the provider of the service may cease to provide such services and so force the victim to seek professional help, even though no allowance may have been made in the award of damages for such assistance. The Bill currently before us, also modifies aspects of the law of contributory negligence as it affects motor accidents.

Under the present law, a court can reduce the damages payable to a victim if it is established that the failure to wear a seat belt had contributed to the injuries sustained, that is, there is a causal connection between the failure to wear the seat belt and the injury. However, under the proposed section 35a (1) *(i)* there would be an automatic minimum 15 per cent reduction in damages to persons who did not wear seat belts. This would mean that a person who did not wear a seat belt would receive 85 per cent of what they would otherwise have been paid. This provision does not apply to minors or to persons who are not required to wear seat belts by virtue of the Road Traffic Act 1961.

In addition, the Bill makes it easier for SGIC to prove contributory negligence against passengers who are injured in accidents where the driver of the vehicle has an impaired driving capacity because of alcohol or drugs. In cases where a passenger (not being a minor) voluntarily enters the vehicle he or she will be presumed to be negligent in failing to take sufficient care for his or her own safety.

Finally, the Bill also provides for limits on the payment of prejudgment interest. The amendment provides for prejudgment interest to be limited to pre-trial economic loss, that is, special damages actually paid by the victim and wages foregone by the victim to the time of judgment. Interest will no longer be payable on non-economic loss, (for example, pain and suffering, etc.) as these matters are assessed at the current day values and so have built into them some allowance for inflationary increases since the commencement of the proceedings. The amendment is slightly wider than the SGIC recommendation as it allows for prejudgment interest to be paid on all pre-trial economic loss, as well as on special damages. I commend this Bill to members.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure. Clause 3 inserts a new section 35a in the principal Act. The proposed section effects various alterations to the law as it applies to the rights of recovery of persons who suffer personal injury out of the use of motor vehicles. In particular, it is proposed that the right of recovery for non-economic loss be restricted, that awards for mental or nervous shock be limited to being made in favour of an injured party, a person at the scene of the accident or a parent, spouse or child of a person killed, injured or endangered in an accident, that the first week of loss of earning capacity not be compensable, that a prescribed rate of discount be applied in assessing the actuarial multiples for future economic loss, that rights of recovery for gratuitous services be restricted, that contributory negligence shall arise if the person was not wearing a seat belt when required to do so or was voluntarily travelling with an intoxicated driver, and that interest not be awarded on damages compensating, for non-economic loss or prospective loss. In relation to damages for gratuitous services rendered or to be rendered to the injured person by a parent, spouse or child, the right of recovery shall be limited so that awards for lost income shall not exceed four times State average weekly earnings. An exception is to be made if the services are being rendered in lieu of having to arrange the provision of the services by a third party. Where the court finds that the injured person was a voluntary passenger in a car being driven by an intoxicated driver and so was guilty of contributory negligence, the defence of *volenti non fit injuria* will not be available. In addition, provision is made for the situation where the damages are to be assessed by a court of another State or Territory. This should ensure that all actions for

damages in respect of injuries arising from motor vehicle accidents occurring in this State are assessed according to the one set principles.

Clause 4 provides that the amendments to be made to the principal Act by this Bill are not to affect a cause of action that arises before the commencement of the measure.

Mr INGERSON (Bragg): The Opposition supports the second reading of the Bill and in so doing would like to put on the record some areas about which we are concerned. The whole area of third party insurance came under scrutiny some 18 months ago, when a report from Mr Daniel, under the guidance of Mr Justice Sangster (the retiring judge of the Supreme Court), looked at the problems of third party insurance. Their investigations were widely based and their recommendations had significant political ramifications. It became apparent as early as December 1984 that the CTP fund was pointing to a further loss. For the year ending June 1985 this loss was $14.87 million which when added to the accumulated loss, gave a deficit of $30.41 million. Concern was expressed over the ever escalating claims payments and the consequent increase in premiums to offset them putting in question the issue of community affordability and the necessity for insurance policies to cover risks for unlimited amounts. This question of affordability is world wide.

On a recent trip I made to the United States, in discussions in Texas and Arkansas the same problem of insurance affordability was evident. Interestingly enough, they were attacking the same problem in the same way, recognising that the continual increased payment for non-economic loss or pain and suffering needed to be attacked. Some States have almost eliminated it and other States have done basically what we have attempted to do with the legislation here.

It became obvious during the investigations that certain restraints had to be built in with tort or no fault, to make it affordable but also available to all. What this amounts to is an acceptance by the community of the need to temper demands and link this acceptance to the cost of the benefit, something the courts have yet to come to grips with in Australia.

There are four major factors contributing to the determination in the CTP fund. The first relates to inadequacy of premiums. For a number of years premium determinations have not recognised inflationary trends from wages and the cost of medical, hospital and other allied expenses, nor the changes taking place in the common law. In fact, premium increases since 1978 have nearly always been on a percentage basis and not on an actual basis. That is an area not covered by this legislation, but an area which this Government and future Governments will have to come to grips with.

The second area relates to changes in the common law and court decisions. A number of new issues relating to practise and new heads of damage have emerged as a result of decisions of the courts which constitute a significant burden to the fund, and therefore the motorist. These include a change in the discount rate for future payments, the widening of the definition of a vehicle and the use thereof, and the introduction of an award for managing the funds of an injured motorist. Many other changes need to be looked at. This Bill in particular looks at those changes in great detail.

The third area is the attitude of the public. The public, through the efforts of consumer organisations, the unions, and the medical and legal professions, are far better informed of their rights and are exercising them more frequently.

The fourth area is that of Government intrusion. Premium increases sought have been influenced by Government. At other times increases granted by the Third Party Premiums Committee have been changed because of political expediency. South Australia is not unique in this regard. All Governments of various persuasions have intervened from time to time, all with the same results—a significant contribution to today's massive deficits. On that point I would like to further expand and say that the day of reckoning has come.

We can no longer make political decisions in this type of area purely and simply for political expediency. I believe the day has come when all motorists who are insured will have to bear a reasonable cost as it relates to their insurance. The recommendations of the report were designed, first, to reduce costs; secondly, to reduce delay and improve the procedural side; and, thirdly, to reduce the road toll.

The report sets out a wide range of changes, the most significant being to limit the damages of common law payment for non-economic loss to $60 000 compared with the unlimited level at present. The total savings, if all recommendations were accepted, would have been $62 million, but the recommendations under this Bill would total an amount of about $58 million or $59 million. The recommendations signal a move to recognise affordability and the need to put some ceiling on common law costs. I suggest that these recommendations have been made believing that they are politically achievable now with further amendments being made in the few years. My difficulty is that the SGIC paper recommendations are only what I consider to be a halfway house to a no-fault motor vehicle accident package.

The other difficulty is the inconsistency in the treatment of common law rights when considering workers compensation and third party insurance. In the Minister's second reading explanation, he clearly points out that this package is only a part package and that other areas will need to be considered. Because the whole package was looked at as one as far as the report was concerned, I hope that there is no further delay in introducing some of the other changes that were recommended in the report, as I believe that it is probably one of the best reports that have been made in this area anywhere in the world for a long time.

Whilst some of the recommendations are obviously very political, they need to be considered if we will keep the cost of third party insurance within the reach of everybody in the community. In his second reading explanation, the Minister clearly said that there was a need to have a look at a no-fault scheme, and he has suggested that a study will be carried out on this. I hope that we will have that study very soon, because there is no question that this whole area of non-economic loss needs to be attacked. As I said earlier, it is being attacked all around the world.

Unfortunately, with all legislation of this type, the recommendations that are made will take some time to flow through. The premium increase hopefully will not be very significant in the next two to three years, but the reduction in pay-out, as it relates to non-economic loss, will not be seen as a benefit to the fund in the strict economic sense for some two to three years. That is a pity, but I do not support in any way the introduction of retrospectivity. As a consequence, I need to recognise along with this side of the House that these changes will take some time to occur.

As it relates to the recommendation of the report and now this Bill to limit the non-economic loss to $60 000, whilst I support this change, some concern has recently been expressed in this area by people in the legal profession and by people who have been incapacitated in the motor

accident area. It really applies to the younger injured, the minor or the person under 18 years, where there is some concern that the amount of $60 000 may not be enough for a very seriously injured person. I recognise that in the other place an amendment was introduced in this area, but it is still an area of concern on which I would like the Government to keep a close watch and to monitor in relation not only to court decisions but also to the individuals who may be affected.

We note with interest and support the fact that the $60 000 is to be indexed, and that this change to a $60 000 limit for non-economic loss will save the fund some $43 million per year. As I said earlier, these packages really are a move to try to make the third party scheme more affordable as far as the community is concerned, because we can no longer continue to have open ended schemes which compulsorily require the motorist to pay into a fund and under which, at the end, when we have a deficit, we tell the public that the Government will in some way pick up the tab.

The other area that we support is that of a change in the small claims provisions. We recognise that any claim under seven days, when it accumulates, is a very expensive claim, and we support the Government's move. We also support the change to the discount rate. There is no doubt that in economic terms the decision of the High Court some seven or eight years ago for 3 per cent is now totally outdated in our economic conditions and that a move to 5 per cent is realistic. I hope that the Minister and the Government will recognise that we should not let this sort of area sit stable for a long time, because the discount rate should really be adjusted to the economic conditions each year. I hope that the Government notes that and not leave the fund in these higher interest rate times at an unrealistic discount rate.

Concerning the abolition of managers' fees, we support the argument put forward by the Government, because there is no question that in today's environment professional managers can do significantly better for injured people if given the right to manage their funds. We support that very strongly. I also support the recommendation that has been made concerning contributory negligence because, not only in putting forward the Opposition's submission as it relates to third party insurance but also as shadow Minister of Transport, I support very strongly the community need to wear seat belts. Any person who breaks the law and is involved in an accident must be clearly told that there will be a reduction in the benefit payable if a seat belt is not worn. That is an excellent recommendation by the Government, and I support it very strongly.

However, one problem area that we heralded when we discussed the new seat belt legislation relating to minors was the problem of a driver often having difficulty in convincing young companions of the need to wear seat belts. The responsibility is now placed on the driver to make sure that all people under 16 have seat belts fastened. This will be a difficult area in judgment when it comes to third party insurance. We made that comment before, and I make it again.

The other area of concern relating to contributory negligence is that of drugs. Whilst it is easy to say that an individual ought to be aware of a person who is drunk or under the influence of alcohol, people take many drugs—and I say this professionally as a pharmacist—which would affect their driving ability but which the average person would not know they had taken. It would be difficult for a passenger to know that a driver had been affected by some of the more recent anti-allergy drugs, hypertensive drugs and Valium-type drugs.

This area of contributory negligence is very difficult to work out. While we support the Bill and recognise the need for a contributory negligence factor, there may be difficulties when people go to court. We support the limits on interest payments prior to judgment and the removal of interest payments as they relate to non-economic loss.

A number of areas have been left out of the legislation on which I would like to comment. The first is damages for death. This is a purely statutory remedy, provided for by Part II of the Wrongs Act. I believe that in this day and age of universal social service and almost universal insurance and superannuation often paid out of general revenue or by the public through its other pocket—insurance premiums—it is no longer appropriate to allow so much 'double dipping' in death claims.

A widow or widower currently has his or her damages assessed without taking into account moneys recovered through insurance, gratuities, superannuation and social service pensions. I believe that it is time to stop third party insurance beneficiaries receiving those payments twice.

The same comment applies to injured persons holding an invalid pension. In assessing their damages, the court is not allowed to take into account the fact that a person is receiving an invalid pension for the very same injuries for which the court is attempting to compensate him. In effect, the community pays him twice.

Regarding the other area of solatium, the Wrongs Act provides for a payment of $3 000 and $4 200 to the parents or surviving spouse (respectively) of a person wrongfully killed. Solatium is a payment for suffering caused to those survivors. Quite frankly, I doubt whether there is any longer any place for such a payment.

Loss of consortium is a head of damages, payable to a spouse to make up for the loss of society and comfort of one's husband or wife. Again, I believe that there is no longer any place in the community for such payments.

Regarding hospital expenses, it is realised that through the third party insurance premium the public of South Australia is paying up to three times the normal cost of hospital treament? Perhaps this form of taxation is regarded by some as politically expedient. It has always seemed anomalous to me that that should be the case.

There is yet another glaring legislative omission, and it relates to the drain on the third party fund by employers' liability insurers. It comes about through the principle of double insurance. Basically, this principle is that, if a person can indemnify against two insurers but claims against one of them only, that insurer can recover one half of its loss from the other insurer (equality is equity). A problem arises in the following circumstances. A worker driving his employer's car on his way home from work through his own fault injures himself. His employer is obliged to pay him compensation in accordance with the provisions of the workers compensation legislation. The employer has an employers' liability policy which covers him against that employee's claim, but as owner of the motor vehicle he is also entitled to indemnity from the third party insurer because his liability to his employee arose out of the use of a vehicle.

This state of affairs came about when Parliament in its wisdom amended the third party legislation to make the third party insurer liable to pay not just for negligence in the use of a vehicle but for any injury caused by the use of a vehicle, for example, where the vehicle was being used intentionally as a weapon. I am sure that Parliament when making this change did not mean to make those who contribute to the third party fund liable to pay workers com-

pensation. The Government, I hope, will pass retrospective legislation to redress this uninvited consequence.

I would like to make one final comment in relation to the use of Latin terms in our legislation. Even though I am a pharmacist and I studied Latin some 25 years ago, it is quite ridiculous that in today's environment where we are attempting to make legislation more readable we still continue to use terms which I believe most of us in this Parliament do not understand. I hope that the Minister will take that on board and, even though at this stage we cannot remove those Latin terms, in future we could ensure that we use common English language so that all members of Parliament and, more importantly, everyone in the community, can understand it.

Mr S.G. EVANS (Davenport): I suppose that people have to expect this from me: I received a copy of the Bill at 3.15 p.m. and a copy of the second reading explanation at 3.17 p.m. It is now 3.36 p.m. and the member for Bragg, the shadow Minister in this area of responsibility, has made a speech on the subject. I take it that he must have had a copy of the second reading explanation. If he did not, I congratulate him on his research in his area of responsibility and on being prepared to debate this matter. If the honourable member received a copy of the Bill only at 3.15 p.m., he must have known the contents of each clause in order to prepare his speech, because he went through the provisions.

This Bill is a hand-me-down from the other place, but I make the point again that, in terms of managing the Parliament (and this is no reflection on you, Mr Deputy Speaker, or on the Speaker—I am talking about the Government's management of the House), this is a disgrace. Quite frankly, it is possible that the Legislative Council could amend Bills before we get them and, until the matter is concluded there, we do not know what we will get: we can only assume. If the Government cannot manage this place better than it is doing, it would not be able to manage a double barrel country toilet if one was out of commission.

Mr Lewis interjecting:

Mr S.G. EVANS: The honourable member can drop in if he likes, but that is the type. I have some concerns. From what I have heard and read about the Bill, I believe that this action is required. I want to go back in history a little. The State Government Insurance Commission was formed because the private insurance companies were ripping off the community. Their premiums were too high and they were ripping off the poor public. They were not allowed to increase their premiums. All sorts of pressures were brought to bear on them. The Government of the day said, 'There is only one way. We will form a State Government Insurance Commission. They will do it cheaper and better and ensure that things work more efficiently.' I am not having a shot at the commission: what the commission and those of ALP philosophy have learnt is that the courts make the decisions on compensation.

Smart alec lawyers go in and argue, I believe at times unjustifiably, for high payments. I am not sure whether they get a percentage from those claims, but at times I believe that the American system is with us, whereby a percentage of the overall claim is taken instead of the normal fee for representing someone in the courts. I believe that some of the lawyers must be in that category. However, I do not place them all in that category, as I believe that most of them have respectable operations.

We now know that a State Government insurance office does not guarantee low premiums or a better operation. Back in the 1970s when we said that we were told that it would be a lot better. It ended up with the lot, but it now comes back to the House and asks us to change the law because the premiums and payouts are too high and it cannot get the premiums back to an acceptable level—exactly the same arguments that private insurance companies used before SGIC began.

I believe that we should change SGIC's name and leave out 'Government': it should just be the South Australian Insurance Commission, otherwise it reflects on the people working there. They do not like to be considered public servants, and it is a different operation. If what I am saying is a reflection on public servants, it is not meant to be. However, the SGIC is seen as a Government office, operated by the Government, when in fact it is not; it is a statutory authority. There is merit in changing its name.

I now cite an example of double standards. One of the reasons why the Bill is before us is the large number of accidents that occur where people are affected by alcohol or other drugs, and the massive compensation payouts those accidents incur. On the very day that this legislation was mooted in the press, the same edition indicated that the SGIC, through its investment section, had bought shares in a brewing company. On the one hand it is saying that the premiums are too high because of the huge claims (in many cases caused by alcohol) and, on the other hand, it buys shares in a brewing company with the idea that people will drink more alcohol, and we all know that some of those people will drive motor cars. That is certainly an example of double standards. If we checked this with SGIC we would be told that the premiums and investment sections have no bearing on each another, but in the community's mind that is not so.

This Bill will solve many problems. I was involved in an accident on Shepherds Hill Road two years ago with a young man who drove a motor car. Luckily we came out of it not too badly, and I will not argue who was right or wrong. This young man asked me whether I was injured. I said that I had a bad shoulder but would not go to the doctor because nature cures most of those types of injuries, and I did not claim anything.

This young man took the battery out of his car (which was quite heavy), the tool box, the spare wheel and the cassette player, and because one tyre was a little worn changed one of the wheels. A person pulled up and handed him a card—a lawyer—and suggested that he make contact. This occurred while I was there. I asked the lad whether he was all right, and he said, 'I'm all right, Mr Evans,' because he knew me. We then left the scene. Two days later I saw him walking down the street with a brace on his neck. I asked him what had happened and he said that his neck was injured in the accident. I asked whether the lawyer—

Mr Groom interjecting:

Mr S.G. EVANS: You can say that it is outrageous, but this occurred. That young man went to the lawyer and lodged a claim. He then abused me in the local hotel because in my report to the insurance company I stated that he had taken the battery, spare wheel, cassette and tool box out of the car—and this was the truth. I blame not the young man, but the legal professional who encouraged it. I spoke to another lawyer and was informed that if the claim is under $15 000 it is paid out without argument. With that sort of system it is no wonder it is abused and has the resultant high premiums.

Members might be interested in reading the debate that took place in Canberra today concerning compensation, although not motor vehicle compensation. It is worth reading those speeches to see the abuse that occurs in this country. In this system we have lawyers and doctors—not

many I hope—who are prepared to give certificates for certain types of injuries or habits that are hard to prove. They know that SGIC will pay out those minor injury claims and it is a lucrative way of making a few bob—wear a brace on your neck for a few weeks and argue that you will have some long-term disability.

As a result of a question I asked in this House about stress I received letters from doctors who pointed out that clients with a doubtful injury do not come to see their family doctor with their medical history. They go to a doctor who is recommended by others and is more likely to issue a certificate of illness. These types of doctors are doing harm to the medical profession and are encouraging people to abuse the system, as are those few lawyers who practise in this area.

The Bill limits the amount of money that can be claimed to $60 000 for damages involving non-economic loss. I do not object to that, but I believe we need to tighten up other matters in this country, and particularly in this State. How we do that I am not sure, but if we do not slow down the escalating premiums they will continue to rise to an unacceptable level. The courts are partly to blame because they go overboard in awarding damages. Whether or not we go to a system of paying people a weekly income on which they can live but which is not high enough to encourage them to stay away from work (indeed, which encourages them to get back to the normal workplace), I do not know. To some that would be unkind—those on high incomes who are genuinely injured and suddenly find they will lose a lot. Our difficulty is to establish who is genuinely injured and who is a malingerer. Another problem is to find out the genuine doctors and lawyers and those who encourage malingerers.

Mr Oswald interjecting:

Mr S.G. EVANS: I take the member for Morphett's point: we should be fair to the genuine and at the same time stop the racketeers. I opposed the wearing of seat belts when that legislation was before us. I argued that, when the day came that we banned drinking and driving, there would be some merit in stipulating the wearing of seat belts.

We forced people to wear seat belts to cut down injury to human beings which was costing society money in rehabilitation. Death is not so costly: it is a quick cheap solution, except for the emotional loss of love, fellowship and friendship within or outside the family. However, some victims can never be rehabilitated: they spend the rest of their lives in a wheelchair or as vegetables. That was why we brought in the seat belt law. We did not have the intestinal fortitude to attack one of the worst areas (and it still is the worst area, and the most costly as regards motor vehicle accidents), namely, drink driving. We do not tackle it as we should.

Every drink affects to some degree the reflex action of an individual. I drink only moderately, and I believe that we should adopt the approach that says, 'If you drink, don't drive.' If we make the wearing of seat belts compulsory, one depends to some degree on the other. I suppose one could argue that, if the driver is sloshed and has an accident, he has less chance of being injured because he will not react to save himself as he is limp and therefore less likely to be seriously injured.

The State Government Insurance Commission has told the Minister that, by making the limit $60 000 for non-economic loss, the fund will be saved about $43 million a year. We have been told that, in 1985-86, the fund lost about $89 million. That is a lot of money, so in a desperate move the SGIC has made this approach to the Government, which has responded to some, not all, of its requests. I understand that it would be difficult to implement all the recommendations of the SGIC, because we are travelling down new paths, and no-one knows how the courts will interpret those new paths. Therefore, it may be wise to proceed in stages.

The no-fault provision is one of these dangerous paths, because we need to be sure that we have greater control over those in society who will try to exploit the system. I give the Government credit for investigating that area and for proceeding cautiously. We need a cautious approach in this area because our society comprises individuals who are increasingly dependent on others (for instance, the Government and local government) to get by in the world. There is less incentive for individuals to do things for themselves.

If a victim needs rehabilitation, he or she may go to a special gymnasium, whereas often commonsense would rehabilitate that person just as quickly. If ever the no-fault provision comes, I hope that the Government will be cautious in its implementation because of the cost that it is likely to impose on the genuine person in our society in order to provide for those who try to exploit the system.

The provision regarding a claim for nervous shock has amazed me, and I should be happy to vote it out altogether. I do not believe there is any need to claim for nervous shock. There is no more nervous shock in finding a loved one smashed up in a motor car than there is in finding a loved one hanging by a rope after committing suicide or slumped in a motor car because the loved one took his life by putting exhaust fumes into the car. Further, a person may find someone in a paddock who has been skittled by a bull and smashed up. I wonder whether there is not a greater emotional loss or shock in those circumstances.

