LEGISLATIVE COUNCIL

Thursday 23 August 1984

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

GRAND JUNCTION INDUSTRIAL ESTATE

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

Grand Junction Industrial Estate, Wingfield.

QUESTIONS

WINE INDUSTRY

The Hon. M.B. CAMERON: I seek leave to make a short explanation before asking the Minister of Agriculture a question about the wine industry.

Leave granted.

The Hon. M.B. CAMERON: During the debate yesterday the Minister of Agriculture described the wine industry as the most disorganised industry he had ever seen. Today, I have had numerous complaints that such statements will not help South Australians to mount an effective case against the imposition of the wine sales tax. It is unfortunate that this statement was taken at perhaps a higher level than the Minister intended; nevertheless, that is what has occurred. It has caused serious concern to people in the wine industry who believe that perhaps more attention will be paid to that statement than to their case. The impression might now be held that they are a highly disorganised industry whereas, in fact, in their opposition to this wine tax that is not the case. Will the Minister clarify what he meant by that comment and retract that part of the statement that might have led to the impression that he believed, even in the presentation of the case against the wine tax, that the wine industry is disorganised?

The Hon. FRANK BLEVINS: I am very happy to clarify the statement to which the Hon. Mr Cameron refers, but perhaps not in the way he is inviting. Certainly, I meant every word I said—that without any doubt whatever in my experience the wine industry is the most disorganised industry I have ever had to deal with. There are a few other industries I could mention, but none of them come anywhere near the level of disorganisation of the wine industry, which is on its own. The wine industry is so far in front in its level of disorganisation that the rest pale into insignificance. A statement was made this morning by one of the wine industry leaders saying that that was not the case, but that highlighted my case.

My estimation, and I am a very modest person, is that about 99 per cent of the people involved in the wine industry would agree with me completely. As an example, I heard on the *Country Hour* this afternoon another representative of wine-grape growers from the Southern Vales. He agreed and stated quite clearly that wine grape growers alone are absolutely disorganised—that, if there is a problem, several different groups and splinter groups, all with a different slant, approach Canberra or the Minister. We have an industry that produces a first class product as good as any in the world. It produces that product very cheaply and very efficiently. However, when it comes to marketing itself and its product, I think the industry fails dismally. I think it is about time—in fact, it is long overdue—for someone to tell the wine industry—

The Hon. C.M. Hill: Who—Trades Hall?

The PRESIDENT: Order!

The Hon. FRANK BLEVINS:—that, unless it does something to get its own house in order, it will always be vulnerable to attack from outside. That is what has happened on this occasion.

The Hon. Peter Dunn interjecting:

The Hon. FRANK BLEVINS: I have stated that quite clearly. I think the motion I moved yesterday stated that quite clearly. Of course the industry has been attacked. However, over the years it had an opportunity to make itself much less vulnerable to attack. If any member of this Council or anyone outside believes that the wine industry is a tight fighting unit able to protect itself, they are kidding themselves and they know nothing whatsoever about the industry. One of the problems with the industry is that it is made up of different vested interests. There are the major companies, which are also associated with brewing companies; they have the same ownership. Their needs and wants are different from, for example, those of wine grape growers on small blocks in the Riverland. There are small wineries which are making a very good go of producing specialty wines, and that section of the industry is doing very well. There are also some wine grape growers who are doing very well indeed: they have the right varieties, they produce them at a very reasonable cost, and they can sell them on quite a firm market. They have a different problem. It is obvious that, if the Hon. Mr Cameron or anyone else suggests that the organisation and ability of the wine industry to put a collective voice to Government is anything other than thoroughly disorganised, they know little or nothing about the wine industry.

The Hon. M.B. CAMERON: I desire to ask a supplementary question. Is the Minister of Agriculture inferring that the wine tax imposed by the Federal Labor Government in the Budget announced this week is a result of what the Minister described as disorganisation in the industry and not the result of a broken promise by that Government?

The Hon. FRANK BLEVINS: There is no doubt in my mind that the question of a wine tax would inevitably arise and be implemented.

Members interjecting:

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: I stated that at a meeting of wine producers and wine grape growers in the Barossa Valley. In fact, I have been saying for 12 months that inevitably a wine tax would be imposed one day.

Members interjecting:

The PRESIDENT: Order!

The Hon. FRANK BLEVINS: I do not believe that there was anyone in the industry who did not think the same: that one day inevitably a wine tax would be imposed.

The Hon. K.T. Griffin interjecting:

The Hon. FRANK BLEVINS: A very good precedent was set in 1970 when the Federal Liberal Government did the same thing. The honourable member should not show his shortness of memory. It was inevitable; everybody knows that. Everyone in the wine industry stated that it was inevitable. What ability did the wine industry have to organise itself, first, to resist that for as long as possible; secondly, to make the tax as small as possible; and thirdly, to be in a position to withstand the effects of that tax? It has done nothing.

Some sections of the industry went to Canberra—it was reported in the papers, if the honourable member reads them—and said, 'If you are going to have a wine tax, make it a sales tax.' Other sections of the industry went to Canberra and said, 'If you are going to have a wine tax, have it levied

in some other way.' Not one united voice! Every section of the industry has been running for its own ends.

The Hon. J.C. Burdett interjecting:

The Hon. FRANK BLEVINS: The Hon. Mr Burdett interjects and says that they had a promise. I agree, and in the motion that I moved yesterday I said that the assurances had been given. One only has to go back 24 hours: it was in the motion that I moved yesterday. I am not defending the Federal Government—quite the contrary. Everything that has been stated from this State Government over the past 24 hours should clearly have demonstrated that, but, by the same token, as I stated yesterday, there is only so much that the Government can do. While there is an industry in such total disarray, where its products are in great demand and where it is discounting itself into bankruptcy because it is in the hands of some very large retail organisations, it leaves itself wide open for impositions such as occurred on Tuesday night.

WHYALLA HOSPITAL

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the Whyalla Hospital.

Leave granted.

The Hon. J.C. BURDETT: It has been suggested that there is an intention to demolish the McEwin Block—that is, the old midwifery block—at the Whyalla Hospital. This is a substantial building, probably erected in the early 1940s or thereabouts, made of Whyalla sandstone. My questions to the Minister—and he may not have personal knowledge of this—are: is he able to tell me whether or not there is such an intention, and would there not be some alternative use to which this block could be put?

The Hon. J.R. CORNWALL: That is an extraordinary performance. The Hon. Mr Burdett could well have written to me and asked those quite specific questions about a quite specific hospital instead of taking up the time of the Council by asking them. It is certainly not within my knowledge as to whether there has been a suggestion. Perhaps it is like the scuttlebutt and the rumour that he tried to foment last week about the allegations of closing Alfreda. He said that there has been a suggestion that they just might possibly have considered at some indeterminate time closing or demolishing the McEwin block, and he asked whether I am able to tell him whether that is so or not. The simple answer is 'No. I am not able to tell him that off the top of my head.' As to whether there would be some alternative, the same answer applies. I will be perfectly happy to process that, as we would have done had he written me a letter about it.

The Hon. J.C. Burdett: You would have raised it if you had been in Opposition.

The Hon. J.R. CORNWALL: I brought up matters of great public moment in the Council very frequently and with devastating effect. I certainly never wasted the time of the Council asking whether a Minister was aware of a suggestion of the possibility of a particular building at a particular hospital in a particular city in South Australia might possibly be considered for alterations, additions or demolition. I will bring back a reply to those questions soon.

SPECIAL INVESTIGATIONS

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about special investigations.

Leave granted.

The Hon. K.T. GRIFFIN: I was pleased that yesterday the Attorney-General was able to table an interim report into the affairs of the Swan Shepherd group of companies, an investigation that started back in 1980. I am pleased that further attention is being given to the detail of that report. Earlier this year I asked some questions about the Kallins special investigation. At that time the Attorney-General indicated that he had a report but because of some pending prosecutions was not able to table that report or to indicate whether or not it would be tabled in future. In respect of the Elders investigation, in December 1982 the Attorney indicated that the report had been referred to the New South Wales Corporate Affairs Commission and the National Companies and Securities Commission. At that stage, and even earlier this year, he was not able to indicate what further action, if any, might be taken as a result of that report.

I made the point at the time of raising the questions earlier this year in respect of Elders that I believed it was important for any person or body likely to be under threat as a result of that Elder's report, other than Mr Owens, to know whether or not the Corporate Affairs Commission intended to take any action, or whether they could all regard the matter as closed. In light of that explanation, I address the following questions to the Attorney-General:

1. What is the current position with the Kallins investigation, and is it expected that the report to which the Attorney referred earlier this year may be tabled for public information?

2. Has there been any progress in the follow-up to the Elders investigation in order to determine whether or not any further action will be taken, or may persons other than Mr Owens regard the matter as closed?

3. In respect of the Swan Shepherd investigation, are any prosecutions to result directly from the interim report which was tabled yesterday?

The Hon. C.J. SUMNER: In relation to the Kallins matter, that report was prepared by the inspectors who investigated the affairs of the group and provided to me, I think shortly after the election in November 1982. The honourable member and other members are aware of the details of that report. The principal companies involved were Kallin Investments Ltd; Resco Limited; Resco Manufacturing Pty Ltd; Keystone Nominees Pty Ltd; and Dirk Nominees Pty Ltd.

On 14 December 1979, the Corporate Affairs Commission was appointed as an inspector of Kallin Investments Ltd and various related and associated companies, pursuant to section 171 of the South Australian Companies Act, 1962. On 28 February 1980, 23 June 1980, 7 July 1980, 18 December 1980, and 6 May 1981 additional companies were included in the scope of the investigation.

