LEGISLATIVE COUNCIL

Tuesday 3 June 1980

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PITJANTJATJARA LAND RIGHTS BILL

His Excellency the Governor, by message, begged to acknowledge the receipt of an address from the honourable President and honourable members of the Legislative Council relating to the Bill, and to inform them that the address was receiving the consideration of Ministers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Abattoirs Act Amendment,
Administration and Probate Act Amendment,
Alsatian Dogs Act Amendment,
Boating Act Amendment,
Canned Fruits Marketing,
Church of England in Australia Constitution Act Amendment,
Companies Act Amendment,
Consumer Credit Act Amendment,
Consumer Transactions Act Amendment,
Crimes (Offences at Sea),
Dangerous Substances Act Amendment,
District Council of Burra Burra (Vesting of Land),
Education Act Amendment,
Egg Industry Stabilisation Act Amendment,
Environmental Protection Council Act Amendment,
Further Education Act Amendment,
Health Act Amendment,
Highways Act Amendment,
Local Government Act Amendment,
Marketing of Eggs Act Amendment,
Meat Hygiene,
Motor Vehicles Act Amendment,
Off-shore Waters (Application of Laws) Act Amendment,
Planning and Development Act Amendment,
Planning and Development Act Amendment (No. 2),
Prices Act Amendment,
Road Traffic Act Amendment,
Road Traffic Act Amendment (No. 2),
South Australian Health Commission Act Amendment,
South Australian Meat Corporation Act Amendment,
Statutes Amendment (Property),
Superannuation Act Amendment,
Victoria Square (International Hotel),
Wills Act Amendment.

PETITION: WORKERS COMPENSATION ACT

A petition signed by 1 188 citizens of South Australia was presented by the Hon. C. J. Sumner, praying that the Council initiate legislation to amend the Workers Compensation Act so that the maximum lump sum payments as provided for in the Act should apply to all persons entitled to compensation, irrespective of when the injury occurred.

Petition received and read.

PUBLIC WORKS COMMITTEE REPORTS

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

Hackham South Primary School—Stage I,
Leigh Creek Area School,
State Administration Centre—Engineering and Water Supply Department Reorganisation.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. K. T. Griffin)—

Pursuant to Statute—

Coroners Act, 1975—Variation of Rules.
Family Relationships Act, 1975—"Rules of Court (Family Relationships Act), 1980".
Industries Development Act, 1941-1978—"Industries Development (Bread Industry) Regulations, 1980".
Local and District Criminal Courts Act, 1926-1978—"Local Court Rules, 1980".
Motor Vehicles Act, 1959-1980—Variation of Regulations (2).
Road Traffic Act, 1961-1979—Variation of Regulations. Variation of the Traffic Prohibition (Burnside) Regulations. Variation of the Traffic Prohibition (Campbelltown) Regulations.
Superannuation Act, 1974-1980—Variation of Regulations.
Supreme Court Act, 1935-1975—"Supreme Court Rules, 1980 (No. 3)".
Valuation of Land Act, 1971-1976—Variation of Regulations.

By the Minister of Corporate Affairs (Hon. K. T. Griffin)—

Pursuant to Statute—

Companies Act, 1962-1979—Variation of Regulations.

By the Minister of Local Government (Hon. C. M. Hill)—

Pursuant to Statute—

Building Act, 1970-1976—Variation of Regulations.
Department of Lands—Report, 1978-1979.
Education Act, 1972-1979—Variation of Regulations.
Harbors Act, 1936-1978—Variation of Regulations (2).
Local Government Act, 1934-1979—"Local Government Act—Long Service Leave Regulations, 1980".
Second-Hand Dealers Act, 1919-1971—Variation of Regulations.
District Council of Balaklava—By-law No. 27—Prevention of Fires—Amendment.
District Council of Kadina—By-law No. 2—Speed Limit, North Beach.
District Council of Mount Gambier—By-law No. 14—To repeal By-law No. 11 of 17 December 1965 relating to the Securing and Fasting of Logs and Sawn Timber to Vehicles.

By the Minister of Community Welfare (Hon. J. C. Burdett)—

Pursuant to Statute—

Metropolitan Milk Supply Act, 1946-1974—Variation of Regulations.
"Milk Prices Regulations, 1980".
South Australian Health Commission Act, 1975-1979—"Health Commission (Prescribed Government

Hospital and Health Centre) Regulations, 1980".
Stock Diseases Act, 1934-1976—Proclamation—Prevention of Diseases in Cattle in Showgrounds.

By the Minister of Consumer Affairs (Hon. J. C. Burdett)—

Pursuant to Statute—

Consumer Credit Act, 1972-1980—Variation of Regulations.
Consumer Transactions Act, 1972-1980—Variation of Regulations.

REPLIES TO QUESTIONS

The Hon. J. C. BURDETT: I seek leave to have incorporated in *Hansard* the answers to 30 questions without notice, without my reading them. The answer to all of these questions have been either posted to honourable members who asked for them or circulated today.

Leave granted.

Mr. O'NEILL

In reply to the **Hon. B. A. CHATTERTON** (1 April).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that as the matter concerning the employment of Mr. O'Neill is subject to discussion between solicitors representing Mr. O'Neill and the Crown Solicitor, it is inappropriate to provide a reply to the honourable member's question at this time.

OVERSEAS PROJECTS

In reply to the **Hon. B. A. CHATTERTON** (13 November).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that there has been no reversal of the Government's policy on overseas projects which is one of consolidation of the projects either being undertaken or negotiated at the time of this Government's election.

Two publications have been translated into Chinese, namely, "Pasture Seeds from South Australia" and "Farming Systems of South Australia". To date, 121 copies of the latter and 108 copies of the former have been distributed, the majority of these having been forwarded through Commonwealth Departments to China and more will be distributed shortly.

Under section 14 (1) (a) of the Exports Markets Development Grants Act, 1974, State Governments are specifically excluded from eligibility for export development grants. Because of this, the Department of Agriculture is unable to claim for the costs incurred in translation and publication of these books.

DIRECTOR-GENERAL

In reply to the **Hon. B. A. CHATTERTON** (26 March).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that Liberal Party policy as stated prior to the election of 15 December last is that the Permanent Head of the Department of Agriculture shall have the title Director-General of Agriculture.

PRIVATE ENTERPRISE WORK

In reply to the **Hon. B. A. CHATTERTON** (20 February).

The Hon. J. C. BURDETT: The honourable member should be aware from the circular that the Director-General of Agriculture was in fact conveying to his senior officers advice received from the Chairman of the Public Service Board on conditions under which vacancies in the Public Service might be filled. However, I thank the honourable member for his suggestions as to the areas of activities which might be performed by private enterprise. There may be some merit in these suggestions and they will be examined.

OVERSEAS PROJECTS

In reply to the **Hon. B. A. CHATTERTON** (1 April).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that discussions with the two countries are continuing, and it would be inappropriate to release details at this stage.

SALVATION JANE

In reply to the **Hon. B. A. CHATTERTON** (27 February).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that he was referring to information contained in a background paper on biological control of salvation jane presented to the Australian Agricultural Council at its 106th meeting in New Zealand in January 1979. This paper which was endorsed by the Standing Committee of which C.S.I.R.O. is a member contains in its conclusions the following reference—"Other than in years of exceptionally good autumn to spring rain, it is most unlikely that the insect will be effective in the low rainfall areas."

DRYLAND FARMING

In reply to the **Hon. B. A. CHATTERTON** (21 February).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that South Australia has not been precluded from pursuing proposals for the transfer of our dryland farming technology to Iraq. The Western Australian Government is to be congratulated on gaining a contract for the establishment of dryland farming projects in Iraq but that agreement has not affected the continuing negotiations between the South Australian and Iraqi Ministries. The South Australian contract proposal has been submitted to the Iraqi Government and discussed between the Australian ambassador in Baghdad and the Iraqi Ministry of Agriculture and Agrarian Revolution. The objective of these discussions is to expedite a visit of South Australian officials to conclude negotiations.

However, on Friday 7 March the Iraqi Minister of Trade, His Excellency Mr. Hassan Ali, visited South Australia and during discussions with his Iraqi colleague, the South Australian Minister of Agriculture raised matters concerning the contract. The Government has since been advised by Baghdad that the South Australian delegation should depart for Iraq at the earliest possible opportunity and we are hopeful that this will lead to Iraqi acceptance of the proposal.

SOUTHERN VALES WINERY

In reply to the **Hon. G. L. BRUCE** (25 March).

The Hon. J. C. BURDETT: The Government's position is considered to be well protected under the terms and

conditions of the financial arrangements made with the co-operative. One of these conditions enabled the Government, through the SADC, to appoint an experienced commercial consultant to advise the co-operative board. It is expected that with good advice the board should be in a position to make the appropriate commercial decisions.

APHIDS

In reply to the **Hon. B. A. CHATTERTON** (1 April).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture that the reply to the honourable member's question on aphids is as follows:

> No. After three years of intensive research, four medic varieties and three lucerne varieties with significant resistance to aphids have been produced. The Government will continue to provide appropriate financial support for the continuation of this most vital research.

KANGAROOS

In reply to the **Hon. C. W. CREEDON** (5 March).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Environment that permits are issued to property owners to destroy native animals where they are causing damage. In the pastoral areas of the State kangaroos are permitted to be utilised commercially. A property owner has the right to destroy the number of animals on his permit allocation and allow the carcasses to remain on the property or he may have his permit utilised by commercial operators. Almost all property owners in the commercial zone (pastoral area south of the dog fence) have their kangaroos taken by commercial processors.

The number of kangaroos permitted to be destroyed on permit is related directly to the overall State quota (the quota is recommended by the State but requires Federal approval). The whole kangaroo quota is dependent upon questions of international trade, including interaction with the United States Government. At the present time, the recommended State quota is 150 000 kangaroos. It is not possible to permit higher utilisation without an increase in that quota. The department presently permits an annual harvest of 11 per cent of the kangaroos in the kangaroo commercial zone as it believes a higher harvest may endanger the overall kangaroo population.

It has not been demonstrated that harvesting in the southern area of the State (the non-pastoral areas) would be a practical commercial proposition. The boundaries of the existing area used for commercial harvesting have been agreed with the Commonwealth Government. Tne kangaroo harvesting programme and the determination of an annual quota is under continuing review and attempts to maintain a balance between conservation and pastoral interests.

CLELAND CONSERVATION PARK

In reply to the **Hon. J. R. CORNWALL** (27 March).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Environment that the following are the answers to the honourable member's questions:

1. The Minister of Environment is aware that the Cleland environment is unsuitable for some of the native species, both birds and animals, which are presently kept there.

2. Consideration has been given to developing an additional and more climatically suitable site elsewhere in the State.

3. Yes. The Cleland Conservation Park Trust has considered the Monarto area for such a facility but not necessarily under its supervision.

AGRICULTURAL REGIONS

In reply to the **Hon. B. A. CHATTERTON** (4 March).