When society looks to compensate in that area, we move on to dangerous ground. I realise that, as a result of the case of *Coffey v. Jaensch,* on which this is based, we are facing a problem, and the Government has decided not to eliminate that area of claim. At some future time, I believe that I will have the chance to vote against that provision, that eventually the House will again have this legislation before it and that the provision will be abolished. Once a precedent is set for a claim for nervous shock in one law, it must be incorporated in other laws. Only in recent times has this provision been tested to the degree that it has been tested in common law, and it will be tested more and more. I accept that perhaps the possibility has always been there, and it is only that modern lawyers have tested it in another area in which a claim can be made. However, I believe that one day we will have to remove it from the statutes. I will finish on this note so that it will be recorded.

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

The Hon. G.J. CRAFTER (Minister of Education): I thank those members who have contributed to this debate for their indication of support for the Bill, which is important and which should be expedited this session. As the member for Bragg indicated, the Bill is the result of an inquiry and represents the implementation of some of the recommendations that have been made as a result of that inquiry. As indicated in the second reading explanation, it is likely that certain recommendations of the SGIC report that have not been picked up by the present package of amendments will be implemented later, once their full effects have been properly assessed. It is expected that those matters will be dealt with early in 1987, when the Government will be able to set out each recommendation and advise on its acceptance or rejection.

A major element of this measure is the limiting to $60 000 of damages available under the heading of non-economic

loss. Obviously, concern has been expressed in the community about that provision. This head of damage is by far the most significant, accounting as it does for 44 per cent of the total claims paid out by the SGIC in 1984-85. The SGIC has estimated that $43 million could have been saved during 1985-86 had a limit of $60 000 been in effect. Obviously, it would be preferable if no limit was required, but with the present state of the compulsory third party insurance fund hard decisions need to be made.

By definition, money cannot make good a non-economic loss; therefore, it is impossible to quantify such a loss. Nevertheless, payments have been made to provide solace for the victim. Although admitting that the figure of $60 million is arbitrary, the Government considers that it treads an acceptable path between compassion and economy.

I shall not go through all the elements, as they have been covered in the second reading debate. Obviously, this matter will require further attention by the House, and there will be a more comprehensive development of the law in this area. This matter has been the subject of considerable discussion and amendment in another place, and the Bill now comes before this House in a form that is acceptable to the Government. I therefore ask all members to support it.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Motor accidents.'

Mr INGERSON: Paragraph *(j)* refers to 'the injured person (not being a minor)'. In previous legislation relating to the wearing of seat belts the age limit set for a minor was 16 years, but my understanding is that in law the definition of 'minor' relates to people under 18 years. Can the Minister clarify whether in this instance the definition of a minor relates to those under 16 years or under 18 years?

The Hon. G.J. CRAFTER: It is accepted that there is some variance in the law at the moment, and it is our intention to remedy that to bring about that consistency in due course. The provision that a juvenile not wearing a seat belt would have the award of damages automatically reduced by 15 per cent for contributory negligence was raised in the context of the amendments to the Road Traffic Act. The Attorney-General in another place further considered this matter and, with respect to paragraphs *(i)* and *(j)*, dealing with contributory negligence, that the award of damages should not be reduced in the case of a child under the age of 18 years. The Attorney considered that a presumption of negligence should not act against a minor as it would be inconsistent with the special protection given by the law to minors in respect of negligence actions and awards of damages generally: for example, the limitations of actions, requirements and provisions relating to administration of awards of damages to minors.

Clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

Received from the Legislative Council and read first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Motor Vehicles Act 1959 in relation to aspects of the third party bodily injury insurance scheme. This Bill is linked to the Wrongs Act Amendment Bill and together the two Bills form a package aimed at reducing pressure on third party insurance premiums.

The amendments arose as a result of recommendations made by the State Government Insurance Commission in its inquiry into the Compulsory Third Party Bodily Injury Insurance Fund. The amendments will not affect a cause of action which arises before the commencement of this Act.

The Bill provides for an amendment to section 99 of the present Act in relation to the meaning of the words 'arising out of the use of a motor vehicle'. The courts have taken a very expansive interpretation of this clause, and in doing so have ruled that the compulsory third party insurance fund would cover injuries sustained by a person while loading or unloading a vehicle, when slipping from the top of an oil tanker or when jumping from the tray of a truck. Some of the cases clearly fall outside what was originally intended by the legislation. Accordingly, the amendment will provide that an injury will not be regarded as being caused by or arising out of the use of a motor vehicle if it is not a consequence of the driving of the vehicle, the parking of the vehicle, or of the vehicle running out of control.

The Bill also makes it easier for SGIC to seek recovery of insurance moneys paid in cases involving the illegal use of a motor vehicle. Under the present legislation for recovery to be made, it is necessary for the illegal user of the motor vehicle to be convicted of the offence of illegal use. Under the proposed amendment, it will no longer be necessary to prove a conviction and it will be sufficient to show on the balance of probabilities that the driver was an illegal user of the motor vehicle.

The insurer's right to recovery will also be extended in relation to breaches of the policy of insurance involving drink driving. Under the new section 124a, the insurer will be able to seek full recovery from a driver who was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over the vehicle or from a driver who was driving a motor vehicle with a concentration of .15 grams or more of alcohol in a hundred millilitres of blood. In respect to the insurer's right of recovery for other breaches of the insurance policy and for breaches of section 124 or 126 (that is failure to notify a claim, or failure to observe the requirement not to negotiate a claim without the consent of the insurer), the insurer will need to show that it has been prejudiced by the breach and any recovery will be limited to such amount as the court thinks just and reasonable.

The new section 124ab provides for an excess of up to $200 to be paid by a driver where he or she is more than 25 per cent liable for an accident. The introduction of an excess will mean that persons who cause accidents are required to meet a small part of the payments made on their behalf by the Compulsory Third Party Insurance Fund.

The Bill also provides for the introduction of a compulsory exchange of medical reports. In addition, a claimant is required to advise the insurer of any visits to medical practitioners relating to the injury sustained in the accident. Failure to notify of consultations or to provide copies of reports may affect the damages received by the victim and can result in an award of costs against him or her.

Finally, the Bill provides for an amendment to the fourth schedule of the Act so that it will be a breach of the policy

of insurance for a person to drive a vehicle or to allow another to drive his or her vehicle while there is present in his or her blood a concentration of .15 grams or more of alcohol in a hundred millilitres of blood. The provision for recovery in cases where a driver has a blood alcohol reading greater than .15 per cent has been recommended by a number of Supreme Court judges because of the present difficulties in proving a breach of policy on the grounds that a person was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over the vehicle.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 inserts an additional subsection in section 99 of the principal Act so as to provide that death or bodily injury is not to be regarded as being caused by or arising out of the use of a motor vehicle if it is not a consequence of the driving of a vehicle, the parking of a vehicle or the vehicle running out of control.

Clause 4 revises section 123 of the principal Act in relation to the right of recovery of the insurer against an unauthorised driver of a vehicle.

Clause 5 proposes two new sections relating to the rights of recovery of the insurer. Proposed new section 124a will allow the insurer to recover money paid or costs incurred when the driver drove under the influence of alcohol or a drug or with a blood alcohol concentration of at least .15 grams per hundred millilitres of blood. The Act presently limits the right of recovery in such cases to situations where the driver is, by being intoxicated, in breach of the policy of insurance and the insurer can show that it has been consequentially prejudiced. Proposed new section 124ab will allow the insurer to recover the sum of $200 from the driver if it can show that the accident was to the extent of more than 25 per cent the fault of the driver.

Clause 6 substitutes a new section 127 relating to the medical examination of claimants and the provision of information and reports when the claimant consults a medical practitioner in relation to his or her injury. It is proposed that details of all consultations be provided to the insurer and that medical reports be forwarded to the insurer after receipt by a claimant.

Clause 7 amends the fourth schedule of the principal Act to include as a term of the policy of insurance provided by Part IV of the Act a provision that the insured vehicle will not be driven by the insured person or, with his knowledge and consent, another person, while there is present in his or her blood a concentration of .15 grams or more of alcohol per 100 millilitres of blood.

Clause 8 provides that the amendments to be made to the principal Act by this Bill are not to affect a cause of action, right or liability that arises before the commencement of the measure.

Mr INGERSON (Bragg): The Opposition supports the second reading. The Bill does a number of things: it limits the scope of any insurance cover to an injury arising out of the use of a motor vehicle, in consequence of the driving or parking of the vehicle or the vehicle running out of control and, by so limiting it, it excludes injuries sustained while loading or unloading a vehicle, when slipping from the top of an oil tanker or from jumping from the tray of a truck onto the ground.

The Bill also makes it easier for the SGIC to seek recovery of insurance money paid in cases involving the illegal use of a motor vehicle, so that no longer must there first be a conviction for illegal use of the motor vehicle before recovery can occur. It will be necessary only to take a civil action and on the balance of probabilities that the vehicle was being used illegally.

The Bill also gives the SGIC an opportunity to recover damages and costs paid out where the driver was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over a motor vehicle or—and this is important—where the driver has a concentration of .15 grams or more of alcohol in 100 millilitres of blood. The Bill provides that where a driver is more than 25 per cent liable for an accident an excess of up to $200 is required on payments made by the SGIC on behalf of the driver.

There is also a requirement for compulsory exchange of medical reports and for the plaintiff to advise the insurer of any visits to medical practitioners relating to the injuries sustained in the accident. The Bill provides for a breach of the policy of insurance where a person drives a vehicle or allows another to drive while there is more than .15 grams of alcohol in 100 millilitres of blood. That all facilitates recovery by SGIC, and we support that action.

It has been pointed out to me that there is a glaring inconsistency between the definition of 'motor accident' in the Wrongs Act Amendment Bill and the amendment proposed by this Bill to the Motor Vehicles Act. The suggestion is that this could result in financial harm to many people. The example is put where there is a cartage contractor who owns a truck and in the course of unloading that truck, through the negligence of the contractor, someone is injured when, say, a load falls from that truck. The driver is liable to the plaintiff (that is, the person who is injured), but the driver is no longer able to recover indemnity from SGIC because, although the plaintiff's injury was caused by or arose out of the use of the truck by the driver, it was not a consequence of the driving or parking of it or of the vehicle running out of control. So, in those circumstances, there seems to be on the one hand a reduction in the indemnity given by SGIC but, on the other hand, a continuing liability for the person who previously was insured. I think that that inconsistency between the two provisions ought to be examined.

The point was also made to me in that same context that, if these Bills are passed, damages to, say, employees are reduced in addition, if there is a person who is the employer of the plaintiff in the illustration which I have given, then the employer could claim indemnity from the employer's liability, but the employee's damages would be less than if he or she received the same injury as the employer whilst the employer was pushing a hand truck around the depot carelessly and caused the injury.

I think that is an issue which ought to be addressed. I have no difficulties with the question of the intoxicated driver—both the excess and the greater ease with which SGIC can recover. With respect to clause 6, which deals with a new section 127, requiring compulsory exchange of medical reports, again we support, that provision. I have been a long time advocate of exchange or medical reports at the earliest opportunity in order to encourage settlement of actions for damages.

I would suggest that there is one difficulty with new section 127 (2) *(b)*, which says that a claimant shall, within 21 days of consulting a medical practitioner in relation to the injury to which the claim relates, or such longer period as may be reasonable, inform the insurer by notice in writing of the name of that medical practitioner and the day on which the consultation occurred. I suggest massive paperwork will be involved and increased bureauracy. It may have been that there is a great deal of non-compliance with this clause because of inadvertence, and that it really ought to be rethought rather than pushing on with it.

It may be that a person injured in a motor vehicle accident needs to go to a doctor a couple of times a week for some form of treatment, all arising out of the injury sustained in the motor vehicle accident, and that doctor may be a GP rather than a specialist. One can understand when a person injured in a motor vehicle accident goes to a specialist that there may need to be some notification of attendance at that specialist's rooms for an examination or treatment. But it seems to me to be ludicrous to provide that, whenever a victim goes to a general practitioner for something which might be related to the injury sustained in the motor vehicle accident, the person injured has to then give written notification to SGIC of the name of that medical practitioner and the day on which the consultation occurred.

There is not even a provision in this proposed paragraph for the requirement to be waived. I would suggest that a provision for some regular identification to SGIC on a half-yearly basis be implemented. One of the consequences of this is that SGIC may end up paying more rather than less because of the additional paperwork involved.

There is one other matter which I think needs attention and which I do not think anyone has really addressed effectively, and that is that under Medicare there is no reimbursement of medical expenses on hospital expenses incurred as a result of a motor vehicle accident which is the subject of a claim that is thrown back onto the compulsory third party bodily injury insurance cover but, as a result of that and because liability is not acknowledged at an early date in many instances the insurer is paying up to three times the normal cost of hospital treatment. We made that comment regarding another piece of legislation that we have just discussed.

It seems to me that that issue needs to be addressed. If there is a motor vehicle accident, the person who is injured having paid a Medicare levy, ought to be entitled to receive treatment as any other citizen receives treatment, regardless of how that injury occurred and the need for treatment arose. I think that that would go a long way towards reducing some of the costs and placing some greater balance in the system in respect of the charging of hospital and medical treatment.

The other area which has been drawn to my attention is the overlap between compulsory third party insurance and workers compensation. It has been put to me that the circumstances are such that, where a worker drives his or her employer's car on his or her way home from work and through his or her own fault injures himself or herself, then the employer is obliged under workers compensation to pay compensation. Similar comment was relevant to the other Bill.

Mr S.G. EVANS (Davenport): I make the point again that this Bill has been thrust before us from the other place. One is given a copy of the second reading explanation whilst the first speaker responds to the Minister, and is given a copy of the Bill at the same time. However, I support the Bill but have doubt about one area and may have to move an amendment or attempt to move it, although I may not get anywhere. In the Minister's second reading explanation, he stated:

> Finally, the Bill provides for an amendment to the fourth schedule of the Act so that it will be a breach of the policy of insurance for a person to drive a vehicle or to allow another to drive his or her vehicle while there is present in his or her blood a concentration of .15 grams or more of alcohol in a hundred millilitres of blood. The provision for recovery in cases where a driver has a blood alcohol reading greater than .15 per cent has been recommended by a number of Supreme Court judges because of the present difficulties in proving a breach of policy on the grounds that a person was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over the vehicle.

When we talk about .15 grams, we are talking about .15 per cent. The judges have a view, but Parliament also has a view. Parliament makes the law .08 and one can drive a vehicle up to that amount before breaking the law. At that point Parliament believes that a person is not capable of effectively controlling a vehicle and is a danger to themselves, their own family and other people. Why do we not make .08 the figure instead of .15 per cent? We can listen to judges or the SGIC, but it is quite clear that this Parliament has said that if a driver is over .08 he is breaking the law and is not a fit and proper person to drive a vehicle. Here we are saying that it is .15, so one can have .07 more.

An honourable member interjecting:

Mr S.G. EVANS: Yes, it is a lot more—well above that. One can have the additional amount, the difference between .08 and .15, and still drive a vehicle. One can be booked for drunken driving. If one has an accident, one can be booked for that but can still claim insurance and does not have any insurance loss up to .15. After that one loses rights to the insurance policy. That does not seem logical to me, but there may be a reason that escapes me why we have the provision of .15.

A move has been made recently by the member for Flinders to cover certain drugs in regard to driving. This may be an opportunity to put a similar provision into the Bill as the judges have expressed concern about drivers under the influence of alcohol or drugs. The Bill is before us. The Government is aware of the terminology in another Bill and is likely to accept that terminology in other legislation that will be enacted some time next year. Why do we not include it here? That proposition would be accepted by the House—nobody would raise any doubts about that.

We have methods of catching up with those using alcohol but have not set out to identify the four areas of greatest risk in the drug field. We could have done as the member for Flinders has done in relation to another Bill. Will the Minister say in reply why we do not have .08 as the cutoff point for the breach of insurance policies in lieu of .15 as in this proposal?

The Hon. G.J. CRAFTER (Minister of Education): I thank honourable members for their indication of support for this measure, which is complementary to the amendments to the Wrongs Act that we have just considered. The member for Bragg raised a number of matters, some of which may have been dealt with in the other place. I place on record some comments that my colleague the Attorney-General made in that place with respect to the matters raised by the honourable member. In the other place concern was expressed on aspects of the Bill, in particular, reference was made to an inconsistency between the definition of 'motor accident' in the Wrongs Act Amendment Bill and the amendment to section 99 of the Motor Vehicles Act. The Attorney-General agreed that there is an inconsistency in the provisions that should be resolved.

That was dealt with in the other place. A further amendment was made to the Wrongs Act to provide that, for the purposes of section 35a (1), death or bodily injury shall not be regarded as being caused by or arising out of the use of a motor vehicle if it is not a consequence of the driving of the vehicle, the parking of the vehicle or the vehicle running out of control.

There was also a concern regarding proposed section 127 (2) *(b)* of the Motor Vehicles Act to which the member for Bragg referred. This provision requires the claimant to provide written notification to the insurer within 21 days of

consulting a medical practitioner, or such longer period as may be reasonable in the circumstances, of the name of the practitioner and the date of the consultation. It was suggested in the other place that this could result in massive paper work where a claimant was frequently visiting his or her doctor. It was pointed out that the provisions do not allow for the requirement to be waived.

After consideration, the Attorney agreed that such a rigid requirement might be counterproductive and could in some circumstances result in additional costs to SGIC because of the paper work involved. Therefore, an amendment was passed to allow strict compliance with the provision to be waived at the option of SGIC.

Another matter that was raised in the other place related to non-payment by Medicare of medical and hospital expenses incurred as a result of motor accidents subject to a claim. It was indicated that in some cases the insurer is paying up to three times the normal cost of hospital treatment. In the SGIC report, the report referred to in consideration of the previous measure, it was suggested that medical expenses for claims should be paid on the basis of fixed fees. Some additional discussion has been held on this matter with the Minister of Health, and members are advised that this issue is still under active consideration. Therefore, the Attorney-General indicated in the other place that he proposed to deal with the matter raised there at the same time that the SGIC recommendation was further considered.

Finally, the question of the overlap between compulsory third party insurance and workers compensation insurance was also raised in the other place. The aspect of dual insurance together with other aspects of the interaction betweeen the compulsory third party fund and workers compensation insurance is currently being considered by officers of the Attorney-General's Department. It is anticipated that these matters will be the subject of legislative amendments early in 1987, together with amendments to the Wrongs Act.

The member for Davenport raised, among a number of comments, the matter of the blood alcohol content being established at a concentration of .15 grams or more of alcohol in 100 millilitres of blood, and why we had to strike that figure. I guess it is the popular belief that .08 is the prescribed level of alcohol in the bloodstream, but with respect to penalties the Road Traffic Act refers in a number of instances to .15 grams of alcohol in 100 millilitres of blood, and that is the established level, if you like, for penalties of a much more severe nature with respect to offences under the Road Traffic Act.

That is an established figure, and I suggest it is now well known in the community, and, with the more severe consequences of being involved in accidents from which certain insurance coverage flows, that seems to be an appropriate level to establish. It is arguable, of course, that that could be reduced, and that may well be the honourable member's view. However, in the view of those who have considered this matter and in the view of the SGIC report, this is regarded as the most appropriate level for the consequences that are provided in this measure to take place. I commend the Bill to all members.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Medical examination of claimants.'

Mr S.G. EVANS: After hearing the Minister's explanation, I understand that 0.15 is in the existing Act, that penalties become more severe, and that that limit is stated in the Act. I am sorry that I had not made myself aware of that before, and I thank the Minister, and those who helped him, for obtaining that information for me. However, it does not alter my attitude, and perhaps I need some further advice. The clause provides that, while there is present in one's blood a concentration of .15 grams or more of alcohol in 100 millilitres of blood, it involves a breach of the policy of insurance. I do not think that means that a court would rule that the person had no claim. However, if that is the case, I would like to be advised.

I believe it says that it is a breach of the policy and that it is then up to the court to decide to what degree it is a breach and to what degree the court will allow compensation. If we say that the cut-in point for the court to consider that aspect is .15, I think that is too high. I think that .08 should be the cut-in point, allowing the court a discretion. I interpret it that way: that the court would have a discretion in relation to .08. It could say, if the driver happened to have a reading of .09, that that was not sufficiently over the legal limit to warrant his being stopped from driving a motor vehicle; therefore, it would not say that it was a serious breach of the insurance contract. If it was .15, the court would see that as quite a serious breach of the contract, and if it was .18 or .2, it would be very serious. In other words, I believe that there must be a discretionary power for the court as to how much insurance will be paid. If the Bill provides that once the contract is breached there will be no compensation, my argument fails, and I accept that.

Mr LEWIS: I am a bit confused by that. The member for Davenport has said .15 grams per 100 millilitres of blood. Is that a weight/volume percentage analysis? What is the specific gravity of blood? Why is it not volume/volume analysis?

Mr Ingerson interjecting:

Mr LEWIS: Well, if it is grams, it is not volume—it is weight/volume. That is what the member for Davenport read out. I walked over to his bench and read it. If that is the explanation, then who is kidding whom? Would the Minister please explain what that statement meant? Was it a weight/volume analysis? Is it a typographical error? If it is a weight/volume analysis, why is it .15 on that basis? It is very unusual in inorganic chemistry (and organic chemistry as it relates to rural products that I know of) to use that mode of expression. To have the specific gravity of blood would be useful to me, because I have always thought that blood alcohol percentage was calculated in some other fashion. I would thank the Minister for an explanation of it.

The Hon. G.J. CRAFTER: I understand that it is not an unusual method of describing this matter. It has been used in the law for many years. I think it is used in other areas of consideration of similar matters.

Regarding the questions that the member for Davenport raised, I will try to explain the honourable member's concern by reference not to this clause but to clause 5 which amends section 124a (1). It provides:

> Where an insured person incurs a liability against which he or she is insured under this Part and the insured person has contravened or failed to comply with a term of the policy of insurance—
>
> *(a)* by driving a motor vehicle while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle;

Where it has been proven there was failure to exercise effective control, where the alcohol level is .08, the penalty may flow and the insurer may, by action in a court of competent jurisdiction, recover from the insured person any money paid or costs incurred by the insurer in respect of that liability. But, where the figure of .15 grams of alcohol

in 100 millilitres of blood is used as the measuring point, simply by driving a motor vehicle while there is alcohol in the blood to that degree of concentration, then *prima facie* the action flows or the discretion is vested in the insurer to recover all or part of the moneys paid out or costs incurred by the insurers in respect of the liability that has arisen as a result of that accident. One can see the two levels that have been established in this area. Certainly, that brings in a harsh penalty on drivers who are intoxicated and who as a result have an accident. I trust that that explains the situation for the honourable member.