In all instances the Commission delegated its powers and functions under Part VIA of the Companies Act, 1962 to two officers of the Commission. Following that action a report was presented to me, as Minister, shortly after the 1982 election. That report has not been tabled, for the reasons I indicated to the honourable member on the last occasion he raised this matter, because I received advice that there might be some prejudice to legal proceedings. So, I am not able to table that report at this stage, but once the legal proceedings have been concluded I will certainly ask the Corporate Affairs Commission for further advice on the tabling of the report in relation to Kallins.

The situation at present is that two persons have been committed to the Central District Criminal Court for trial on a charge of conspiracy to defraud, and that trial will commence on 9 October 1984. The accountant and the auditor for the Kallin group of companies were each given

an opportunity to appear at a hearing before the Corporate Affairs Commission to determine whether or not they should continue to be registered as auditors. Before the hearing both persons resigned their previous registrations and are now not able to practise as registered auditors.

The Commission at this stage has exercised its discretion not to prosecute the other Kallins directors, because of insufficient evidence to warrant prosecution. The former Chairman of Directors of Kallins is about to be served with a Notice of Hearing in relation to his application for registration as an auditor. That is the position in relation to the Kallins matter. I do not believe that I can take it any further at this stage.

With respect to the Elders special investigation, the honourable member is aware that charges were laid against Mr Owens alleging eight breaches of the Companies Act, 1962. Those matters were dealt with in the Adelaide Magistrates Court, I believe, on 13 August 1984. The report tabled in this Council was referred to the National Companies and Securities Commission and other State Commissions, as well as the Commonwealth Treasury, for any action they wished to take. Obviously, what action they take is not something within my province, except as one voice on the Ministerial council for companies and securities responsible for the operations of the NCSC.

Obviously, with respect to a matter like this, the NCSC's views on what should be done would be the significant factor in determining whether or not any action should be taken. So, the report was referred to the NCSC and other State Commissions, as well as the Commonwealth Treasury. I am not aware of any charges having been laid in other jurisdictions. I believe that the time limit for laying charges by the other State Commissions has expired and the Ministers responsible for the legislation would need to approve the laying of them. But, that does not mean that charges cannot be laid, if that was considered desirable.

The question of referral to the Federal Treasurer involves possible breaches of the Foreign Investment Review Board guidelines and legislation, and any prosecution by that Board would need to be approved by the Federal Treasurer. I am not aware of any prosecution having been issued in relation to the matter. As far as other legal action in South Australia is concerned, I do not believe that any further prosecutions will be instituted.

The question of any possible further prosecutions was being held in abeyance until resolution of the Owens matter. I do not believe that further proceedings will now be taken, but I will obtain an up to the minute report on action in other States. I will ascertain from the Corporate Affairs Commission whether anything further is to happen in South Australia and bring back a reply for the honourable member.

In respect of the Swan Shepherd matter, I cannot say anything more than I said yesterday. The legal division of the Corporate Affairs Commission is studying the report. It may be that legal proceedings will be taken, but that is a matter for the Corporate Affairs Commission. I do not believe that I should attempt to pre-empt any final decision they may wish to make about the matter.

PAINTING FRAMES

The Hon. C.M. HILL: I seek leave to make a statement before asking the Attorney-General a question on a problem within the Courts Department relating to the removal of frames from a South Australian artist's paintings.

Leave granted.

The Hon. C.M. HILL: The *Advertiser* this morning carried an article by its arts editor, Lance Campbell, indicating that an artist, Annette Bezor, is very upset because two of her commissioned paintings, which hang in the Sir Samuel Way building, have had their original frames removed. The frames were 10 centimetre wide stringy bark timber frames with river motifs on them. They have been removed from the paintings, the canvasses of which measure two metres by two metres. In their place are metal frames provided by the Courts Department. Mr White, the Director of the Courts Department, has indicated that, in his opinion, the public were not happy with the original frames. The artist is grossly upset and is wanting some recourse in law because the frames were an integral part of her work. I remind the House that the Government, after commissioning the work in December 1982, has paid the artist $15 000 for the two paintings.

The Hon. C.J. Sumner: So, they're ours?

The Hon. C.M. HILL: No, the frames are ours, and have been removed. I would have thought that such a senior Minister as the Attorney-General would read his morning paper.

The Hon. C.J. Sumner: I read the footy page.

The Hon. C.M. HILL: The Attorney-General's vision should extend beyond the football page. Judge Brebner, who was the Chairman of the building's furnishing committee, went along to the building's architects—Hassell and Partners—for the recommendation for alternative frames.

The Hon. C.J. Sumner: Who do the paintings belong to?

The Hon. C.M. HILL: I take it that they are the property of the Courts Department. Ms Bezor has written to the Premier and Minister for the Arts (Mr Bannon), the State Department for the Arts, and the Visual Arts Board on the question of her recourse to law and the copyright that many artists believe should be carried by the original artist in works such as this. In this instance, her rights should extend to the frames, because the frames of her paintings have been an integral part of her work since she was in second year art school in 1975.

This is quite a serious matter. The *Advertiser* went to its art critic, Neville Western, whom I hope honourable members will agree is an unbiased and very professional art critic here in Adelaide. He believed that the paintings and the frames should be considered as a whole.

In regard to recourse to law, and that question, I have no doubt that the Department for the Arts, now that the artist has written to the Department, will look into that in the longer term, but I think that the easiest and quickest way to solve the wrong and to give satisfaction to the artist and all other people within the art community, who no doubt after seeing this three column article will be interested in the subject and sympathetic towards the artist, is for the Attorney-General to consult with Mr White and ask him to quickly find the frames and put them back. Will the Minister consult immediately with his Director to see whether a gracious, amicable and immediate result can be achieved?

The Hon. C.J. Sumner: What if they have been destroyed?

The Hon. C.M. HILL: If they have been destroyed then the Minister should have something serious to say about that.

The Hon. C.J. Sumner interjecting:

The Hon. C.M. HILL: It is up to you about whom you will pursue in the matter. I referred to Mr White, because he is referred to in the article. I believe it would be possible to cut through all the red tape and put the frames back so that Ms Bezor is happy. In due course, I am sure the other broader question of recourse at law can be pursued.

The Hon. C.J. SUMNER: I thank the honourable member for raising this matter this afternoon and giving me the opportunity to comment on it. I understand the points that he has made, but I do not believe that it would be appropriate for me to comment on the legal aspects that have been raised by the artist. That matter will need to be taken up

through other channels, at least initially. The honourable member has suggested that I should discuss the matter with the Director of the Courts Department to see whether the frames can be returned to the paintings. I do not know the current status of the matter in regard to where the frames are or, indeed, the detailed reasons for their having been removed. Clearly, the paintings are the property—presumably the original frames are the property—of the State Government. I was not aware that the frames had been removed. It was not a matter that was drawn to my attention until I saw it in this morning's *Advertiser*.

Members interjecting:

The Hon. C.J. SUMNER: I did see the report.

The Hon. C.M. Hill: The two paintings were the pictures—

The Hon. C.J. SUMNER: Yes, but it is hard to tell that from a black and white photograph of the paintings and make a decision on the artistic merit or otherwise of having the frames removed or the original frames in place or not. Certainly, I will take up the honourable member's question with the Director of the Courts Department as a matter of urgency and bring down a reply.

HOSPITAL ADMINISTRATION

The Hon. R.J. RITSON: I seek leave to make a short statement before asking the Minister of Health a question about medico administrative relationships.

Leave granted.

The Hon. R.J. RITSON: The current issue of the monthly bulletin of the Australian Medical Association describes a visit by the Minister of Health and his Federal counterpart (Dr Blewett) to Whyalla and the Riverland, and the comments made in the report of this visit indicate that a number of problems were noticed concerning relationships between medical staff and lay administrative staff. The comment was made that the contribution by doctors to the daily running and administration of hospitals has been steadily eroded. I am not suggesting for a moment that the possession of medical qualifications enables people to audit the books or plan a building. Clearly, those matters must remain in the hands of lay administrators, but I, too, have sensed that over the past decade or so lay administrators have been less and less inclined to understand the clinical nature of the work at the coal face. Perhaps this started with the famous dictum that was born in the Whitlam era that health is too important to leave to doctors. Does the Minister of Health agree that there has been such an erosion of the contribution by medical personnel to the daily running and administering of hospitals? Does he agree that that is a good or bad thing? Does he think that the lay tails should wag the medical dog a little less?

The Hon. J.R. CORNWALL: The famous old saying about health being too important to be left to doctors certainly did not originate from Gough Whitlam or the Whitlam era: it went back long before that. It has been attributed to many people over the years not the least of whom was Mr Heinz Soups himself, Robert Morley. I do not think that we really ought to append that to the distinguished E.G. Whitlam, in particular. The whole question of doctor involvement in administration and particularly in boards is one to which I have been giving serious and deep consideration for some time. If I address the question of boards first, I agree with the progress report from Pennington, which suggests that there may be an overreaction around Australia generally in an effort to reduce the doctor representation on boards of management or boards of directors. I agree with that. I believe that there has been an overreaction in what was should I say initially an attempt to stop hospitals being run by doctors for doctors.

The trend generally has been too far the other way. I believe, and I have expressed this in several public forums recently (although I might say that it has not been publicly reported, to the best of my knowledge), that I am very happy to go on record again as saying that I believe that we ought to take steps, and I have asked boards of management and boards of directors around the State specifically to take steps to try to redress this balance.

