LEGISLATIVE COUNCIL

Wednesday 30 October 1985

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

PAPERS TABLED

The following papers were laid on the table:

By the Hon. Frank Blevins, on behalf of the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Office of the Commissioner for the Ageing—Report, 1985.

By the Minister of Labour (Hon. Frank Blevins):

Pursuant to Statute—

Australian Mineral Development Laboratories—Report, 1985.

QUESTIONS

GILLMAN SPILLAGE

The Hon. I. GILFILLAN: Has the Minister of Health a reply to a question I asked on 10 October about the Gillman spillage?

The Hon. J.R. CORNWALL: The replies are as follows:

1. Yes, for particular compounds of arsenic and chromium under specific use conditions. The International Agency for Research on Cancer concludes that there is sufficient evidence that inorganic arsenic compounds are skin and lung carcinogens in humans. Also, there is sufficient evidence of respiratory carcinogencity in men occupationally exposed during chromate production.

2. Yes; however, these cancers are due to particular forms of arsenic and chromium and particular occupational exposures. Arsenic and chromium compounds are produced by the refining of their ores and are widely used in industry. The occupational health effect of these compounds has been extensively studied, and acute and chronic effects, including cancer, related to specific compounds used in particular work places. The US National Institute for Occupational Safety and Health has assessed the effects of inorganic arsenic and chromium and laid down recommended standards for dealing with occupational exposure to the substances.

3, 4 and 5. A number of mathematical models have been developed to relate the data linking exposure to the probability of cancer. Empirical evidence indicates that a linear model gives a good fit to the data and is a useful model to estimate risk at low doses. However, it does not follow that such a linear relationship exists as a universal principle. It is not known whether a threshold exists for all or any known carcinogens below which there is no attributable risk of cancer. In the absence of conclusive proof of such thresholds, it is assumed for the purposes of standards set that no threshold exists. Whilst no threshold can be set below which a carcinogen can be said to be safe, there are carcinogens at present in the environment which do not give a measurable increase in the incidence of cancers in the community. In the occupational health area there are workplace limits set to ensure that exposures do not exceed these limits. When considering the carcinogenic properties of arsenic and chromium, it must be borne in mind that they occur in a wide variety of compounds which may have different properties and toxicities. Also, they occur in the human body. Arsenic, although not an essential element for human physiology, occurs in small amounts in humans widely distributed throughout the blood, liver, bone, skin, hair and nails. Chromium is an essential element for man for glucose and cholesterol metabolism and occurs in a number of foods such as chicken meat, skim milk and egg yolk.

6. It is not known whether the soil of the unpaved area at the Gillman site is heavily impregnated as it is yet to be tested.

7. The recent removal of surface soil and its replacement by other soil is designed to prevent entrainment of contaminated soil.

8. Prior to the spill, these substances have been used for many years for timber preservation without demonstrable adverse occupational health effects. The situation is not seen as posing long-term risks to the workers and the public.

9 and 10. Yes, corrective action such as good handling practices at all times are needed to prevent exposure of workers to the substances. Such action would ensure that public exposure is unlikely.

11. Yes, it is proposed to sample soil from the affected area.

General comment: the mechanism by which chemicals induce cancer is complicated by the many factors involved. In the case of arsenic and chromium, they are present in the environment, in some foods and in the human body. In certain forms and circumstances they cause particular cancers in some parts of the body. However, production of cancer depends on exposure times, the form and concentration of the substance, and other contributing factors which may act as promoters. Whilst having regard to the theoretical concepts about the chemical induction of cancer, it is important to keep in mind the significance of all these aspects to prevent unnecessary and unwarranted concern that this particular spillage of arsenate and chromate is likely to be the cause of ill effects to the workers at the plant or the general public.

FRITZ VAN BEELEN

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Correctional Services a question about Fritz van Beelen.

Leave granted.

The Hon. K.T. GRIFFIN: It is well known that Fritz van Beelen, convicted in 1973 of murdering Deborah Leach on Taperoo Beach, has been allowed out of gaol on a number of occasions. I understand that generally he has been under escort to run marathons or participate in football matches and CFS competitions.