Mr LEWIS: Will the Minister cite the instances to which he referred in the first part of his reply to me and the member for Davenport, whereby it is the practice to describe the matter like that in the law, so that I can check it? Will the Minister cite the formula by which .15 grams per 100 millilitres converts to .08 per cent, that is, the formula by which the assumed specific gravity of blood and the specific gravity of alcohol is calculated? If it is not calculated in that way, by what means is .08 per cent calculated? I am not being facetious: I just want to understand these things, because I believe that there is some inconsistency. I am anxious to understand that we cannot subsequently be defeated in court on a technicality in this matter.

The Hon. G.J. CRAFTER: I can only refer the honourable member to the definitions in the law. These provisions are consistent with those definitions. They have withstood challenges in the courts over the years, and I refer the honourable member to the Road Traffic Act Amendment Act (No. 3) of 1981, in which these things are described in the definitions. I refer him in particular to section 7 of that Act. If the honourable member wants to study the reasons why that method has been used in terms of history, I am sure that officers of the relevant authorities would be availabe to him to provide an explanation.

Mr LEWIS: I thank the Minister for that last offer. He can take it on notice from me that I would appreciate a short paragraph from an officer of his department explaining how those calculations are made.

Mr S.G. EVANS: I thank the Minister for his explanation of the point that I raised regarding the .15 millilitres. I recognise the point that the Minister is making about the two levels, and I assume that, if the concentration is .09, the court will have to make a decision about liability and loss of protection under the second part. If, when I show this to someone in the legal field, they tell me that that is not true, I will bring up the matter later. I believe that the Minister has cleared up the matter.

Clause passed.

Remaining clauses (7 and 8) and title passed.

Bill read a third time and passed.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I move:

That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

LITTLE SISTERS OF THE POOR (TESTAMENTARY DISPOSITIONS) BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2608.)

Mr INGERSON (Bragg): In supporting this Bill, I would like to make a few comments about the Lourdes Valley home at Myrtle Bank. The home has been there for about 70 years. It was set up by the Little Sisters of the Poor and taken over in February 1983 by Southern Cross Homes. In taking over the home, the Southern Cross Homes board continued the same work that was carried on by the Little Sisters of the Poor, that is, caring for the aged. During the past two or three years they have developed 20 resident funded units at the back end of the property at a cost of $2.5 million. It is interesting to note that, because of the location of those units, 60 people are on the waiting list.

In 1986 the nursing home was extended with a building cost of $2.5 million, of which $1.19 million was a Federal Government grant. The setting up of such an extension obviously required extensive furnishing, and Southern Cross Homes put together some $300 000 to furnish it. As members can see, there has been a significant commitment by Southern Cross Homes to carry on the traditon of the Little Sisters of the Poor. In supporting this Bill I make it known that we—and I as their local member—strongly support the direction that Southern Cross Homes is taking. I congratulate the board and, in particular, the manager (Mr Des Bowler) for the work that he is doing. It gives me great pleasure to support this Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank the honourable member for his indication of support for this measure. It is a private Bill. It was prepared in consultation with the solicitors for the Little Sisters of the Poor, and it has been the subject of a Legislative Council select committee. That committee advertised its presence in the community and, I notice, also in the *Southern Cross* newspaper. It met on three occasions and heard evidence from persons who indicated an interest in putting evidence before it. I am sure that all members wish that this measure provides the assistance that is sought by the order of nuns known as the Little Sisters of the Poor in connection with the nursing home formerly operated by those sisters at Myrtle Bank.

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

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2684.)

Mr BECKER (Hanson): This legislation sets out to achieve many issues affecting intellectually impaired people. Many of the amendments are administrative but one, in particular, increases membership of the Guardianship Board from five to 10 persons. The Minister in his second reading explanation informed us (and the Bill provides) that a solicitor must be a person of at least seven years standing. However, it contains no stipulation in relation to a psychiatrist or psychologist.

The real problem in dealing with the intellectually impaired concerns life experience. In other words, those who represent the intellectually impaired need a considerable amount of experience of life to understand and appreciate the problems that these people feel because, no matter what one may think about an intellectually impaired person, they have true and deep feelings and experience many of the feelings of life. To try to legislate to control those feelings and to say to the intellectually impaired that they cannot do or experience this or that to me seems extremely difficult. It is almost like playing God.

Members interjecting:

Mr BECKER: There are persons in that area such as care givers, or whatever (and some social workers, who have

very little experience in life), who tend to make decisions and judgments affecting people's lives. The Guardianship Board can make decisions and take over a family situation and the decision-making role of an impaired person. Who is to say that those decisions are right or wrong?

Unfortunately, I have experienced this in relation to two cases during the past few months where the Guardianship Board, on the instructions of poorly informed social workers, has involved itself. This has caused so much heartbreak, that it is difficult to place before the Parliament the feelings of these people. A letter written to the board by the son of one of my constituents states:

After a recent visit home to spend time with my parents I was shocked to find all my fathers assets had been taken over by the Public Trustee in his interest. This has left my mother somewhat struggling with week to week living and myself somewhat angry.

My mother was incorrectly advised by a Mr A. Knot, a social worker at Leabrook Centre, Glenside, where my father spent some time recently that, 'She must apply to the Guardianship Board for control of my father's assets as his signature was worthless while he was in that medical condition.' My father was somewhat unstable at this time and, with the amount of daily medication he was being prescribed at this time, I am not surprised.

My mother applied to the Guardianship Board on this advice for control of my father's assets carrying a letter of authorisation by myself, and for some reason this application was refused.

My mother has been handling and managing the various family businesses for the last 30 years, and there is no reason now why she should not be allowed to control what both of them have worked for all their lives. My mother has no intention of controlling this asset to her benefit, and if this is your reason for the rejection please advise me on application procedure so I can make arrangements to look after my father in a family way, or would I, too, be considered a risk? Let's not forget whose husband and father this is.

The writer is an officer in Her Majesty's armed forces, and he was absolutely furious that his father's medical adviser and psychiatrist concluded that his father, who was unstable and experiencing certain traumas of aged life that befall certain sections of the community, should be placed in Glenside for medical care. A social worker advised my constituent that now that her husband was a resident (albeit only temporarily) of Glenside, she must apply to the Guardianship Board to have it look after the affairs of her husband.

She was most upset and furious. During all her married life, spanning some 30 years, she had been virtually the bookkeeper and co-partner of the family businesses (and I can vouch for her business acumen, as I was previously a bank manager), and to think that no-one trusted her was the worst insult that she could experience.

However, on accepting the advice of the social worker (albeit that it was incorrect advice), she applied to the Guardianship Board, which twigged the board to the situation, and she lost control of her husband's assets. This caused her considerable financial difficulties, as the assets were substantial and the income produced by those assets was transferred from their joint names and placed in a trust account by the Public Trustee. Any member who has dealt with the Public Trustee on behalf of someone who has been placed in the care of the Guardianship Board will know that they are not the easiest people with whom to deal. Indeed, trying to get an extra $10 a week pocket money from them would be like trying to break into the State Treasury. They are conservative and difficult people with whom to deal.

The Guardianship Board makes the position even more difficult, because the officers do not want to see a person and they will not listen to advice, and it gets to the point where I think some of the officers are extremely arrogant. Fortunately, my client persisted and, with the advice that we could obtain for her, she was able continuously to make representations on appeal to the board. Indeed, she won her latest appeal and, as a result, regained control of the family assets.

However, the board does not leave it at that: it is continually hounding her to the point of harassment, saying that it wants to see the former client when he comes home at the weekend. In this respect, I believe that the board is exceeding its powers, but that is the way in which the Guardianship Board operates because, as it has been explained to me, on the other side of the coin there are people who, once their loved ones are placed in the care of one of our institutions, quickly strip the other life partner of assets and seek divorce or just leave the State. I do not deny that that happens, therefore the Guardianship Board is needed to protect such people. However, in the way that these cases are being handled innocent people are being treated unfairly.

We can only hope that this legislation will, as we have been assured by the Minister, take care of some of those situations. I dealt with Dr Czechowicz when he was Director at Glenside. I went to see him because I wanted to know what instructions were being given to the social workers and other staff at Glenside in regard to advising parents and spouses of their rights. I also wanted to know why instructions were being given to apply to the Guardianship Board when there was no need to do so. After all, applying to that board was probably the worst advice possible because such action was not necessary.

So, it speaks very poorly for the type of training given to some of these people. When dealing with them, one can get paranoid about a conspiracy that may be going on. There is no doubt that some social workers exceed their authority, make it extremely difficult for the relatives of people who are placed in their care and, by acting in the way that they do, tend to break up families. I do not know whether some of those people have a cynical attitude, but having been involved in the field for the past 15 years I know that these dealings make some people hard. Probably I am not the proper person to speak on this Bill but, if there is a message to be given to these people, I hope that they sit up and take notice.

I found Dr Czechowicz a cooperative and excellent person, and I was disappointed when he was replaced, because he was a caring person and provided me with the notes and guidelines that are given to the staff. On perusing those documents, I believe that some of the staff exceeded their authority, but I understand that that position has now changed and that approaches have been made to the staff pointing out what they can and cannot do and who rather than they should make decisions.

It did not stop there, because another constituent wrote to me, and there is much feeling evident in his letter. I do not apologise for the length of the letter because my constituent knew that this legislation was coming up and he wanted to put his position on the record. His letter states:

This letter is a message to the South Australian Government, but above all this letter is a grim warning to those people who are unfortunate enough to have a relative who is sick and incurable and have some mental disorder, this is my story. In 1972 my wife was found to be suffering from multiple sclerosis. I had to finish up at work to look after her full time. I looked after my wife for thirteen years, as time went on my task became more and more difficult as she became steadily worse. One day when I was lifting my wife my back gave out, she was on the floor and I could not get her up. I rang my doctor and he put her in the Q.E.H., she was in the Q.E.H. for a few days she was then transferred to the Julia Far Centre. That's when my trouble REALLY started, if I had known then, what I know now, I would never have allowed my wife to go to the Julia Farr Centre.

For a few months things were fine. My wife was being looked after, and I was enjoying a well needed rest. Then one day I received a letter from the Guardianship Board requesting me to attend a hearing, this hearing had been requested by the Julia

Farr Centre. I attended this hearing and I was surprised to learn that it was conducted like a court of law with just as much power. My wife was not present on this occasion, the Julia Farr Centre had omitted to deliver her. Because of my wifes' absence I objected to this hearing proceeding so it was adjourned. However, some time later the hearing came on again. This time my wife was in attendance. It did not take me long to realise that the outcome of the whole proceedings had been predetermined. I made it quite clear that I wanted to look after my wifes affairs. My wife also made it quite clear that she wanted me to look after her affairs, but the board ruled against us. They ruled that my wife should reside at the Julia Farr centre, and that her finances would be controlled by the Public Trustee.

Throughout the whole proceedings I got the distinct impression that my wife and I were both on trial, but we had committed no crime. The only crime that we had committed was to be dogged by bad luck. I would like to point out that I have been looking after my wife's affairs for many years. Friends and relatives have remarked that I have done a great job. I would also like to point out that for many years I have been a very active justice of the peace including regular sittings on the bench, but the Government has now decided that it can do a better job than me. I was allowed to appeal against the Board's decision, but the appeal was just the same as the hearing. It was all cut and dried. They just went through the formality just to make the whole thing legal. The legal aid people advised me against taking the case any further as an appeal to the High court would cost many thousands of dollars, money which we did not have. I now had to accept the fact that the Government had taken my wife from me. I had no more say in her life; the Government were now in complete control.

The Government has not only taken my wife from me, but they have invaded my privacy. They have humiliated me, and they have taken away dignity I now realise how ruthless the Government can be because I too am very much under the control of the Guardianship Board and the Public Trustee. After a while I settled down to the business of trying to live, and I was getting along fine. In our good years my wife and I made provision for our old age by taking out a little superannuation. It was not much but with a part pension we were financialy secure. I found that I could pay all the bills, and I was trying to save up to do a little maintenance on the house, but looking after a sick wife for 13 years had taken its toll of our finances, and our house was in desperate need of attention. However, my plans to keep our house in good repair were soon to be thwarted.

One day our superannuation cheque did not arrive. Inquiries revealed that the cheque had been taken by the Public Trustee, without notice, or without warning; they had just taken it. I went to the Public Trustees office and I spoke to a Mr Lock. He was quite hostile towards me and he told me that I could not have any of the money, as the money was in my wife's name.

In desperation I went to the Social Services at Ewardstown and spoke to a Mr Johnston, who told me that he could not help me. I told him that the superannuation money had been taken from me so could I go on a full age pension. He told me that the only way that I could get a full age pension would be to go on a single man's pension, and to do that I would have to divorce my wife.

Now I was in the situation of having to run a house, pay the bills, and buy a little food, all on a very inadequate pension. Later, in desperation, I was forced to go yet again in front of the Guardianship Board to plead with them to give me back my own money. Reluctantly they gave me some of it.

I am still in financial trouble, and our house is badly in need of repairs but the Government could not care less. This is my reward for doing the right thing in looking after my wife for all those years, thus saving the Government thousands of dollars. My advice to any man who has a sick and incurable wife, in particular if she has just a slight mental disorder, avoid the Julia Farr Centre like the plague, try to avoid the Guardianship Board, and to not get involved with the Public Trustee.

We are now in the situation whereby my wife is confined to the Julia Farr Centre, which is not a mental institution. She is confined against her will, she does not like it there, and I am happy about the treatment she is receiving there, but I am powerless to take here out of there because she is there by the order of the court. My wife and I own a house that is freehold, but the court has ordered that I am not allowed to live in my own home rent free and they also allow me a small amount of my own money to live on.

The court has taken my wife, taken my house, taken my money, and has caused me a great deal of worry and trouble. What kind of Government can impose such oppressive laws on innocent people?

We hear a lot about the injustices that are perpetrated under the Family Law Act. These injustices could equally apply under the court actions that are taken out under the Mental Health Act. I can now understand why some people resort to violence when they are faced with these injustices.

Many years ago I fought in a war, a war against a Government that was quite ruthless and imposed oppressive laws on its people, and wanted to impose those same oppressive laws on the whole world. It would seem that I fought in vain.

That letter sums up the frustration that some people experience, rightly or wrongly, under the current Act and through the current attitude of the Guardianship Board. I will take it on notice and certainly hope it is correct when the Minister tells us in his explanation and when my colleagues in another place who sat on a select committee assure me that this legislation now before us starts to rectify some of those wrongs. I have yet to be convinced on that.

By enlarging the board and by dividing it into two we are assisting to speed up its heavy work load. Since the Mental Health Act 1985 was proclaimed a tremendous amount of work has been created for the board. No wonder! In some of the institutions, as I say, if a patient is admitted, the second or third contact you make with some people involves a suggestion that you should apply to the Guardianship Board for control over your loved one. It is not necessary to make any approach to the board. That is absolute nonsense, but that is some of the stupidity that is being peddled around by people with socialist leanings. We cannot blame people for being paranoid when they realise that there are people out in the community who will do anything to break down the family attitudes and lifestyle that existed in this State.

The other part of the Bill relate to the more controversial parts dealing with medical consent and there is a section dealing with wills. Fair enough: I believe that a person should have the right to make a will irrespective of where they live or whatever their circumstances. Certainly, I was advised that it is often assumed that, simply because a person is mentally ill or handicapped, the person lacks testamentary capacity.

As with the consent to treatment issue, it is a matter of assessing capacity to understand the nature and consequences of what the person is doing in the particular situation. Quite clearly, however, mentally ill or handicapped people often need protection in this area. Certainly, there is the risk of undue influence.

The Supreme Court has power under the Aged and Infirm Persons' Property Act 1940 to direct that a testamentary disposition by a person under its protection shall be made only after such precautions as the court thinks fit, and a will made otherwise is ineffectual (section 29). Generally speaking, the Public Trustee involves an independent lawyer in the making of such a will, as well as requiring a medical certificate that the person is capable of making the will, and the will is made under the strict supervision of the Public Trustee, the lawyer and medical practitioner. The Guardianship Board should also have this power under the Mental Health Act. Of course, that is being achieved.

We are getting some benefit but, by golly, it has taken a long time. It was some seven or eight years ago when the late Sir Charles Bright conducted a very in-depth study into the rights of the disabled, and particularly the rights of the intellectually impaired. Of course, his findings opened a whole new world for these people, and a new world of opportunity. We will always owe an extreme debt of gratitude to the work, care and attention that the late Sir Charles Bright undertook on behalf of these people.

Basically, the legislation is administrative in many respects. It tidies up the situation and provides rights and protections for these unfortunate people. As I said, it is a pity that we cannot also write into the legislation that these people have feelings, that each one must be considered as an individual

and that there is, as provided under the rights of appeal, provision for the spouses and relatives. I also believe that, when dealing with legislation such as this, one must be very careful because one is dealing with people. No matter what we think of them or how we classify them, after all, they are human beings.

Mr S.J. BAKER (Mitcham): I wish to make a contribution for about five minutes. I endorse the remarks of my colleague the member for Hanson. I have had two cases in the past year involving the Guardianship Board, and both were dealt with most unsatisfactorily. The first was an unfortunate situation involving an elderly male who was a resident of Glenside for some time. The board made an order on that person. His wife made representations seeking control over the affairs of the family, but that request was refused and the matter was placed in the hands of the Public Trustee. The case was not totally serious because the lady shortly afterwards, because of separation and other reasons, went into a nursing home.

The second case was somewhat more serious and involved another elderly couple. In this case the wife of the person who came to see me had been put into Glenside because she had become senile at an earlier than normal age. The husband was quite in charge of his faculties and about 65 years of age. He had been in business all his life and was quite active.

There was some contention at Glenside about how his wife was being treated at the time and one or two months later there was a disagreement with one of the doctors there. This gentleman found out that the Guardianship Board had made an order that all the family affairs were to be placed in the hands of the Public Trustee.

It took some considerable time to unravel the mess, and it was only through the due process of appeal that he was able to get the affairs of their joint estate put back into his own hands. I would like to relate that that person was left with no assets as they were under the control of the Public Trustee. He wished to move into a smaller unit so that he could better look after his wife when she had those moments of clarity. It was going to take six months for the Public Trustee to determine whether indeed they would allow the house to be sold. In the normal situation he would not have faced that problem. In fact, Glenside got so upset about the case when he won his appeal that the social worker (I presume) concerned said, 'You can get your wife out straightaway and we never want to see her again.'

I happened to know something about it because I made some contact with people there. I tried to fathom out what had happened and why. It was true that the Guardianship Board had a recommendation from either the psychologist or the social worker (whichever it was) to say it was appropriate that the person's estate be placed in the hands of the Public Trustee. That was without reference to the person at all. He first knew about it when the Guardianship Board had made an order and that is when he came to see me. Each time I tried to find out who had made the referral, somebody was not in, would not return a phone call, or said, 'I think somebody else is responsible' or, 'I have lost the file'. Such treatment of any person, let alone a member of Parliament, in that situation when someone is going through a fair amount of trauma I do not believe can be tolerated.

Both these cases illustrated to me that there are some little people in this world who have some positions of power, who mistreat others and have no concern for people. It was only through the perseverance of the person concerned that the appeal was finally won. It is not good enough for any instrumentality, particularly public instrumentality, to treat people in this way. The fact that the Guardianship Board made a recommendation on the estate without reference to the person concerned I find absolutely frightening. I spoke to some people who said that they were not aware that the recommendations had been made in a vacuum. I did not write to the Minister of Health as a result of that because we cleared up the case. Suffice to say that I was totally disenchanted with the way the system operated. I do not know whether it was an isolated case, but as my colleague the member for Hanson has mentioned similar cases, I can only assume that some people out there are not acting in the best interests of other people.

It is a difficult area and obviously the rights of people have to be preserved. If a person is mentally defective and cannot look after their own estate, they need assistance. However, if it can be clearly shown that a person (perhaps their nearest relative) is both able and capable in a mental and physical sense to look after that themselves or that person and wants to do so, no board should take the decision on its own behalf without proper reference or examination to take over the estate. This person was left with no income because the whole thing had been put in the hands of the Public Trustee. I cannot understand how people can operate in such a fashion. When questioned about it or when somebody tries to find out something about it no-one can be found and no-one is responsible. If one does find the responsible person they say that it is up to the Guardianship Board and they only recommended it. I am pleased that the procedures are changing.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I thank honourable members who have contributed in this debate. Without wishing to make any invidious remark, I particularly thank the member for Hanson, who gave a long and clearly thoughtful contribution. Clearly his genuine compassion showed through. He used a term that was better than that used in the second reading speech, namely, 'intellectually impaired', which is a term I prefer rather than 'mentally handicapped' or 'mentally ill'. Whilst still a label, it is a softer label and does not do any harm.

This Bill relates to the amending Bill passed in 1985 and I gently suggest to the member for Hanson that that has not yet been proclaimed, as I understand it. In fact, the consent involved will result in a very much larger work area as referred to because of the need for application to be made. Both members who spoke cited cases with which they had been involved with constituents and the Guardianship Board. It would not be right for me to try to look into the individual cases cited, just to point out that the board, under section 27 of the principal Act (and under amendments we are proposing in this Bill) must review the circumstances of protected persons under its guardianship. So, the board is required to look at what it has been involved in, in decisions made.

It is probably appreciated by members opposite that the board's orders are subject to appeal to the Mental Health Tribunal. A final avenue of appeal exists, although it may not be particularly attractive, namely, the Supreme Court. The remarks that got through to me came from the member for Hanson in pointing out that we have to have laws and regulations but must try to ensure that the laws themselves and the machinery and operation of them do not lose sight of the humanity involved. I agree with the honourable member 100 per cent. He and I having been here somewhat longer than others, he may recall that I chaired the select committee that produced the Mental Health Act that we have had since 1979. It has withstood a reasonable test

period. Everyone would agree that it did a lot for improving the rights of the intellectually impaired and put them into a new arena.

We have learnt from the remarks of the two members opposite that there appears to be a need for even more care and concern by the board and/or another body that is not strictly under our purview tonight, the Public Trustee, in actions taken in relation to people to whom this legislation applies. Such actions ought to appear a little more humane than they are. In my dealings with the Public Trustee office in relation to constituents over the years I have found a firmness that the clients interest is the paramount concern, but I have been able to get recognition and have some effect in relation to the matters that I have taken to them.

I therefore thank members for their concern. I suggest that, although the Bill, if it finally passes the House, will not solve all the problems for the intellectually impaired, it will go some way towards making an improvement in that scene.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Establishment of board.'

Mr BECKER: I thank the Minister for his comments. The workload will increase when the 1985 legislation is proclaimed. I have no objection to the increased number of members on the board, as I think this will help. I am amazed that some 3 000 people are under the care of the Guardianship Board and that the number is increasing at the rate of 550 per annum which, on a five day week, is just on 10 a week. That means that this area is growing and because, of our ageing population, a very large base of Anglo-Saxon persons is likely to be involved.