The Hon. J. C. BURDETT: There has never been any intention by the Department of Agriculture to establish a new region named Alexandra. However, consideration is being given to establishing a district office at an appropriate location in the Southern Hills for the purposes of servicing that area with departmental facilities. The honourable member's attention is drawn to a media release dated 27 February 1980 which explains the situation.

UNEMPLOYMENT

In reply to the **Hon. J. E. DUNFORD** (27 February).

The Hon. J. C. BURDETT: The replies are as follows:

1. Details of the Government's employment creation schemes have already been announced.

2. See 1. above.

3. The Minister is not a lawyer.

COAST PROTECTION BOARD

In reply to the **Hon. J. R. CORNWALL** (28 February).

The Hon. J. C. BURDETT: The replies are as follows:

1. Approval was given on 24 November 1978 by the then Minister of Environment for expenditure of $10 900 comprising:

   (a) $3 150 being 70 per cent of the total cost of erosion control;

   (b) $7 580 being 50 per cent of the total cost of vehicular and pedestrian control (this includes restriction of car parking to one area which is not visible from the Victor Harbor and Encounter Bay areas).

2. The project had been deferred prior to the raising of this question as, whilst the Minister of Environment is satisfied that the measures are necessary to prevent further erosion and to restrict the current indiscriminate parking of cars in the area, he considers that if some doubt exists on any of the environmental effects of the project then reassessment should occur.

3. Control of coast protection in South Australia is primarily the responsibility of the Minister of Environment as the nominated Minister under the Coast Protection Act, 1972-1975. Both the board and the Department for the Environment, through its Coast Protection Division, assist the Minister in undertaking that responsibility.

4. The honourable member would know that the Coast Protection Board has always acted in an advisory capacity and that it is subject to the control and direction of the Minister.

5. This aspect of the Coast Protection Board functions is currently under review.

6. Local government bodies would be aware from correspondence and other advice forwarded to them from the Department for the Environment that the Minister of Environment is responsible for coast protection in South Australia. Both local government and the public would be aware of this fact from the many Ministerial press releases, made both in metropolitan and country newspapers, concerning coast protection matters.

7. The Department for the Environment has and will

continue to work closely with the Department of Urban and Regional Affairs on coast protection projects. It is of note that the Director of Planning is Chairman of the Coast Protection Board. The Coast Protection Board will continue its role as provided for in the Coast Protection Act, 1972-1975.

SOIL CONSERVATION

In reply to the **Hon. B. A. CHATTERTON** (26 October).

The Hon. J. C. BURDETT: It was considered appropriate to seek the Crown Solicitor's opinion on the legality of the scheme proposed by the previous Government and in that officer's view surplus funds generated from the repayment of drought loans may not be used for the purpose of providing loans to farmers to carry out soil conservation work. While this obviously precludes implementation of the proposal, the honourable member may recall that on 21 December last the Minister of Agriculture forwarded him a copy of a letter to the District Council of Owen stating that the Commonwealth Government plans to inject funds into State soil conservation projects.

Between 1980 and 1982 South Australia's share of these funds will be in the order of $600 000 and the amount allocated in the third year of the programme will depend on additional State inputs into soil conservation over and above current expenditure. This welcome decision by the Commonwealth Government will materially assist the rehabilitation of eroded soils and completion of schemes such as the Hermitage Creek Conservation Project.

Mr. M. A. KINNAIRD

In reply to the **Hon. FRANK BLEVINS** (27 February).

The Hon. J. C. BURDETT: No. A letter dated 8 February 1979 was received from Mr. Kinnaird indicating his intention to resign as chairman of the SAMCOR Board as from 30 June 1980. The reason being given was that he wished to spend more time with his own business interests. Accordingly, it will be unlikely he will wish to continue as a member of the board. Furthermore, in the light of these developments the Government will need to give consideration to the future membership of the SAMCOR Board.

FIELD PEAS

In reply to the **Hon. B. A. CHATTERTON** (6 November).

The Hon. J. C. BURDETT: The Minister of Agriculture informs me that his department's January 1980 estimate of production of field peas is 33 640 tonnes, 25 per cent higher than the record crop in 1978-79. Market potential of the crop is centred around four main outlets.

(1) Some 5 000-7 000 tonnes will be used by Anchor Foods for use in split peas manufacture for Australian and export use.

(2) Up to 2 000 tonnes will be sold on the export market as dried whole peas for use in the bird seed trade and for human consumption.

(3) An export order of between 5 000-7 000 tonnes of field peas for use in stockfeed has been negotiated by the South Australian Seedgrowers Co-operative with a European company.

(4) Due to the high price of meat meal and the expectation of continued higher prices there is substantial demand by the S.A. pig industry for use of peas in pigfeed rations with potential cost savings to pig producers. It is estimated that some 15 000 tonnes were sold in 1978-79 and this figure could increase this year.

Overall there should be a minimum clearance of some 27 000 tonnes.

The Department of Agriculture has not received a request from South Australian field pea producers for a minimum pricing arrangement for field peas. Export demand is potentially high with favourable returns anticipated and export prices of field peas for stock feed purposes will guide producers' action in future years.

The department has successfully negotiated with the Commonwealth to amend the regulations pertaining to the export of field peas which in the past have prevented the shipment of bulk quantities of field peas at a standard suitable for use in stockfeed rations. As a consequence growers on Yorke Peninsula have been able to negotiate a substantial export order through the South Australian Seedgrowers Co-operative.

It is believed that an inquiry for an annual requirement of some 250 000 tonnes of lupins and/or field peas has been received from a European buyer. Development of a regular source of supply is one of the main considerations needed to be taken into account.

Finally, the Minister states that although the Australian Barley Board has supplied the names and addresses of its London agent and several possible buyers, the board considers that unless growers request it to market their surplus the board should not cut across the activities of other marketing organisations. Any intervention at this stage could prejudice the possibility of successful negotiations by these organisations.

CHINESE TRANSLATIONS

In reply to the **Hon. B. A. CHATTERTON** (19 February).

The Hon. J. C. BURDETT: The honourable member will be aware that the Minister of Agriculture recently has explained in another place that he did not deliberately cancel the previous Government's plans for the distribution of Chinese language publications.

My colleague also informs me that despite searching inquiries within the Department of Agriculture there is no evidence of the Chinese Charge d'Affaires in Canberra approaching the department on the matter. In retrospect the only perceivable link in this affair was a brief telephone call from a Chinese agent in Sydney but when that call was returned the agent was vague to say the least about his reasons for approaching the officer concerned. Therefore it seemed pointless to speculate why this agent telephoned in the first instance and, bearing in mind that there had been no communication from the Chinese Embassy, the event was considered to be of no significance.

Notwithstanding this general breakdown in communications, officers of the Department of Agriculture have initiated plans, which are now well advanced, to distribute the books with the assistance of the Commonwealth Department of Trade and Resources. The publications will be sent to key officials in Chinese Ministries relating to Agriculture in Peking and in various provincial cities. In addition, delegates of previous Chinese missions to Australia and persons contracted by departmental officers who have visited China will receive copies. The Department of Trade and Resources will have stocks of the books in their offices in China for additional distribution at their discretion.

While the foregoing negates the honourable member's questions, his plan to distribute the publications through the Chinese Embassy is of interest and a departmental letter has been forwarded to the Charge d'Affaires seeking details of this proposal.

In conclusion, the Minister points out that the books were moved to Churchill Road because of space limitations in Grenfell Centre and for no other reason. He also feels compelled to state yet again that the Government intends to honour all firm undertakings made to overseas countries by the honourable member during his time as Minister. Moreover, the Government will accept further commitments of this nature as and when opportunities arise provided that these do not prejudice the servicing and supervision of existing projects.

VINE DISEASES

In reply to the **Hon. D. H. LAIDLAW** (20 February).

The Hon. J. C. BURDETT: The Department of Agriculture provides a warning service through the electronic and paper media to orchardists when climatic factors are favourable for the development of downy mildew. It is also conducting research to determine a more accurate warning service for growers and has been monitoring the incidence of downy mildew and oidium for the last 10 years.

Downy mildew and oidium or powdery mildew have both been widespread in vineyards throughout the State this season. The increase of these diseases to levels higher than normal has been mainly due to the unusual weather conditions that have occurred during the growing season rather than carryover of the disease in unsprayed vineyards or because fruit has been left on the vine.

Both downy and powdery mildew have been present in South Australia for more than 50 years and although there have been serious outbreaks of the disease during this time there has never been an intensifying of the disease year by year. The severity of the disease depends on the incidence and frequency of weather conditions favourable for the development of the diseases.

For example, the rains in November 1979 were conducive to an early build-up and spread of downy mildew and further rains in December resulted in more infection. Little spread of downy mildew has occurred since late December, as recent hot weather has retarded any further development of the disease. Similarly, the cool overcast weather of January and early February 1980 have provided ideal conditions for the development and spread of powdery mildew in most districts. The monitoring of the incidence of these two diseases is to be continued in the vine growing areas of this State.

BRANDY EXCISE

In reply to the **Hon. B. A. CHATTERTON** (19 February).

The Hon. J. C. BURDETT: The position of the Minister of Agriculture and of the State Government is clear. This tax is completely unacceptable and the Federal Government has been made aware of the Minister's views expressed, both at the level of Agricultural Council and by letter to the Federal Minister.

NEW CROPS

In reply to the **Hon. B. A. CHATTERTON** (6 March).

The Hon. J. C. BURDETT: Mr. Mark Ellis was an employee in a temporary capacity in the Department of Economic Development from September 1977 until July 1979, but was transferred to the Department of Agriculture when new crop development work in that department was discontinued. He continued with new crop development work in the Department of Agriculture with funds provided by the Department of Economic Development. When this funding ceased approval was given by the Public Service Board for his continued temporary employment until 14 December 1979, while efforts were made to find alternative employment. These efforts were unsuccessful, and his employment ceased when the term of his temporary appointment ran out on 14 December 1979. Mr. Ellis was never a permanent employee in the Public Service.

Changes have been made in the organisation of market development work in the Department of Agriculture. Technical marketing specialists have been transferred to the Plant Industry and Animal Industry Divisions to more adequately service the market development needs in these two areas. In addition, two Agricultural Economists have been transferred into the marketing area of the Economics and Marketing Branch. These changes have been made in order to better meet the aims of the department, and to strengthen, not weaken, market development work.

AIR POLLUTION

In reply to the **Hon. J. R. CORNWALL** (20 February).

The Hon. J. C. BURDETT: The Air Quality Section of the South Australian Health Commission is aware of and understands the air monitoring and reporting system used in Victoria. It is felt that the South Australian system of issuing air pollution potential alerts, in conjunction with the Bureau of Meteorology, properly informs the public of conditions likely to cause excessive air pollution and gives an excellent guide to the actions that can be taken by the community to minimise the effect of inversion layers.

EMERGENCY ASSISTANCE

In reply to the **Hon. BARBARA WIESE** (6 March).