It has also been put to me that van Beelen has been allowed out of gaol on a number of occasions unescorted. Concern has been expressed to me by several persons associated with his trials and with investigations relating to those trials who fear for their safety if, in fact, that is true. They do have reservations about escorted activities outside gaol but are not raising any major objections to them.

There have also been reports of moves to reopen his case even though there have been two trials and the matter has been to the High Court of Australia. There is also a move, at least publicly, to bring him from Cadell to the Northfield Minimum Security Prison. First, has van Beelen been allowed to leave the prison unescorted? Secondly, if so, on how many occasions and for what periods of time?

The Hon. FRANK BLEVINS: The answer to the first question is probably 'Yes'. I say 'probably' because I would only be relying on memory and I do not wish to mislead the Council. The answer to the second question is that I will find out and bring back a report for the honourable member. If it is a fact that Mr van Beelen has been out

unescorted, I see nothing particularly remarkable about that, nor should the Opposition—

The Hon. K.T. Griffin: Why?

The Hon. FRANK BLEVINS: I did not interrupt you and I hope that you will pay me the same courtesy. It should come as no surprise to the Opposition because the legislation permitting Mr van Beelen and any other carefully assessed prisoner to have unescorted leave was introduced by the previous Liberal Government. It was strongly supported by that Party, as is indicated by its introducing the provision and by subsequent debate over the past couple of years. If reservations are held by the Opposition, it should not have introduced this legislation. Moreover, it is a bit late now, after it introduced the legislation about three or four years ago, to express reservations now and not have done something about its legislation in the intervening years. This provision is not ours. Not only did the Opposition introduce it but it spoke forcefully in support of it. I am only going on memory—and the Hon. Mr Griffin will know that my memory is not bad—but I recollect that the Hon. Mr Griffin spoke forcefully about the necessity for such a provision. So, for the Hon. Mr Griffin to now come into Parliament and criticise the use of his provision when its introduction was strongly supported by him leads me to say that, if 'hypocricy' was not unparliamentary, it would have to be the appropriate word.

An assessment procedure works out and assesses the level of security required for individual prisoners. Mr van Beelen would have been treated on the basis of recommendations as a result of that assessment procedure. I find surprising the suggestion of someone fearing for their safety. I would have thought that if anyone—

The Hon. K.T. Griffin: Why is it surprising?

The Hon. FRANK BLEVINS: I will tell you in a moment; stop interrupting. I find that surprising because I would have thought that if anyone had fears about safety they would contact my office and, to the best of my knowledge, that has not been done. If the Hon. Mr Griffin has some genuine information that he wishes to give me to investigate, I will certainly do that. The Hon. Mr Griffin puts himself up to be an absolute pillar of the community, a man of impeccable character, and for him to continually come into Parliament—and outside Parliament—

The Hon. K.T. Griffin interjecting:

The Hon. FRANK BLEVINS: I will tell you. I have not finished; I have another three quarters of an hour. For him to come into Parliament week after week and misrepresent the position, denying, in effect, the law that the Government of which he was a member introduced and for him to criticise that law is, in my opinion, totally hypocritical and out of order. I remember a couple of weeks ago when the Hon. Mr Griffin was discussing the case of Mackie in Parliament. He would not ask the question of me but kept asking the Attorney-General. I kept asking the honourable member why he did not ask me the question, but he chose not to.

On that occasion he completely misrepresented the letter I sent to Mackie. I said to him, 'You are wrong. I will give you a copy of the letter.' He said, 'I have one here.' Therefore, he had the actual words of the letter in front of him and said in this Parliament something completely contrary to what was in it. The honourable member said that I supported the release of Mackie. That was not the case and that was not in the letter. That point was made very forcibly by the Attorney-General.