It is interesting to note that two psychiatrists and two psychologists will be members. I note that legal practitioners must have at least seven years standing. Are there any similar 'guidelines' as to the experience that psychiatrists and psychologists must have before they are considered eligible to be a member of the board? I have always in theory had an opinion, rightly or wrongly, that you need to be about 35 years of age to have had reasonable experience in life, or what I call 'life experience'. I wonder whether it means that psychiatrists should have about seven years experience as well?

The Hon. R.G. PAYNE: If we look at the Bill, we see that legal practitioners are specified as being of at least seven years standing. The psychologists and psychiatrists are somewhat separate in the definition, because a special case is taken out with respect to the psychologist, who must have experience in the care of the mentally handicapped. I suggest that that puts them in the mature category. Everyone would agree that experience does not mean half an hour or six months—it involves a period of time. Is that helpful to the member?

Mr BECKER: I was really wondering whether there was an arbitrary figure of, say, five or seven years, the same as for a legal practitioner. It is a very hard field to work in, and enough experience may be gained within three or four years.

The Hon. R.G. PAYNE: I have been apprised of the following, which perhaps I should have thought of before and which would be reassuring to the honourable member. The Governor does the appointing but on the advice of the Minister, and the Minister has stated publicly that he consults quite widely before making these sorts of appointments. I think that should be somewhat reassuring for the honourable member.

Clause passed.

Clauses 5 and 6 passed.

Clause 7—'Powers of board in relation to person under its guardianship.'

Mr BECKER: This is the clause that the Minister mentioned regarding the supervision of the powers of the board in relation to a person under its guardianship. This clause and the next one deal with a protected person. Can the Minister say whether there is any procedure or guideline as far as the Guardianship Board is concerned as to who should look after the affairs of a person placed under guardianship? In some cases it is the spouse, and it can be a relative. However, in the majority of cases it is the Public Trustee, and I want to know why.

The Hon. R.G. PAYNE: The Act requires that the Public Trustee must be appointed unless special reasons apply. I guess that means that a special case has to be put to the board so that it makes a decision other than that which the Act requires as a first effort, as it were.

Mr BECKER: Whilst the Public Trustee must get a fair sort of favour, I take it that the guidelines are wide enough to allow, if somebody has the credibility, concern, or ability also to act as guardian, those people or organisations to be given consideration; or does the legislation firmly lock in the Public Trustee?

The Hon. R.G. PAYNE: I think the honourable member is asking me to get into the mind of the board. I am not really able to do that. The legislation enables the board to have that discretion. I would like to be able to provide some statistics to show how many times the Public Trustee was not appointed. Unfortunately, I do not have those. However, I could on notice see whether that sort of statistic was available.

Mr BECKER: I ask the Minister to ascertain whether some statistical information could be provided to give an approximate idea.

The Hon. R.G. PAYNE: I will certainly undertake to see if that information can be provided.

Clause passed.

Clauses 8 to 10 passed.

Clause 11—'Revocation or suspension of licence.'

Mr BECKER: I did not mention this during my second reading contribution, because I considered that this legislation was partly a Committee Bill. This clause deals with the licensing of psychiatric rehabilitation centres. There is a substantial amendment in relation to the removal or suspension of licences. Has the Minister any information as to how many psychiatric rehabilitation centres we have in South Australia?

The Hon. R.G. PAYNE: One of the things that one learns in this place is that, the longer the time that one spends in the House, the more likely it is that some member will always ask for a fact that you do not have or that you cannot get easily. I am in that position. However, I am sure that it is something that can be ascertained, and I undertake to obtain that information for the honourable member.

Clause passed.

Title passed.

Bill read a third time and passed.

MEDICAL PRACTITIONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 December. Page 2684).

The Hon. JENNIFER CASHMORE (Coles): The Opposition supports this Bill, the purpose of which is to repeal

the provisions that allow a senior medical practitioner to chair the tribunal and to confine the chairmanship to district court judges and magistrates, and also to empower the Senior Judge of the Local and District Criminal Court to second any judge of that court or any magistrate, after consultation with the Chief Magistrate, to preside over the tribunal. It is worth considering the background that established the tribunal in the first place. The tribunal is a relatively new body and fulfils the task of examining the conduct of and any complaints against medical practitioners.

Under the old Medical Practitioners Act, the Medical Board was virtually the prosecutor, judge and jury and, in some cases, executioner (in metaphorical terms) in respect of any complaints against medical practitioners. That was clearly an unsatisfactory and unjust system, although it operated for a number of decades. The new Medical Practitioners Act, which was first introduced in late 1982, just before the State election, was not dealt with and subsequently reintroduced in a slightly different form in 1983. It recognised this problem and established the tribunal to ensure that justice could not only be done effectively but also be seen to be done.

The Minister's second reading explanation and the debate in another place have established that the system is not working as effectively as it should and that it needs fine-tuning. I have read the debate with interest, and I respect and acknowledge the views put forward by the Minister, on behalf of the Attorney, in regard to the difficulties that would be posed if a district court judge had to be seconded, so to speak, to chair the tribunal, virtually on a full-time basis.

However, while I agree that it is an improvement to remove the provision for a senior legal practitioner to chair the tribunal, I also believe that the arguments against that tribunal being chaired by a senior legal practitioner are just as valid in respect of a magistrate. In other words, I am saying that the Opposition believes, although we do not intend to pursue it any further in this place (as it has already been pursued in another place), that the work of the tribunal is so important, so complex and so technical that it would be highly desirable if a judge was the chairman.

Some of the cases that come before the tribunal involve the lives, and could involve the livelihoods, of doctors and their patients. Some of them are substantial cases with quite profound implications for the professional reputation and income of doctors, and many of the cases would go well beyond the substance of cases that would normally be dealt with in a magistrates court. For that reason, the Opposition believed that a judge of the court with a deputy (and I acknowledge that there is provision for a deputy) should be chairman of the tribunal. The Government has its own reasons for saying that that not only should not but cannot be the case and, because we do not have the numbers, we must accept that situation. Medical litigation can be a minefield of complexity which in my opinion requires a judicial mind. It also requires consistency and stability in chairmanship because of the very nature of the work that is brought before it. It would be very difficult for someone to take up this position just for the purpose of chairing two or three meetings, and not necessarily consecutive meetings, because one needs to get a feel not only for the rights and wrongs of any case that is presented but also for medical ethics and for the attitude of tribunal members and, indeed, a developing knowledge over a period of medical terminology. That alone requires considerable intellect and effort to grasp.

Although the Opposition would prefer to see magistrates deleted from the Bill and to have the Chief Judge of the Local and District Criminal Court provided with a list of judges who are interested in chairing the tribunal on a part-time basis, nevertheless we agree that the proposition is an improvement on what has obviously not been a satisfactory situation. Therefore, we support it.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I thank the member for Coles for those remarks. I will confine myself to saying that, clearly, as the member for Coles has already outlined, there were two views as to who (and I will not say 'was competent' because I do not think that that was really implied) will be available to function in the tribunal. For the record, I point out that this matter was discussed with the Attorney-General, the Senior Judge of the Local and District Court and the Chief Magistrate.

The Hon. Jennifer Cashmore interjecting:

The Hon. R.G. PAYNE: The Chairman of the Medical Board was also involved. So, there is no doubt that the Government has some sort of justification for the stand that it has adopted.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The Legislative Council intimated that it had agreed to the House of Assembly's amendments Nos 2 to 5 and had disagreed to amendment No. 1.

Consideration in Committee.

The Hon. T.H. HEMMINGS: I move:

That the House of Assembly insist on its amendment No. 1, to which the Legislative Council had disagreed.

The Hon. B.C. EASTICK: I believe that the Minister should stop his struggle here and save the necessity to set up a conference of managers, because the ultimate result will be that which is desired by the Legislative Council.

The Hon. T.H. HEMMINGS: Ever the fighter, I will take my chances.

Motion carried.

PRIVATE PARKING AREAS BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2787.)

Mr FERGUSON (Henley Beach): I have been waiting a long time for this.

The Hon. B.C. Eastick interjecting:

Mr FERGUSON: I did, and I thank the member for Light for the kind words in his speech. It will not take me long to look at the matter of owner onus provisions. It is no secret that I am not happy with those provisions, and from time to time in various committees I have taken the opportunity to speak against this new legislation which reverses the onus of proof. This legislation is spreading—

Mr S.J. Baker: Like cancer.

Mr FERGUSON: I agree with the member for Mitcham, although not always do we agree. After considering the correspondence sent to me by various local government authorities in respect of this Act, the weight of opinion has changed my mind—reluctantly—about agreeing to the owner onus provisions. The introduction of this type of provision into the Local Government Act created problems for me as

a member, and my electorate office was made aware of a series of problems concerning parking fines. One case in particular concerned a woman who spent a weekend in gaol for not paying the parking fines that she claims were incurred by a former boyfriend.

Ms Lenehan interjecting:

Mr FERGUSON: I acknowledge the member for Mawson's interjection: it not only relates to situations where couples have disputes like this but also involves parents with children of driving age and husbands and wives, especially those with marriage difficulties. Councils have been taking the opportunity to utilise the letter of the law without due regard to clemency.

From time to time I have had to make representations to various councils to try to convince them that there is a reason why parking fines ought not apply. I have not been particularly successful in this regard, particularly with junior council officers who apparently have received instructions from senior officers that they should use the law to its full extent. As a result of that, for more than 12 months I have been trying to achieve a change in the law, and that measure is now before the House. On one occasion I wrote to the Minister of Local Government (Hon. Barbara Wiese) about this matter. The reply, which is not long, illustrates the sorts of problems that have been going on concerning owner onus legislation, and states:

> You recently wrote to me drawing attention to the need for additional protections for the owners of vehicles where offences are committed, under the parking regulations, by a driver who is not also the owner.
>
> The 'owner onus' provisions, as they are commonly termed, were introduced because of the difficulty of proving who was the driver of a vehicle at the time of an offence. Councils were facing very real difficulties and prosecutions were regularly failing when the owner pleaded not guilty and was not required to identify the person driving the vehicle at the time. The view was taken, when the 'owner onus' provisions were introduced, that the owner of a vehicle has some responsibility for the actions of the person to whom the vehicle has been lent or hired.
>
> Since that time situations have occurred where it can be said that the strict application of the 'owner onus' provisions has resulted in the prosecutions of some owners, which while quite lawful can be described harsh.
>
> The Parking Review Working Party was asked to look at the possibility of providing additional defences for the owner of a vehicle where the owner was not the driver.
>
> The working party has now recommended the introduction of a scheme whereby, before a prosecution is launched against the owner, the council must serve a copy of the expiation notice in respect of the offence on the registered owner. The owner will then have the option of paying the expiation fee or of completing a statutory declaration identifying the name and address of the driver at the time of the offence.
>
> This approach, I am confident, will provide the necessary protection for the owner of a vehicle, while at the same time ensuring that the law cannot be subjected to the sort of abuses which previously occurred.
>
> The necessary amending regulations are being drafted and will be placed before the Governor in Executive Council at the earliest opportunity.

This sort of legislation is spreading and I hope that we will have a chance to see the regulations.

I hope that regulations similar to those that have been suggested by the Minister of Transport in regard to his Bill will be enacted in this case. Of course, I cannot refer to that Bill in this debate, because it would be out of order, but the Minister of Transport suggested that a driver might give the police a statutory declaration of evidence which would lead to the withdrawal of the traffic infringement notice. That is the sort of provision that I would like to see in the regulations. Unfortunately, time does not permit me to explain my attitude on the Bill as fully as I would like, which is not unusual. I support the Bill.

Mr S.G. EVANS (Davenport): I, too, support the Bill, although I have some questions concerning it. Like the member for Hayward and other members, I have received complaints over the years about disabled parking. The problem is defining 'disabled' in a commonsense way. Apparently, I am having the same trouble as the member for Henley Beach had, so perhaps we should start our own Parliament.

Mr Ferguson: Then you could speak for the rest of the day.

Mr S.G. EVANS: That is all right, and the honourable member could have all tomorrow afternoon if we sit. The difficulty that I have concerns the definition of 'disabled'. For example, a lady came from the doctor to my office. She was advanced in her pregnancy and was accompanied by a two-year-old child. She parked in a zone that was reserved for the disabled. The doctor had advised her to obtain medicine, go home, and rest up for the remaining six weeks of her pregnancy. He also advised her to get help to mind the two-year-old child. She was told not to carry the child, so she chose a parking spot near the shop where she could buy the medicine. She got a parking ticket for doing so, and the person giving her the parking ticket spoke with her but would not withdraw that ticket because, he said, she was not disabled.

That is an example of where I see a disadvantage in trying to define 'disabled'. We think of the disabled in wheelchairs and others who are declared disabled but, in relation to parking for the disabled, sometimes it is difficult to know what is the disability that limits the distance that a person can walk. I have some examples of parking fines that I wanted to mention. The Adelaide City Council sent me a final notice of a fine for parking my car in a spot in the city but, in fact, I did not own the car at the time that the offence was committed: I bought the car six weeks after the date of the offence. So, I wrote back, without identifying myself as a politician, and asked the council to check its facts, hoping that it would take me to court. However, it did not do so. The council must have found its error, but to send someone a final notice for a parking offence concerning a car that that person did not own was bad form on the part of the Adelaide City Council.

Most of the Bill relates to private parking, but I should like the Minister to comment on the circumstances where a private car parking space is provided at a shopping centre. Is such a car park also considered to be a public place? In this regard, I am thinking of the new drinking laws. If the Minister cannot reply now, I should appreciate receiving a reply later, because I am concerned that such a parking space might still be considered private property, even though the public has access to it.

I should have liked to say much more on the subject of private parking, because I have been concerned that over the years landowners have complained that they have not had proper control. However, under this Bill the landowner can at least retain control of his land or pass it over, by agreement, to the local council. I believe that that is a great idea because it is one way to achieve uniform control where a council wishes to do so. I support the Bill. We shall have plenty of time in the future to see how it operates. One thing is certain: the position will be much better than it has been in the past.

Mr ROBERTSON (Bright): Briefly, I wish to take up the issue of parking for the disabled. As most members would know, I have an interest in this subject. I also share an area of the town with the member for Hayward, and I pay a tribute to her untiring efforts to obtain the disabled parking

clause in the Bill. From her contributions in this House, it would appear that the honourable member has a special brief for the Marion shopping centre and environs and any of us who use that place regularly will know the unfair advantage that many physically able people take in respect of the disabled parking spaces there.

For that reason, I welcome the provisions of this Bill. I condemn the uncaring and unfeeling attitude of able-bodied people who use those disabled parking spaces and, as one who has a friend who is 95 per cent blind but still ineligible to use one of those spaces, I believe that it is sad to see completely sighted people using those places when some people who are partially disabled cannot use them. Therefore, I certainly endorse the feelings of previous speakers and thoroughly commend the Government for introducing this Bill.

I welcome the $200 fine that is to be levied on those able-bodied people who use those parking places. Indeed, the sooner this legislation comes into force the better. I sincerely hope that it is policed and enforced to the absolute optimum extent.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I move:

That the sittings of the House be extended beyond 6 p.m.

Members interjecting:

The Hon. R.G. PAYNE: I am trying to be helpful in the circumstances.

Motion carried.

Mr HAMILTON (Albert Park): It is frustrating when one who has had seven years involvement in trying to help people is given only one minute to speak in this debate. It is not often that I get angry and show my temper in this place, but I am somewhat frustrated. I strongly support the Bill. I previously indicated that I wanted to speak on it and to be cut off in this way does not make me very happy. Nevertheless, I agree with what the Whip has said: the Government wants to get the Bill through. I have put in much work in my district on this subject and, like many members on this side, I have made strong representations. I support the Bill.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I appreciate the action of those members who, in the interests of the House and parliamentary business, have curtailed their remarks.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

The Hon. B.C. EASTICK: Regarding a permit to park in a disabled person's parking area, a big problem associated with parking for the disabled is that some councils will accept the official permit which is to be provided under this Bill, whereas other councils demand an individual permit to park within their areas. Once this legislation is in place, if it is necessary to negotiate with local government in total to ensure that the permit provided is accepted universally in all areas, I believe that we will have done a real job for the disabled.

The Hon. R. G. PAYNE: I can see merit in what the honourable member has put forward. I undertake to ensure that his remarks are given attention and presumably can be addressed at a later date.

Clause passed.

Remaining clauses (5 to 15) and title passed.

Bill read a third time and passed.

[*Sitting suspended from 6.3 to 10.10 p.m.*]

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The Legislative Council requested a conference, at which it would be represented by five managers, on the House of Assembly's amendment to which it had disagreed.

The House of Assembly agreed to a conference, to be held in the Legislative Council committee room at 10.30 p.m. on 4 December, at which it would be represented by Messrs Duigan, Eastick, Hemmings, Oswald, and Tyler.

The Hon. R.G. PAYNE (Minister of Mines and Energy): I move:

That Standing Order 58a be suspended so as to enable the House to sit beyond midnight.

In moving this motion I will explain that this is a technical artifice to allow us, if we so decide later tonight—

The Hon. E.R. Goldsworthy: Tomorrow is today.

The Hon. R.G. PAYNE: —to reconvene at 11 a.m. or a not dissimilar time tomorrow. In effect, as the Deputy Leader pointed out, it allows us to continue today into tomorrow.

Motion carried.

Later:

The Hon. T.H. HEMMINGS (Minister of Housing and Construction): I move:

That Standing Orders be so far suspended as to enable the sitting of the House to be continued during the conference with the Legislative Council.

Motion carried.

[*Sitting suspended from 10.28 to 11.5 p.m.*]

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

The Legislative Council intimated that it had agreed to the recommendations of the conference.

At 11.5 p.m. the following recommendations of the conference were reported to the House:

As to Amendments Nos 1 to 49:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 50:

That the Legislative Council amend its amendment by inserting after the words 'registered association nominated by the employer' the words 'of which the employer is a member'.

and that the House of Assembly agree thereto.

As to Amendments Nos 51 to 53:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 54:

That the House of Assembly do not further insist on its disagreement thereto and that the following consequential amendments be made to the Bill:

Clause 4, page 5, after line 2—Insert new item as follows:

'Division 7 fine' means a fine not exceeding $1 000.

Clause 21, page 13, line 3—

Leave out 'Division 6 fine' and insert 'Division 7 fine'.

As to Amendments Nos 55 to 93:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 94:

That the Legislative Council amend its amendment by deleting the word 'matter' and inserting in lieu thereof the words 'claim or dispute'.

and that the House of Assembly agree thereto.

As to Amendments Nos 95 to 116:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 117:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof—

Clause 35, page 24, lines 23 and 24—Leave out subclause (14) and insert new subclause as follows:

(14) A default notice may be cancelled—

(a) at any time, by the health and safety representative who issued the notice;

or

(b) if the health and safety representative is absent from the workplace and cannot reasonably be obtained, by a health and safety committee that has responsibilities in relation to the matter.

and that the House of Assembly agree thereto.

As to Amendments Nos 118 to 138:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 139:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 42, page 30, after line 1—Insert new subclauses as follows:

(4) A review committee may if it thinks fit make an interim order suspending the operation of a prohibition notice until the matter is resolved.

(5) An order under subsection (4) must be made subject to such conditions as may be necessary to protect the health and safety of the employees to whom the prohibition notice relates.

and that the House of Assembly agree thereto.

As to Amendments Nos 140 to 147:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 148:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 49, page 33, line 16—After 'shall' insert ', subject to an order made under subsection (6),'

After line 16—Insert new subclauses as follows:

(6) The Supreme Court may if it thinks fit make an interim order suspending the operation of a prohibition notice pending the determination of an appeal.

(7) An order under subsection (6) must be made subject to such conditions as may be necessary to protect the health and safety of the employees to whom the prohibition notice relates.

and that the House of Assembly agree thereto.

As to Amendments Nos 149 to 162:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 163:

That the Legislative Council do not further insist on its amendment and that the following consequential amendments be made to the Bill:

Clause 57, page 35, line 33—Leave out 'Subject to subsection (7), proceedings' and insert 'Proceedings'.

New clause

Page 37, after line 6—Insert new clause as follows:

60a. *Health and Safety in the Public Sector*—The chief executive officer of each administrative unit under the Government Management and Employment Act, 1985, must appoint a person to be responsible for the implementation of the requirements of this Act in that administrative unit.

As to Amendments Nos 164 to 166:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 167:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 60, pages 36 and 37—Leave out subclause (2) and insert new subclause as follows:

(2) For the purposes of subsection (1)—

(a) every company carrying on business in the State shall nominate a director or executive officer of the company as a responsible officer who is responsible for the health, safety and welfare of the company's employees at work;

and

(b) if—

(i) a company fails to nominate a responsible officer under paragraph *(a)*;

or

(ii) the body corporate is not a company,

'responsible officer' means—

(iii) a director or executive officer of the body corporate;

or

(iv) any person in accordance with whose directions the directors of the body corporate are accustomed to act.

and that the House of Assembly agree thereto.

As to Amendments Nos 168 to 183:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 184:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

First Schedule, page 42—Leave out item 31 and insert new item as follows:

31. In relation to penalties for breaches of the regulations—

(a) in the case of regulations prescribing standards for health or safety at work—penalties not exceeding a Division 2 fine;

(b) in any other case—penalties not exceeding a Division 6 fine.

and that the House of Assembly agree thereto.

As to Amendment No. 185:

That the Legislative Council amend its amendment by inserting the following new subclause after subclause (1)—

(1a) The defence provided by subclause (1) is not available in relation to the use of unsafe plant by an employee.

and that the House of Assembly agree thereto.

Consideration in Committee of the recommendations of the conference.

The Hon. FRANK BLEVINS: I move:

That the recommendations of the conference be agreed to.

First, I thank the managers for the House of Assembly who assisted—

Members interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: Do we want to go home or stay?

Members interjecting:

The CHAIRMAN: Order! The Minister has the floor.

The Hon. FRANK BLEVINS: I have no home to go to, so it is irrelevant.

Mr Gunn: Imagine that!

The Hon. FRANK BLEVINS: It is true, not even a cheap one, 400 kilometres away. I thank the managers from the House of Assembly who assisted me at the conference. It was conducted as conferences usually are. It was very fruitful and it is fair to say that through the process of debate the differences of opinion that existed when we went into the conference were resolved.

I am quite sure that all the managers from the House of Assembly will agree that the resolution that finally came out of the conference was very worthwhile. As in all things, the House of Assembly was unable in the face of quite determined resistance by the Legislative Council to get everything we wanted, but members, when they look at the resolutions that have been circulated, will see that this House acquitted itself well and was able to make quite significant changes to the amendments that were insisted upon by the Legislative Council.