The Hon. J. C. BURDETT: Disbursements of special or emergency assistance by metropolitan district offices of the Department for Community Welfare are as follows:

Location	Amount 1977-78 $	Amount 1978-79 $
Central Office	2 547	2 150
Women's Information Centre	—	566
Adelaide	78 346	75 114
Elizabeth	53 688	70 707
Port Adelaide	16 378	14 406
Salisbury	24 030	18 818
Enfield	30 540	22 264
Brighton	3 058	3 223
Modbury	7 306	7 169
Marion	11 082	12 523
Christies Beach	11 823	13 324
Mansfield Park (The Parks)	43 625	37 043
Mitcham	12 696	4 363
Norwood	17 567	14 695
Woodville	42 072	43 947
Campbelltown	29 508	11 508

Location	Amount 1977-78 $	Amount 1978-79 $
Glenelg	8 780	5 942
Thebarton	16 012	10 874
Stirling	1 579	2 165
Crisis Care	6 184	5 546
Unley	2 464	1 765
Morphett Vale	6 937	4 403
Country and Interstate Liaison	11 213	8 991
Hillcrest	—	3 808
	$437 435	$395 314

Statistics on Special or Emergency Assistance applications received and approved were not maintained separately for the metropolitan area. For the whole State, 7 654 applications were approved in 1977-78 and 8 865 in 1978-79.

BREAD

In reply to the **Hon. K. L. MILNE** (6 March).

The Hon. J. C. BURDETT: The replies are as follows:

1. The Government is conscious of the difficulties being experienced by country bakers. The causes are complex and not easy of solution, but the matter is under consideration by the Government.

2. and 3. Not at present.

WORKERS COMPENSATION

In reply to the **Hon. G. L. BRUCE** (26 February).

The Hon. J. C. BURDETT: The Workers Compensation Act (section 53) enables a worker to provide his employer evidence of incapacity and such evidence shall be in the form of a certificate from a legally qualified medical practitioner together with an assertion in the prescribed form, i.e., a Form 16. These are the only documents required for the worker to set in train a claim for weekly payments of compensation.

I am aware that some employers, in addition to the above, require further information for their own records (perhaps for insurance or statistical purposes) but this is purely an internal arrangement and in no way defeats the scheme of section 53 of the Act.

I am not aware of instances of employers receiving a report of injury form for their records and not advising the worker of the requirements of section 53. However, upon receipt of the Form 16 and medical certificate and in the absence of an application by the employer pursuant to section 53 (2), weekly payments commence from the date of incapacity.

The assertion by the honourable member that Form 16 is not readily available, or that it is virtually impossible for the worker to obtain it, cannot be sustained because I understand that copies of that form are available from the Industrial Court and Commission, all insurance companies handling workers compensation, officers of all trade unions, and employers, as well as from the Department of Industrial Affairs and Employment.

CIGARETTES

In reply to the **Hon. FRANK BLEVINS** (20 February).

The Hon. J. C. BURDETT: My colleague has informed me that there is ample evidence available to demonstrate that there is no such thing as a safe cigarette. However, as cigarettes with a low tar and nicotine content are probably, in relative terms, safer than cigarettes with a high tar and nicotine content, the lowering of excise on the less potent product may encourage smokers to change to a less addictive and dangerous brand. This matter will be placed on the agenda of the next conference of Health Ministers.

LIQUID FUEL

In reply to the **Hon. B. A. CHATTERTON** (20 February).

The Hon. J. C. BURDETT: By disseminating the appropriate policy through the rural community and encouraging farmer recognition of the policy's merits.

PEST PLANTS BOARD

In reply to the **Hon. M. B. DAWKINS** (20 February).

The Hon. J. C. BURDETT: Pest plant control boards are statutory authorities established under the provisions of the Pest Plants Act, 1975. Although such boards may embrace more than one council district, they are entirely comprised of councillors appointed by member councils. There is therefore no doubt that local input is maintained under a board structure.

Certainly there is variation in both the size of board areas and in the number or size of properties within a board area, but there does not appear to be any significance in these factors when related to efficiency of operation.

Grouping councils into board structures is largely responsible for lifting pest plant control activity to a high level not previously seen in South Australia. There are variations in the efficiency of boards at this time, but this is mainly due to the differing periods since the various boards commenced operation. For instance, some boards have been in existence for less than a year while others are in their fourth year of operation.

I now refer to the specific question asked by the honourable member on the weed Californian burr. Despite a lot of control work having been undertaken over many years, the burr heavily infests the Gawler River and eradication is now an unlikely proposition. There are both economic and physical problems associated with controlling the burr in the area and at the present time the control boards involved are jointly examining the situation. Nevertheless, access by stock to the Gawler River is of a minor nature, as it is in areas of the River Murray which is similarly infested with the weed. Escape from the river environment and spread to other areas is therefore considered most unlikely.

DEPARTMENT OF AGRICULTURE REGIONS

In reply to the **Hon. M. B. DAWKINS** (5 March).

The Hon. J. C. BURDETT: The report prepared by Sir Allan R. Callaghan in 1973 has provided a valuable reference for consideration of departmental reorganisation. In implementing the reorganisation the specific recommendations have been modified in the context of changes within the department's responsibilities that have taken place since the report was prepared. Sir Allan's basic concept of reorganisation into a regional/divisional structure has been adopted. The five regions have been established and the structure of the divisions will be finalised during 1980. The divisional structure will however vary from that proposed by Sir Allan.

Regional boundaries have been modified to fall in line with the recommended CURB boundaries as far as practicable. The regional centres now adopted are those proposed by Sir Allan for the South-East, Riverland and Eyre Regions, namely, Struan, Loxton and Port Lincoln. However, the regional centres for the Central and

Northern Regions are Adelaide and Port Augusta, not Monarto and Kadina or Clare as suggested by him.

IRAQI TRADE

In reply to the **Hon. B. A. CHATTERTON** (25 March).

The Hon. J. C. BURDETT: I am advised by my colleague the Minister of Agriculture, that his understanding of the position at that time was broadly reflected in the report of 11 March. However, it has subsequently been found that the previous Government had not commenced specific contract negotiations for the demonstration farm on the site now selected in Northern Iraq. As the contract is still subject to final negotiation, it is not appropriate to reveal the price.

MINISTERIAL STATEMENT: ENVIRONMENTAL LEGISLATION

The Hon. J. C. BURDETT (Minister of Community Welfare): I seek leave to make a statement.

Leave granted.

The Hon. J. C. BURDETT: The Government proposes to make major changes to the planning legislation to streamline decision making, to provide more environmental safeguards. It is anticipated that a Bill will be introduced later this year to give effect to these Government policy objectives.

Members will recall that the report by Mr. Stuart Hart into the control of private development was tabled in the House in October 1978. On taking office, the Minister of Environment and Planning found that the former Government had given some consideration to the recommendations of the report and was in the process of coming forward with legislative proposals.

The present Government has reviewed a range of planning, development control and environmental matters and has now determined its long-term approach. Members will appreciate that proposals for legislative change are closely linked with departmental changes to which I will refer later.

The Minister has expressed concern on previous occasions that our Planning and Development Act suffers from a series of "band-aid measures". These were probably inevitable as the need for planning controls was accepted in various parts of the State.

It is now necessary to streamline the system and establish speedy and simple procedures for use by all councils.

It is proposed that the present 11-member State Planning Authority be replaced by a commission of three persons and a larger Minister's Advisory Council. The commission will make decisions on significant development applications which are to be determined at State level. The Minister's Advisory Council will advise on policy.

There is an urgent need to end the temporary nature of the interim development controls presently administered by more than 80 councils. The introduction by each council of separate planning regulations as required by the present Act would be costly for the councils concerned. The opportunity is therefore to be taken to legislate for one common set of regulations dealing with administrative procedures which will be common to all councils.

The principles upon which decisions on development applications are based will be those contained in the present development plan applicable to the council's area. Those councils with zoning regulations will still be able to use their zones and standards which have been subject to extensive public exhibition and hearings.

The proposed uniform administrative procedures will be drafted so that the varying resources of councils and the varying significance of development applications can be recognised. Applications for significant developments will be referred for decision at State level, and advice will be sent to councils on applications in which Government departments have an interest. Overall, councils will have more responsibility, better enforcement powers, and there will be more decision making on local matters at the local level.

Embodied in the procedures will be a power of the Minister to call for a special assessment of the environmental, social and economic effects of a significant development proposal. In such cases the Governor may make the final decision.

Land division procedures will also be simplified and integrated with decisions on the proposed use of the land.

The Government proposes to streamline the procedures of the Planning Appeal Board and introduce compulsory conferences before formal hearings begin.

The main thrust of the Government's policy is to ensure that the maximum amount of decision making takes place at local government level based on soundly based policies, and that proposals of special significance are fully assessed at the State level before being given the go-ahead. This calls for an efficient departmental structure at the State level.

On taking office, the Minister was of the opinion that a period of stability was needed in the two departments under his control. However, the review of the legislation which I have just outlined made it quite clear that there would be many administrative gains in creating one Department of Environment and Planning administering this one piece of legislation. Duplication of effort would be avoided, expert staff would be utilised more effectively, and efficiency would be improved.

In particular, the amalgamation will ensure that full consideration is given to environmental factors throughout the planning process; enhance the Government's ability to make sure that new developments are both desirable and soundly based in all respects; facilitate the implementation of one development control system and simplify the ongoing expressing and administration of development control policies; permit more comprehensive advice to local government on local environmental planning issues (and this is consistent with the Government's stated policy to share responsibility with local government); enable more effective and co-ordinated management of South Australia's national parks and other major open spaces; and ensure that management of pollution problems will be related to development planning strategies as well as to the character of the existing environment.

The reorganisation to establish the new department has already started, and the commencement of its establishment will coincide with the introduction of the Bill later this year. Applications for the position of the Director-General of the new department will be called within the next few weeks.

QUESTIONS

GOVERNMENT INQUIRIES

The Hon. C. J. SUMNER: I seek leave to make a brief explanation prior to directing a question to the Attorney-General on the subject of Government inquiries.

Leave granted.

The Hon. C. J. SUMNER: Honourable members will recall that, during the campaign for the Norwood by-election that was held earlier this year, the Government,

when it saw that its electoral prospects were on the skids, decided on a tactic to try to create fear and uncertainty among the electors of the district by announcing a number of inquiries that I have referred to in this Council on at least five previous occasions.

The first and most notorious was the so-called inquiry into irregularities on the Norwood electoral roll, about which the Premier said he wanted to have a Royal Commission. This inquiry was asked of the Electoral Commissioner by the Attorney-General. The Electoral Commissioner produced for the Attorney a report that he refused to accept and sent back to the Electoral Commissioner for rewriting. When he received the report he was obviously unhappy about it, because he was not prepared to disclose it to the Council or the public. He then gave a very padded statement to the Council which obviously expanded upon the report of the Electoral Commissioner. The Attorney had to do that to give some credence to the Premier's absurd comments about wanting a Royal Commission to look into this issue and to try to cover up the fact that it was quite clear that the Electoral Commissioner's report indicated that there was no problem. Obviously, it was a very short report to that effect. The Attorney refused to disclose the report to the Council and then padded the matter out to about 13 or 14 pages to make it look presentable.