The point I am making is that the Hon. Mr Griffin sets himself up as a pillar of the community, with his very small and narrow mind. He stands up in Parliament and completely misrepresents any position, anything at all—which is completely amoral—if he feels there is a headline in it. That is what he does. Let us make no mistake about that. If the honourable member has any queries whatsoever about this provision in the Act that allows unescorted leave, then he should search his conscience. His Government brought it in, and it was strongly supported in this Council by the Hon. Mr Griffin. There was never a word of criticism about it at all. Now he stands up and claims that it is some kind of outrage.

Regarding the detailed answers to his questions, I will bring those back to the honourable member. Again, if he has some information for me that somebody feels threatened, I urge him to give it to me as soon as I sit down. I will have that information investigated. I will have investigated whether the Department of Correctional Services has been contacted by anyone regarding Mr van Beelen, and bring back a reply.

HOSPITAL CAR PARKING

The Hon. M.B. CAMERON: I seek leave to make an explanation before asking the Minister of Health a question about car parking at major metropolitan hospitals, particularly the Royal Adelaide Hospital.

Leave granted.

The Hon. M.B. CAMERON: The Minister is no doubt aware of complaints over a long time about car parking at the Royal Adelaide Hospital.

Members interjecting:

The PRESIDENT: Order! Would the Council come to order and show some respect for the honourable member asking the question.

The Hon. M.B. CAMERON: I gather that other metropolitan hospitals have the same problem, although I think that the Royal Adelaide Hospital is the most seriously affected hospital. The nurses at that hospital have for a long time been subject to considerable problems in relation to car parking, particularly at night. No doubt the Minister has been made aware on numerous occasions of the problems that face nurses when they start shifts during the day which continue until late in the evening, and have to pick up their cars from sometimes very difficult areas of the hospital. This creates a situation of danger.

While I normally would not mention personal situations, I have some direct knowledge of this because one of my daughters has completed and another is still doing a nursing course at the Royal Adelaide Hospital. On numerous occasions I have had to go to the Royal Adelaide Hospital late at night because I was not prepared to have a situation of a girl going into a difficult area to collect a car; secondly, one becomes a little tired of paying parking fees at the Royal Adelaide Hospital if one takes a car in and does not have a permit.

I understand, from what I have been told by many of the nurses at the Royal Adelaide Hospital, that there are not very direct guidelines as to who does and does not receive permits. In fact, I am informed (although I have not been able to verify this) that some cleaning staff have better access to parking than some of the nursing staff. If that is correct, I know that that has caused considerable concern and resentment among the nursing staff. The Minister would also be aware of the very serious problem that we have faced in relation to retaining and attracting nursing staff over the past two or three years. My questions are as follows:

1. Are there any clear guidelines as to who is entitled to parking, and do those guidelines take into account the very special problems faced by nurses, particularly those working shifts, because they face the problem of getting to their cars late at night, sometimes in areas which are not well lit?

2. If there are no guidelines, can such guidelines be issued?

3. Do members of the cleaning staff have priority over the nursing staff in relation to parking spaces and, if so, why?

4. What steps are being taken to improve the situation because, as the Nursing Federation has pointed out, there is already considerable difficulty in attracting nurses back into the profession? We must ensure that this problem does not militate against attracting nurses back to nursing (which is something we all desire).

The Hon. J.R. CORNWALL: Parking on North Terrace generally for a number of institutions is a matter of concern to me, to the Government, to the Adelaide City Council and, of course, it is a matter of concern to those who work in all the institutions along North Terrace, including the Royal Adelaide Hospital, the IMVS, the Dental School, the University of Adelaide, and the Institute of Technology. It is a matter of very great importance to me as Minister. There is no doubt (and I have said this in this Council and publicly on many occasions) that, if we are to attract nurses back into this profession—particularly at the Royal Adelaide Hospital—we must provide additional secure car parking.

Ideally, I would like to see a large car park (something in the order of 1 000 or more car spaces) on the site, giving direct access to one of the hospital buildings. In that situation nurses could park their cars safely, as could all other members of the hospital staff (particularly female members), whether they be cleaners, doctors, nurses or anyone else who makes up the spectrum of the health village of 4 000 people or thereabouts. Those people work through three shifts a day, seven days a week, 365 days a year at the Royal Adelaide Hospital.