The Bill is a credit to the whole Parliament. It is one of the most, if not the most, significant moves in occupational health and safety that has occurred in this State, certainly in the past 15 years. The new laws place a very significant onus where it rightly belongs—on employers and employees. The workplace is theirs and the obligation and responsibility are also theirs to make occupational health and safety part of the ordinary workplace. The whole thrust of the new legislation is designed to reduce the number of accidents in the workplace. Such accidents are horrific for people who are injured, and economically they cost the State hundreds of millions of dollars a year. Anything that we can do to reduce the injuries and the misery that accidents cause and

to assist in the economic welfare of the State, all members will agree, I am sure, is a worthwhile thing to do.

In conclusion, I am pleased that after many years of public discussion this new occupational health and safety legislation is now in place. I refer to all the people over the years who have sat on committees which I am sure they thought were endless—people outside Parliament as well as inside Parliament—including all the people in IRAC and employer and employee representatives who cooperated in creating this legislation. All these people deserve to be congratulated by the Parliament, and I do so on behalf of it.

I believe the legislation will stand the test of time, as they say, and I hope that it is many years before any significant amendments are required. As I stated, we now have in place one of the most progressive pieces of occupational health and safety legislation in Australia which is not only a credit to this Parliament but a credit to all those people in the workplace—both employers and employees—who have contributed greatly to the building of this legislation.

Mr S.J. BAKER: I, too, would like to indicate that it was an orderly conference. We had about 23 pages of amendments, but the major items were isolated, and there were few of them. Most of the amendments put up by the Liberal Opposition were accepted. A few remained to be negotiated, and they were negotiated peaceably and positively. The thrust of the Bill is somewhat different from the way it was originally put to the House and, whilst I am disappointed in a number of aspects of the Bill, overall I cannot be disappointed about how we fought the issues hard and have indeed gained some element of success in Parliament. It is not appropriate to go through all the amendments because, the as Minister has indicated, the major matters were isolated, and so there were few to be dealt with.

A number of sanctions against employers and employees exist, but that should not be seen as the thrust of the Bill, which should be to improve safety measures in the workplace. I support the amendments agreed to at the conference, and I hope and trust that the faith that has been put in employers, employees, unions and other registered associations in the workplace will be justified.

The Hon. E.R. GOLDSWORTHY: One could be excused for not knowing quite what has come out of the conference—because everyone has been patting each other on the back and saying that a great job has been done, but no-one is quite clear, even perusing the schedule of amendments, about what happened. However, as I understand it, a bit of balance has been preserved in this legislation. The original Bill gave an enormous advantage to one side of the employment equation and that matter has been redressed. In the main, amendments made by the Legislative Council have been upheld.

Mr D.S. Baker: They were too good for us!

The Hon. E.R. GOLDSWORTHY: I think that that is the outcome: the Minister has been rolled, although he would not say that. Notwithstanding, he has reached agreement, and I congratulate him on that. I understand that the two areas of concern were that a safety representative need not necessarily be a member of a trade union and that there were some sanctions against the safety representative if he capriciously or maliciously used his powers, and I think those principles have been upheld. So, I am quite pleased about the results of the conference.

Motion carried.

[Sitting suspended from 11.18 p.m. to 10.30 a.m.]

INDUSTRIAL CODE AMENDMENT BILL

The Legislative Council intimated that it insisted on its amendment to which the House of Assembly had disagreed.

Consideration in Committee.

The Hon. FRANK BLEVINS: I move:

That the House of Assembly insist on its disagreement to the Legislative Council's amendment.

Motion carried.

A message was sent to the Legislative Council requesting a conference at which the House of Assembly would be represented by Messrs Blevins, S.J. Baker, De Laine, Gregory, and Lewis.

WORKERS REHABILITATION AND COMPENSATION BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 1, lines 29 to 32 and page 2, lines 1 to 4 (clause 3)—Leave out the definition of 'assessment period'.

No. 2. Page 2, line 5 (clause 3)—Leave out 'an officer of the Corporation' and insert 'a person'.

No. 3. Page 2 (clause 3)—After line 7 insert new definition as follows:

'average minimum award rate' means the amount published by the Commonwealth Statistician as the weighted average minimum weekly award rate for adult persons (wage and salary earners) in South Australia:.

No. 4. Page 2, lines 16 to 18 (clause 3)—Leave out the definition of 'class'.

No. 5. Page 2, lines 32 to 34 (clause 3)—Leave out '(being work or a class of work prescribed by regulation made on the recommendation of the Corporation)'.

No. 6. Page 4 (clause 3)—After line 25 insert new definition as follows:

'industry' includes any business or activity in which workers are employed:.

No. 7. Page 4 (clause 3)—After line 31 insert 'or'.

No. 8. Page 4, lines 33 to 37 (clause 3)—Leave out all words in the definition of 'journey' after 'worker's employment' in line 33.

No. 9. Page 4 (clause 3)—After line 37 insert new definition as follows:

'local government corporation' means—

(a) a council as defined in the Local Government Act, 1934;

(b) the Local Government Association of South Australia; or

(c) any other body—

(i) established for local government purposes; and

(ii) prescribed for the purposes of this definition:.

No. 10. Page 5, line 4 (clause 3)—Leave out paragraph *(j)*.

No. 11. Page 5, lines 7 and 8 (clause 3)—Leave out paragraph *(b)*.

No. 12. Page 5 (clause 3)—After line 8 insert ', but does not include any question of a worker's incapacity for work or of the extent of an incapacity for work:'.

No. 13. Page 7, line 27 (clause 3)—Leave out '3' and insert '5'.

No. 14. Page 7, line 29 (clause 3)—Leave out '4' and insert '6'.

No. 15. Page 7, line 31 (clause 3)—Leave out '3' and insert '5'.

No. 16. Page 8, line 11 (clause 3)—Leave out paragraph *(a)* and insert new paragraph as follows:

(a) a person by whom work is done under a contract of service (whether or not as an employee);.

No. 17. Page 8, lines 19 to 28 (clause 3)—Leave out subclause (2) and insert subclause as follows:

(2) The Crown is the presumptive employer of persons of a prescribed class who voluntarily perform work of benefit to the State.

No. 18. Page 9, lines 38 and 39 (clause 4)—Leave out 'or for any other reason'.

No. 19. Page 10, line 21 (clause 4)—Leave out '2.5' and insert '1.5'.

No. 20. Page 10, line 39 (clause 4)—After 'last published' insert 'before the relevant date'.

No. 21. Page 12, line 1 (clause 8)—Leave out '11' and insert '12'.

No. 22. Page 12, lines 3 and 4 (clause 8)—Leave out paragraph *(a)* and insert new paragraph as follows:

(a) one shall be a person nominated by the Minister after consultation with the United Trades and Labor Council and associations that represent the interests of employers, who shall be the presiding officer of the board;.

No. 23. Page 12, line 5 (clause 8)—Leave out 'four' and insert 'five'.

No. 24. Page 12, line 7 (clause 8)—Leave out 'three' and insert 'two'.

No. 25. Page 12, lines 7 to 10 (clause 8)—Leave out paragraph *(c)* and insert new paragraph as follows:

(c) one shall be nominated by the Minister, after consultation with the Chamber of Commerce and Industry, South Australia Incorporated;

(caa) one shall be nominated by the Minister, after consultation with the South Australian Employers' Federation Incorporated;.

No. 26. Page 12 (clause 8)—After line 10 insert new paragraph as follows:

(ca) one shall be nominated by the Minister, after consultation with the United Farmers and Stockowners of S.A. Incorporated;

(cb) one shall be nominated by the Minister, after consultation with the Australian Small Business Association Limited;.

No. 27. Page 12, line 15 (clause 8)—After 'rehabilitation' insert 'nominated by the Minister after consultation with the United Trades and Labor Council and associations that represent the interests of employers;'.

No. 28. Page 12, lines 16 and 17 (clause 8)—Leave out all words in these lines.

No. 29. Page 12 (clause 8)—After line 17 insert new subclause as follows:

(2) In making nominations under subsection (1), the Minister shall have regard to—

(a) the need for the board to be sensitive to cultural diversity in the population of the State;

and

(b) the Corporation's obligation to take into account, in the provision of rehabilitation and compensation under this Act, racial, ethnic and linguistic diversity in the population of the State.

No. 30. Page 12, lines 18 to 20 (clause 9)—Leave out subclause (1) and insert new subclauses as follow:

(1) Subject to subsection (1a), a member of the board shall be appointed on such conditions and for such term (not exceeding three years) as the Governor may determine and on the expiration of a term of office is eligible for re-appointment.

(1a) The person appointed as the presiding officer of the board may be appointed for a term not exceeding five years.

No. 31. Page 12 (clause 9)—After line 36 insert new paragraph as follows:

(ca) is found guilty of an offence against section 13 (1);.

No. 32. Page 12, line 41 (clause 9)—After 'office' insert '(but a person who is to fill a casual vacancy in the office of a member shall be appointed only for the balance of the term of the person's predecessor)'.

No. 33. Page 13, line 5 (clause 11)—Leave out 'Six' and insert 'Seven'.

No. 34. Page 13, line 34 (clause 13)—Leave out 'is directly or indirectly interested' and insert 'has a direct or indirect personal or pecuniary interest'.

No. 35. Page 14, line 8 (clause 14)—After 'subject to the' insert 'general'.

No. 36. Page 15, after line 3—Insert new clause as follows:

14a. Government Financing Authority Act not to apply to Corporation. The Corporation shall not be a semi-government authority for the purposes of the Government Financing Authority Act, 1982.

No. 37. Page 15, lines 4 and 5 (clause 15)—Leave out all words in these lines and insert 'The Corporation shall seek to ensure that in the provision of rehabilitation and compensation under this Act racial, ethnic and linguistic diversity in the population of the State is taken into account and'.

No. 38. Page 15 (clause 16)—After line 12 insert new paragraph as follows:

(aa) may be made—

(i) to a member of the board;

(ii) to a committee established by the Corporation;

(iii) to a particular officer of the Corporation, or to any officer of the Corporation occupying (or acting in) a particular office or position;

or

(iv) to a public authority or public instrumentality.

No. 39. Page 15 (clause 17)—After line 36 insert new subsection as follows:

(3) The Corporation shall, in complying with subsection (2), take into account any relevant recommendation made by an auditor in reporting on the accounts of the Corporation.

No. 40. Page 15, line 38 (clause 18)—Leave out ', by the Auditor-General'.

No. 41. Page 15, lines 39 to 41, and page 16, lines 1 and 2 (clause 18)—Leave out subclause (2) and insert new subclauses as follow:

(2) For the purposes of audit under this section, the Corporation shall, within the first 3 months of each financial year, appoint 2 or more auditors of the Corporation for that financial year.

(3) An auditor appointed under subsection (2) must be a registered company auditor or a firm of registered company auditors.

(4) It is the duty of the auditors to report on the Corporation's accounting records and on the accounts to be laid before Parliament in respect of the financial year for which they are appointed as auditors of the Corporation.

(5) The auditors shall have a right of access at all reasonable times to the accounting and other records of the Corporation and are entitled to require from any officer of the Corporation such information and explanations as they think necessary for the purposes of the audit.

(6) An auditor of the Corporation incurs no liability in defamation for any statement made by the auditor in the course of fulfilling the duties of auditor.

No. 42. Page 16 (clause 21)—After line 27 insert new subclauses as follow:

(2) In choosing staff the Corporation shall have regard to—

(a) the need for the staff to be sensitive to cultural diversity in the population of the State;

(b) the Corporation's obligation to take into account, in the provision of rehabilitation and compensation under this Act, racial, ethnic and linguistic diversity in the population of the State;

and

(c) the need for the Corporation to have access to staff who are able to act as interpreters and translators so as to provide to people who are not reasonably fluent in English assistance in the proceedings and procedures under this Act.

(3) The staff of the Corporation are not Public Service employees.

No. 43. Page 16, line 30 (clause 22)—Leave out 'officer of' and insert 'employee in'.

No. 44. Page 16, line 31 (clause 22)—Leave out 'as an officer of' and insert 'in'.

No. 45. Page 17, lines 7 and 8 (clause 24)—Leave out the clause.

No. 46. Page 17, line 20 (clause 26)—Leave out 'possible' and insert 'practicable'.

No. 47. Page 17 (clause 26)—After line 20 insert 'and'.

No. 48. Page 17, line 21 (clause 26)—After 'workforce' insert 'and the community'.

No. 49. Page 17, lines 22 and 23 (clause 26)—Leave out all words in these lines.

No. 50. Page 18 (clause 27)—Before line 12 insert new subclause as follows:

(1) In the exercise of its power under this Division, the Corporation should seek to utilize rehabilitation facilities and services provided by the employer of a disabled worker.

No. 51. Page 18 (clause 27)—Before line 12 insert subclause as follows:

(1a) In the exercise of its powers under this Division, the Corporation shall give encouragement and assistance to the establishment and provision of rehabilitation facilities and services in the private sector.

No. 52. Page 18, line 16 (clause 27)—Leave out 'and'.

No. 53. Page 18 (clause 27)—After line 19 insert paragraph as follows:

and

(c) establish and maintain a register of persons and organisations that are, in the opinion of the Corporation, properly qualified and equipped to provide rehabilitation services.

No. 54. Page 18, line 40 (clause 29)—After 'establish' insert 'or maintain'.

No. 55. Page 19, line 12 (clause 30)—Leave out 'is wholly attributable to' and insert 'arises out of'.

No. 56. Page 19, line 14 (clause 30)—Leave out 'while the worker is in' and insert 'in the course of'.

No. 57. Page 19, line 18 (clause 30)—After 'employment)' insert 'where the journey or a part of the journey is made for a purpose

connected with the worker's employment (and for the purposes of this paragraph the journey of the worker includes any deviation or interruption in the journey that is made by the worker for a purpose connected with the worker's employment);'.

No. 58. Page 20, line 12 (clause 30)—After 'employment' insert 'unless the worker's disability results in death or permanent total incapacity for work'.

No. 59. Page 21 (clause 31)—After line 4 insert new subclause as follows:

(3) A regulation under subsection (2) must not be made except—

(a) on the recommendation of the Corporation;

or

(b) with the approval of the Corporation.

No. 60. Page 22, lines 14 to 48 and page 23, lines 1 to 5 (clause 35)—Leave our subclauses (1), (2), (3) and (4) and substitute subclauses as follow:

(1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

(a) if the period of incapacity for work does not exceed 6 weeks—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds six weeks, the worker is entitled to weekly payments determined in accordance with paragraph *(a)* for the first six weeks of the period of incapacity and thereafter:

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 90 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 90 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(c) if the period of incapacity for work exceeds one year, the worker is entitled to weekly payments determined in accordance with paragraphs *(a)* and *(b)* for the first year of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 75 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 75 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning in suitable employment or could earn in suitable employment that the worker has reasonable prospects of obtaining.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the Corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of one year, this paragraph does not apply to a period commencing after, or extending beyond, the end of the first year of incapacity);

and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment; and

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability.

No. 61. Page 23, line 8 (clause 35)—After 'section' insert 'in respect of that period'.

No. 62. Page 23, line 9 (clause 35)—Leave out ', if the Corporation so determines,' and insert 'not, unless the Corporation determines otherwise,'.

No. 63. Page 23, lines 28 and 29 (clause 35)—Leave out 'or in the course of'.

No. 64. Page 23 (clause 35)—After line 35 insert new subclause as follows:

(9) In this section—

(a) a reference to a period of incapacity for work is, where the disability results in separate periods of incapacity for work, a reference to the aggregate period of incapacity;

(b) a reference to weekly earnings is a reference to weekly earnings exclusive of prescribed allowances.

No. 65. Page 23, line 37 (clause 36)—Leave out 'or reduced'.

No. 66. Page 23, line 39 (clause 36)—Leave out 'or reduction'.

No. 67. Page 23, lines 43 and 44 (clause 36)—Leave out all words in these lines after the word 'work' in line 43.

No. 68. Page 24, line 10 (clause 36)—Leave out 'or reduction'.

No. 69. Page 24 (clause 36)—After line 11 insert new subclause as follows:

(1a) Subject to this Act, weekly payments to a worker who has suffered a compensable disability shall not be reduced unless—

(a) the worker consents to the reduction of weekly payments;

(b) the Corporation is satisfied, on the basis of a certificate of a recognised medical expert, that there has been a reduction in the extent of the worker's incapacity for work;

or

(c) the reduction of weekly payments is authorised or required by some other provision of this Act,

(and any reduction made on the basis of this subsection must be consistent with section 35).

No. 70. Page 24, line 13 (clause 36)—After 'subsection (1) *(b)* or *(c)*' insert 'or subsection (1a) *(b)*'.

No. 71. Page 24 (clause 36)—After line 26 insert new subclause as follows:

(4) Where on a review referred to in subsection (3) weekly payments are discontinued or reduced, any amounts to which the worker would not have been entitled but for the operation of subsection (3) may, subject to the regulations, be recovered from the worker as a debt.

No. 72. Page 24, line 33 (clause 37)—After 'the worker has' insert 'reasonably'.

No. 73. Page 25 (clause 37)—After line 8 insert new subclause as follows:

(5) Where on a review referred to in subsection (4) weekly payments are suspended or reduced, any amounts to which the worker would not have been entitled but for the operation of that subsection may, subject to the regulations, be recovered as a debt.

No. 74. Page 25, line 9 (clause 38)—Leave out 'The' and insert 'Subject to subsection (2), the'.

No. 75. Page 25, lines 12 to 14 (clause 38)—Leave out subclause (2) and insert new subclause as follows:

(2) The Corporation is not required to comply with a request for a review under subsection (1) if the request is made within 6 months from the completion of an earlier review.

No. 76. Page 25, line 20 (clause 38)—Leave out '3' and insert '2'.

No. 77. Page 25, line 21 (clause 38)—Leave out '3' and insert '2'.

No. 78. Page 26, line 6 (clause 39)—Leave out ', 2nd and 3rd' and insert 'and 2nd'.

No. 79. Page 26, line 20 (clause 39)—Leave out '4th' and insert '3rd'. After 'shall' insert ', subject to subsection (2a),'.

No. 80. Page 26 (clause 39)—After line 22 insert new subclause as follows:

(2a) If changes in the Consumer Price Index over the period referred to in subsection (2) *(b)* are not fully reflected in the rates of remuneration payable under awards, there shall be a corresponding reduction in the extent of the adjustment under subsection (2) *(b)*.

No. 81. Page 28, lines 35 to 38 (clause 43)—Leave out paragraph *(b)*.

No. 82. Page 29, lines 22 to 25 (clause 43)—Leave out subclause (9) and insert new subclauses:

(9) The Governor may by regulation amend the third schedule by adding specified disabilities and fixing in relation to each such additional disability a percentage of the prescribed sum that is to be payable in respect of that disability.

(9a) A regulation under subsection (9) must not be made except—

(a) on the recommendation of the Corporation;

or

(b) with the approval of the Corporation.

No. 83. Page 31, lines 6 and 7 (clause 44)—Leave out 'the spouse was cohabiting with the worker within 6 months before the date of the worker's death and' and insert 'although the spouse was not cohabiting with the worker on the date of the worker's death'.

No. 84. Page 32, line 1 (clause 44)—Leave out 'Where' and insert 'Subject to subsection (11a), where'.

No. 85. Page 32 (clause 44)—After line 9 insert new subclause as follows:

(11a) Where a child is by reason of a physical or mental disability, incapable of earning a living, the Corporation may pay a supplementary allowance under subsection (11) during the period of incapacity even though the child has attained the age of 18 years.

No. 86. Page 32, lines 34 to 36 (clause 45)—Leave out all words in these lines after 'subsection (3)—' and insert 'to reflect changes in the average minimum award rates since payments were commenced under this Division or an adjustment was last made under this section (as may be appropriate).'.

No. 87. Page 34, line 28 (clause 48)—Leave out 'may' and insert 'is entitled to'.

No. 88. Page 34, lines 31 and 32 (clause 48)—Leave out all words in these lines.

No. 89. Page 34 (clause 48)—After line 32 insert new words as follows '(and the Corporation shall take all reasonable steps to recover that debt)'.

No. 90. Page 34, lines 37 to 43 and page 35, lines 1 and 2 (clause 49)—Leave out subclauses (2) and (3).

No. 91. Page 35, line 23 (clause 51)—Leave out paragraph *(a)* and insert paragraph as follows:

(a) if practicable within 24 hours after the concurrence of the disability but, if that is not practicable, as soon as practicable after the occurrence of the disability;.

No. 92. Page 37, lines 36 to 39 (clause 52)—Leave out all words in the definition of 'prescribed period' after 'arises' in line 36.

No. 93. Page 37, line 46 (clause 53)—After 'Corporation' insert 'from a list of approved experts'.

No. 94. Page 38 (clause 54)—After line 39 insert new subclause (3a) as follows:

(3a) Where an action is brought at common law against an employer for damages for non-economic loss arising from a compensable disability (not being a disability that arises out of the use of a motor vehicle and gives rise to a liability of a kind referred to in subsection (2)), the damages awarded in respect of that loss must not exceed 1.1 times the prescribed sum.

No. 95. Page 39, line 2 (clause 54)—After 'paid' insert 'or payable'.

No. 96. Page 39, line 5 (clause 54)—Leave out 'or other compensation'.

No. 97. Page 39, lines 6 to 9 (clause 54)—Leave out all words in these lines after 'compensation' in line 6 and insert 'is paid or payable is entitled to recover the amount of the compensation in accordance with subsection (5a).'.

No. 98. Page 39, line 15 (clause 54)—After 'paid' insert 'or payable'.

No. 99. Page 39, lines 17 and 18 (clause 54)—Leave out all words in these lines after 'Corporation' in line 17 and insert 'is entitled to recover the amount of the compensation in accordance with subsection (5a)'.

No. 100. Page 39 (clause 54)—After line 17 insert subclause as follows:

(5a) Where—

(a) compensation is paid or payable to a person ('the injured party') under this Act;

(b) the injured party has received, or is entitled to, damages from another person ('the wrongdoer') in pursuance of rights arising from the same trauma as gave rise to the rights to compensation under this Act;

(c) the person by whom the compensation is paid or payable under this Act ('the claimant') is entitled to recover the amount of the compensation by virtue of subsection (4) or (5),

then the following provisions apply:

(d) the claimant is entitled to recover the amount of compensation paid or payable under this Act from the wrongdoer or the injured party but subject to the following qualifications:

(i) no amount may be recovered from the wrongdoer in excess of the wrongdoer's unsatisfied liability to the injured party;

(ii) the claimant must exhaust its rights against the wrongdoer before recovering against the injured party;

and

(iii) no amount may be recovered from the injured person in excess of the amount of the damages received by the injured party;

(e) the claimant shall, on giving notice to a wrongdoer of an entitlement to recover compensation under this section, have a first charge, to the extent of the entitlement, on damages payable by the wrongdoer to the injured party;

(f) any amount recovered by the claimant against a wrongdoer under this subsection shall be deemed to be an amount paid in or towards satisfaction of the wrongdoer's liability to the injured party;

(g) an action for the recovery of compensation under this subsection—

(i) may be heard and determined by the Industrial Court;

and

(ii) must be commenced within 3 years after the date of the trauma referred to in paragraph *(b)*.