The second inquiry involved the matter of bus tickets and sought to ascertain why bus tickets, which showed an increase in fares, were being ordered to be printed by the Government. The Government was most upset when this fact was made known during the Norwood by-election, so it ordered a witch hunt against some poor innocent public servant in the State Transport Authority. As a result of that inquiry, I understand that the Government has decided to do nothing; in other words, there was no substance to that complaint. The third inquiry related to A.L.P. radio advertisements, which the Premier at that time apparently believed were in some way in contravention of the Electoral Act. I do not know whether that inquiry was carried out, and I certainly am not aware of its result, but I am sure that it would indicate that there was no substance to that complaint, either.

There was also the inquiry into the document that was misplaced in the State Transport Authority over a weekend, which received a great deal of publicity. Once again, I am not aware of what happened to that inquiry, but I imagine that that matter had no substance. Finally, the Liberal Party, and in particular the Attorney-General and the Premier, attempted to drag Mr. Salisbury, the former Police Commissioner, into the election campaign by announcing that there would be a further inquiry into his dismissal. All these inquiries were announced about three months ago, but we only have the result of the Norwood inquiry, such as it is, and I understand that there is some result to the bus ticket inquiry. The other inquiries seem to have disappeared into limbo.

Has the Attorney-General completed his inquiry into the Salisbury dismissal, which was announced during the Norwood by-election, and, if so, what is the result of that inquiry and, in particular, does the Government intend to take any further action?

The Hon. K. T. GRIFFIN: The Leader of the Opposition has sought to embellish what he regarded as inquiries announced during the Norwood by-election campaign and to impute to the Government that the announcements of those inquiries or investigations were designed to influence the course of the Norwood by-election. In relation to the bus tickets, my recollection is that the Minister of Transport indicated at the time, when there was some speculation about an increase in fares, that no decision had been taken by him or by Cabinet with respect to any increase in fares and that his investigation was directed toward ascertaining how, if the report was correct, any material should be in the course of being printed without his authority.

In relation to the A.L.P. radio advertisements, it is not my recollection that either the Premier or any other member of the Government indicated that any such inquiry would be conducted. In fact, the Australian Labor Party modified its advertisements because it found that it was likely to be in breach of the Electoral Act if it did not do so. I believe that at least one of those advertisements was not played on radio.

In relation to the Norwood by-election investigation into irregularities, the Electoral Commissioner's report has already been canvassed in this Council on a number of occasions. The Leader's assertion that I refused to accept and did not like that report is false. Probably the best description I can give to that assertion is that it is nonsense. I do not intend to embark upon a regurgitation of the comments that have already been made in this Council about the Norwood by-election and the alleged irregularities in relation to the Electoral Act.

The other matter relates to the State Transport Authority, and the Leader has sought to pad this matter into one involving a top-level inquiry directed during the course of the by-election campaign and designed to affect the result of that by-election. Once again, my recollection of that matter is that no such statement was made in the media but that the Government had indicated that there were some misgivings about a particular document that had been misplaced and that inquiries would be made into that matter. That procedure is not uncommon. If the Government has any misgivings about a document that has been misplaced, that Government, or any Government, should seek to determine the reason.

Regarding the Salisbury matter, the Leader of the Opposition has again misconstrued the announcement made by the Premier during the course of the by-election campaign. If the Leader casts his mind back, he will remember that the Premier's indication for a need to review that matter came about because a Mr. Ceruto had publicly indicated some facts that tended to suggest that there was a need to review the material that had been placed before the Royal Commission and the conclusions that had been drawn from it and that there might well have been fresh evidence that could throw more light upon the matter, which concerned the whole community (that is, the dismissal of Mr. Salisbury in such a peremptory way).

The Hon. N. K. Foster: Good riddance to a dishonest officer.

The PRESIDENT: Order! The honourable Attorney-General.

The Hon. K. T. GRIFFIN: I am almost in a position to be able to present a report to the Premier on that matter.

COASTAL WATERS AND TERRITORIAL SEAS BILL

The Hon. R. C. DeGARIS: I seek leave to make a somewhat longer explanation than usual before asking the Attorney-General a question about the Coastal Waters and Territorial Seas Bill.

Members interjecting:

The Hon. R. C. DeGARIS: I do not believe my explanation will reach the length of the Leader of the Opposition's last question.

Leave granted.

The Hon. R. C. DeGARIS: In the autumn session of State Parliament certain Bills passed this Parliament unanimously that were really request Bills to the Federal

Parliament to enact legislation granting to the States certain rights and privileges relating to the coastal waters and territorial seas.

During the month of May a package of Bills passed the Federal Parliament, and I think that all members of the Parliament would be happy that after many years of controversy this question now seems to have resolved itself. Over a period of years the question of off-shore sovereignty has been hotly debated. In an attempt to solve some of the problems, a decision was made in 1967 by the Commonwealth and the States to enact mirror legislation dealing with the question of the administration of petroleum search and petroleum mining off-shore. This was a co-operative effort between the States and the Commonwealth to try to avoid a difficult problem in respect to the constitutional powers of the Commonwealth and the States. This mirror legislation was strongly supported by the State Governments, with the question of actual sovereignty not being resolved, and work began on framing mirror legislation for a mining code covering off-shore mining other than the question of petroleum.

But in 1969 the Gorton Government decided that the question of sovereignty should be settled, and that Government presented the Territorial Sea and Continental Shelf Bill which, following strong opposition from all the States, was not immediately proceeded with as far as mining code parts were concerned but the declaratory part was proceeded with.

The legislation was challenged in the High Court, which upheld that once low-water mark is reached the international domain began. Also, the Commonwealth Sea and Submerged Land Act of 1973 was supported by the High Court of Australia in its 1975 judgment. But this quite clearly could not be the end of the matter, because the States are equipped to administer the control of mining, whether petroleum or otherwise, and are equipped to administer such things as fisheries, harbours, jetties, breakwaters, etc.

If the Commonwealth were to assume the administrative responsibility for the coastal waters and territorial sea, then separate administration would need to be established, and this would entail quite unnecessary duplication of administrative functions.

It is clear to honourable members that to establish separate Commonwealth departments for off-shore administration would be administrative foolishness. Facing this problem, the States and the Commonwealth, irrespective of the political colours of the Administrations agreed to go through once again a co-operative movement in the hope of resolving the problems that exist. All the States passed Bills requesting the Commonwealth Parliament to enact legislation to grant administrative powers and rights and privileges to the States in relation to the coastal waters and territorial sea.

These request Bills passed all State Parliaments, to my knowledge without opposition, and it did appear that after years of controversy some resolution was to be achieved cinally to the satisfaction of all parties. The head of power to be used to implement the States' requests is section 51, placitum XXXVIII, together with the Commonwealth's external affairs power.

One may well have thought that this would be the end of the matter and that after many years of controversy a final solution had been achieved; however, if one reads Federal *Hansard* one sees that there still could be further problems. The Labor Party at the Federal level has stated quite clearly that, if returned to power at the Federal level, it will do everything possible to repeal the legislation and change the direction in which we are now proceeding.

I quote from Federal *Hansard* of 1 May, page 2534, and the speech made by Paul Keating, the A.L.P. shadow Minister for Energy, who stated:

> The Opposition opposes these Bills. It will have no truck with the Government bent upon preventing the national interest. In Government it will restore the Commonwealth to its proper place of power above the sectional interest of the States whether they be Labor or Liberal.

This statement can only be seen as a threat to a future of the co-operative and pragmatic view reflected by the unanimous Parliamentary requests of the States for such legislation. Whether the Commonwealth can repeal legislation granting to the States rights and privileges in the coastal waters and territorial seas adjacent to the States when those rights and privileges have been granted by the unanimous request of the States is a question upon which information should be made available to State Parliament. Of course, there are many other interesting aspects to this complex question. Therefore, after that long explanation, I ask that the Attorney-General make available a full and detailed report to this Council on this most contentious matter.

The Hon. K. T. GRIFFIN: The agreement that was reached between the States and the Commonwealth with respect to the package of Bills affecting the seas and submerged lands off the coastline of Australia has been developed over the past decade with the co-operation of State Governments of both political persuasions. In fact, the previous Government in South Australia, through its Attorneys, successively had agreed at the Standing Committee of Attorneys-General to implement the package of request Bills as well as other Bills in the package to ensure that the Commonwealth could then grant the necessary authority which has been the subject of the legislation in the Federal Parliament in the past few weeks.

That series of negotiations and discussions with respect to seas and submerged lands has been a drawn-out one, but it has been a significant one because it has reflected much co-operation between the States and the Commonwealth. The same can be said for the national companies and securities scheme to which, again, the previous Government in this State subscribed and supported, and which we are now proceeding to implement. With respect to the package of Bills affecting the seas around the Australian coastline, I will obtain a detailed report for the Hon. Mr. DeGaris and make it available to him and to the Council in due course.

HORSNELL GULLY FIRE

The Hon. J. R. CORNWALL: I seek leave to make a short statement before asking the Minister of Community Welfare, representing the Minister of Environment, a question about the Horsnell Gully bush fire.

Leave granted.

The Hon. J. R. CORNWALL: Some weeks ago I raised matters of public importance concerning the Horsnell Gully bush fire that occurred on Sunday 13 April 1980. There was evidence of grave errors of judgment, confusion in the chain of command, lack of communication, and a decision taken quite improperly by the Minister of Agriculture to begin a burn-back from Coach Road that burnt out the Horsnell Gully Conservation Park.

At the time the Minister of Environment was willing, quite dishonourably, to allow his National Parks and Wildlife Service officers to be discredited by saying nothing. The Minister of Agriculture, realising his irresponsible antics had again got him into bother, declined to comment one way or the other, and it was left to the Acting Premier (Hon. E. R. Goldsworthy) to act as

the front man for what has now proved to be a disgraceful cover-up.

To reinforce that cover-up, the Government intimidated officers of the National Parks and Wildlife Service in a shameful way. Mr. Goldsworthy specifically refused to call for a Coroner's inquiry, because he knew that the scandalous and scurrilous actions of the Minister of Agriculture would be made public.

The Hon. J. C. BURDETT: On a point of order, Mr. President, the honourable member is arguing the matter: he is using quite abusive terms, yet all he is allowed to do is to explain the matter. He is allowed only to explain the matter on which he is asking the question and is not permitted to be argumentative. He is not permitted to express opinions, but that is what he is doing.

The PRESIDENT: I am aware of the Standing Orders. I realise that the Hon. Dr. Cornwall has taken advantage of the situation, but explanations today have been long. The Hon. Dr. Cornwall.