One major proposal put to me is a self-funding car park providing spaces for a little in excess of 1 000 cars. The capital cost projected for that car park is something in excess of $4 million. It could be self-funding through the payment by staff (whether they be nursing staff, medical staff, cleaning staff, porters, orderlies, cooks, maintenance staff or anyone else) of about $15 a fortnight. From preliminary talks we believe that that proposal would be acceptable to all of the unions and that at about $1.50 a day it would be good value for the sort of safety, security and sound car parking that would be available. However, there are difficulties—the Royal Adelaide Hospital cannot be seen in isolation.

That is my first and certainly my primary objective. However, the Institute of Technology, which hopes at some stage in the reasonably near future to establish a school of nursing because of its proximity to our largest teaching hospital, also has very substantial needs for expanded car parking. The Adelaide University Medical School has put to me a proposal to build a medical library which would incorporate car parking facilities as part of its centenary year in 1985. We have to consider also, of course, the IMVS and the Dental Hospital among others.

The Adelaide City Council, for its part, believes that there should be some sort of tradeoffs. Many of these institutions occupy at least to some extent areas that were originally designated as parklands. As part of the overall strategy and planning which Commissioner Ken Tomkinson has undertaken at the request of the Government, the whole question of safe and secure parking in all of those institutions in North Terrace is being addressed. The Adelaide City Council holds land on the other side of North Terrace and it may well be that as part of a trading situation some of that could be made available in return for which we may be able to return some portion of parklands. All of that is under very active consideration at the moment. There is quite a large committee representing all the interests of those institutions working with Commissioner Tomkinson.

I repeat, and I have made this very clear to Commissioner Tomkinson and to anybody else who cares to listen to me, that my overriding responsibility and interest in the matter is the provision of adequate, safe, secure parking at the RAH for two reasons: first, the staff deserve it and, secondly, unless we provide it in the foreseeable future, it will remain difficult to attract adequately trained staff in sufficient numbers to the RAH. I am very sympathetic to the cause of nurses and all other people who work at the Royal Adelaide Hospital. I have held discussions with numerous people at various times. I have been on the record publicly on numerous occasions saying that adequate parking, particularly at the Royal Adelaide Hospital but also at the other metropolitan hospitals, is one of the strategies which must be adopted if we are to attract sufficient numbers of nurses back into the work force.

All of those matters are under consideration at the moment. Matters are reasonably well advanced and I believe that Commissioner Tomkinson will have a comprehensive report which canvasses all of the options for the provision of up to 1 800 car parking spaces in various localities and at various costs available for me and for Cabinet some time in the near future. All of these matters are being addressed and I hope that arising out of it, we will have a practical solution within the foreseeable future for parking in general in those campuses or to serve those campuses, and in particular to serve the campus of the RAH.

NURSE REFRESHER COURSES

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation prior to addressing a question to the Minister of Health about refresher courses for nurses.

Leave granted.

The Hon. DIANA LAIDLAW: As the Minister knows, I have asked a number of questions about conditions for nursing in the past and this is a further instance. There is growing concern in the nursing community about the inflexible and in some instances unreasonable approach being adopted by hospitals and administrators regarding refresher courses being undertaken at a number of Government hospitals. The aim of the courses is to attract back to nursing those nurses who for various reasons have been out of the profession for a while, especially experienced nurses who left to have families.

However, a number of women with families who are keen to re-enter the profession are finding it difficult to cope with the conditions that have been laid down for refresher courses. Many of the courses start at 8.30 a.m. and do not finish until at least 3.30 or 5 p.m., and this makes it most difficult for many nurses with family responsibilities. I understand that at least one hospital has sought to start its course at 6.30 a.m. There is also concern about the duration of the courses, the fact that they are not available on a part-time basis and that women are being required to buy their own books and, particularly, uniforms even though they may not be working at the same hospital on completion of the course. It would appear that, while the Government is genuinely trying to attract nurses back to the profession to overcome current shortages, the rigid conditions governing the structure of the courses is backfiring on efforts to encourage experienced nurses to participate in refresher courses. I ask the following questions:

1. Is the Minister aware that the rigid conditions applying to refresher courses are precluding many nurses who would otherwise be keen to participate in courses?