No. 101. Page 39 (clause 54)—After line 19 insert definition as follows:

'damages' includes any form of compensation payable apart from this Act in respect of a compensable disability.

No. 102. Page 42, lines 9 and 10 (clause 60)—Leave out paragraph *(a)* and insert paragraphs as follow:

(a) is subject to—

(i) a condition that the exempt employer shall not exercise any power or discretion delegated to the exempt employer under this Act, unreasonably;

and

(ii) such other terms and conditions as the Corporation determines or as are prescribed by the regulations;.

No. 103. Page 42, lines 26 to 33 (clause 60)—Leave out definition of 'local government corporation'.

No. 104. Page 43, line 12 (clause 63)—Leave out 'The following' and insert 'Subject to this Act, the following'.

No. 105. Page 43, line 14 (clause 63)—Leave out 'may be' and insert 'are'. Leave out 'by the Corporation'.

No. 106. Page 43, lines 26 and 27 (clause 63)—Leave out all words after 'to' and insert 'approve recognized medical experts for the purposes of section 53 (2)'.

No. 107. Page 43, lines 30 to 34 (clause 63)—Leave out subclauses (2) and (3) and insert new subclauses as follow:

(2) Delegated powers and discretions referred to in subsection (1) shall not be exercised by the Corporation in relation to the workers of the exempt employer.

(3) The Corporation shall not overrule or interfere with a decision of an exempt employer made in the exercise of delegated powers or discretions.

No. 108. Page 43 (clause 63)—After line 42 insert subclause (6) as follows:

(6) If an exempt employer exercises a power or discretion delegated under subsection (1) unreasonably, the Corporation may withdraw (in whole or in part) the delegation effected by subsection (1).

No. 109. Page 44, lines 14 to 16 (clause 64)—Leave out subclause (5) and insert subclauses as follow:

(5) Subject to subsection (5a), in deciding how to invest funds that are available for investment, the Corporation shall endeavour to achieve the highest possible rates of return.

(5a) The Corporation is not required to comply with subsection (5) if the board unanimously decides, in relation to certain funds, to invest those funds at a lesser rate of return but so as to promote the economy of the State.

No. 110. Pages 44 and 45—Leave out clauses 65, 66 and 67 and insert new clauses 65 and 66 as follows:

65. Preliminary (1) In this Division—

'class' of industry includes a subclass:

'remuneration' includes payments made to or for the benefit of a worker which by the determination of the Corporation constitute remuneration but does not include payments determined by the Corporation not to constitute remuneration.

(2) For the purposes of this Division, two or more workplaces in close proximity may, if the Corporation so determines, be regarded as a single workplace.

66. Imposition of levies (1) An employer (not being an exempt employer) is liable to pay a levy to the Corporation under this section.

(2) The levy is a percentage of the aggregate remuneration paid to the employer's workers in each class of industry in which the employer employs workers.

(3) The Corporation may for the purposes of this section divide the industries carried on in the State into various classes.

(4) The Corporation may determine any question as to the class of industry in which an employer employs workers.

(5) In determining the class of industry in which an employer employs workers the following provisions will be applied—

(a) if the employer employs a worker in two or more classes of industry—

(i) the worker will, subject to any determination by the Corporation to the contrary, be treated as if solely employed in the class of industry in which he or she is predominantly employed;

and

(ii) if it is not possible to determine which is the predominant class, the worker will be treated as if solely employed in a class of industry determined by the Corporation;

(b) if the employer employs workers in different classes of industry at a particular workplace, all workers employed at the workplace will, if the Corporation so determines, be treated as engaged in the predominant class of industry;

and

(c) in determining what is the predominant class of industry, the Corporation will have regard to—

(i) the importance within the employer's total operations of each class of industry in which workers are employed;

and

(ii) any other relevant factor.

(6) The Corporation—

(a) must fix the percentages applicable to the various classes of industry by notice published in the *Gazette*;

and

(b) may, by subsequent notice published in the *Gazette*, vary the percentages so fixed.

(7) Subject to subsection (9), a percentage fixed under subsection (6) in relation to a class of industry must be one of the following:

0.5 per cent
0.7 per cent
1.0 per cent
1.4 per cent
1.8 per cent
2.3 per cent
2.8 per cent
3.3 per cent
3.8 per cent
4.5 per cent

(8) In fixing the percentage applicable to a particular class of industry the Corporation must have regard to—

(a) the extent to which work carried on in that class is, in the opinion of the Corporation, likely to contribute to the cost of compensable disabilities;

and

(b) the need for the Corporation to establish and maintain sufficient funds—

(i) to satisfy the Corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in a particular period from levies raised from remuneration paid in that period;

(ii) to make proper provision for administrative and other expenditure of the Corporation;

and

(iii) to make up any insufficiency in the Compensation Fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities.

(9) The Corporation may fix a percentage in excess of 4.5 per cent in relation to a particular class of industry if in each of 2 consecutive years the Corporation's estimate of the aggregate cost of claims in respect of disabilities attributable to traumas occurring in the year in the relevant class exceeds, as a percentage of the aggregate leviable remuneration paid to workers in that class, 30 per cent.

(10) A percentage may not be fixed under subsection (9) in excess of 20 per cent.

(11) A percentage fixed under subsection (9) will be reviewed annually by the Corporation and applies until it is revoked or varied by the Corporation.

(12) The regulations may provide for a reduction, in prescribed circumstances, of the levy that would otherwise be payable by an employer under this section.

(13) The percentages prescribed by subsection (7) must be reviewed by the Corporation before the fifth anniversary of the commencement of this Act.

No. 111. Page 45, line 38 (clause 68)—Leave out 'in previous assessment periods'.

No. 112. Page 45, line 41 (clause 68)—Leave out 'work' and insert 'industry (disregarding unrepresentative disabilities and secondary disabilities)'.

No. 113. Page 45 (clause 68)—After line 43 insert new paragraph as follows:

(d) the desirability of providing the employer with an incentive to employ or re-employ workers who have suffered compensable disabilities,.

No. 114. Page 46, lines 8 and 9 (clause 68)—Leave out 'in previous assessment periods'.

No. 115. Page 46, line 11 (clause 68)—Leave out 'work' and insert 'industry'.

No. 116. Page 46, lines 16 to 20 (clause 69)—Leave out subclauses (1) and (2) and insert new subclauses as follow:

(1) An exempt employer is liable to pay a levy to the Corporation under this section.

(2) The levy payable by an exempt employer is a percentage of the aggregate remuneration (as determined by the Corporation) paid to the employer's workers over the period to which the levy relates.

No. 117. Page 46, lines 35 to 44 and page 47, lines 1 to 31 (clause 70)—Leave out subclauses (1), (2), (3) and (4) and insert new subclauses as follow:

(1) Returns by employers—Every employer shall, within 7 days after the end of each month, furnish the Corporation with a return in a form approved by the Corporation containing—

(a) (i) if the employer is an exempt employer—a statement of the aggregate remuneration paid to the employer's workers during the month;

(ii) if the employer is not an exempt employer—a statement of the aggregate remuneration paid to the employer's workers in each class of industry during the month;

(b) prescribed information in relation to claims lodged with the employer under this Act during that month;

and

(c) such other information as may be prescribed or required by the Corporation.

(2) The return must be accompanied by the levy payable by the employer in respect of that month.

(3) The Corporation may require an employer to provide—

(a) a certificate signed by the employer, a person authorized to act on the employer's behalf or, if the Corporation so requires, a person with prescribed accounting qualifications, verifying the information contained in a return;

or

(b) some other verification of that information of a kind stipulated by the Corporation.

No. 118. Page 48, line 2 (clause 70)—Leave out 'underestimates' and insert 'understates'.

No. 119. Page 48, line 3 (clause 70)—Leave out 'to be paid' and insert 'paid'.

No. 120. Page 48, lines 3 and 4 (clause 70)—Leave out 'to workers in an assessment period,'.

No. 121. Page 48, line 9 (clause 70)—After 'remuneration' insert 'paid by an employer'.

No. 122. Page 48, lines 10 to 35 (clause 71)—Leave out the clause.

No. 123. Page 48, line 41 (clause 72)—Leave out 'is' and insert 'the Corporation has reasonable grounds to believe to be'.

No. 124. Page 48 (clause 72)—After line 43 insert new subclause as follows:

(1a) Where an employer fails to pay a levy, or the full amount of a levy, required by or under this Act, the Corporation will make an assessment of the amount payable by the employer.

No. 125. Page 49, line 1 (clause 72)—After (1) insert 'or (1a)'.

No. 126. Page 49, line 10 (clause 73)—Leave out ', or instalment of levy,'.

No. 127. Page 49—After line 23 insert new clause as follows:

73a. Review of levy (1) Where an employer considers that the Corporation has acted unreasonably in relation to the fixing

or assessment of a levy, or the imposition of a fine, the employer may require the board to review the matter.

(2) The procedures for a review under subsection (1) will be as determined by the board.

(3) An application for review does not suspend a liability to pay a levy or fine.

(4) On a review, the board may—

(a) alter a levy or an assessment;

(b) quash or reduce a fine;

(c) order the repayment of amounts overpaid.

No. 128. Page 49, line 27 (clause 74)—Leave out ', in relation to each assessment period'.

No. 129. Page 50, lines 1 and 2 (clause 75)—Leave out 'of work' and insert 'of industry'.

No. 130. Page 51 (clause 80)—After line 18 insert new subclause as follows:

(3a) The power of appointing ordinary members of the Tribunal shall be so exercised so as to ensure that the number of members appointed after consultation with the United Trades and Labour Council is equal to the number of members appointed after consultation with associations that represent the interests of employers.

No. 131. Page 51, lines 28 to 30 (clause 80)—Leave out all words in these lines.

No. 132. Page 52, lines 17 to 19 (clause 85)—Leave out subclause (2) and insert new subclause as follows:

(2) A Medical Review Panel will consist of—

(a) a presiding officer;

and

(b) two ordinary members.

No. 133. Page 52, lines 24 to 35 (clause 85)—Leave out subclauses (4) and (5) and insert new subclause as follows:

(4) For the purpose of constituting Medical Review Panels there shall be—

(a) a panel of presiding officers consisting of specialists nominated by the Minister after taking into account the recommendations of the Corporation made by unanimous decision of the board;

(b) a panel of ordinary members consisting of specialists nominated by the Minister after taking into account the recommendations of the Corporation made by unanimous decision of the board.

No. 134. Page 54, line 4 (clause 91)—After 'any' insert 'relevant'.

No. 135. Page 54, line 17 (clause 91)—Leave out 'Subject to subsection (4), if' and insert 'If'.

No. 136. Page 54 (clause 90)—After line 42 insert new subclauses as follow:

(6) Where—

(a) the native language of a person who is to give oral evidence in any proceedings before a review authority is not English;

and

(b) the witness is not reasonably fluent in English, the person is entitled to give that evidence through an interpreter.

(7) A person may present written evidence to a review authority in a language other than English if that written language has annexed to it—

(a) a translation of the evidence into English;

and

(b) an affidavit by the translator to the effect that the translation accurately reproduces in English the contents of the original evidence.

No. 137. Page 55, line 2 (clause 93)—After 'authority' insert '(but a person is not entitled to be represented by another person whose name has been struck off the roll of legal practitioners or who, although a legal practitioner, is not entitled to practise the profession of law because of disciplinary action taken against him or her).'.

No. 138. Page 55, line 29 (clause 94)—After 'review' insert 'unless the review authority, considers that an extension of time is justified in the circumstances of the particular case and allows an extension of time accordingly'.

No. 139. Page 55 (clause 94)—After line 29 insert new subclause as follows:

(3) A review authority shall, at the conclusion of a review, inform the parties to the proceedings of the right to request a statement under subsection (1).

No.140. Page 56 (clause 96)—After line 3 insert paragraph as follows:

(ca) a decision refusing registration or cancelling registration of an employer or groups of employers as an exempt employer or group of exempt employers:

No. 141. Page 56, lines 4 and 5 (clause 96)—Leave out paragraph *(d)*.

No. 142. Page 56, lines 43 to 45 and page 57, lines 1 to 3 (clause 98)—Leave out paragraphs *(a)* and *(b)* and insert 'may appeal against that decision'.

No. 143. Page 57 (clause 98)—After line 3 insert new subclause as follows:

(1a) An appeal under subsection (1) must be made—

(a) in the case of a decision refusing registration or cancelling registration of an employer or group of employers as an exempt employer or a group of exempt employers—to the Minister:

(b) in the case of an aspect of a decision relating to a medical question (not being a question that has been decided by a Medical Review Panel)—to a Medical Review Panel or to the Tribunal;

and

(c) in any other case—to the Tribunal.

No. 144. Page 57, lines 6 and 7 (clause 98)—Leave out all words in these lines after 'unless the' and insert 'appellate authority allows a longer time for the institution of the appeal'.

No. 145. Page 57, line 9 (clause 98)—Leave out 'Tribunal' and insert 'appellate authority'.

No. 146. Page 57, line 18 (clause 98)—Leave out 'proceedings before the Tribunal,' and insert 'appellate proceedings'.

No. 147. Page 57, lines 22 and 23 (clause 99)—Leave out subclause (1).

No. 148. Page 57, lines 24 to 26 (clause 99)—Leave out ', by leave of the Tribunal (which should only be granted where special reasons are shown),'.

No. 149. Page 58 (clause 103)—After line 13 insert new subclause as follows:

(5) The regulations may prescribe procedures for the reference of applications under this section to Review Officers.

No. 150. Page 58, lines 14 to 18 (clause 104)—Leave out the clause.

No. 151. Page 59, lines 16 to 24 (clause 108)—Leave out subclauses (2) and (3) and insert new subclause as follows:

(2) Where on the final determination of a claim it appears that an amount to which the claimant was not entitled has been paid under this section, the Corporation may recover that amount as a debt.

No. 152. Page 60, line 16 (clause 112)—After 'photographs' insert ', films or video recordings'.

No. 153. Page 60 (clause 112)—After line 18 insert new subclause as follows:

(1a) The powers conferred under subsection (1) shall, when the authorised officer is attending at any workplace, be exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at that workplace.

No. 154. Page 60, lines 19 to 21 (clause 112)—Leave out subclause (2).

No. 155. Page 60 (clause 112)—After line 30 insert new subclause as follows:

(4a) A person is not required to furnish information under this section if the information is privileged on the ground of legal professional privilege.

No. 156. Page 60, line 39 (clause 113)—Leave out 'A' and insert 'Subject to subsection (1a), a'.

No. 157. Page 60 (clause 113)—After line 40 insert new subclause as follows:

(1a) An inspection under subsection (1) shall be exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at a place of employment.

No. 158. Page 61, (clause 114)—After line 15 insert new subclause as follows:

(3) In this section—

'officer of the Corporation' includes a person who, although not an officer of the Corporation, is authorised to exercise the powers of an authorised officer under section 112.

No. 159. Page 61, line 21 (clause 115)—Leave out 'of function'.

No. 160. Page 61, line 22 (clause 115)—Leave out 'immediately' and insert 'when the worker's employment last contributed to the loss'.

No. 161. Page 63, line 38 (clause 122)—After '$5 000' insert 'or imprisonment for one year'.

No. 162. Page 63 (clause 122)—After line 45 insert new subclause as follows:

(4) A person who—

(a) aids, abets, counsels or procures the obtaining of a benefit under this Act by fraud;

or

(b) solicits or incites the obtaining of a benefit under this Act by fraud,

is guilty of an offence.

Penalty: $5 000 or imprisonment for one year.

No. 163. Page 65, First Schedule (clause 1)—After the definition of 'the appointed day' insert definition as follows:

'compensating authority' means the Corporation or an exempt employer.

No. 164. Page 65, First Schedule (clause 2)—Leave out subclauses (2), (3), (4) and (5) and insert subclauses as follows:

(2) This Act applies in relation to a disability (referred to in this clause as a 'transitional disability') that is partially attributable to a trauma that occurred before the appointed day and partially attributable to a trauma that occurred on or after the appointed day, but does not affect rights (referred to in this clause as 'antecedent rights') that had accrued before the appointed day in respect of a transitional disability.

(3) The following provisions apply in relation to a transitional disability—

(a) where a compensating authority pays or is liable to pay compensation to a claimant under this Act in relation to a transitional disability, the compensating authority is subrogated, to an appropriate extent, to the antecedent rights of the claimant;

(b) where the claimant has received, in pursuance of antecedent rights, damages or compensation (not being weekly payments for a period of incapacity that concluded before the appointed day), there shall be an appropriate reduction in the amount of compensation payable under this Act in respect of the disability;

(c) the extent of a subrogation under paragraph *(a)*, or a reduction in the amount of compensation under paragraph *(b)*, shall be determined having regard to—

(i) the amount of the compensation payable (apart from this subclause) under this Act in respect of the transitional disability;

(ii) the extent to which the transitional disability is attributable to a trauma that occurred before the appointed day;

and

(iii) any other relevant factors,

and any question relating to the extent of such a subrogation or reduction may be determined, on the application of an interested party, by the Industrial Court.

No. 165. Page 66, Second Schedule—Leave out the following:

'Aggravation, acceleration, exacerbation, deterioration, or recurrence of any pre-existing coronary heart disease	Any work involving physical or mental stress.'

No. 166. Page 67, Second Schedule—Leave out 'Any work involving the handling or use of tar' and insert 'Any work involving processes which involve the handling or use of tar'.

No. 167. Page 68, Third Schedule—After

'Loss of phalanx or any other toe ..... 7'

insert—

'Loss of genital organs 70

Permanent loss of the capacity to engage in sexual intercourse ..... 70'.

Consideration in Committee.

The Hon. FRANK BLEVINS: I move:

That the Legislative Council's amendments be disagreed to.

While moving to disagree with the amendments, I believe that if I had another 15 minutes and on mature reflection the overwhelming majority of them would perhaps be acceptable, but in the interests of expediting the business of the House, and as I understand from the Clerks that to do it any other way will take another two hours (and I am sure members would not want that), I will so move.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments distort the intention of the Bill.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

At 11.11 a.m. the following recommendation of the conference was reported to the House:

As to Amendment No. 1:

That the Legislative Council do not further insist on its disagreement thereto.

Consideration in Committee.

The Hon. T.H. HEMMINGS: I move:

That the recommendation of the conference be agreed to.

One of the major disagreements on this Bill concerned clause 4, which dealt with polls relating to amalgamations. The Bill was the result of the efforts of the working party which was set up by the previous Minister of Local Government (Hon. G.F. Keneally) and which dealt with a series of amendments on electoral reform.

In the Legislative Council, a further amendment was put in. It dealt with amalgamation and the question whether the recommendation of the Local Government Advisory Commission should go back to the community for a poll. It was on that amendment that the Government and the Opposition disagreed. The Hon. Ian Gilfillan's amendment in another place sought to have the views of the community placed over and above those which had been sought by the Local Government Advisory Commission, but it was considered that it was not right and proper that that amendment should be part of the Bill.

At the conference there was a fair degree of compromise. It was considered by all parties that the point should be pursued, and it was agreed that the Hon. Mr Gilfillan should be given an opportunity to test his amendment by including it in a private member's Bill that he could introduce in the Council. Earlier, I made the point on behalf of the Minister of Local Government that the views of local government had not been sought on whether the question should go back to a poll, even though the Local Government Association had passed a resolution on the matter at its annual meeting.

That vote was taken at the AGM and the vote was 49 to 40, which, in the view of this Government, did not represent a clear indication from local government that it wanted to proceed beyond the accepted guidelines that had been set by this Government. In the spirit of compromise an agreement was reached. As part of that agreement it was decided that, in giving this report, I would make the point that the Opposition agreed that it would not press its amendment and would support the balance of the Bill.

However, the Hon. Ian Gilfillan will give notice of a private member's Bill, incorporating clause 4, which will be debated during the autumn session. The Minister also gave an undertaking that no amalgamations would be proclaimed prior to the resolution of the Hon. Ian Gilfillan's Bill in the autumn session. It was also decided that Mr Gilfillan, in preparing and presenting his private member's Bill to the Council, should be given the opportunity to go out to local government, and that the Local Government Association would facilitate that. Also, when that private member's Bill was introduced in the Legislative Council, the Minister would attempt to facilitate it so that it would be discussed and debated expeditiously so that local government would be well aware of the Council's intentions.

On behalf of the Government in this House I also stated that when it reached this place, in cooperation with Opposition members, I would ensure, hopefully, that the Bill would be debated early and that a resolution would be reached very quickly as to how this House viewed the Bill. I congratulate all members and managers of this House for the way in which they contributed to the conference and reached a compromise that was satisfactory to both Houses.

The Hon. B.C. EASTICK: The Minister has given a factual report of the activities. He did not indicate whether the Hon. Mr Gilfillan has a whole chook with feathers in its tail or no chook at all. It is a matter of some conjecture.

I make that statement against the background that a Bill which he will introduce in another place will have two clauses—one to undertake the amendments which he had sought and which had been given majority support in the Upper House. The Minister now has a simple Bill with the one clause which has, and may well continue to have, majority support in another place but which has not enjoyed majority support in this place at any stage during discussions that have taken place. It would be quite possible for the Government to fulfil its commitment and allow the Bill to proceed with haste in another place, to be introduced in this place, to allow the second reading speech to be given, and for it then to be given very quick consideration, such consideration involving Government members saying, 'We oppose the Bill,' resulting in the demise of the Bill at the second reading stage before there has been a full debate on the issues.

However, having recognised that that Clayton form of win by the Hon. Mr Gilfillan now exists and is supported by members on this side of the Chamber, along with the Minister, I should say that the Hon. Mr Gilfillan has indicated his interest in discussing the issues with the local government industry—and I say 'industry' on the basis of looking not only at councils but also at staff and everybody who is associated with it. The Local Government Association has indicated that it is prepared to assist in that matter. The Committee should recognise that the Local Government Association, through its President, its Secretary-General and through support that has been given over the past five or six days by a large number of individual councils, has already indicated that it supports the amendment which the Hon. Mr Gilfillan sought to include. In fact, it supported an amendment of the Hon. Mr Hill, but the Hon. Mr Gilfillan sought not to support Mr Hill but to go half way with his own amendment, and the Opposition was prepared to accept that as being better than nothing at all.