The Hon. J. R. CORNWALL: It was claimed that the burn-back was necessary to protect lives and property. However, there is quite clear evidence to the contrary, and I quote from internal departmental reports dated 13 April 1980, as follows:

> From what we know, it appears that a decision was made by personnel in the helicopter to burn-back from Coach Road. The road is some distance south-west of where the fire was burning at the time.
>
> . . . personnel in the helicopter included the Director, Country Fire Service, and the Minister of Agriculture (Hon. W. E. Chapman).
>
> When Mr. Fitzgerald (Fire and Emergency Operations Officer, National Parks and Wildlife Service) heard of this decision he consulted with the Ranger-in-Charge, Cleland, Mr. Peter Martinsen, who has an intimate knowledge of the area. They both agreed it would be quite possible to hold the fire on a north-southerly track which is east of the Horsnell Gully Conservation Park.
>
> . . . at this time the weather conditions were calm and with light wind, and these conditions were unlikely to change.

A further report states:

> At that time the fire was in fact stopping on the track of its own volition. It was not jumping the track . . . We may have held it at that point bearing in mind that the track was in fact holding the fire itself without any assistance.

The Hon. C. M. Hill: From where does that quote come?

The Hon. J. R. CORNWALL: From a departmental document. That track is the track on which the National Parks and Wildlife Service fire control officers wanted to fight the fire. Further on, one of the reports states:

> Therefore, at the time that we were making the decision . . . the fire was quiet and our units were able to get down the end without any trouble.

The report further describes how the National Parks and Wildlife Service was unable "despite repeated requests" to get vehicles along the track. The report continues, "Large C.F.S. units were continually blocking the track. Our own units were having trouble getting in."

The PRESIDENT: I draw the honourable member's attention to the point that he is taking a lot of quotes and a lot of time.

The Hon. J. R. CORNWALL: With respect, it is a matter of great public importance and you, Sir, did allow the Hon. Mr. DeGaris some latitude. A further extract from one of the reports states, "It should be noted that both National Parks personnel in the field and personnel in the control room in head office were aware of the problems being created by Country Fire Service units blocking Coach Road, which made it difficult and tended to slow down the process of getting on with the job." The report further describes how, in discussion with officers at the Country Fire Service headquarters during the evening, it was apparent that they were also aware of the problem and concerned at the lack of co-ordination and teamwork being carried out by units under their control. Despite this damning evidence, a senior officer of the C.F.S. and the Minister of Agriculture have been boasting that they have successfully covered up the issue.

Is the Minister aware that it is now common knowledge that the Minister of Agriculture played a leading and decisive role in the decision to burn-back from Coach Road and therefore destroy the Horsnell Gully Conservation Park? Does the Minister agree that the Minister of Agriculture's behaviour at the scene of the fire was grossly irresponsible and, if not, why not? What was the assessment of the National Parks and Wildlife Service officers of the loss of native animals, including koalas, as distinct from the R.S.P.C.A. report? Is the Minister aware that there was a serious breakdown of communications and liaison between the National Parks and Wildlife Service officers and the C.F.S.? Were any National Parks and Wildlife Service rangers placed in grave danger because of the burn-back? Is it a fact that the burn-back ordered by the Minister of Agriculture got seriously out of control and did more damage than the original fire? Will the Minister table the reports from departmental officers regarding the fire? Will the Minister ask the Attorney-General to request a Coroner's inquiry into the fire in order to restore the good name of the National Parks and Wildlife Service officers and prevent a recurrence of the dreadful fiasco of 13 April?

The Hon. J. C. BURDETT: I am disturbed at the quotations from what is obviously a stolen departmental document. I will refer the question to my colleague and bring back a reply as soon as it is available.

COMMISSIONER FOR EQUAL OPPORTUNITY

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about the Commissioner for Equal Opportunity.

Leave granted.

The Hon. BARBARA WIESE: I have received inquiries concerning the recent appointment of the new Commissioner for Equal Opportunity. Apparently there is some concern that the selection committee and the procedures followed were in some way unusual and that the candidate selected may not have sufficient or suitable previous experience or qualifications for the position. In order to allay the fears of those people who have approached me, I ask the Minister to provide the following information: first, how many people applied for the position of Commissioner for Equal Opportunity; secondly, who was on the interviewing panel and what criteria were used in the selection of the successful candidate; thirdly, what qualifications relevant to the position does the successful candidate have; fourthly, what is her previous experience in industrial relations; and, fifthly, what is her previous experience and understanding of discriminatory practices and their solutions?

The Hon. J. C. BURDETT: The procedures followed were the normal ones in the Public Service; there was no departure at all. The usual procedure is that there is a panel of three, one of whom is appointed by the responsible Minister (who was myself); another is appointed by the Public Service Board, and the third is appointed by the Premier's Department. That procedure was followed in this case, and there was nothing unusual

whatsoever.

The Hon. C. J. Sumner: Who were they?

The Hon. J. C. BURDETT: I do not propose to disclose that. To the best of my recollection, I think there were 28 applicants. I cannot remember the exact academic qualifications—

Members interjecting:

The PRESIDENT: Order!

The Hon. J. C. BURDETT: I cannot remember her academic qualifications but her experience and qualifications—

The Hon. Frank Blevins: She married well.

The Hon. J. C. BURDETT: On what information does the honourable member base that allegation? She is no relation to a person that the Hon. Mr. Blevins may have in mind.

Members interjecting:

The PRESIDENT: Order! I ask the Minister to resume his seat. Unless members will come to order and cease their interjections when the Minister is replying, I will have to do something about it. The honourable Minister.

The Hon. J. C. BURDETT: The successful applicant had for some time been a nurse counsellor in the Adelaide Children's Hospital. That would seem to me (although I had no influence nor did I speak to members of the panel until after she was appointed) to be a very suitable qualification, because industrial and conciliatory procedures were basically what she was doing. She was a nurse counsellor, and most of the complaints that came to her came from nurses about matters of employment. It seems that she was extremely well qualified. On the question of sex discrimination, she had had experience in that area; she believed that male nurses were often discriminated against. I have spoken to her since her appointment, and it seems that she is a most suitable and qualified person, because of her experience as a nurse counsellor for some years.

The Hon. C. J. SUMNER: Will the Minister inform the Council who the three persons were on the selection panel for the Commissioner for Equal Opportunity?

The Hon. J. C. BURDETT: No.

The Hon. C. J. SUMNER: Will the Minister inform the Council whether Mr. Ross Story, a political appointment to the Premier's personal staff in the Premier's office, was a member of the Public Service Board selection panel of three that made the selection for this appointment?

The Hon. J. C. BURDETT: No, I will not.

THE GHAN

The Hon. L. H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Transport, a question about the railways.

Leave granted.

The Hon. L. H. DAVIS: I recently journeyed back from Alice Springs on the Ghan. It was a pleasurable experience for me, because for several years I was a conductor on that train during my university vacations, and I was an occasional member of the A.W.U.

The Hon. J. E. Dunford: Shows how democratic we are!

The Hon. L. H. DAVIS: It was not a question of democracy because it was required that one be a member for the train to run. While one accepts and expects that the Ghan is a slow train, it comes as something of a surprise and disappointment to know that the Port Augusta/Port Pirie/Adelaide leg of the journey did its very best to match the at times walking pace of the Ghan.

The printed time table indicates that the train leaves Port Augusta at 2.40 p.m. and arrives at Port Pirie at 4.50 p.m.—more than two hours for little more than 50 miles. After one hour's wait and a change of trains, together with buying one's tea because it is not provided on the train, it is a 3½ hour journey from Port Pirie to Adelaide, arriving at 9.15 p.m.

That is what the time table shows. That is a total of six hours and 35 minutes to travel about 190 miles, or 29 miles an hour. We managed to fall behind the time table, averaging 26 miles an hour.

The Hon. N. K. FOSTER: On a point of order, Sir, I seek your ruling on whether or not the question is in the jurisdiction of the State Minister of Transport. Clearly, the member who asked the question has forgotten about the railways transfer Bill.

The PRESIDENT: There is no point of order.

The Hon. L. H. DAVIS: Mr. Foster's patience will be rewarded shortly. In view of the energy crisis, rail transport for persons and goods should have a bright future. Can the Minister make inquiries of the A.N.R., which is responsible for this section of line, to ascertain why the service is so slow, and what steps, if any, have been or will be taken to speed up the service which, I understand, will remain the connecting rail link for some years between Adelaide and the important gulf towns of Port Pirie and Port Augusta and also an important part of the tourist packages to the Northern Territory, the Flinders Ranges and Western Australia?

The Hon. K. T. GRIFFIN: I shall refer the honourable member's question to the Minister of Transport and bring back a reply.

MOTOR VEHICLE INDUSTRY

The Hon. N. K. FOSTER: I seek leave to make an explanation before directing a question to the Leader of the Council, the Attorney-General, regarding the proposed motor vehicle industry legislation.

Leave granted.

The Hon. N. K. FOSTER: Honourable members will recall that in about May of last year a Select Committee was set up by the previous Government, known, if I remember correctly, as the Select Committee on the Motor Body Repairs Industry Bill. It was chaired by the then Minister, the Hon. T. Casey, and members of it were Mr. Burdett, now a Minister, and Mr. Hill, who had a direct interest and had himself placed on that committee.

Members interjecting:

The PRESIDENT: Order!

The Hon. C. M. HILL: On a point of order, Sir, I take extremely strong objection to the statement that I had an interest in the committee to which the honourable member refers, and I ask him to withdraw and apologise.

The Hon. N. K. FOSTER: I will withdraw and apologise, and I will say that I had an interest in the Bill also, because I accepted the responsibility of a position on that committee. I am sorry to know that Mr. Hill did not do that, and I thank him for his clarification as to his conscience in that matter.

The Hon. L. H. Davis: That's really weak.

The Hon. N. K. FOSTER: That is not weak. I accepted it, as he did.

The PRESIDENT: Order! The Hon. Mr. Foster will make an explanation or resume his seat.

The Hon. N. K. FOSTER: Thank you, Sir. Other members of the committee were Mr. Dunford and myself, and Mr. Cameron, who is not present in the Chamber at the moment, and I direct no reflection on him for that. I now have in front of me a document which I shall quote. It carries the crest of the Department of Transport in the

State Parliament and is headed "Motor Vehicle Towing Industry—report on proposed legislation—Department of Transport." It is under the date of late May 1980. I am not going to say that it fell off the back of a tow truck, nor do I suggest that it was stolen, because that is not the case.

The Hon. C. M. Hill: Where did you get it?

The Hon. N. K. FOSTER: It was posted to me. I have checked it out, and I have reflected on the evidence that you accepted, your remarks, and the remarks of the then Opposition.

The Hon. R. J. RITSON: On a point of order, Mr. President, I point out that at page 1907 of *Hansard* you made a ruling, when I sought to refer to *Hansard* and to matters raised by the Hon. Mr. Sumner, that one could not refer to Government documents in this manner. You asked whether I wished to refer to some documents and said that, if I did, you would rule me out of order. I said that I had no documents and had seen no documents, and that I wished to refer only to the *Hansard* report. I now ask whether you will perhaps consider this matter in that light.

The PRESIDENT: I am not quite sure that what you have said is right. There is no reason why the Hon. Mr. Foster should not refer to *Hansard* or to the documents. He so far has not quoted from the documents and, hopefully, he does not intend to. The Hon. Mr. Foster has a few seconds left in which to continue with his question. If he does not wish to do that, I shall call on the business of the day.