I might say that I still have a concern with regard to the so-called metropolitan community hospitals and so-called non-profit private hospitals generally, but there may still be over-representation by doctors. I think that in several cases they still tend very largely to be organised by doctors for doctors and not always in the best interests of patients. Let me say that in regard to the 81 recognised hospitals, ranging from Royal Adelaide Hospital to Tumby Bay—all those so-called public recognised hospitals—I have been aware for some time that we may have got out of kilter in the other direction, and I am activitely urging people to take steps to rectify that position.

It is quite counterproductive to alienate the medical profession by excluding them from boards. I might further say that at a seminar that I assisted to convene recently, jointly organised by the South Australian Hospitals Association and the South Australian Health Commission, the report of a country working party (comprising representatives from country hospital boards of management), quite unlike the metropolitan report, suggested that it was not desirable for either medical or non-medical staff to be represented on boards.

They went even further and said that there was always the option of local doctors or non-medical staff running for election to those boards through the democratic process, like any other member of the community can do. They said, however, that they thought that was undesirable. That caused me to be quite disturbed. I think it is desirable that we go back to a balance where the profession feels that it is actively involved and that it has a positive input. Although some people in 1984 might like to strike out the words 'hospitals' and 'doctors' from health policies, I am certainly not one of them. The simple fact is that a hospital cannot be run without doctors. In my view it is very important that they should be involved both in the policy and to a significant extent in the administration of our hospitals.

BUILDING UNIONS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about building unions.

Leave granted.

The Hon. L.H. DAVIS: I understand that Bill Keltie, Secretary of the ACTU, advised the management of the housing industry in Australia within the past two months that the Builders Workers Industrial Union (BWIU) and the Builders Labourers Federation (BLF) had a programme endorsed by the ACTU to unionise the housing industry throughout Australia. That seems to directly contradict a statement in today's press quoting Mr Carslake, the BWIU's State Secretary, as follows:

> It is not a membership drive, it is a matter of trying to get a minimum price for subcontractors.

This was in response to criticism of union pressure on building sites. Quite clearly, State Labor Governments—and not least of all the South Australian Labor Government—are working hand-in-glove to achieve this stated objective of the unions to unionise the housing industry.

Last year the South Australian Minister of Housing and Construction, Mr Hemmings, directed that the Housing

Trust should employ union labour for all design and construct as well as tender contracts. Design and construct involves a purchase and sale agreement, not a contract to build. This direction means that the Housing Trust cannot deal with any builder who does not employ union labour. I understand that this requirement limiting tenders for design and construct houses to only builders who employ union labour has resulted in a dramatic reduction in the number of builders competing for design and construct houses. As a result, there has been an understandable and dramatic increase in building prices in the Housing Trust sector. After all, this is the area which provides housing in the lower price bracket.

In addition, there has been quite blatant and regular intimidation of non-union labour on building sites. Only today I heard an example of a carpenter being approached on a building site and asked by a union member to join the union. He refused to join the union. When the builder approached him to join the union the carpenter said that he did not want to join the union and then he walked off the site. As a result, the builder in this very buoyant housing market was unable to find another carpenter for six weeks. That is just one example, and there are more blatant examples, of where employers have been threatened with intimidation and threatened that their building site will be declared black if union officials are not allowed to sign up non-union labour. First, will the Government review its instruction to the Housing Trust, requiring union labour for the construction of Trust houses, in view of the dramatic impact this move has had on Housing Trust prices?

The Hon. B.A. Chatterton: How much?

The Hon. L.H. DAVIS: Mr Cummings, the Chief Executive of the Housing Industry Association, claims that Housing Trust prices have risen by some 33 per cent in the past 15 months.

The Hon. Anne Levy: Do you believe him?

The Hon. L.H. DAVIS: I do believe him. Secondly, will the Government publicly condemn the BWIU and the BLF for their intimidatory tactics on building sites aimed at securing union membership to the detriment of house buyers, because it is forcing house prices up as people compete for scarce labour?

The Hon. C.J. SUMNER: The question of the Housing Trust and contracts to builders who employ union labour is an instruction from the Minister of Housing and Construction, on behalf of the Government. There are no plans to review that instruction at the present time. I take issue with the honourable member's contention that the payment of correct wage rates and conditions established by arbitral authorities in this State and country is somehow something to be condemned. That is what the honourable member opposite is apparently doing.

The Hon. L.H. Davis: Everyone is getting above award rates at the moment. You know that.

The Hon. C.J. SUMNER: The honourable member suggests that the Housing Trust should engage builders who do not employ union labour. If the honourable member is suggesting that workers should be paid less than the rate that the union has obtained through arbitration proceedings, I clearly do not agree with him. I also take issue with the honourable member's contention that the payment of rates established by arbitral proceedings have had a dramatic impact on prices. If the honourable member looked at the issue with any care, I suspect he would see that the wage component of prices is not caused by the rates established by way of arbitration.

Indeed, the honourable member interjected and said that people are receiving over-award rates at the present time, anyhow. How he can say that the payment of award rates gained by unions is having an effect on increased housing costs I do not know. Clearly, it is illogical for the honourable member to say that when he is arguing that at the same time over-award wages are being paid in the building industry. I suggest to the honourable member and to the Council that the increased housing prices in South Australia, to the extent that there has been an increase, is a result of the very buoyant situation in the housing industry. There has been a very buoyant situation, and I have found that most people in the real estate industry are happy about it. It has meant that there has been an increase in house prices in Adelaide over the past 12 months because of the incredible amount of activity in the buying and selling of houses. Furthermore, that is reflected in the construction of houses. To say that it is a result of union award rates of pay I think is absurd.

As I said before, it is demonstrated to be absurd by the honourable member's interjection that over-award payments are being made. I further believe that unions have a right to seek membership and that, if in doing that there are any breaches of the law, they ought to be drawn to the attention of the appropriate authorities. However, the honourable member has not done that and I would have thought that even he would agree that a union has a right to canvass for membership. After all, the argument—and I suppose that we can argue about it all day—that is put with considerable justification is that union members (those workers who are members of unions) make application to the arbitral authorities and to employers for award rates of pay and conditions; they are granted and then they generally flow through to other workers. The argument simply is that, as a result of the struggles of union members and attempts to obtain wage increases and better conditions that flow on into the industry, those workers in the industry who get the benefit should consider union membership.

LEASE PAYMENTS

The Hon. R.C. DeGARIS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Lands a question about Government policy.

Leave granted.

The Hon. R.C. DeGARIS: A variety of leases is issued in South Australia, ranging from annual licences through to perpetual leases in which the annual payments are relatively small and the costs of securing and processing are probably as high as the income received. My questions are:

1. Is the Government making any investigation into this matter and does it propose to make any changes?

2. If the answer to that is 'Yes', does the Government anticipate any changes in the level of lease payments?

3. As some of the leases may involve small amounts and as the Government may be making one consolidated lease in place of a number of small leases, does the Government intend to alter the overall lease costs to the lessee?

4. Are any other changes being investigated in relation to lease payments?

The Hon. J.R. CORNWALL: I will refer those questions to my colleague the Minister of Lands and bring back a reply.

DEMURRAGE COSTS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about demurrage costs to the wheat industry.

Leave granted.

The Hon. PETER DUNN: Some demarcation disputes on the eastern seaboard, particularly in New South Wales and Victoria, are affecting greatly the returns to wheatgrowers

throughout Australia. These demarcation disputes are causing ships near ports to be held off and to be diverted. The result is that the demurrage cost for holding those ships at sea is increasing daily. In Victoria alone there is a dispute on which V-Line (the Victorian Railways) alone is losing $500 000 a week. It is reported in the *Australian* of yesterday by Nigel Austin that 'the wheat handling strike cost the industry $1 million'. He says:

> A wheat handling strike by Victorian railway workers combined with the New South Wales grain handling dispute has cost the wheat industry and the nation at least $1 million in additional handling costs.

The demarcation dispute by Victorian railway workers is due to discontent among train controllers, and negotiations over the structure of their work, according to a V-Line spokesman. These costs are escalating at an enormous rate. We see, also, in New South Wales that the Grain Handling Authority is having a dispute that is costing $775 000 in demurrage. These costs are spread across Australia; they do not just belong to the States in which they happen because the grain pool system pays all the grain growers in Australia. So everyone suffers that cost. Mr Nigel Austin went on to say:

> Meanwhile the demurrage bills continue to mount at New South Wales ports where a number of ships are still lying at anchor off the coast. The general manager of the Grain Handling Authority of New South Wales, Mr Geoff Dobbin, said August demurrage charges of $350 000 would add to the July cost of $59 000. Demurrage charges running at $25 000 a day are expected to continue until at least mid-September.

My questions are: what action has the Minister taken to register our protest to the New South Wales and Victorian unions at their bloody-minded approach, and will this State Government castigate those States and unions whose actions are bleeding those people elsewhere in Australia who are unable to defend their positions?

The Hon. FRANK BLEVINS: Whilst I regret any industrial dispute anywhere in Australia—it is always a great pity when relationships break down between employer and employee to the degree where industrial disputes occur—and whilst I have a great deal of influence in the industrial relations sphere (that has been well known over the past two decades in Australia), at the moment my influence in the trade union movement in Victoria and New South Wales is minimal; likewise with the employers in those two States, who are the other parties of these disputes. As the Hon. Mr Dunn is perhaps not aware, there are always two parties to an industrial dispute—not one.

The Hon. Peter Dunn: It is a demarcation dispute.