I would like to believe that the Government, when it receives the Bill in another place, will take very seriously the information which I believe will be made available by local government in support of the action that the Hon. Mr Gilfillan is taking, and that it will not out of hand discharge the Bill without full and proper debate being undertaken as quickly as possible—and that would be two or three private members' sitting days. Further, I trust that Government members will vote on the matter on its merits, and not as a means of ridding themselves of an impediment from which they are now suffering.

It was clearly indicated to the Committee that the Ministers saw the amendment that was moved in the other place by the Hon. Mr Gilfillan as an impediment which could have led to the demise of the Bill in total. I doubt very much whether the Government would have proceeded to that end course, but the Hon. Mr Gilfillan was of the opinion that it might and he has, therefore, taken this course of action.

There has been no argument at any time that the measures which are now put forward in the Bill are to the disadvantage of local government. That support by the Opposition was always present in both Houses, and the Government was prepared to accept a number of amendments which improved the nature of the Bill that originally came to the attention of the Parliament in the Legislative Council. It is necessary to have those brief remarks on the record, and I look forward to a vigorous and satisfactory debate in February and March 1987.

The Hon. E.R. GOLDSWORTHY: I was very interested in those reports of the conference. I do not wish to delay the Committee at all, but it appears to me from those reports that either the Hon. Mr Gilfillan was rolled—to use a term that I used in a debate earlier this week—or he is particularly gullible.

Mr Lewis interjecting:

The Hon. E.R. GOLDSWORTHY: I think that the member for Light's initial imagery was, 'I do not think he has left himself with a feather to fly with.' I do not know which conclusion to draw but, whatever it is, in my judgment he does not come out of it with anything to crow about.

Mr DUIGAN: The Local Government Act Amendment Bill, which has been the subject of a managers conference, had as its principal focus a number of amendments to do with local government elections. As the Minister here has already indicated, they arose out of the recommendations of the working party that was set up after the 1985 election, and the principal focus of all the amendments in this Bill was to ensure that difficulties which had been identified as a result of the 1985 election were able to be overcome and in place so that the May 1987 election could proceed in a much more efficient and orderly manner as a result of the experience of the 1985 election. Indeed, a number of significant amendments have been made and they have been supported by members on both sides.

Clause 9 of the original Bill dealt with the question of when an election should be held if discussion about amalgamation was proceeding between adjoining councils. That provision raised the general question of amalgamations and the way in which they should proceed. The question of amalgamations, the extent of the decisions of the Advisory Commission, and the role that the Minister ought to play in relation to the recommendations from the Advisory Commission was brought into sharp relief. It was believed that there should be one last opportunity for the recommendations of the commission to be tested, as it were, on the electors of those councils that were to be incorporated into a newly formed council.

That became the point which the conference between the two Houses had to address itself to and resolve. The resolution was that this issue be dealt with separately as a Bill, which will be introduced into the Legislative Council and subsequently here. The member for Light suggested a course of action that might be followed, namely that the Bill would be introduced in the Legislative Council, passed there, be introduced here and defeated. At this stage that is probably prejudging the issue. We do not know exactly the form that the Bill will take.

The Local Government Association will have three months in which to canvass the views of local government more widely, and there may well be procedures to be followed at regional meetings and at meetings of their executive to determine a position in relation to a private member's Bill, notice of which will be given this afternoon. It may be that a range of other issues associated with amalgamation might be brought into a private member's Bill as a result of the discussions that have been initiated. We should not prejudge the issue: we should not simply assume that that Bill will contain the one or two clauses suggested, because it will now be a far more extensive and widespread debate.

I believe that the Minister in this place and the Minister in the other place and those members who were at the conference acknowledged that there will be a fairly extensive discussion of that proposition once it comes before the House. It is proper that we deal with the matter seriously rather than prejudging it, as is occurring at present with the suggestion that it will be dismissed summarily. It will not be dismissed summarily, because this is an important issue in the view of councils, the Minister and the Government. It was considered so important by the Minister that she

gave an undertaking at the conference to which the Minister here has referred not to proceed with any of the 12 amalgamations that are currently before the Advisory Commission until the Hon. Mr Gilfillan's proposition as put before this House is tested.

Arguments have been put for and against some amalgamations, and some amalgamations have begun. The process has been established. They will be suspended, or at least judgment will be suspended until the appropriate procedure to be adopted in relation to all amalgamations is resolved by discussion in the two Houses. That is a particularly significant acknowledgment by the Minister of the importance of resolving one way or another how these and subsequent amalgamations should proceed.

I think that is a significant concession, in terms of the conference, that was made by the Minister in order that the whole issue of amalgamation can be tested. As for the remainder of the Bill, I think it will ensure that the elections that are held in May 1987 will be able to be conducted in a much more efficient and equitable manner than those that were conducted last time; and that we will be able to come to a situation where there is widespread community support and confidence in the way in which local government conducts its electoral process.

Mr TYLER: I was not intending to speak in this debate, but in view of the remarks of the Deputy Leader of the Opposition I thought it was appropriate to put on record that the Hon. Mr Gilfillan has done the right and proper thing.

Members interjecting:

Mr TYLER: Members opposite may laugh, but what we have at the moment is a Bill that has had full consultation with local government. Indeed, it is a Bill that came about as a result of a working party set up by the Hon. Mr Keneally, the former Minister of Local Government, and that working party went to local government and had full consultation. The amendment put forward by the Legislative Council has not had that opportunity and, as the Minister pointed out, it will enable the Hon. Mr Gilfillan and members of this Chamber to talk to the Local Government Association and local government. I endorse the remarks of the member for Adelaide, the member for Light and the Minister. The Deputy Leader of the Opposition was not on the conference, and I think it was totally improper of him to make those sorts of remarks about a member of a conference who was trying to resolve a deadlock between the two Houses.

Progress reported; Committee to sit again.

INDUSTRIAL CODE AMENDMENT BILL

A message was received from the Legislative Council agreeing to a conference, to be held in the Legislative Council conference room immediately after the conference on the Workers Rehabilitation and Compensation Bill.

WORKERS REHABILITATION AND COMPENSATION BILL

The Legislative Council intimated that it insisted on its amendments to which the House of Assembly had disagreed.

Consideration in Committee.

The Hon. FRANK BLEVINS: I move:

That the House of Assembly insist on its disagreement to the Legislative Council's amendments.

Motion carried.

A message was sent to the Legislative Council requesting a conference at which the House of Assembly would be represented by Messrs Blevins, De Laine, Eastick, Gregory, and Meier.

The Hon. FRANK BLEVINS (Minister of Labour): I move:

That Standing Orders be so far suspended as to enable the sitting of the House to be continued during the conferences with the Legislative Council on the Workers Rehabilitation and Compensation Bill and the Industrial Code Amendment Bill.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION BILL

A message was received from the Legislative Council agreeing to a conference, to be held in the Legislative Council conference room at 12 noon on 5 December.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Consideration in Committee of the recommendations of the conference (resumed on motion.)

Mr LEWIS: I was terribly confused by the remarks that were made by the Minister of Housing and Construction on the outcome of the conference. It seemed either that he did not have a good grasp of what had occurred there or that his ability to communicate it was suspect. His contribution was somewhat semiliterate. My concern was heightened by the Minister's explanation, but clarification came from the remarks made by the member for Light, and brought into sharp focus by the Deputy Leader.

The Hon. E.R. Goldsworthy interjecting:

Mr LEWIS: The analogy, quite appropriately put, is that the Hon. Mr Ian Gilfillan is, with respect to the Irish, looking forward to introducing his Bill as an Irish turkey would look forward to Christmas. Surely he must understand what will happen to his proposition. Indeed, it has already happened, and it happened in the course of the conference. The benefit to be derived by Mr Gilfillan from that conference is that he will embark on an ego trip around the State, visiting all the local councils that he imagines might ultimately be involved in making or receiving a takeover bid, wholly or partially, to or from a neighbouring local government area.

That has some considerable benefit to the Hon. Mr Gilfillan in that he will be able to 'see the State', as it were. It also has enormous benefit for the Government, because it will keep Mr Gilfillan out of his parliamentary office and off the air waves in Adelaide for the next three months while he is tripping around South Australia trying to sort out the chaff from the dust. It will also use up a substantial amount of his electorate allowance in meeting the expenses of that exercise. So, Adelaide will be blessed or cursed, depending on how one looks at it, by his absence, and the people whom I represent will, for the first time, have the good fortune or misfortune of some detailed discussions with him on this and a number of other matters, I am sure. They will come to understand, as I have come to understand in recent times, that the number of occasions on which Mr Gilfillan makes up his mind about any matter is exceeded only by the number of occasions on which he decides to change it.

That being the case, it will be an education for the kinds of communities that I represent when he visits them. I hope that he does and I hope that he is as frank and as consistent with them as he has been with this place, the other place in which he sits, and the public of South Australia from time to time in his utterances on a number of policy matters. It distresses me, of course, that the losers in all of it will be, finally, the taxpayers who will foot the bill for the futile exercise of having Mr Gilfillan draw up his Bill. That will take up the resources of the Parliamentary Counsel's office (it is his prerogative to do that, of course, as it is that of any other member), and it will take up the resources of the Parliament to consider it in the other place, where it will no doubt be supported, as it has been up to this point in time.

It will arrive here, get the chop and have not a feather to fly with within a trice. I do not imagine for a moment that the quite sincere and sound advice, indeed request (to put in those terms), made by the member for Light to this Chamber, particularly to Government members here, will be followed. In other words, I do not really imagine for one moment that Government members will seriously consider the proposition when it next arrives here. They did not on this occasion, so why on earth should we expect any change in their track record in dealing with the same matter in three months time? I cannot find anything within the arguments advanced by any member of the Government during the course of the debate that would enable me to take any more optimistic view of the way in which Mr Gilfillan's so-called Clayton's victory in the conference will be treated otherwise.

Mr M.J. EVANS: I will contribute briefly to this discussion. I rise to support the recommendations of the conference and its managers. They are eminently sensible. However, I am a little concerned by the degree of reliance that the Government has placed on its looking behind the corporate veil, so to speak, of the Local Government Association and its decision-making process. I would not like that to go without notice in this Chamber, as it is an important question. If the Government is to accept that, when the Local Government Association votes in favour of a proposition that it supports, it can rely on the LGA's support to advance its own propositions, the counterproposition must also be accepted.

With respect to our local government colleagues in this State, we have to be completely honest and fair with them in the way in which we deal with them. In relation to my attitude on this Bill, I have made it clear that I believe that that mechanism that we have established should be allowed to work, and, until I am convinced that it is not working, I am prepared to support the present arrangements.

To insert a referendum clause in the way contemplated in my view would be counterproductive and I support the Government's contention in that way. For the Government then to say that the vote by the LGA in support of the proposition advanced by the Hon. Murray Hill was not in some way adequate or was in some way deficient because of the nature of the vote and because of the Government's interpretation of those people who had left the meeting early, and so on, I think begs the question of what the Government would have done had the numbers been overwhelmingly in favour of that vote. It would then simply have had to reject that proposition and in fact come clean on the issue.

I think we should do that. Where we disagree with local government, we should say so. We should make it clear that we have different policy objectives on that aspect and be prepared to justify our position, not simply seek to look behind the processes of their democracy in a way that they cannot do in relation to this place and the proceedings of this Parliament. We ensure that the corporate veil is well and truly shrouding the Parliament, as in fact it should be, and it also behoves us not to do the same to our colleagues in local government.

If we disagree with them, let us say so. On this occasion we do, and I have said so, and I think that the Government should do the same and not seek to denigrate their processes of management internally by questioning the way in which the vote was taken because next year, if in fact the proper vote, so-called by the Government, is taken and it supports the proposition put forward, what will be the answer then? I think that that is the difficulty in which we will find ourselves once we step down that path. For the time being I only want to flag that difficulty and danger, but I certainly support in the current context the results of the conference and shall await with interest the arrival in this Chamber of the Hon. Ian Gilfillan's Bill.

Mr Lewis: Why don't you bring in your own Bill?

Mr M.J. EVANS: I do not support the proposition, so there is no reason why I should bring in such a Bill.

The Hon. T.H. Hemmings interjecting:

Mr M.J. EVANS: Exactly. For the past five minutes I have devoted my attention to that very point. I am pleased that the Minister has recognised that.

The Hon. T.H. Hemmings interjecting:

Mr M.J. EVANS: Exactly. It seems to me that, given the Government's support for the advancement of that proposition but not necessarily for its adoption, the Government might well consider making extensive Government time available in the next sittings in 1987 so that in fact the proposition can be advanced quickly for the convenience of local government so as not to interrupt normal private members' business in this House.

Motion carried.

[*Sitting suspended from 12.7 to 4.10 p.m.*]

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The Legislative Council intimated that it had agreed to the recommendations of the conference.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

The Legislative Council intimated that it had disagreed to the House of Assembly's amendments.

Consideration in Committee.

The Hon. G.J. CRAFTER: I move:

That the House of Assembly insist on its amendments to which the Legislative Council had disagreed.

Motion carried.

Later:

The Legislative Council requested a conference, at which it would be represented by five managers, on the House of Assembly's amendments to which it had disagreed.

The House of Assembly agreed to a conference, to be held in the House of Assembly conference room at 5 p.m. on 5 December, at which it would be represented by Messrs P.B. Arnold and Crafter, Ms Gayler and Messrs Oswald and Slater.

Mr OSWALD: Mr Speaker, I draw your your attention to the state of the House.

A quorum having been formed:

The Hon. G.J. CRAFTER (Minister of Education: I move:

That Standing Orders be so far suspended as to enable the sitting of the House to be continued during the conference with the Legislative Council.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION BILL

The Legislative Council intimated that it had agreed to the recommendations of the conference.

At 5.3 p.m. the following recommendations of the conference were reported to the House:

As to Amendments Nos 1 to 6:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendments Nos 7 and 8:

That the Legislative Council do not further insist on its amendments.

As to Amendments Nos 9 to 12:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendments Nos 13 to 15:

That the Legislative Council do not further insist on its amendments but make the following amendment in lieu thereof:

Clause 3, page 7, lines 25 to 31—Leave out paragraph *(a)* of the definition of 'spouse' and insert new paragraph as follows:

(a) (i) the person has been so cohabiting with the worker continuously for the preceding period of 5 years;

(ii) the person has during the preceding period of 6 years cohabited with the worker for periods aggregating not less than 5 years;

or

(iii) although neither subparagraph (i) nor (ii) applies, the person has been cohabiting with the worker for a substantial part of a period referred to in either of those subparagraphs and the Corporation considers that it is fair and reasonable that the person be regarded as the spouse of the worker for the purposes of this Act;.

and that the House of Assembly agree thereto.

As to Amendments Nos 16 to 18:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 19:

That the Legislative Council amend its amendment by deleting '1.5' and inserting in lieu thereof '2'.

and that the House of Assembly agree thereto.

As to Amendment No. 20:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 21:

That the Legislative Council amend its amendment by deleting '12' and inserting in lieu thereof '14'.

and that the House of Assembly agree thereto.

As to Amendment No. 22:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 23:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 8, page 12, lines 5 and 6—Leave out paragraph *(b)* and insert new paragraph as follows:

(b) six shall be nominated by the Minister taking into account the recommendations of the United Trades and Labor Council;.

and that the House of Assembly agree thereto.

As to Amendment No. 24:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 8, page 12, line 7—Leave out all words in this line and insert 'five shall be nominated by the Minister taking into account the recommendations of'.

Clause 8, page 12, line 11—Leave out 'after consultation with' and insert 'taking into account the recommendations of'.

and that the House of Assembly agree thereto.

As to Amendments Nos 25 and 26:

That the Legislative Council do not further insist on its amendments.

As to Amendments Nos 27 to 56:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 57:

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 58 and 59:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 60:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 35, pages 22 and 23—Leave out subclauses (1), (2), (3) and (4) and substitute subclauses as follow:

(1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

(a) if the period of incapacity for work does not exceed one year—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds one year, the worker is entitled to weekly payments determined returned in accordance with paragraph *(a)* for the first year of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning in suitable employment or could earn in suitable employment that the worker has reasonable prospect of obtaining.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the Corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of two years, this paragraph does not apply to a period commencing after, or extending beyond the end of the second year of incapacity);

and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment;

and

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability.

As to Amendments Nos 61 to 77:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendments Nos 78 and 79:

That the Legislative Council do not further insist on its amendments but make the following amendment in lieu thereof:

Clause 39, page 26, lines 3 to 22—Leave out subclause (2) and insert new subclause as follows:

(2) An adjustment under this section—

(a) for the first and second years of incapacity—shall operate from the expiration of those years and shall be based on changes—

(i) in the rates of remuneration payable to workers generally or to workers engaged in the

kind of employment from which the worker's disability arose;

or

(ii) if the worker applies, according to the regulations, for the adjustments to be made on the basis of changes in rates of remuneration payable to workers engaged in the kind of employment from which the worker's disability arose and furnishes satisfactory evidence of such changes—in those rates of remuneration;

and

(b) for the third and subsequent years of incapacity—shall operate from a date fixed by the corporation and shall be based on changes in the average minimum award rate since an adjustment was last made under this section.

and that the House of Assembly agree thereto.

As to Amendment No. 80:

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 81 to 93:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 94:

That the Legislative Council amend its amendment by deleting '1.1 times the prescribed sum' and inserting in lieu thereof '1.4 times the prescribed sum'.

and that the House of Assembly agree thereto.

As to Amendments Nos 95 to 159:

That the House of Assembly do not further insist on its disagreement thereto.

As to Amendment No. 160:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 115, page 61, line 22—Leave out 'immediately before the date of the claim' and insert—

'immediately before notice of the disability was given and, subject to any proof to the contrary, to have arisen out of employment in which the worker was last exposed to noise capable of causing noise induced hearing loss'.

and that the House of Assembly agree thereto.

As to Amendments Nos 161 to 167:

That the House of Assembly do not further insist on its disagreement thereto.

Consideration in Committee of the recommendations of the conference.

The Hon. FRANK BLEVINS: I move:

That the recommendations of the conference be agreed to.

I thank my fellow conference managers. The conference was conducted in a very good and productive atmosphere. I am very pleased that the outstanding issues that divided the two Houses were resolved in a very speedy and businesslike manner. The Bill that is now before us will include the resolutions of the conference. I place on record my appreciation to a few people who assisted in bringing this Bill into being. First, the employers and the unions in this State, particularly through IRAC, assisted the Government to create the scheme that will be established by this Bill. It is a credit to the efforts of those people over a number of years that this evening we have a Bill that has passed through both Houses.

I also thank my staff who have been involved in the work on this Bill, particularly my Executive Assistant, Les Wright. He has worked on the Bill almost non-stop for about four years and, particularly over the past 12 months while I have been the Minister, he has redoubled his efforts. I think that particular praise should go to the parliamentary process. When I introduced the Bill I said that employer, employee and community debate in general had been unable to resolve the issue over many years, and that, because the community could not resolve the question, it was up to Parliament to do so on behalf of the community. Parliament has now been able to do that. I was never in any doubt that Parliament would be able to do it, because I have a great deal of faith in the parliamentary process.

I also pay regard to the Hon. Ian Gilfillan. While it is true that the benefits of this Bill had been delayed by the Hon. Ian Gilfillan, there is no doubt that he certainly did so with the very best of motives and in the face of totally conflicting advice. I think that both the Hon. Ian Gilfillan and I have learnt a lot over the past 12 months, particularly about the work of actuaries.

Last, but by no means least, I pay a tribute to the vision of my predecessor, the Hon. Jack Wright. In 1978 Jack Wright had a vision for workers compensation in this State. In one way it is a pity that he was not here to see his vision come into being. Certainly, he should get a great deal of credit for this Bill. When Jack Wright established the Byrne committee in 1978, he had the foresight to appoint the now member for Florey as a member.

I also think it is rather nice that the member for Florey was on the conference of managers of both Houses to see the Bill finally through. I am certainly proud to have brought Jack Wright's baby kicking and screaming into the world; eight years was certainly a long gestation period, but it was very, very worthwhile.

The resolutions from the Council have been circulated and they are available to all members. I do not intend to go through them in any detail. Suffice to say that the Bill, with some exceptions, is certainly what the Government intended. The scheme and the framework are there and, while we did not get everything that we thought we ought to get with regard to benefits for sick and injured workers, there is no doubt that the scheme is a much better one than that which we have at present. Certainly, sick and injured workers will benefit enormously from this piece of legislation. The same applies to employers, who have worked as hard as the unions to bring this Bill into being. It was not just for mercenary motives, but it is worth noting that the benefits that will flow to employers under this scheme are quite extensive.

The scheme will make this State competitive with Victoria and will place us certainly in a better position than either New South Wales or Western Australia. That is important, because the maximum amount that can be levied as premium, when this Bill is enacted and the scheme is established, will be 4.5 per cent of payroll. For the submarine project, that is very, very significant indeed, because similar premiums in New South Wales, which appears to be our principal competitor for this contract, are well over 20 per cent of payroll. So, we are talking about five times the amount for workers compensation cover in New South Wales as opposed to South Australia for engineering projects such as the submarine project. So, it is indeed very successful.

As I said, the scheme was created by the unions and the employers with some assistance from the Government and certainly from the Parliament. The obligation is now on the employers and the unions to see that the scheme works successfully. They devised the scheme; they brought the scheme into being; and the obligation is now very clearly on them.

Having worked with the employers for the past 12 months and with the unions for the past 20 years, I have every confidence that they will manage the scheme very well indeed in their interests and in the interests of the whole of South Australian industry. I commend the motions to the Committee.

The Hon. B.C. EASTICK: As a member of the management conference, I acknowledge that the conduct of that meeting was in a true spirit of cooperation. The fact that 160-odd amendments that were refused by the House earlier in the morning were reduced to some 15 or 18 which were

really in contention—some of which have been won by us, some of which have been won by the opposition, and some of which have come back by way of alternative amendment—shows how successful the conference was.

I simply want to say that no individual or Party can lay claim to be totally satisfied with everything that is in the Bill. Suffice to say that it has now passed the Parliament and it is important that it be made to work. In issues of such magnitude, it is not inappropriate to recognise that there will probably be a need to fine tune it on the edges. There is already a possibility that one aspect of the Bill will come under consideration when we return in February. That matter was too difficult to resolve now, although it does not dent in any way the final document. However, it must be addressed before the matter is finally put into physical being in the workplace.