The Hon. N. K. Foster: Tomorrow will do.

The PRESIDENT: Call on the business of the day.

QUESTIONS ON NOTICE

CHIPPING PLANT

1. **The Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare:

1. What agreements were signed by the Minister of Forests for the sale of pulpwood, the establishment of chipping and chip loading facilities, or the establishment of a thermo mechanical pulp plant after 15 September 1979?

2. What agreements were signed during December 1979?

3. Who were the parties to these agreements and what were they for?

4. Will the Minister table the agreement?

The Hon. J. C. BURDETT: The replies are as follows:

1. An agreement between the Minister of Forests and Punalur Paper Mills re establishment of chipping and pulping plant.

2. None, strictly. But the memorandum of articles of association to form the Punwood company—which had been signed in Bombay by all parties on 6 September —was completed in December when Punalur finally produced its company seal.

3. As above.

4. No.

THERMO MECHANICAL PULP PLANT

2. **The Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare:

1. Has the committee established by the Minister of Forests to examine the feasibility of establishing a thermo mechanical pulp plant in the South-East completed its studies?

2. If not, at what stage is the committee's research?

3. When is it expected to complete its report?

4. Will the report be made public?

The Hon. J. C. BURDETT: The replies are as follows:

1. No.

2. The study has been suspended in view of the current agreement.

3. Not applicable.

4. Not applicable.

PULPWOOD

3. **The Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare: As the original sale of 330 000 cubic metres of green roundwood per year for 10 years included a considerable backlog of thinnings, what is the estimated availability of pulpwood to the proposed thermo mechanical pulp export project after that 10-year period on a sustained yield basis?

The Hon. J. C. BURDETT: The agreement for the supply of pulpwood for the proposed thermo mechanical pulp export project is for a 10-year period only. Present information does not enable the department to quantify available material for that purpose beyond the end of the 10-year period.

4. **The Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare: Does the Minister of Forests intend to increase the rate of purchase of land and of planting that land and land already held by the Department of Woods and Forests to pines to sustain the level of thermo mechanical pulp production and employment beyond the 10-year period?

The Hon. J. C. BURDETT: The honourable member's question brings to bear the department's policy in respect of purchasing land as a whole, which is not in any way tied to one or other of the present or likely users of future log.

(1) The department acquires land at every opportunity provided that price is reasonable.

(2) Planting rate is adjusted within the sustained yield system as land is acquired.

(3) Future yields are not in any way committed to the proposed thermo mechanical pulp mill. Other longstanding and existing industries would expect to compete for any long-term increases in yield.

THERMO MECHANICAL PULP PLANT

5. **The Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare:

1. What is the detailed breakdown of the estimated 500 additional jobs to be provided by the proposed thermo mechanical pulp plant?

2. How many of these jobs will be provided:

(a) in the forests?

(b) in transport?

(c) in the T.M.P. plant?

(d) in service industries?

The Hon. J. C. BURDETT: The estimated figures are:

1. *(a)* 300 persons permanently employed plus *(b)* some 200 during construction and commissioning stages.

2. Of the possible 300 permanent positions, deployment expectations are:

(a) in forest 100
(b) transport 45
(c) pulp plant 90
(d) services 65

PUNALUR PAPER MILLS

6. The **Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare:

1. Has the Minister of Forests included the surplus pulp wood from the Adelaide Hills forests in the agreements with Punalur Paper Mills to maintain continuity of employment in the proposed thermo mechanical pulp plant beyond the 10-year period of the agreement to sell roundwood from the South-Eastern forests?

2. If not, what arrangements have been made to dispose of the surplus?

The Hon. J. C. BURDETT: The replies are as follows:

1. No.

2. Inquiries have been received from interested buyers.

EXPORT OF WOOD CHIPS

7. The **Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare: Does the Minister of Forests' statement that the export of woodchips was in jeopardy because of the rapid rise in fuel costs relate only to the mobile method of chipping that had been proposed or to woodchip exports as a whole?

The Hon. J. C. BURDETT: I was referring to the factors affecting woodchip exports as a whole and as such it is my interpretation that fuel cost was a reason why earlier propositions to export woodchips came into some jeopardy.

PUNWOOD SHARES

8. The **Hon. J. R. Cornwall,** for the **Hon. B. A. CHATTERTON** (on notice), asked the Minister of Community Welfare: What financial remuneration did the Minister of Forests or the South Australian Timber Corporation receive from the sale of PUNWOOD shares?

The Hon. J. C. BURDETT: The South Australian Timber Corporation has received $20 from the sale of its 20 PUNWOOD shares being at par value.

TRUSTEE ACT AMENDMENT BILL

In Committee.

(Continued from 26 March. Page 1719.)

Clause 2 passed.

Clause 3—"Interpretation."

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

Page 1, line 9—After "amended" insert—

—

(a) by inserting after the definition of "instrument" in subsection (1) the following definition:—

"investment adviser" means a person licensed as an investment adviser under the Securities Industry Act, 1979; and

I move this amendment because, in the submissions made to me by members of the legal profession, companies, and others who have some involvement in the field of investing trustee securities, it has become obvious that there is concern about the description of "investment adviser". That description is relevant on page 4, lines 25 to 29, where an independent expert for the purpose of reviewing, on a regular basis, the range of investments in a trust means:

a person who carries on business as an investment adviser or who is a member of a stock exchange that is a member of the Australian Associated Stock Exchanges;

It became apparent that we would have to provide a more specific description of "investment adviser". The Securities Industry Act, 1979, of this State contains a definition of "investment adviser", as well as a procedure for licensing those persons, and it is therefore deemed appropriate that a person who is an investment adviser under that Act and who meets the criteria under that Act should be the person referred to as an investment adviser under the Trustee Act. It seems to me that that will provide safeguards that were not in the bald description of "investment adviser" in lines 25 to 29 on page 4.

Amendment carried; clause as amended passed.

Clause 4—"Authorised investments."

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

Page 2, lines 30 to 34—Leave out subparagraphs (i), (ii), (iii) and (iv) and insert—

(i) Bagot's Executor and Trustee Company Limited;
(ii) Elder's Trustee and Executor Company Limited;
(iii) Executor Trustee and Agency Company of South Australia Limited; or
(iv) Farmers' Co-operative Executors and Trustees Limited.

In the Bill, on page 2, lines 29 to 34, there is a description of the four trustee companies that operate in South Australia but their correct names are not given. The amendment seeks merely to ensure that their correct names are included in the clause.

Amendment carried.

The Hon. L. H. DAVIS: I move:

Page 3, line 15—Leave out "two" and insert "four".

This amendment merely doubles the minimum paid-up share capital of a company whose shares can be purchased for the purpose of being a trustee investment. The Bill, before this amendment, proposed that the trustee would not be empowered to invest in stocks, shares or debentures unless the company had a paid-up share capital of more than $2 000 000. That provision was in the Western Australian Act that was enacted at least 10 years ago, and it appears appropriate to take account of inflation and increase the figure to $4 000 000.

I think members would be interested to know the practical applicaton of the amendment. Looking at some Adelaide companies which are listed on the Stock Exchange and which would qualify as trustee securities, we see Adelaide Brighton Cement, with a paid-up share capital of $20 000 000, Adelaide Steamship Company, at $22 000 000, Argo Investments, a well known Adelaide investment company, at $13 500 000, A.C.I., which qualifies as a trustee investment, at $125 000 000, A.G.C., at $107 000 000, Bounty Investments, a member of the Argo Investments group, just sneaks in with $4 200 000, and C.C. Bottlers at $8 200 000.

Some Adelaide companies (for instance, Cowell, at $3 730 000) would not qualify, but I think the thrust of the amendments proposed by the Attorney is to broaden the opportunity for trustee investment in this State, while at

the same time being prudent about it. I think it appropriate to increase the amount from $2 000 000 to $4 000 000, because a company with a $4 000 000 base is likely to be a sounder investment proposition than one half that size.

The Hon. K. T. GRIFFIN: The whole object of clause 4 is to widen the range of investments available to trustees, with safeguards such as those to which the Hon. Mr. Davis has referred. It is correct to say that the $2 000 000 paid-up share capital, as one of the criteria that should be considered in deciding whether an investment ought to be allowed in the company, was the figure in the Western Australian legislation. As far as I can recollect, it still is the figure there. However, it was fixed several years ago and it is appropriate that it should be reviewed. I am happy about the figure being $4 000 000 paid-up capital rather than $2 000 000, because $4 000 000 is an appropriate figure and establishes a higher criterion than otherwise would have applied.

Amendment carried.

The Hon. L. H. DAVIS: I move:

Page 3, line 17—Leave out "seven" and insert "ten".

This amendment has a similar thrust to the previous one. The original proposal was that a dividend should be paid in each of the seven years immediately preceding the year in which the investment is made. It is interesting to note that it does not refer to an unbroken dividend. As members know, many companies pay interim and final dividends. Few companies pay only one dividend each year. I am not unhappy about leaving the provision in its present form, but I think, again, in pursuance of prudence and caution in amending the Trustee Act in this State in what is a dramatic but appropriate way, that it is appropriate to increase the period from seven to 10 years. That brings it into line with the Western Australian practice. I have spoken to people in Western Australia and they are satisfied that 10 years is the appropriate time. I suspect that other States also will adopt that period.

The Hon. K. T. GRIFFIN: I am prepared to accept the amendment. The extension of the established dividend record from seven years to 10 years improves the security situation. One can argue that the period should be five years, 10 years, or 15 years, as some submissions made to me did argue. A period of 10 years seems more appropriate than seven years.

The Hon. FRANK BLEVINS: The Opposition is happy to support this amendment, as with the previous amendment moved by the Hon. Mr. Davis. I am sure that honourable members will recall that during the second reading debate, or possibly at an earlier Committee stage, the Opposition expressed some doubt about whether this whole clause was desirable and whether trustees should be permitted to place money for which they are responsible in stocks and shares. The usual practice is for trustees to invest only in what are termed blue chip securities and investments of that nature.

The Opposition is pleased that at least one member of the Government Party (and now with the agreement of the Attorney-General) has seen fit to take heed of those doubts that were expressed by the Opposition, and indeed to considerably strengthen this clause to ensure that funds that are held in trust are not dissipated through careless speculation on the Stock Exchange. Therefore, the Opposition is very happy to support the amendment.

Amendment carried.

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

Page 3, lines 37 to 39—Leave out all words in these lines and insert the following:

(i) repayment of the deposits or the amounts secured by the debentures is unconditionally guaranteed by a company that does conform with those paragraphs; or

(ii) the company is a subsidiary (as defined by the Companies Act, 1962-1980) of a bank carrying on the business of banking in the State and repayment of the deposits or the amounts secured by the debentures is unconditionally guaranteed by the bank.