The Hon. FRANK BLEVINS: Maybe there are three parties. I can assure the Hon. Mr Dunn that my influence and reputation, as high as they are, do not extend to the unions involved in those States in those disputes. My influence does extend within this State: the Hon. Mr Dunn would remember an industrial dispute which also had to do with the handling of grain in South Australian ports during the last harvest. The employers and the unions were sensible enough to ask me to intervene in the dispute and to see whether I could bring the dispute to resolution. I am sure that the Hon. Mr Dunn knows that on that occasion, fortunately, I was able to assist in producing a very satisfactory result for all parties. In other words, if one wishes to keep out of trouble and mind one's own business and tend to one's own affairs, one should leave others to attend to theirs.

ADOPTED PERSONS CONTACT LIST

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Community Welfare, a question about the Adopted Persons Contact List.

The PRESIDENT: Is leave granted? Leave is granted, but I ask the honourable member to note the time.

The Hon. ANNE LEVY: Mr President, you did not note me earlier.

The PRESIDENT: Do not start that again. I noted you on the first opportunity that I saw you up.

The Hon. ANNE LEVY: I am sure that most honourable members are aware of the existence of the Adopted Persons Contact List. I was recently informed that currently 1 401 names are on that list, which consists of 723 adopted persons and 678 birth parents, brothers or sisters—people wishing to contact adopted relatives.

Last year the Department was successful in ensuring that 45 contacts were made. This is a total of 94 contacts made since the list was originally established. This, however, is only about 12 per cent of the number of people on the register—a poor result in terms of the number of people wishing to make contact who have been able to do so.

The Hon. J.C. Burdett interjecting:

The Hon. ANNE LEVY: Of course you do! I know the rules.

The Hon. J.C. Burdett interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: My questions are:

1. Could the Department, through the Minister, give an estimate of how many adopted people could potentially put their names on this list?

2. What steps are they taking to increase awareness of the existence of this list so that the percentage of contacts made can rise above the very low existing level?

The Hon. J.R. CORNWALL: I will refer those questions to my colleague in another place and bring back a reply.

PERSONAL EXPLANATION: MINISTER'S ALLEGATIONS

The Hon. R.I. LUCAS: I seek leave to make a personal explanation as I claim to have been misrepresented by the Attorney-General on several occasions yesterday.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, while closing the Address in Reply debate, the Attorney-General made a series of allegations some of which I believe are quite serious and which misrepresented me in three general ways. I seek to put the record straight. First, the Attorney-General accused me of misrepresenting the basis upon which I was seeking information from Mr Richard Kleinig, who is the research officer to the Joint Select Committee. Secondly, he accused me of telling Mr Kleinig that I wanted information on the basis that I was doing a private paper for the South Australian Institute of Technology. Thirdly, he accused me of unfairly criticising the report prepared by Mr Kleinig. All of those allegations are untrue. The facts are as follows: I did ring Mr Kleinig once about two to three months ago.

The Hon. C.J. Sumner: I hope you rang again and apologised to him.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I deny emphatically that I ever suggested that I wanted information on the basis that I was doing a private paper for the South Australian Institute of Technology. In effect, what I did tell Mr Kleinig was that I was collecting information for a paper that I was writing for a Master's Degree in Business Administration at the Adelaide University. (I have no knowledge of where reference to the South Australian Institute of Technology has come

from, or where reference to a 'Private paper' has come from, either.) If the Attorney-General had ever done a Master's Degree he would be aware that it is not a private paper but is publicly available to anyone who wishes to look at the results of that paper.

I asked Mr Kleinig what had been the cut-off date for the information he prepared for the Joint Select Committee, because he had prepared a compilation of statutory authorities or QUANGOS. He indicated to me that his cut-off date was about 30 June 1983, but that it depended on respective proclamation dates for various authorities. Mr Kleinig and I agreed that the list was incomplete in one area—not through any fault of his own—and that all the Acts that passed since that date could not have been included by Mr Kleinig.

My criticism of Mr Kleinig's list was not on the basis of what had ensued since his cut-off date but of the fact that I disagreed with the listing or compilation he made prior to his own cut-off date; that is, on his own ground rules I disagreed with his compilation. What I did say was that I believed that it was a complex matter and that I did not intend to be unduly critical of Mr Kleinig or an unnamed public servant who compiled an earlier list. I accepted that there were errors in his list (and probably in my list, too). The Attorney-General went on to imply the following, as recorded in *Hansard*:

> It might well be worth while asking whether the Hon. Mr Lucas's lists of questions that he produces here every week about the number of statutory authorities are a means of getting some research done for the academic work that I understand he is doing at the South Australian Institute of Technology or some other academic institution.

That is palpably incorrect. The paper that I produced for my Master's Degree was submitted some weeks ago, prior to the start of this session.

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Therefore, the information I have been gathering through this session has in no way been used for the work that I have done for my Master's Degree.

The Hon. C.J. Sumner: How are you going? Are you going to pass?

The Hon. R.I. LUCAS: I do not know. That is an interesting question. The third general area where I claim to have been misrepresented was when the Attorney-General, following earlier reference to me, said the following, which is also recorded in *Hansard* of yesterday:

> . . . have decided that it is really all a matter of the Labor Party that has been involved in the establishment of statutory authorities . . .

I claim, once again, to have been misrepresented. I quote now from my Address in Reply speech in which I stated the following:

> In my view that is not the fault of any particular Government, and on this occasion it is the Labor Government.
>
> Both major Parties, Liberal and Labor, and to a degree the Australian Democrats, must share the blame for the continuing creation of QUANGOS in South Australia.

I lay claim to having been misrepresented on at least three occasions, some seriously and some not quite so seriously. I do not expect that the Attorney-General will be big enough to make a public apology, but I will be happy to accept a private apology in the corridor later.

ANTI DISCRIMINATION BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to render unlawful certain kinds of discrimination and other related behaviour; to provide effective remedies against such discrimination and other unlawful conduct; to promote equality of opportunity between the citizens of this State; and to deal with other related matters. Read a first time.

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

That this Bill be now read a second time.

This Bill is the first major review of anti discrimination legislation in this State. In 1975 the Sex Discrimination Act was enacted. That Act provided that certain acts and behaviour were unlawful in that they constituted discrimination on the grounds of sex or marital status, and remedies were available to persons suffering such discrimination. Since then successive Governments have received many submissions and reports on the operation of that Act and also on the Handicapped Persons Equal Opportunity Act, which was enacted in 1981.

The Racial Discrimination Act, which was passed in 1976, approached the issue of discrimination from a different point of view—penalties were provided in respect of acts and behaviour rendered unlawful under that Act on the grounds of discrimination. Remedies were not made available to the person suffering the discrimination. A rationalisation of the area of anti discrimination law was obviously required.

The Government has undertaken a major review of all legislation relating to equal opportunity and anti discrimination and has considered expansion of the operation of that legislation into new areas where discrimination is occurring in the community.

When this Government took office, a working party on anti discrimination legislation was established in this State. It reported in December 1983 and that report was made available for public comment. The principal recommendation was that there should be one Act, one agency (to administer the legislation) and one tribunal (to deal with disputed complaints in all areas).

The report of that working party, reports by successive Commissioners for Equal Opportunity and the Government's policy in this area have been closely examined. The Bill that now comes before the Parliament will provide South Australians with the most comprehensive legislation in this field. It provides that certain kinds of discrimination and certain behaviour are unlawful and makes effective remedies available to those wishing to enforce their rights.

Many of the problems addressed by this Bill are also addressed by the Commonwealth in its Sex Discrimination Act and Racial Discrimination Act. The Commonwealth has, however, acknowledged that the States may wish to regulate the field of anti discrimination in their own ways, and the Commonwealth legislation is drafted in such a manner as to enable the passage of non-conflicting State laws in this field.

It provides that it is unlawful to discriminate against another person on the basis of sex, marital status, pregnancy, sexuality, physical impairment or race. Broadly speaking it provides common remedies for persons suffering discrimination on any of these bases. It addresses other issues that have been the subject of concern in reports of successive Commissioners for Equal Opportunity. Two such issues are sexual harassment and discrimination by clubs offering membership and services to both men and women on a different basis.

Since complaints of sexual harassment constitute a significant proportion of the total number of complaints made to the Commissioner for Equal Opportunity, the Government considered that SACCASH (the South Australian Consultative Committee against Sexual Harassment) should be consulted in relation to the provisions dealing with sexual harassment. That body advised the Commissioner for Equal Opportunity on matters relating to sexual harassment.

The provision of the Bill which deals with sexual harassment defines it as behaviour which causes a person to feel offended, humiliated or intimidated in circumstances in which it is reasonable for that person to feel offended, humiliated or intimidated. The behaviour must involve the subjecting of another person to an unsolicited and intentional act of physical intimacy, the demanding or requesting (directly or by implication) of sexual favours from the other person or the making of a remark (on more than one occasion) pertaining to the other person, being a remark that has sexual connotations.

The Bill provides that it is unlawful for an employer to subject an employee to sexual harassment, for a fellow employee to subject another employee to such harassment, for an employee of an educational institution to subject a student to such harassment, for a principal to subject a commission agent or contract worker to such harassment, or for any person to subject another to such harassment in the course of offering or supplying goods, certain services or accommodation to that other person. This provision is necessary because of the number of complaints of sexual harassment in the areas referred to above. The Government considers that persons should be free to enjoy these areas of their lives without enduring sexual harassment and that this can only be achieved successfully by legislative intervention.

During the course of the last year, the Commissioner for Equal Opportunity has been consulting with clubs offering membership to both men and women to develop legislation to ensure equality of opportunity in membership and the provision of benefits and services to those members. The resultant provision provides fair parameters within which clubs of this nature will be able to operate to the mutual benefit of both men and women.

The Bill applies to small employers—an exemption previously regarded as justifiable in 1975 when the Sex Discrimination Act was passed but no longer so regarded. The Bill maintains the exemption for employment in private households.