I commend all those who have given many hours of attention to the matter. I sincerely hope, on behalf of the people of South Australian industry in particular, that it will not prove the drain on economic benefits for South Australian production that it has been alleged it will be.

Mr S.J. BAKER: One thing I can say about my colleague the member for Light is that he is always very charitable. I am not so charitable about the outcome of the conference, mainly because I believe, and will always believe, that the way we are going now is not the right way, and that it will put this State into debt. What we have adopted here today is the Victorian legislation with all its problems. The survey conducted in Victoria clearly indicated all the problems that that State is facing, and the one that finished on top of the list of problems for that Government was the Victorian workers compensation scheme.

After 10 months, the Victorian scheme managed to get itself $155 million in debt, and at this stage it is over $300 million in debt. I believe that this State has been sold out. I believe that the system that was operating before could have been changed to this State's advantage. The Minister mentioned the parliamentary process. That process has been subverted. He talked about his Executive Officer (Mr Wright). Well, Mr Wright, with Mr Gilfillan in tow, was rushing back and forth between the employers and the union movement, and had been doing so for a number of weeks to see whether they could do a deal; and they did a deal. However, the deal was not done for the benefit of all South Australians; the deal was done for certain people in South Australia.

I wonder whether Mr Wright would have gone to the Australian Small Business Association and said, 'How would you like to see the premiums double tomorrow?', because that is exactly what this measure does. Did the Minister consider small business once when he sent Mr Wright on his errand to say, 'We have a problem, and the problem is that the unions want this and the employers want that and we can't meet in the middle'?

Under the Wright proposition, there was supposed to be a $30 000 capping on the Maims table, and it is now $60 000. There was supposed to be no common law in the system; it was supposed to be a no fault system, and now we have a 1.4 per cent capping on it. A number of other changes have been delicately made by the Minister of Labour after talking to his little left wing mates at Trades Hall and saying, 'Listen, I can promise you the world and we're going to use the parliamentary process to achieve it'.

When he said that the benefits were going to flow to employers he meant to a select group of employers. He knows that in Victoria, with its multimillion debt, over 60 per cent of employers are paying more in premiums. When one adds up the costs of administration and the first week's medical, one finds that the total payouts have increased enormously. What is the Minister doing for small business in South Australia if he is going to adopt the Victorian scheme? What is he doing for the little people? What is he doing for the people who take safety to heart? There are no benefits in the scheme for those who display an extraordinary degree of competence and feeling for their work force by decreasing the number of injuries.

We have occupational safety legislation, and that is there to enforce safety measures, but we must consider the extra bit of effort not only in complying with the rules but in making people want to be safe, as I saw in some places when I was overseas. However, that little bit of extra effort gets no credit under this scheme. Employers will be slotted into their groups and, if by chance they perform badly, as some will, they will have a 20 per cent impost.

The Minister has already said that in New South Wales employers are paying workers compensation premiums of 20 per cent. Indeed, some industries in this State pay a high premium, but what about the people who do it properly and make the effort? They get no credit under this system. If this scheme goes the same way as the Victorian scheme is going and as the New Zealand and Ontario schemes have gone, we will bankrupt either the State or the employers. The Government must make up its mind. Either the employers or the Government must pay the bill. If it is the Government, the taxpayer must pay. There are no other possibilities.

The Minister may say that it is all right for the employers to pay the bill, because that is what happens every time a corporation is set up. No member opposite can give an instance in which it has worked. Will the Minister tell employers that this legislation is only the start and that they have not seen the end result as yet? Alternatively, will he tell the people of South Australia that some way down the track the Government must raise rates and taxes? After all, that will be the outcome of having a public monopoly. Indeed, it is always the outcome of having a public monopoly. We have seen that sort of thing for a number of years in the third party insurance area.

Although the Opposition can feel some sense of satisfaction because it delayed the Bill so that cost studies could be done and improvements effected in the scheme, the fundamental point is that the scheme is wrong. I congratulate all those people on my side, especially the shadow Attorney-General, on the effort that they have put in on this Bill. All members on this side totally reject the proposition that this area should be placed in the hands of a public monopoly. In the private sector of South Australia, we could have had the best workers compensation scheme in Australia, a scheme that would work well, be equitable and be a credit to this State. However, we have gone down this track and in five years time, when the present Minister of Labour may not even be here, someone will ask why we went down this track. I do not want to be here merely to say, 'I told you so.'

I do not want this impost to be placed on the South Australian public or on the small employers and the people in the workplace who take safety to heart. I cannot commend the Bill, but I commend the efforts of the managers at the conference, because they were there trying to resolve a difficult situation. However, the basic premise on which this Bill is promoted is wrong, and I cannot commend it.

Mr GREGORY: I support the recommendations of the conference, and I am pleased to be able to speak in this debate because, a long time ago it seems now, I sat down with four other people, planned for a workers compensation scheme, and took submissions from people so that we could

report to the Government on the rehabilitation and compensation of people injured at work. We did that because the existing workers compensation scheme provided no rehabilitation for the person injured at work. Moreover, the compensation provided in many cases was inadequate and its delivery was delayed for an inordinate length of time.

Unlike the member for Mitcham, I believe that this Bill will work. The honourable member's speech was just an illustration of sour grapes, and he peddled a number of untruths and made certain selective comments in order to knock the Bill. He mentioned Ontario. I have had the opportunity of going to Canada on several occasions and one of the things I would not want to do is model anything on the Ontario workers compensation scheme, because that scheme, when it got into the large debt the honourable member talks about, was under the Government of Conservative Parties who selected failed people to manage it.

When I say 'failed people' I mean failed Conservative members of Parliament who got done in elections and were put on the board. They had a failed QC as chairman of the board, and it just did not work. What the honourable member should have done when he went to Canada was look at the successful schemes, which operate at premiums much lower than those paid here; which deliver far better benefits to the workers; and which put workers back into work instead of throwing them out on compensation or on the unemployment heap.

When those people went back to work with missing limbs, with restricted ability, they got some dignity back in their lives, because they could go home once a week, once a fortnight or once a month with a pay packet, and did not have to rely on the social services provided by the Canadian Government. That is what it does, and that is what this scheme will do. That will be the real advantage of it; hundreds of workers who, under the current scheme, can never work again because employers will not employ them (on instructions from insurance companies), will be able to get work—and be able to work. I think that in itself is the biggest benefit.

As a side benefit, I believe that there will be a considerable reduction in costs to the employer. If we went down the path advocated by the member for Mitcham, we would keep costs at about the present level but constantly reduce the benefits available to the injured worker. That is the path we would go down. We would finish up with very few manufacturing industries, because they could not afford to pay those rates, and we would end up in a situation like the 1930s, when the only manufacturing industry we had in this State was to support the agricultural industry—and that was it. The manufacturing industry we know today did not exist then.

That is what would happen if we followed the path advocated by the member for Mitcham; in other words, a slippery slide down into peasantry and everything that goes with it. The member for Mitcham does not have a vision for the future; he does not care about workers and their families. He just does not care, and tonight he made that very clear, and I am disappointed that he is the Opposition spokesman on industrial matters, because it indicates that he has very little feeling and care for workers and their families.

This Bill will ensure that workers who are injured at work are speedily looked after; that efforts are made to ensure that they get back into the work force quickly, and that employers do not have to pay what they are paying now. I think it is a credit to our State, and I just wish it had come earlier, so that it would have helped all the people I know who cannot work now, who will not have such a scheme to get them back into work, but who could have been helped back by this scheme.

Motion carried.

[Sitting suspended from 5.30 to 8.10 p.m.]

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

At 8.10 p.m. the following recommendations of the conference were reported to the House:

As to Amendments Nos 1 and 2:

That the House of Assembly do not further insist on its amendments but make the following amendments in lieu thereof: New Clause—

Page 12, after line 34 insert new clause as follows:

12a. The following sections is inserted after section 96 of the principal Act.

97. The Tribunal may grant an application to be licensed or registered under this Act notwithstanding that the applicant has not passed the examinations or obtained the educational qualifications required by this Act if, in the opinion of the Tribunal, the educational qualifications that the applicant does have are sufficient to justify granting the application.

and that the Legislative Council agree thereto.

As to Amendment No. 3:

That the Legislative Council do not further insist on its disagreement.

Consideration in Committee of the recommendations of the conference.

The Hon. G.J. CRAFTER: I move:

That the recommendations of the conference be agreed to.

I am pleased to say that the Bill now arrives in this House in a form which is acceptable to both Houses and which I am sure will serve the community well.

Motion carried.

SITTINGS AND BUSINESS

The Hon. R.G. PAYNE (Minister of Mines and Energy): I move:

That the House at its rising adjourn until Thursday 12 February 1987 at 11 a.m.

In moving this motion, first, I would like to take the opportunity, by leave, to thank the members of the Opposition who, for the past two days, have extended complete cooperation which has enabled the business of the House to proceed as smoothly as possible in the circumstances which usually seem to occur, for some unknown reason, at the end of a session. In my reference to members of the Opposition, I hasten to add that I include all members of the House who are not members of the Government Party, so there can be nothing invidious whatever in the remarks I have made.

Members interjecting:

The Hon. R.G. PAYNE: If I am up for preselection, I can only think that the rules have been changed. On behalf of the Premier and all members of the A.L.P. in the House of Assembly, I thank all members of the staff of the House of Assembly both inside and outside the Chamber. Their courtesy and unfailing helpfulness at all times to all members, irrespective of Party or affiliation, is greatly appreciated. It contributes very considerably to the smooth running of the House and hence to the true welfare of the people of this State, which is something that you say almost every day in this Chamber, Mr Speaker. I sometimes suspect that members lose sight of that on occasion. However, it seems to me that the staff never lose sight of the true function of

this establishment, which is (among other things) to ensure the true welfare of the people of this State.

I offer to all those willing workers about whom I have been speaking (the workers we count on so much) and their families our best wishes for a very joyous Christmas and a healthy and happy New Year in 1987. I suggest that on occasion all of us are wont to overlook the fact that we require probably a great deal more than any worker in this establishment is ever paid for or ever recognised for. It is always delivered, whether it is 2 o'clock in the afternoon or 5 o'clock in the morning. I suspect that the staff treat us much better than we are prepared to treat one another. I think that is probably all that I need say to illustrate the degree of help that we get which makes this place work more smoothly than it would otherwise (and members will note that I did not say that it works totally smoothly all the time).

I guess when one has been a member for a number of years and is suddenly thrust into the position that I am in tonight, where I represent my Party as it were in the front rank on this occasion, I am entitled to say that I believe that the Parliament is working better than it used to. I noticed on two occasions today when Ministers were reporting to the House that they pointed out that their respective legislative matters had vexed the community over quite a number of years and could not be solved until submitted to the parliamentary process. I think if any indication is needed of the success of the parliamentary process, it was exemplified today. I will conclude (because other members may wish to contribute) by offering all members of the House my own personal best wishes for a very merry Christmas and a happy and healthy New Year in 1987.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): I have pleasure in supporting the motion and the remarks of the Minister of Mines and Energy in his thanks to all people associated with this Parliament. I include all people, in their many different roles around the place, who are associated with the smooth running of Parliament. I think we are very fortunate indeed in having people of such high quality to serve us and ensure that our lives are made comfortable and that the place runs smoothly. All of them, in their various functions and various ways, contribute to the smooth running of this place.

I think they know that we do not take them for granted. There may be times when they, like us, would be well removed from these premises. Nonetheless, they do their job with dedication, thoughtfulness and helpfulness and, as I say, unfailingly; and we are grateful to them. I certainly thank them all on behalf of the Opposition and wish them the very best for the festive season. I also extend those greetings to all members in this place—those in front of me, those behind me and the members away on official business. From time to time one might gain the impression that we do not get on too well. We get embroiled in argument, which is part of the system: it is the way that the system is constructed and, under those circumstances, there is a degree of conflict from time to time. However, we are all Australians and I guess we all think we are kicking in the same direction, although it may not appear so on occasions.

I would like to extend the compliments of the season to the members of the Government and, of course, to my own members. I thank the Minister for his comments about the smooth running of the place. A degree of cooperation is possible if commonsense prevails on both sides, and, if the Government does not make unreasonable demands on the Opposition, we are only too happy to cooperate. In that regard, I would like to pay a tribute to the members of the Liberal Party (I extend the compliments of the season to everyone, of course), as I have always been confident in making arrangements with the Government that the Party would cooperate with me in seeking to honour any undertakings that I might have given.

That degree of cooperation has assisted me greatly in seeing that our side of the House works smoothly and that I can confidently deal with the Deputy Premier, knowing that, if an undertaking is given, we can certainly do our part to honour it. I thank the Government for its degree of cooperation. We have only had one rough week this session and I think we have all learnt something from it. With that, I extend the compliments of the season to you all.

Mr S.G. EVANS (Davenport): I hope that you have all had an enjoyable day and that you have an enjoyable Christmas. I want to say to everyone who is associated with the Parliament, including the news media, 'All the best for Christmas and 1987'. Of course, the media might have had a lot of commonsense in not coming here today; I do not know, because I did not come in to check.

I appreciate that it is difficult to run a place like this. I want to say, 'Thank you', in particular, to *Hansard*, which does an excellent job of making good sense out of some of our speeches. Over the years, I have learnt to appreciate the hours that they, together with other staff, have to put in at our whim. As much as the Deputy Leader says the place runs smoothly, I honestly believe that it could run more smoothly, and one day I hope that a member of *Hansard* will write a book on how he or she could run the place. I want to thank everybody who has cooperated with me. I appreciate that there are differences, and I accept that. There are friends on both sides of politics, and it is the chemistry that works. I say to each and every one of you on each side of politics, 'May you have a happy Christmas and a healthy 1987.'

The SPEAKER: On behalf of the staff of the House of Assembly and those who are currently employed by the Joint House Committee and who in the New Year will be employed by the Joint Services Committee, I would like to thank members for their kind words. The Deputy Leader of the Opposition pointed out that we do not take for granted the work of those who support us in our activities in this Parliament. But I think that we do sometimes forget just how many people there are behind the scenes who make the Parliament work. I will list a few of them to remind members. We have the Clerks and table officers; the House of Assembly Attendants; the secretarial and accounting staff of the House of Assembly; Parliamentary Counsel; *Hansard*; the catering staff; telephonists; caretakers; maintenance staff; and, even though they are not employees of the Parliament, the police who are rostered on duty in Parliament House, all of whom help to make possible a successful Parliament. I suppose, since they are not present, we could even with some safety mention the role of the members of the Press Gallery, who have their part to play in the political process.

I would also like to thank all members for their cooperation over the past few months with the exception of the following, and at this stage I could ask for leave to insert a statistical table in *Hansard*, but I will not! Instead, I thank all members for their cooperation in recent days. I am not quite sure whether that could be—

An honourable member interjecting:

The SPEAKER: I was coming to that. The Deputy Leader is due for special thanks for his cooperation in recent weeks.

One cannot be too sure whether this is as a result of Christmas bonhomie or an after-effect of the Papal visit. However, I am sure that 1986 has been a learning experience for all our new members and for those members who have been here a bit longer and have had to fit themselves into new roles. We have managed, recently at least, to be able to keep our tempers, and part of this, I would like to think, is due to the fact that we have had much more civilised sitting hours.

Since the introduction of the new Standing Orders, which came into effect with the session that started on 31 July, we have not once had to sit past midnight, and no longer have members had this ridiculous situation of emerging bleary-eyed into the morning sun and then having to carry on with their electorate work or even return to the Parliament for another session. At times recently the degree of cooperation has been extremely heart-warming, to such an extent that one could easily turn a blind eye to those occasions when it has been absent. On that basis, I would like to wish all my colleagues here and all the parliamentary staff the compliments of the season and best wishes for 1987.

Motion carried.

INDUSTRIAL CODE AMENDMENT BILL

At 8.27 p.m. the following recommendations of the conference were reported to the House:

As to the Amendment:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Page 1—After line 12, insert new clause as follows:

1a. (1) Commencement. This Act (except for sections 2, 3, 4 and 5) shall come into operation on assent.

(2) Sections 2, 3, 4 and 5 of this Act shall come into operation on 1 June 1987.

and that the House of Assembly agree thereto.

Consequential amendment:

Page 1, after line 16, insert new clause 3a as follows:

3a. Amendment of s. 194 Regulation of the hours of baking of bread in the metropolitan area. Section 194 of the principal Act is amended—

(a) by striking out paragraph *(a)* of subsection (1) and substituting the following paragraph:

(a) Betweeen 12.30 p.m. on any Saturday and midnight on the following Sunday when the ensuing Monday is not a public holiday;;

and

(b) by striking out from paragraph *(b)* of subsection (1) 'twelve o'clock noon' and substituting '12.30 p.m.'

TOBACCO PRODUCTS (LICENSING) BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 10 (clause 15)—After line 39 insert subclause as follows:—

(4) A purchaser of a tobacco product who is requested by an unlicensed tobacco merchant, or a person acting on behalf of an unlicensed tobacco merchant, to sign a declaration in a form prescribed by schedule 1 and who takes the tobacco product from the tobacco merchant's premises without signing such a declaration is guilty of an offence.

Penalty $2 000.

No. 2. Page 12, lines 27 and 28 (clause 21)—Leave out subclause (2) and insert subclauses as follows:—

(2) The Senior Judge may appoint one or more district court judges to be members of the tribunal.

(2a) The tribunal will be constituted of a single judge for the purpose of hearing and determining an appeal and, as so constituted, the tribunal may hear and determine separate appeals simultaneously.

Consideration in Committee.

The Hon. G.J. CRAFTER: I move:

That the Legislative Council's amendments be agreed to.

It is believed that the Legislative Council's amendments improve the administration of this important measure and, hopefully, will conserve revenue from this measure for the State and deter those who seek to avoid their obligations under this legislation.

Mr M.J. EVANS: When this matter was before the House I was assured by the Premier that it was the subject of the greatest legal minds of the State and that, in fact, there was no possibility that it could in any way be improved by this kind of change. I think that it is a very important recognition of the questions that I raised at the time and of the difficulties which I pointed out, but which were totally ignored and brushed aside on the occasion. That is quite uncharacteristic of the Premier.

Members interjecting:

The CHAIRMAN: Order! The honourable member for Elizabeth has the floor.

Mr M.J. EVANS: Thank you, Mr Chairman. As I was saying before I was interrupted, that is most uncharacteristic of the Premier, a man for whom I have the greatest respect and whom I have always supported, and on that evening continued to support because I had his assurances in relation to it. This matter was then discussed at great length and with some vigour and violence in the Upper House. Anyone who wishes to read *Hansard* will certainly gain that understanding. As a result of that debate, this matter has emerged. I certainly freely admit that it was beyond my competence to challenge the advice I had on that evening, and certainly I did not seek to do so.

I agree with the Government that the loss of revenue which this arrangement of tax free cigarettes could generate to the State is enormous, and I believe that these products (as I believe the Government has said) must be taxed to the maximum extent that the community will allow in an effort to recover the massive costs of the health system in this State. It is indeed most fortunate that we have been able to improve this legislation in the way in which the Minister of Education has moved that we should do so tonight. It is with much pleasure that I support the motion.

Mr S.J. BAKER: Obviously there has been a tightening up in the area to which the member for Elizabeth has referred. I would just like to make members aware, and they can reflect on this over the Christmas break, that what we are doing with this Bill is wrong. When the law provides that someone can be fined $10 000 for consuming a cigarette, what we are doing is wrong. If we justify draconian laws to get us out of a tight corner, we will continue to make them. I do not believe that it is a proper precedent. All we do is introduce another draconian law to make sure that the first one works.

Members interjecting:

The CHAIRMAN: Order! I ask the Committee to come to order.

Motion carried.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

The Legislative Council intimated that it had agreed to the recommendations of the conference.

INDUSTRIAL CODE AMENDMENT BILL

The Legislative Council intimated that it had agreed to the recommendations of the conference.

Consideration in Committee of the recommendations of the conference.

The Hon. FRANK BLEVINS: I move:

That the recommendations of the conference be agreed to.

I would like to thank the managers of the House of Assembly who took part in the conference, which was held in a spirit of goodwill and with a desire to resolve the very small difference that divided the two Houses. This was done very speedily and resulted in the resolution that is before the Committee. The intention of the Legislative Council was that the deregulation of the bread baking industry be phased in over six months because, as the Legislative Council saw it, it would phase in the dislocation, if you like, of the deregulation. The argument certainly had some merit, and the resolution before us represents a way out of that dilemma. We thought that six months was possibly too long so we came back to five months, that being a more appropriate time span.

The conference decided that there should be no impediment to bread baking on Saturday mornings, as it in no way interferes with deliveries to delicatessens from the country bakeries at present. The in-store bakeries in the supermarkets cannot deliver to delis: they sell only to their own customers, so there is no interference with the country bakeries which presently are allowed to deliver into the metropolitan area at the weekend.

I believe that the conference was very successful. Very quickly, it found a way out of the problem, and it ensured that the deregulation process starts immediately and will be completed by 1 June. I believe that that reflects very well on the conference system, as I stated earlier today, and it will also ensure that people in the metropolitan area will have the same privileges after June as people have in the rest of the State. It is also a recognition by Parliament of people's changing lifestyles and changing tastes in bread and bread products. It was a very successful conference, and I commend the resolution of the conference to the Committee.

Mr S.J. BAKER: I endorse the recommendation.

Mr LEWIS: As one of the managers of the conference, I naturally support the recommendations contained in the compromise agreement. However, I simply make the point that the consequential amendment that we recommend for adoption makes interesting reading when one considers shopping hours legislation. Goodness knows how they will sell the bread baked after normal shopping concludes on Saturday morning. However, 12.30 p.m. on Saturday is the time determined by the conference as a reasonable compromise, so it appears in the recommendation.

Frankly, I am compelled to draw to the attention of the Committee my view that, while it is a deregulation measure introduced in a way which enables people involved in the bread baking business to adjust to it as it is brought in (giving them almost six months notice), it nonetheless does not really deregulate the entire industry. I believe that the Government and the Minister were remiss for not simply deregulating the terms of employment in the industry so that anyone who wished to work between midnight Sunday and midnight the following Sunday could do so.

There could be an individual contract between the employer and the employee in relation to determining when a week's work had been completed. That would truly deregulate the bread baking industry and give consumers the bread they want at prices they can easily afford. It would also enhance employment in the industry and the growth of small business, to the greater benefit of the South Australian community at large. As it stands at the present time, we still have the ridiculous situation of a featherbed arrangement between the huge corporate interests which own the bakeries and the huge union to which anyone who works in the bakeries must belong. I deplore that. Notwithstanding that, I commend to the Committee the proposition from the conference.

Motion carried.

ADJOURNMENT

At 8.46 p.m. the House adjourned until Thursday 12 February 1987 at 11 a.m.