My amendment relates to that part of the clause that again qualifies the opportunity to invest in stocks, shares and debentures of a company. Among the criteria are those to which we have already referred—that the company should have a paid-up capital of (now) more than $4 000 000; that it should have paid a dividend in each of (now) 10 years immediately preceding the year in which the investment is made; and that the stocks, shares or debentures should be listed on a Stock Exchange in one of the States of Australia. It then goes on to provide that a trustee may still invest in the stocks, shares or debentures of a company that does not conform to those criteria, where the stocks, shares and debentures of the company are unconditionally guaranteed by a company that conforms to those paragraphs.

One illustration of this is that Elder Smith Goldsbrough Mort Limited meets the criteria and is a well recognised and established company. One of its finance subsidiaries is Elder's Finance, which does not meet the criteria, but Elder Smith Goldsbrough Mort Limited unconditionally guarantees the debentures that are issued by Elder's Finance. As Elder Smith Goldsbrough Mort Limited meets the criteria and unconditionally guarantees the repayment of deposits or debentures lodged with its subsidiary, in this case the Government believes it is appropriate that that should be recognised as being as good an investment as if it were in the parent company.

My amendment also seeks to add the provision that if a company is a subsidiary, as defined by the Companies Act, of a bank carrying on the business of banking in South Australia and the repayment of deposits or amounts secured by the debentures with that subsidiary is unconditionally guaranteed by the bank then, again, that is as good as investing with the bank. In those circumstances, it is appropriate to extend the provisions to enable those types of investment.

The Hon. L. H. DAVIS: This is not an easy matter to resolve, because it brings into account several varying factors. First, if one reflects on the clause that has just been amended, there are some finance companies that would qualify as trustee investments, because they are listed on the Stock Exchange. As an example, I name the Australian Guarantee Corporation which is 76 per cent owned by the Bank of New South Wales and is the largest finance company in Australia. That company is ranked twenty-fourth in size with a current market capitalisation of $294 000 000 and a profit in its last full financial year reported at $53 400 000. That company, without any question, qualifies as a trustee investment, because its shares are listed on the Stock Exchange. Other companies that qualify under this head as having shares listed on the Stock Exchange and therefore their debentures also qualify, include Alliance Holdings Limited, which is principally-owned by M.L.C. (the life office) and the Chase Manhattan Bank, along with public shareholders. Other such companies include Mercantile Credits (57 per cent owned by National Mutual Life) and Mutual Acceptance, which is over 50 per cent owned by the Standard Chartered Bank of England.

There are many other second, third and even fourth-

ranked finance companies which under this legislation would qualify as trustee investments in South Australia. However, as the proposed legislation now stands, and taking into account the Attorney's amendments that have been foreshadowed today, there are some finance companies of substance that do not qualify as trustee investments, because they are not listed on the Stock Exchange or because their name differs from their parent. Esanda is wholly-owned by the Australian and New Zealand Banking Group and made a profit of $28 300 000 in its last full financial year. Members would be well aware that F.C.A. is also fully-owned by the Australian and New Zealand Banking Group.

Custom Credit Corporation, which is fully-owned by the National Bank of Australasia, made a profit of $20 600 000 in its last reported financial year. General Credits, which is fully-owned by the Commercial Bank of Australia, made a profit of $13 500 000 in its last financial year. C.B.F.C., which is a fully-owned subsidiary of the Commonwealth Banking Finance Corporation, is a relatively new finance subsidiary, but undoubtedly it is very strong with the "big elephant" behind it. That company made a profit of $6 600 000 in its last full financial year. All of these companies are finance companies of (and I use the word advisedly) substance, because they have never had any trouble. All those companies have had a very wide spread of investments in matters of consumer finance, leasing, and other traditional areas of commercial finance. Certainly, some of those companies have had property and financed property, but none has suffered to the extent of the excesses of a few other finance companies. Under the proposed amendments, these companies of substance do not come within trustee investment.

It seems anomalous that, simply because A.G.C. is not fully-owned and is still listed on the Stock Exchange, whereas Custom Credit was listed but is now fully-owned and is not a trustee investment, we should allow this position to remain. This argument is reinforced by the fact that there are second and third ranking companies that are not such secure investments but qualify as trustee securities. I urge the Attorney-General to reflect on this point and to see whether it is possible to correct this anomaly that exists because, although Elder's does unconditionally guarantee its subsidiaries' securities, to my knowledge there is only one other company in Australia of any substance and size that does this in relation to its debentures or unsecured deposit notes, and that is G.M.A.C., which would not rank as a trustee security, in any event.

Elder's Finance is a small company, although Elder Smith Goldsbrough Mort Limited is the largest South Australian publicly listed company. It is strong with an excellent record but is still smaller than A.G.C. and other companies such as Esanda, to name just one. Will the Attorney consider an amendment along the lines of making finance companies, which are subsidiaries of banks or which are fully-owned subsidiaries, trustee investments?

The Hon. K. T. GRIFFIN: The honourable member did speak briefly to me about this matter earlier. I would be willing to consider it overnight, but on the basis that we could proceed with the Committee stage of the Bill now. After taking advice overnight, if I believe it is appropriate for this provision to be recommitted, then I would ask the Committee to follow that course.

One of the requirements of listing as a public company on the Stock Exchange is that, whilst those requirements are not foolproof, they do introduce additional criteria, which go towards establishing the strength and viability of a particular company or group. It is important, if we are not going to insist on a company being listed on the Stock Exchange, that there be other appropriate safeguards. Notwithstanding the four or five wholly-owned subsidiaries of major trading banks to which the honourable member has referred, it seems to me that if they want deposits and debentures they may have to rethink their approach to investment opportunities by recognising that trustee investments need to have the guarantee of the company which meets the criteria, whether it be a bank or whether it be a company whose stocks and shares are listed on an exchange, and meet the other criteria.

That might well apply to subsidiaries of other public companies where there are deposits with those subsidiaries: the parent company should unconditionally guarantee them. That is a matter on which there is some difference of opinion in the community. However, I would be willing to determine the matter overnight if the amendment is now carried and to seek leave to have this matter recommitted if I am convinced of the merit of any change.

The Hon. D. H. LAIDLAW: I think that the Hon. Mr. Davis referred to finance companies that are subsidiaries of banks operating in South Australia. Does he intend to confine this list to banks licensed under the Banking Act or to extend it more broadly to any other type of banks?

The Hon. L. H. DAVIS: I intended it to be confined to banks carrying on business in South Australia that have finance companies operating in South Australia. I expect that we would be talking about finance companies that are subsidiaries or fully-owned subsidiaries of banks carrying on the business of banking in this State, although that may raise the argument that we would have to define this matter more clearly.

In trying to anticipate what the honourable member is referring to, one could draw into this argument groups such as the Australian Resources and Development Bank, which I understand is defined as a bank carrying on the business of banking in South Australia. It might require precise drafting to ensure that we are talking about the trading banks (the A.N.Z., National Bank, the Commercial Bank of Australia, and the Commonwealth Banking Company and so on), restricting it to those groups rather than banks, such as the Primary Industry Bank or the Australian Resources and Development Bank and other banks that may be brought into it (for instance, the Banque Nationale De Paris, which also carries on the business of banking in South Australia and which has a finance subsidiary).

The Hon. D. H. LAIDLAW: I refer to some foreign banks that carry on the business of merchant banking in South Australia and have subsidiaries. I was concerned that the matter raised was too broad.

The Hon. L. H. DAVIS: I hope I have not given the honourable member that impression. I would not be in favour of broadening it to include subsidiaries of merchant banks or other fringe banks such as the Banque Nationale De Paris, the Australian Resources and Development Bank and the Australian Primary Resources Bank. I am talking about the major trading banks, and that is how it would have to be drafted if the Attorney saw fit.

The Hon. K. T. GRIFFIN: There is certainly no intention either in this specific clause or other clauses of the Bill to include within the description of "bank" those that are described as merchant banks. This clause, even as I propose that it be amended, will not include merchant banks.

Amendment carried.

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

Page 4—After line 10 insert—

(5a) The reasonable cost of obtaining the advice referred to in subsection (5) of this section is payable out of the trust estate.

Some uncertainty was expressed in the submissions made to me on the Bill in the last couple of months about whether or not the cost of obtaining the independent advice should or would be paid out of the trust estate or would have to be borne by some other person, not accurately defined. It is reasonable that, if the trust estate is to get the benefit of a wider range of trustee investments, and is in fact protected by the need to obtain expert advice, the costs of that advice should be a charge against the trust estate.

The Hon. C. J. SUMNER: This clause deals with the obligation on the trustee to obtain advice on investing in a company in the manner that we have just been discussing. There seems to be an obligation on the trustee to obtain advice at least yearly. I am not sure what obligation there is to obtain the advice at more frequent intervals. Is that just an exhortation to trustees to obtain advice at more frequent intervals if they see fit, or does it place any obligation on the trustees to obtain the advice at more frequent intervals and, if so, in what circumstances?

The Hon. K. T. GRIFFIN: The criteria that the independent expert must consider are the nature and purpose of the trust, the need to ensure that the investments of the trust are, so far as circumstances allow, sufficiently diversified, and the need to ensure equity between the beneficiaries of the trust. I was concerned to ensure that there should be at least an annual review where trustees took the decision to invest more widely in the securities (whether they are stocks, shares or debentures) of companies that meet the criteria in earlier parts of the clause. If trustees do not seek to invest more widely than in, say, Government securities, there is no obligation upon them to obtain the advice of an independent expert. If they do invest more widely, the obligation is to obtain that advice, and that is a protection for not only the trustee but also the beneficiaries, whether they be life tenants or beneficiaries in remainder.

If the trust fund was not particularly large, one could imagine the situation where it was not necessary to review the range of investments more frequently than on an annual basis. However, if there is a substantial fund, such as perhaps one of the common funds of the trustee companies which has a substantial range of investments and in a number of companies for a large amount of money, it could seem to be appropriate that, if the trustee is to act responsibly, then in the light of that circumstance and the claims by a variety of beneficiaries upon that common fund, the trustee company should make its own assessment whether or not a six-monthly or other review ought to be undertaken. The onus is on the trustee but, if the trustee determines that a review is not necessary and subsequently there is some default in repayment of investments to the trustee, the question whether or not the trustee obtained independent advice and how frequently is relevant.

There may be changes in the market situation which make it appropriate to review the range of investments more frequently than once a year. If there are difficulties in one particular sector of industry or commerce that are reflected in the values of stocks, shares or debentures of particular companies, the trustee would have an obligation to ensure that that was noted and that the independent expert was called in to review the trust fund. It is not mandatory to have a review more than once a year, but for the benefit of the trustee, if he wants to safeguard his position, which is an important one having heavy responsibilities and if the range of investments, the size of the fund and the relationship between beneficiaries and trustee require him to take more regular advice, then he should do so under the provisions of this subclause.

The Hon. C. J. SUMNER: I take it from the way that subclause (5) is drafted that it requires the trustees to obtain this advice at least once a year.

The Hon. K. T. GRIFFIN: Yes.

Amendment carried.

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

Page 4, line 16—After the word "and" insert "may reinvest".