The Bill makes specific reference to pregnancy. There have been suggestions that the Sex Discrimination Act does not clearly cover discrimination on the grounds of pregnancy despite determinations to the contrary by the Sex Discrimination Board. There will be no room for any such arguments under this Bill.

It has been recommended that discrimination on the grounds of sexual preference (sexuality) should be made unlawful. There have been requests by individuals and organisations for such an amendment, and the Bill accordingly includes a person's sexuality as one of the grounds of unlawful discrimination.

The Bill has made substantial changes in matters relating to procedure. It seeks to implement the working party's recommendations relating to deficiencies in existing procedures in the areas of sex discrimination and discrimination on the basis of physical impairment.

The role of the Commissioner was closely scrutinised by the working party and it concluded that the Commissioner should be appointed by the Governor for a fixed term. Clear lines of responsibility, authority and liability are established in the Bill in relation to the exercise of the Commissioner's powers and the consequences of the exercise of those powers. The Commissioner has a clearly defined responsibility in relation to the giving of advice and information.

Although the Bill does not apply to discrimination on the grounds of intellectual impairment, the Commissioner is charged with the task of fostering positive and unprejudiced community attitudes to persons with such an impairment, and may be involved in research and the collection of data in relation to the problems faced by such persons.

The Bill provides that a representative complaint may be lodged on behalf of a class of persons and establishes rules for the provision of remedies in those cases for individuals. This procedure provides a more efficient method of dealing with complaints with wide ramifications.

The Bill also deals with the difficult question of discrimination in the field of superannuation. First, it is provided that it is unlawful to discriminate on the ground of sex, sexuality, marital status or pregnancy in superannuation schemes to which employers contribute. Certain exemptions are given to this general provision (that is, commutation rates may differ as women, statistically speaking, live longer than men) and further exemptions may be prescribed by regulation as there are a number of transitional matters to be provided in respect of existing schemes that are discriminatory.

It should be noted that the provision does not apply to schemes where a greater number of members reside in another single State or Territory. It is also to be noted that putative spouses—that is, persons declared to be putative spouses pursuant to the Family Relationships Act, 1975—are to be treated on the same footing as legal spouses. It is intended that the abovementioned provisions will be sequentially implemented. First, on a day to be fixed by a proclamation (being not less than six months later), it will be made applicable to superannuation schemes established after that day. Then, by the same or a later proclamation (setting a date not less than two years from the day of proclamation) it will be made applicable to superannuation schemes which had been established prior to that firstmentioned day.

This device will, therefore, enable new superannuation schemes to adjust to the new law virtually from the commencement of their operation. Existing schemes will also have adequate time to put their houses in order so as to comply with the new law. There is also the additional advantage of enabling this State closely to monitor developments in the Commonwealth sphere in relation to superannuation matters, which are currently exempted by the Federal Sex Discrimination Act, 1984.

In particular, I understand that the Federal Government shortly intends to refer the whole matter of discrimination in superannuation schemes to the Human Rights Commission. The work of that Commission will be crucial to developments in South Australia and the manner of implementing the relevant provisions of this Bill should permit adjustments to be made with minimum inconvenience both to those responsible for administering superannuation schemes and to contributors to, or members of, such schemes.

All superannuation schemes other than employer-subsidised schemes are dealt with in the same manner as insurance is under the Bill: it is unlawful to discriminate on the abovementioned grounds (sex, sexuality, etc.) except where the discrimination is on the basis of actuarial or statistical data and is reasonable having regard to that data.

Because of the effect this Bill will have on putative spouses *vis-a-vis* legal spouses, consequential amendments will need to be made to Acts such as the Parliamentary Superannuation Act, 1974, the Judges' Pensions Act, 1971, and the Police Pensions Act, 1971, to bring public sector superannuation schemes into compliance with the Bill. These matters are also receiving the attention of the Government.

Finally, the Bill deals with discrimination on the grounds of race and physical impairment in superannuation schemes. Discrimination on the ground of race in this area will be unlawful, without exception. Discrimination on the ground of physical impairment will be unlawful, except where it is based on actuarial or statistical data, or if there is no such

data, it is reasonable in all the circumstances of the case. The insurance industry has been consulted over the superannuation provisions of the Bill and it is pleasing to note that, while undoubtedly some schemes will be affected, there are many, particularly those established since 1975, that will not have to make any alterations to their provisions. I commend this Bill to honourable members and seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the Act. Section 39 (which relates to discrimination on the ground of sex, sexuality, marital status and pregnancy) will come into operation, firstly, upon proclamation, in respect of employer-subsidised schemes established after the proclaimed day, which must be at least six months from the time of the proclamation and, secondly, will come into operation, by proclamation, in respect of employer-subsidised schemes established before the said day. At least two years must separate the day of operation from the time of proclamation, so that the 'old' schemes have ample time in which to make any necessary changes.

Clause 3 provides for the repeal of the Sex Discrimination Act, 1975, the Handicapped Persons Equal Opportunity Act, 1981, and the Racial Discrimination Act, 1976. Clause 4 contains the definitions required for the purposes of the new Act. Clause 5 provides for the holders of statutory or public offices to be treated as employees for the purposes of the new Act. Clause 6 provides that the new Act is to bind the Crown. Clause 7 provides for the appointment of a Commissioner for Equal Opportunity. The Commissioner is to be appointed for a term of five years and upon conditions fixed by the Governor on the recommendation of the Public Service Board.

Clause 8 provides for the appointment of officers to assist the Commissioner in the administration of the new Act. Clause 9 provides that the Commissioner is responsible to, and subject to direction by, the Minister in relation to the administration of the Act. Clause 10 requires the Commissioner to foster amongst the general public positive and unprejudiced attitudes with a view to eliminating discrimination on the ground of sex, sexuality, marital status, pregnancy, race or physical impairment. The Commissioner is empowered to carry out or assist in research, and to provide information and advice on subjects relevant to the administration of the Act. Clause 11 requires the Commissioner to attempt to foster amongst the general public positive and unprejudiced attitudes towards persons who have intellectual impairments.

Clause 12 provides for the Commissioner to make an annual report to the Minister. The report is to be laid before Parliament. Clause 13 provides for delegation of powers by the Commissioner with the approval of the Minister. Clause 14 exempts the Commissioner from personal liability in respect of acts and omissions occurring in the course of carrying out his functions under the Act. Clause 15 establishes the Anti Discrimination Tribunal. Clause 16 provides for the appointment of Presiding Officers and Deputy Presiding Officers of the Tribunal. A Presiding Officer or Deputy Presiding Officer must be a District Court Judge or a legal practitioner of not less than seven years standing. Clause 17 empowers the Governor to establish a panel of up to twelve persons nominated by the Minister to be available for selection to sit at hearings of the Tribunal.

Clause 18 provides for the remuneration of members of the Tribunal. Clause 19 is a saving provision and protects the members of the Tribunal from incurring personal liability in carrying out their official functions. Clause 20 provides that for the purposes of hearing and determining proceedings the Tribunal is to be constituted of the Presiding Officer or a deputy presiding officer and two members drawn from the panel referred to above. Clause 21 deals with the determination of questions by the Tribunal. The Presiding Officer is to determine questions of law and procedure. All other questions will be determined according to a majority opinion. Tribunal proceedings will be heard in public, except where the Tribunal decides otherwise. Clause 22 provides for the giving of notice of proceedings and deals with joinder of parties and intervention in proceedings by persons who may have a legitimate interest in the outcome of those proceedings.

Clause 23 sets out the powers of the Tribunal to obtain evidence. Clause 24 establishes a limited power to award costs against a party to proceedings before the Tribunal. Clause 25 empowers the Tribunal to act as a conciliator where it appears that there is a reasonable prospect of settling proceedings before the Tribunal by conciliation. Clause 26 provides for the appointment of the Registrar of the Tribunal. Clause 27 expounds the concept of discrimination in so far as it applies to Part III (which deals with discrimination on the grounds of sex, sexuality, marital status or pregnancy). Clause 28 makes it unlawful for an employer to discriminate against an employee or prospective employee on the basis of sex, sexuality, marital status or pregnancy. Clause 29 is a similar provision dealing with the situation in which work is done by commission agents.

Clause 30 is a similar provision dealing with the case where work is done for a person under an arrangement between that person and an employment agency which employs the worker. Clause 31 prohibits discrimination by a firm against existing or prospective members of the firm. Clause 32 provides that the above provisions do not apply in the case of employment in a private household, or employment for which it is a genuine occupational qualification that the employee be of a particular sex. Clause 33 deals with discrimination by clubs and other associations. Where the association has both male and female members, persons of either sex must have access to all classes of membership and in general terms, the same or equivalent services must be available to members of either sex. Clause 34 prevents discrimination by authorities or bodies which are empowered to confer trade or professional qualifications. Clause 35 prevents discrimination by educational institutions. This section does not, however, apply to single sex schools.

Clause 36 deals with discrimination in the provision of services. Clause 37 deals with discrimination in relation to accommodation. Clauses 38 to 41 comprise a Division dealing entirely with discrimination in relation to superannuation on the ground of sex. Clause 38 provides for the interpretation of two important terms used in the Division: 'de facto spouse' means a person with whom a member of a superannuation scheme or provident fund is cohabiting as his husband or wife de facto, but does not include a putative spouse; 'employer-subsidised superannuation scheme', means a superannuation scheme or provident fund to which the employer makes contributions. Clause 39 provides in subclause (1), that, subject to the Division, it is unlawful for a person who provides an employer-subsidised superannuation scheme to discriminate against a person *(a)* by providing a scheme which requires or authorises discrimination against that other person, or *(b)* in the manner in which he administers the scheme.

Subclause (2) provides qualifications to the general principles set out in subclause (1): subclause (1) applies only in relation to an employer-subsidised superannuation scheme under which more members (being members who are still employed by the employer) reside in this State than in any

other single State or Territory. Other qualifications may be prescribed. Subclause (3) provides that the clause does not render unlawful discrimination in the rates upon which a pension may at the option of a member to whom it is payable, be converted to a lump sum or a lump sum payable to the member may at his option be converted to a pension, where the discrimination *(a)* is based on actuarial or statistical data that has been disclosed to the person the subject of the discrimination, and *(b)* is reasonable having regard to that data. Subclause (4) provides that the clause does not render unlawful discrimination in the benefits payable where *(a)* the contributions payable by the employer and employee are fixed by the scheme, and *(b)* the benefits that will accrue to the employee are reduced by any insurance premiums paid under the scheme in respect of the employee, to the extent only that the discrimination is based upon a lawful difference in those insurance premiums.

Clause 40 provides that it is unlawful for a person who provides a superannuation scheme or provident fund (not being an employer-subsidised superannuation scheme) to discriminate against a person by providing a scheme that requires or authorises discrimination against that other person, or in the manner in which the fund is administered, except where the discrimination is based on actuarial data that has been disclosed to the person the subject of the discrimination and the discrimination is reasonable having regard to that data. Clause 41 provides that a superannuation scheme or provident fund does not discriminate on the ground of marital status by reason only of the fact that it provides benefits to the surviving spouses of members or that it does not provide benefits for surviving *de facto* spouses of members, or provides less favourable benefits for surviving *de facto* spouses than it does for spouses who survive members.

Clause 42 exempts charitable trusts from the operation of the foregoing provisions. Clause 43 provides that Part III does not prevent the granting to women of rights or privileges in connection with pregnancy or childbirth. Clause 44 provides that Part III does not prevent schemes intended to ensure equal opportunities between the sexes. Clause 45 provides that discrimination on the ground of sex is permissible in competitive sports in which the strength, stamina or physique of the contestants is relevant. Clause 46 permits discrimination in the terms of annuities, life assurance and other forms of insurance. Such discrimination must, however, have an actuarial basis.

Clause 47 exempts religious orders and denominations from the provisions of Part III in so far as such an exemption is necessary to safeguard the free practice of religion. Clause 48 explains the concept of discrimination, as it applies to discrimination on the ground of race. Clauses 49 to 53 relate to discrimination in employment, commission agency, contract work and partnerships. They are in the same terms as the corresponding provisions of the previous Part. Clauses 54 to 61 relate to discrimination by clubs or associating trade or professional associations, discrimination in education, discrimination in the provision of goods and services and discrimination in the provision of accommodation. They are in the same terms as the corresponding provisions of the previous Part. Of particular note is clause 59, which provides that it is unlawful for a person who provides a superannuation scheme or provident fund to discriminate against a person on the ground of his race by providing a scheme that requires or authorises discrimination, or in the manner in which the scheme or fund is administered.

Clause 62 explains the concept of discrimination, as it applies to physical impairment. Clauses 63 to 80 cover the same areas of discrimination as are dealt with by the corresponding provisions of the previous two Parts. Of particular note are: clause 73 (which deals with discrimination in relation to superannuation. The clause does not apply in relation to a superannuation scheme or provident fund to which the employer makes contributions and under which a greater number of members (not being members no longer employed by the employer) reside in any one other State or Territory than reside in this State. Subject to that qualification, it is unlawful to provide a superannuation scheme or provident fund that requires or authorises discrimination against a person or that is administered in a discriminatory manner, except to the extent that the discrimination is based on actuarial data upon which it is reasonable to rely and is reasonable having regard to the data); clause 77 (which allows positive discrimination in favour of the physically impaired in certain instances); clause 78 (which allows discrimination where the nature of the disability renders discrimination unavoidable); and clause 79 (which relates to access to buildings).

Clause 81 defines an act of victimisation and makes it unlawful for a person to commit such an act. Clause 82 defines sexual harassment and makes it unlawful for a person, in defined circumstances, to commit an act of sexual harassment. Clause 83 protects the right of the blind or deaf to be accompanied by a guide dog. Clause 84 deals with the position of a person who causes, instructs, induces or aids another to commit a breach of the new Act. Such a person incurs the same criminal and civil liabilities as the person who commits the breach. Clause 85 imposes vicarious liability for the acts of agents and employees. The principal or employer may, however, defend himself by establishing that he could not, by the exercise of reasonable diligence, have prevented the occurrence of the circumstances out of which the liability is alleged to arise.

Clause 86 empowers the Tribunal to grant exemptions from the operation of the new Act. Such an exemption may be granted for a period of up to three years and may be subsequently renewed. Clause 87 empowers the Tribunal to make non-discrimination orders to correct disciminatory situations where they are found to exist. Clause 88 provides for the lodging of complaints by victims of discrimination. Clause 89 sets out the investigative powers of the Commissioner in relation to a complaint. Clause 90 deals with the conciliation of complaints. Where, however, conciliation is impossible or unsuccessful, or the complainant requires reference of the complaint to the Tribunal, the complaint is referred to the Tribunal. Clause 91 deals with the criteria that must be satisfied if a complaint is to be dealt with as a representative complaint.

Clause 92 sets out the remedies that may be granted by the Tribunal on a complaint. Clause 93 entitles a part to proceedings before the Tribunal to a written statement of the Tribunal's reasons for decision. Clause 94 provides for an appeal to the Supreme Court against decisions of the Tribunal. Clause 95 provides that the new Act will not give rise to any civil or criminal consequences except those expressly stated. Clause 96 deals with interaction between the new Act and the Industrial Conciliation and Arbitration Act. Clause 97 makes it an offence to molest, insult, hinder or obstruct the Commissioner or an officer assisting the Commissioner, in the performance of official functions. Clause 98 makes it an offence to publish an advertisement that indicates an intention to do an act that is unlawful by virtue of the new Act. A defence is available to a person who proves that he believed, on reasonable grounds, that the publication of the advertisement would not contravene subsection (1) (which constitutes the offence). Clause 99 provides for the summary disposal of proceedings for offences against the new Act. Clause 100 is a regulation-making power.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

ACTS INTERPRETATION ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 22 August. Page 451.)

The Hon. DIANA LAIDLAW: I support the second reading of the Bill and indicate that the matters that the Bill addresses have been of considerable personal and academic interest to me for some time. For the purposes of the debate, I shall limit my comments to two aspects of the Bill, the first being the amendment which provides for the feminine gender to be construed as including the masculine gender and, secondly, the amendment that seeks to allow the use of extrinsic material in the interpretation of an Act.

At present, section 26 of the Acts Interpretation Act provides for the use of the masculine gender alone in all Acts on the understanding that, when one interprets in any Act the word 'masculine', it must be construed as including the feminine gender. I have long found this provision most objectionable. Before standing for preselection for the Legislative Council and since I have been a member of this Chamber I have never wished to adopt a sexist approach to any of my deliberations or to allow my judgment on an issue to be blinkered by adopting a sexist outlook. Certainly, some members may claim that I have not been entirely successful in realising this aim and I am willing to concede that on occasions they may have some grounds for their view.

I make that concession because I do acknowledge that, among the variety of goals that I have set myself whilst a member of this Chamber, the following are paramount. The first is to raise the awareness of the community in general to the disadvantages that girls and women face in undertaking their responsibilities or in pursuing their ambitions in the school, the home or the work place. Secondly, I want to redress the subtle and sometimes not so subtle barriers that limit the opportunities for girls and women to realise their full potential for the overall benefit of our society. Thirdly, I wish by example to encourage more girls and women to strive for public office.

I have never been under any illusions that in all these areas the task I have set myself would be difficult. However, in seeking to fulfil each I have always hoped that education and increased community awareness, rather than any recourse to positive legislative means, will suffice, as so many of the barriers that women encounter are founded on attitudinal prejudices. As one aspect of this process of education and increased community awareness I have laborously tried to encourage people to use the terms 'he' and 'she' when making any reference to a matter that affects both males and females. It is my belief that to refer only to 'he' or 'his' consciously or unconsciously denies that women and girls have an interest in the area under discussion.

Such an assumption is indefensible in my view and certainly does not reflect well on those who continue to adopt that narrow approach. In arguing my case for people to use 'he' and 'she' and not just 'he' when referring to any matter that affects both males and females, I regularly encounter the reply that the Acts Interpretation Act states that 'he' means 'she'. The reply is superficial and certainly does not address the validity of the argument that I have presented.

The Hon. R.C. DeGaris: How about 'She's apples'?

The Hon. DIANA LAIDLAW: The honourable member can move another amendment. The replies are also most frustrating. For these reasons I welcome the Government's initiative in introducing the amendment to the Acts Interpretation Act that seeks to provide for the female gender to be construed as including the masculine gender. I now look forward to the day when the Government sees fit to introduce a Bill that will demonstrate its commitment to this amendment, a Bill which throughout its content uses exclusively the term 'she' in place of the term 'he'. Perhaps the Bill the Attorney has just introduced has set an example on every clause.

Members interjecting:

The Hon. DIANA LAIDLAW: I have said specifically that I look forward to the date when the Government demonstrates its commitment to this cause.

At the outset of my contribution in this debate I indicated that the other amendment that I wished to comment upon was the amendment which seeks to allow the use of extrinsic material in the interpretation of the Act. In his second reading speech, the Attorney-General indicated that the Government was moving this amendment 'to ensure that the courts of this State will be better able to ascertain the intention of Parliament when questions of doubt arise from the language that Parliament has chosen to use'.