This has been inserted out of an excess of caution to make special provision for trustees to invest and, if they realise the investments for one reason or another, to indicate that they may reinvest those funds. It is just to make it specifically provided in the legislation that that may be undertaken by trustees.

Amendment carried.

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

Page 5—After line 24 insert the following subsection:

(7) In this section "dwellinghouse" includes a part of a building that is designed for occupation as a permanent residence.

This deals with the capacity of a trustee to acquire a dwellinghouse for the use of any beneficiary under the trust. There is no definition for dwellinghouse, because we took the view that the description of "dwellinghouse" was fairly easily identified. The Law Reform Committee took the view that there ought to be some express definition of dwellinghouse, and in the period during which the Bill was circulated to a number of people for comment it became obvious that several of them wanted to ensure that dwellinghouse extended to home-units, maisonettes and such like. This amendment makes clear that home-units, maisonettes and other such accommodation are included within the meaning of "dwellinghouse".

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8—"Power of court to authorise variations of trust."

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

Page 6, lines 3 to 34—Leave out section 59c and insert new section as follows:

59c. (1) The Supreme Court may, on the application of a trustee, or of any person who has a vested or contingent interest in property held on trust—

(a) vary or revoke all or any of the trust;

(b) where trusts are revoked—

(i) distribute the trust property in such manner as the court considers just; or

(ii) resettle the trust property upon such trusts as the court thinks fit; or

(c) enlarge or otherwise vary the powers of the trustees to manage or administer the trust property.

(2) In any proceedings under this section the interests of all actual and potential beneficiaries of the trust must be represented, and the court may appoint counsel to represent the interests of any class of beneficiaries who are at the date of the proceedings unborn or unascertained.

(3) Before the court exercises its powers under this section, the court must be satisfied—

(a) that the application to the court is not substantially motivated by a desire to avoid or reduce the incidence of tax;

(b) that the proposed exercise of powers would be in the interests of beneficiaries of the trust and would not result in one class of beneficiaries being unfairly advantaged to the prejudice of some

other class; and

(c) that the proposed exercise of powers accords as far as reasonably practicable with the spirit of the trust.

(4) This section does not apply to a charitable trust.

With this amendment, we are seeking, first, to give the court power to vary or revoke all or any of the trusts of a particular settlement, and then to ensure that the court has power to make new trusts. However, we are seeking to limit the power of the court so that trustees and beneficiaries acting in concert are not able to seek the leave of the court to a variation in the trust where the application to vary is substantially motivated by a desire to avoid or reduce the incidence of tax, and where the relationship between beneficiaries is altered to the unfair advantage or the prejudice of one; and we are seeking also to provide that the power of the court in this section does not apply to a charitable trust.

The provisions for the variation of charitable trusts are dealt with in a later clause of the Bill. It became obvious, again as a result of submissions made on the Bill which was circulated earlier this year, that many practitioners were concerned that a number of very old trusts could not be varied. It seemed, on the experience in the United Kingdom and in other States, where there is power for the courts to entertain applications for variations on what could be called private trusts, that the power is useful, that the court should have a discretion, and that, provided the balance between beneficiaries is maintained, provided that the proposed exercise of the powers of the court is reasonably practicable and is consistent with the spirit of the trust, and provided it is not substantially motivated to avoid or reduce the incidence of taxation, the court should have this power. It will be a useful addition to the powers of the court in dealing with what could be loosely described as private trusts.

The Hon. C. J. SUMNER: The original clause 8 included a new section 59c, which was described in the marginal notes as the power of the court to authorise variations in trusts. It then set out the circumstances in which the Supreme Court could order a variation as to a trust, and those circumstances were limited to beneficiaries who were not *sui juris* by reason of infancy or other incapacity, and the court could act to vary a trust on behalf of a person who may get an interest in the trust at some future time. Those powers apparently were not available to the court previously.

The provision the Attorney-General now seeks to substitute does not really bear a great deal of relationship to the original one he sought to insert, which was more limited in scope. The present amendment seems to give the court a much wider power to vary trusts than was originally intended by the Bill. I should like to know what has justified the Attorney in extending his amendment from the narrow power to be given to the court to vary a trust in the case of a beneficiary who is not *sui juris*, or a potential beneficiary who did not have an interest in the trust, or an unknown person, to the very broad power for the court to vary trust.

This broader power obviously was not recommended by the South Australian Law Reform Committee, on the recommendations of which the original Bill as introduced by the Attorney was based, and I should like to know whether the Attorney has obtained the view of the Law Reform Committee on this extension of power. Secondly, does this broad power exist in any other jurisdictions? I ask the Attorney to explain why he has thought it necessary to depart from his original Bill and the original recommendations of the Law Reform Committee by providing the court with this almost *carte blanche* power to vary trusts as it sees fit.

The Hon. K. T. GRIFFIN: It is correct that the amendment provides a much wider power than does the new section 59c at present inserted by clause 8. It was only when the original Bill, with the then new section 59c in it, was circulated that persons who had had some experience with the administration of trusts indicated that they felt that the court should have some wider power with respect to variations of trusts. I have had one letter from a solicitor who has had some practice in the field, and I am sure he will not mind if I indicate his name. He is Mr. Tom Hutton, who writes, among other things:

> May I respectfully submit that you give consideration to amending the new proposed section 59c of the Act by giving to the Supreme Court wider powers than those in the Bill now tabled. During the course of my practice I have seen a great variety of trust documents, and I set out below some of the problems which have prompted this letter.
>
> 1. Some old trust deeds do not contain any provision at all for amending the document.
> 2. I recently saw an old discretionary trust containing a clause which said the trusts were irrevocable. All the beneficiaries were of age and wished to alter the terms of the trust because of income tax implications of the old deed.

Here, might I interpose that one of the provisions of the amendment before the Committee indicates that, if the motive is substantially to avoid the incidence of taxation or other revenue, it will not be contemplated by the court. Mr. Hutton continues:

> 3. There are many trust documents which state that they can be amended only with the consent of the settlor. This causes trouble if the settlor is dead.
> 4. There are still some old trust deeds relating to church properties in which it is not known who the real beneficiaries are—e.g. where the "congregation" is the beneficiary.
> 5. One other document which I have dealt with recently is a debenture trust deed relating to the issue of debenture stock to the public by a large company. This deed contains a provision that the trusts cannot be altered except by a resolution passed by "a majority consisting of the holders of not less than three-fourths of the nominal value of the stock for the time being issued and outstanding". Experience has shown that in cases of this nature where there are thousands of stockholders this type of majority in practice cannot be obtained. Accordingly an amendment could not be effected even if all stockholders who voted were in favour of it. This is particularly unfortunate when the proposed amendments are to include modern provisions giving more protection to the stockholders and arising out of experiences which occurred since the original deed was made.

Mr. Hutton refers to some experience with old trust deeds relating to church properties where it is not known who are the real beneficiaries. I remember in my own private practice experience that there were a number of old trust deeds in which I had to try to identify who was the beneficiary and in what way the beneficiary who was no longer in existence could be dealt with and how the trust deed could be varied.

There was some suggestion that not even the powers of the Supreme Court to deal with charitable trusts was appropriate, because there was some question about whether these specific trusts were charitable trusts. That is a range of matters to which correspondence referred and which persuaded me that it would be appropriate to vest power in the Supreme Court to vary and resettle trusts. In the United Kingdom, the Variation of Trusts Act, I

understand, has worked satisfactorily and gives courts there power to vary trusts on a fairly wide basis. My recollection is that in the very early stages, where they did not exclude applications motivated by a desire to avoid taxation, there was a flood of applications, but later the legislation was amended. I have not been able to check whether that is an accurate recollection, but I believe it to be so. In Canada, there has been a Variation of Trusts Act since 1958. Mr. Keeler, in a paper that he presented to the previous Government and to the Law Reform Committee, stated:

> As far as one can tell from the law reports, considerable recourse has been had to it and it works very successfully.

That is the background to the reason for a change to give the Supreme Court wider powers than the proposed section 59c in the present clause gives.

The Hon. C. J. SUMNER: I wonder whether the Attorney would let this matter lie on the table for another day or two and whether, in the meantime, he could take this matter up with the Chairman of the Law Reform Committee if it is not possible to obtain the views of the full committee on the matter. I know that the Attorney was a member of the committee that has given rise to these amendments, and it may be that this issue was discussed by the committee. If it was, it would be interesting to know whether, and for what reason, it was rejected. If it was considered by the committee and rejected, I feel that it ought to be further taken up with the Law Reform Committee.

The Hon. K. T. GRIFFIN: My recollection of when I was a member of the Law Reform Committee is that the first task of the subcommittee on trusts, of which I was a member, was to look at the range of investments available for trustees. It was then intended that the committee would look at variation of trusts and, subsequently, at other matters affecting the variation of trusts. While I was a member of the committee (I retired in March 1978), we had not had the opportunity to prepare a report on the variation of trusts, although Mr. Keeler, as a member, prepared a paper that dealt with the topic. I have just referred to that.

I am not aware whether, since I retired in March 1978, the committee has pursued its inquiry into various aspects of the law of trusts and variation of trusts. I know that Mr. Keeler is aware of the matter of the proposed power to vary trusts. He is still a member of the committee and has indicated his support for that power being vested in the Supreme Court. I would be reluctant to defer the matter. It will not be possible to get a quick reaction from the whole committee. It may be possible, in a day or two, to get a reaction from the Chairman, but the difficulty is that this amendment has been on file since before Easter and no concern has been expressed to me about it.

The Hon. C. J. Sumner: Did you circulate it to the same people as those to whom you circulated the original Bill?

The Hon. K. T. GRIFFIN: No, I did not circulate it to all those people, but several people have been involved in consideration of it. I would very much like to have this Bill passed here and then considered in the Assembly and, if possible, enacted before we adjourn at the end of next week, because this important area of the law has been neglected for some time. What I would do would be, if the clause is passed, undertake to refer the matter to the Chairman of the Law Reform Committee. If he sees any problem, I would be prepared to convey that to the honourable member and also indicate it to the Minister responsible for the Bill in the House of Assembly.

The Hon. C. J. Sumner: What about doing the same thing as we are doing with the Hon. Mr. Davis's amendment tomorrow?

The Hon. K. T. GRIFFIN: I can refer the matter to the Chairman of the Law Reform Committee, but it is a question of whether we get a response in time. I indicate that I will be prepared to restore this clause tomorrow if I have a response by that time.

The Hon. C. J. Sumner: Otherwise, you will consider it if you get some violent reaction from the Chairman?

The Hon. K. T. GRIFFIN: Yes. I am prepared to follow the earlier course to which I have referred if I do not get a reply by tomorrow.

Amendment carried; clause as amended passed.

Remaining clauses (9 to 11) and title passed.

Bill reported with amendments. Committee's report adopted.

SOUTH AUSTRALIAN WASTE MANAGEMENT COMMISSION ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

CROWN PROCEEDINGS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 4.20 p.m. the Council adjourned until Wednesday 4 June at 2.15 p.m.