The capacity for terms of an Act to be misunderstood or misconstrued intentionally or unintentionally is great, and this has been a subject that has concerned me for some years. In this respect I wish to make a few general comments. I believe firmly in the notion of individual responsibility for one's actions. It has concerned me over recent years to observe increasing instances of Government action and administration that have insidiously undermined this concept. I would argue strongly that one aspect of this process of undermining individual responsibility is the feeling of powerlessness that so many people experience when confronting the laws of this State and in their endeavours to seek justice before the law.

This feeling of powerlessness is easy to appreciate when one considers the countless pieces of legislation that operate in South Australia, legislation written in legal jargon which is not readily understood and for which the intention is sometimes not clear. For the individual this feeling of powerlessness is often compounded by the high legal costs one incurs when seeking legal advice or representation. But beyond the question of legal costs I believe that we in this Parliament have a responsibility to ensure that people perceive the laws that we pass as serving justice and not as another avenue to thwart the pursuit of individual responsibility.

I appreciate the motives of the Government in seeking means by which to clarify the intention of Parliament in respect of legislation that we pass, and I do not deny that this is an area that must be addressed. However, I do not believe that the proposal that the Government has endorsed will achieve this end. In fact, I believe that by endorsing the use of extrinsic material this Parliament would be creating the opposite effect: it would be compounding the confusion and not alleviating it. To assume the use of Parliamentary debates, which is only one of the areas that would be endorsed in this amendment, would help anyone understand Parliament's purpose in passing the legislation is nearly bordering on the fanciful. Parliamentary debates serve an entirely different purpose.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Yes, but the Attorney-General is authorising it. It is quite a different argument: whether they are using it or whether we authorise their use of it.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Yes, but it is not authorised. Moreover, one is tempted to ask, if such debates were authorised by Parliament for the purpose of judicial interpretation, whether a person seeking clarification would be

on sound ground if they paid more regard to debates in this Chamber rather than those in the other place. Certainly, I am tempted to argue along these lines since this Chamber is the House of Review. However, others may suggest that as the Government is founded in another place its debates should receive pre-eminence when clarification of Parliament's purpose is sought. This problem of which extrinsic material and which aid should be relied on for clarification is all the more confusing because the list of aids suggested by the amendment is not exhaustive.

A further basic criticism of the Government's proposal is that it is seen solely in terms of assisting the courts to interpret laws passed by Parliament. In my view, it overlooks the limited capacity of individuals to interpret the law. I have already addressed this problem. It certainly overlooks the capacity and the resources of local government to interpret the law. I suggest that that capacity is limited at the present time. When I was working as Ministerial Assistant to the former Minister of Local Government, I was concerned from time to time at the way town clerks and district clerks interpreted the same section of an Act in a completely different fashion. This is certainly most confusing for individuals in, say, country areas where property lies in two adjoining council areas. I do not think that this capacity of local councils should be overlooked when assessing this Bill.

The Local Government Act is the largest Statute in this State. Many of its sections are outmoded, and that has been discussed in this Parliament from time to time. Certainly, it is in need of updating. Members will recall that the first Bill in that process was debated at length last session. For interested members, the debate on that amending Bill covered 72 pages of *Hansard* in the Legislative Council and 96 pages in the other place. I cite those figures as a further example that, if town clerks seek interpretation of the intention of an Act when it is not clear, they would have to do a lot of extra work if they chose only to look at the Parliamentary debates. Of course, they would have even more work to do if they sought other extrinsic aids.

I suggest that in today's economic climate councils should not be forced to divert scarce and precious resources simply to interpret an Act when it should be our responsibility to make sure that the legislation is entirely clear in its intention. Because of my concern about the impact of this measure on local government, I spoke to the Secretary-General of the Local Government Association, Mr Jim Hullick, seeking his views. I was interested to discover that the Government had not consulted with him on this matter. He agreed with my assessment that it could place a considerable burden on local government. That burden will be quite wide in a number of respects. I refer to the letter that I received from Mr Hullick, dated 22 August, as follows:

> Regarding your request for comments on the effect of the Acts Interpretation Act Amendment Bill on local government, we will of course be subject to the same problems as will the general public. I must admit that I see the Bill as creating a lawyer's paradise in terms of the uncertainty and litigation it will engender.
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> You will be aware that the present rules of statutory interpretation are fairly strict, whereby an Act is construed on its plain meaning, and the average citizen should be able to know the laws of the State by reading the Act, safe in the knowledge that that which he—
>
> that should be 'he or she'—
>
> is reading accurately reflects the legal position regarding any particular subject. It is not the duty of the average citizen, the businessman, local council or their lawyers to ensure that what is written in a Statute is a correct transcription of Parliament's apparent intention. That duty rests with Parliament itself, together with the Parliamentary Draftsmen.
>
> The more extraneous material a court has to consider the harder its task becomes and the increase in time required for legal research and libraries will, of course, result in increased costs to consumers of legal services. From this Association's viewpoint, legal opinions will take longer to obtain and will, necessarily, be less certain as our solicitors have to wade through Parliamentary debates, select committee reports, etc.
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> I realise that the trend towards allowing the courts access to more and more extraneous material is one which has developed and has probably just about reached its peak in the United States of America, but it must be questioned whether it is appropriate under our legal system. Parliament is, by its very nature as a policy maker, imprecise and it should not be fettered in its debate by the knowledge that it may be scrutinised by the court at some later stage.
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> I trust that these comments will be borne in mind during your speech on the Bill. I do not know whether you have had any submissions from the Law Society of S.A., but my understanding is that the legal profession is generally not in favour of the Bill.
>
> Yours sincerely, J.M. Hullick

I fully concur with the reservations and the dangers for local councils in this Bill as outlined by Mr Hullick. I suggest that it may also introduce difficulties for companies and businesses which operate across State boundaries.

Members will be acutely aware that it is often very difficult for companies and businesses to be aware of the laws and regulations that operate in each State. The differences between these laws and regulations can often frustrate the efficient operation of a business. I do not think that we in this Parliament should aggravate that situation. Parliament's goal should be to insist that what Parliament intends is patently clear in the wording of the clauses of its legislation. Greater attention to this end by Government and private members in instructing Parliamentary Counsel is one avenue we should pursue. Certainly, we should pursue that when we debate any measure in this Council. If any member is unclear about the intention of a clause when it is being debated, an amendment should be moved so that it is not imprecise and so that it is clear to that member and also patently clear to those who must interpret it in the future.

It has been brought to my attention that a desirable move would be for Parliamentary Counsel to also liaise far more closely with the Crown Law Office because in many instances Parliamentary Counsel and Crown Law have between themselves had different interpretations of what clauses mean. This may be one move that the Government could endorse and put into operation.

In conclusion, the only approach to this matter of interpretation is that Parliament, and not the courts, makes sure that the legislation is clear and that we maintain sole responsibility for making the laws in this land. Parliament, and not the courts, is accountable to the people of this State, and we should remain diligent in seeing that Parliament remains supreme in this regard. Members on many occasions in the past have referred to the fact that, because of the strengthening Executive in this State and because of all those Qangos that abound in this State, the Parliament is losing its powers. I see this amendment (authorising the use of extraneous material by the courts and requiring that individuals, local government, companies and the like also have to refer to this extraneous material) as a further process of abrogating our responsibilities in this Chamber. I support the second reading, but with the qualification that I cannot support the amendment that authorises the use of extraneous material in interpreting legislation.

The Hon. R.C. DeGARIS: I have only one objection to the Bill, as have the other three speakers who have spoken in this debate. The point to which I have an objection has been very well covered by the Hon. Trevor Griffin and the Hon. John Burdett. It is to allowing the courts to have regard to information that does not form part of the Act; that includes Parliamentary debates, reports of committees, international agreements and other material. The general rule has always been that the actual Statute that has been passed by Parliament and has received assent is the only material that forms the law.

If any other material can be considered, how can a person interpret that law? The Hon. Trevor Griffin in his speech went through the processes of law making, beginning with the second reading explanation. Probably, that is the best source of information, but in my time in Parliament second reading explanations have at times been misleading—I could say deliberately misleading. If that is the case, what reliance can be placed by the courts on a second reading explanation?

But that is only part of the process. There are second readings in two Houses, Committee stages in two Houses, maybe third reading debates in two Houses, and there could be a conference, which is not recorded in *Hansard*. The only material that courts should interpret is the legislation that has been passed by the Parliament. The consideration of any other material can only add to the conflict.

Certainly, if second reading explanations are to be taken into account the Parliament should at least take an interest in the wording of those explanations and maybe amend them as well as the Bills themselves. The Hon. Trevor Griffin also referred to the lengthening of proceedings, increased costs of litigation and increased time in preparing advice. Of course, this will not only apply to cases before the courts, but will add to the difficulties that lawyers have in advising clients. Such a process would not add any clarity to the law, but only cause more confusion.

Another point is that people who are not lawyers are supposed to understand the law. I know that it is difficult for an ordinary person to understand the law, but we rely on many non-legal people to be involved in understanding the Statutes. How much more complicated this becomes if other material has an effect on the law's interpretation.

In a previous debate in this Council—I think yesterday—I pointed out that the superannuation commitment in the State Budget is increasing in its percentage of the whole of the Budget. Superannuation is the fourth largest increasing item by percentage in the State Budget, but the largest increase in percentage in the State Budget is the cost of justice. One thing of which I can assure the Council is that if this proposal before us goes through it will ensure increasing legal costs to the public and that the taxpayers' costs for the administration of justice will maintain its number one position in the South Australian Budget.

Other points could be raised, but the ground has already been effectively covered by the Hon. Trevor Griffin and the Hon. John Burdett. The Statute must be the document that the public uses and the court interprets. Any problems need to be tackled by more assistance to legislators to interpret the Bills that come before the Council.

The Hon. Lance Milne in his Address in Reply speech said that Parliament was not exerting its legislative role. I believe that to be the case; I have always considered that this Council has a legislative role of more importance than the House of Assembly. I refer entirely there to the legislative role. We need to improve the ability of this Council to perform that role; that would be a better path to take than the proposal in the Bill. With other speakers, I oppose that part of the Bill that is before us.

The Hon. R.I. LUCAS: I support the second reading with a view to supporting the amendments to be moved by the Hon. Trevor Griffin. The changes that are envisaged in new clause 22 *(c), (d)* and *(e)* have some superficial appeal, but the contributions that have been made earlier in this debate by the Hon. Trevor Griffin and the Hon. John Burdett were excellent and have indicated clearly the problems that can be involved with this change in law. I do not intend repeating the problems that my colleagues have already outlined in this debate. I must say also that I was persuaded by the views of former Supreme Court Justice Wells and, in particular, by the section of the chapter of his coming book that was quoted by the Hon. Trevor Griffin in his contribution to this debate. If we are agreed, as I am and as I am sure that that Government is, that there is a need for Statutes to be more easily understood by everyone, particularly the courts but not just the courts—and I think that the Hon. Mr DeGaris and the Hon. Diana Laidlaw have indicated in the most recent contributions the need for many non-legally trained people, including members of Parliament, to understand and to be able to interpret the law as much as possible—the question that remains for us as legislators, particularly those of us on this side who oppose the change put by the Government, is what we should do to further the cause of making Statutes more easily understood. In effect, we are looking for some middle ground between what exists at the moment, which all of us concede is unsatisfactory, and what the Government is suggesting, which those of us on this side of the Chamber concede is unsatisfactory as well.

To assist in perhaps looking at some compromise or middle ground, I wish to put on record the views of former Justice Wells in this matter. I will quote from the same document as the Hon. Trevor Griffin quoted from yesterday. Former Justice Wells states:

> [27] I accordingly recommend to Parliament that, wherever it is deemed just and expedient to declare plainly what are Parliament's intentions, explanatory material, designed to make its intentions clear, should be included in the Bill. The explanatory material should be incorporated into the provisions of the Bill itself, by one of the early clauses. This could most effectively be done by referring in the clause to an associated schedule. The schedule would contain, without the dramatic embellishments too often found in former Statutes, a plain, straightforward statement of the aims and intentions of the Bill, and (where appropriate) would described objectively and precisely the mischief that the proposed measure was designed to cure. The statement should, in particular, be free of histrionics, of special arguments in justification of the Bill, and of the parading of political philosophies: contrast the preamble to the Statute of Uses passed in Henry VIII's reign. The same clause should also provide that reference may, and should, be made to the schedule for the purpose of construing the Act whenever the operation and effect of a provision under construction, in the circumstances of the case, is ambiguous, or where the ordinary and natural meaning of the provision leads to a result, in those circumstances, that is plainly unreasonable or absurd; but that in all other respects the ordinary and natural meaning of the provision, as regulated by the context and structure of the Act, shall prevail.
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> [28] Explanatory material could be incorporated in an Act by including a provision for that purpose in each Act. or by amending the Acts Interpretation Act so that, unless the contrary intention appears, the incorporation would be effected for every Act.

That is one recommendation from former Justice Wells which at least merits consideration by the Parliament. I guess that, with the pressures of time in considering this Bill, we will probably not be in a position to be able to draft an amendment that would put into effect the proposal set out by former Justice Wells.

The Hon. I. Gilfillan: Why not?

The Hon. R.I. LUCAS: That is a good question. The simple answer is that it has been argued that it will be extraordinarily difficult to do as former Justice Wells would want us to do.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Burdett questions whether Mr Justice Wells's views are that it should be administrative or legislative amendments. Upon my reading, it is clear that he is talking about legislative amendment because he talks about explanatory material being incorporated in an Act by including a provision for that purpose in each Act.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: Or by amending the Acts Interpretation Act. It may well be administrative, as the Hon. Mr Burdett suggests. I interpret it as being an amendment,

but I can see the construction that the Hon. Mr Burdett puts on it.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: I can see the interpretation that the Hon. Mr Burdett is putting on it, but in my contribution it appeared that he was suggesting a legislative amendment to each Act or a legislative amendment to the Acts Interpretation Act. The Hon. Mr Burdett suggests that it could be an administrative amendment in respect to each Act or a legislative amendment in respect to the Acts Interpretation Act. I guess that only former Justice Wells would be able to clarify exactly what is meant. It is a good argument for what we are talking about at the moment.

Nevertheless, we ought to consider the proposal seriously. I doubt whether we are going to be in a position to do anything about it with respect to this Bill, but I would hope that, at some further stage (particularly if we have a Standing Committee of the Legislative Council—whether it be on law reform or constitutional and legal matters, as I discussed in my contribution in the Address in Reply), it will be a worthy matter for consideration by a Standing Committee of this Chamber. Former Justice Wells goes on to consider another proposition and, once again, I wish to put it on the record, as follows:

[31] I also commend to the most serious consideration of the Government the form of explanatory material about to be discussed. In order to explain the advantages of that form, it is necessary to go back about a century in history.

[32] In 1892, the Indian Evidence Act was passed, a portion of which I have copied and appended to this part of this report. It was a comprehensive measure, and was accordingly intended to be used by all tribunals throughout India, many of which would be presided over by judicial officers who lacked the training, skill and experience of judges in courts of superior jurisdiction. It was essential, therefore, not only to set forth the principles and rules of evidence in as clear language as the subject admitted of, but also to do what was reasonably practicable to ensure that those rules and principles were not misunderstood or misapplied. The draftsman and Legislature hit on the idea, which, as far as I am aware, had never before been adopted by the United Kingdom or any other Parliament, of adding, where they would be useful, what the Act called 'Explanations'; I invite attention, for example, to sections 3 (definition of 'fact', of 'facts in issue', of 'document'), 5, 6, 7, 8 and 9 (and to other similar 'explanations' in the appended Act).

[33] Those explanations are nothing more nor less than examples of the kind that a tutor or lecturer would use to reinforce and clarify his exposition of the law to a student. Stephen J. used the same technique, to good effect, in his text books on evidence and on criminal law. I have never come across an authoritative explanation, or even a speculative justification of this technique. I have no doubt, however, that the explanations were used to convey, by straightforward and concrete language, what the Legislature intended, in order to avoid uncertainty or absurdity in the practical application of the law to every day affairs. I am confident it must have been successful—at least as successful as the sort of commentary employed by Williams J. in his widely read text book on the Local and District Criminal Court.

[34] It has for long seemed to me that use should be made of this technique to assist the interpretation of certain kinds of legislation; it would not be appropriate for every kind. The sort of legislation where it could be best employed would be Acts or regulations that lay down general rules of law: for example, Acts amending substantive provisions of the civil or criminal law. The technique could be placed on a proper and legal footing by incorporating, into any Act in which the technique was employed, provisions that conferred on the explanations the character of explanatory material, to which courts were entitled to have recourse in order to give effect to the intention of the Legislature where, in any given circumstances, there was some room for doubt about the operation of the provision thus explained.

That is the second of the suggestions made by former Justice Wells and is another which I believe is at least worthy of consideration. I see a major advantage in the two suggestions of former Justice Wells as opposed to what has been recommended in the Bill, namely, the fact that the Bill or Act of Parliament would still contain everything required for statutory interpretation. There would be the sections of the Act, there may well be an explanatory memorandum in the schedule and there may be explanations included within the Bill or Act. It would mean that lawyers, the courts and all those who need to understand what the law is about would still be able to go to the one source material to make their judgment and interpretation on the laws of the land.

The Hon. J.C. Burdett interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Burdett points out the other significant advantage, namely, that the Parliament would remain in control of the law of the land; that is, that the explanation as recommended by former Justice Wells would be capable of approval by a majority of members in the Parliament.

They would be voted on as such, as would any amendment to the specific sections of the Statute. It would mean that the courts would have the guidance that the majority of members of the Parliament interpreted the sections of a particular Statute in that particular way. The Hon. Mr Burdett and the Hon. Mr Griffin have more than adequately covered the problems of interpreting, for example, Parliamentary speeches where each and every member may have a different view about what a section in a Statute means.

With those few words I indicate that I support the second reading with a view to supporting the Hon. Mr Griffin's amendments during the Committee stage. However, I urge that at some stage in the near future, possibly by way of a Standing Committee of this Parliament on Constitutional and Legal Affairs, the suggestions of the former Mr Justice Wells might be considered.

The Hon. I. GILFILLAN secured the adjournment of the debate.

SUPPLY BILL (No. 2)

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

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

That this Bill be now read a second time.

The Bill provides $390 million to enable the Public Service to carry out its normal functions until assent is received to the Appropriation Bill. It is usual for the Government to introduce two Supply Bills each year. The earlier Bill was for $360 million and was designed to cover expenditure for about the first two months of the year. This Bill is for $390 million, which is expected to be sufficient to cover expenditure until early November, by which time debate on the Appropriation Bill is expected to be complete and assent received.

Clause 1 is formal. Clause 2 provides for the issue and application of up to $390 million. Clause 3 imposes limitations on the issue and application of this amount.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

ADJOURNMENT

At 4.20 p.m. the Council adjourned until Tuesday 28 August at 2.15 p.m.