2. Does the Minister agree that the same conditions are, in part, responsible for an increasing number of nurses with families not staying in the profession, and therefore the conditions are inappropriate?

3. Will the Minister pursue negotiations with the relevant hospitals to introduce some flexibility into the conditions under which nursing refresher courses are conducted?

The Hon. J.R. CORNWALL: That is a slightly mixed bag of questions, I must say. The entire statement related to retraining programs, but the—

The Hon. Diana Laidlaw: No, to refresher courses.

The Hon. J.R. CORNWALL: Well, they are retraining programs, no matter what name we give them. Nurses are not required to take so-called refresher courses or retraining programs unless they have been out of the work force for five years or more, so they are retraining programs. Yet two of the honourable member's three questions related in general to the terms and conditions of employment of nurses. Let me take it in a reasonably orderly progression, if I may.

First, the retraining courses are conducted in such a way that those undertaking them are supernumerary. Let me be quite clear about that. It is not cheap labour. The people undertaking these courses are supernumerary; they are not paid a salary, but neither are they used as members of the work force. They are not taken into account when rosters are organised. They are literally supernumerary. In my recollection, the courses take about 20 weeks. Whether they should be extended beyond that period is a moot point. I feel very relaxed about that, one way or the other. If cases are put to me where it is believed that courses should extend over a longer period, I would certainly be perfectly happy to consider the matter. However, let me make clear that there is no massive conspiracy among the directors of nursing or other senior personnel to make life as difficult as possible for those who want to undertake the courses. The enlightened directors of nursing (and that applies to the great majority of people in our hospitals) know very well that it is very much in their interests, in terms of the full implementation of the 19-day working month, to attract as many nurses back into the work force as possible. As I understand it (and I speak with some authority in regard to the Royal Adelaide Hospital in particular) a reasonable degree of flexibility is observed at all times.

Regarding the books and uniforms and the other conditions that apply, I point out that 60 per cent of the funding for the refresher courses is provided by the Commonwealth Department of Employment and Industrial Relations under the Skills in Demand Program and thus those courses have to conform with the guidelines laid down by the DEIR under that program. For example, the allowances are means and income tested. There has been some confusion about the fact that those who believe that they are eligible have to enrol in the first instance with the Commonwealth Employment Service in order to be eligible for the allowances. It is true that they are required to provide books and uniforms, but that is not unusual in any post secondary or tertiary training situation. Students who attend the university, for example, or the South Australian College of Advanced Education (to name but two) are required to pass a means test to be eligible for TEAS allowances and they, or their supporters in the family, are expected to provide books or any other materials that are related to the courses they are undertaking.

Maybe in an ideal world we should be paying all of them a full and adequate allowance based more on the salary structure that they could anticipate if they were doing the same work on a full-time, employed basis. There are people like my colleague, the Hon. Frank Blevins, who believe quite passionately that all student nurses in a tertiary situation, as well as nurses who are being retrained, should be paid a full salary. The financial implications of that, of course, are enormous because, if we start to pay it to nurses, we should pay it to medical, law, agricultural science or engineering students—and everyone else. In an ideal world, if we could do that with or without a means test it would be delightful. However, the simple fact is that the cost implications are quite horrendous.

The Hon. Frank Blevins interjecting:

The Hon. J.R. CORNWALL: No, we do not exclude the poor, but that is a discussion that I will continue with the Hon. Mr Blevins in private as I have done on many occasions in the past. Again, I come back to the question of rigid conditions. I believe it would be desirable that there be as much flexibility as possible. I would be prepared to consider any reasonable submissions made to me along those lines. I do know—

The Hon. Diana Laidlaw: Will you discuss it with the hospitals that are undertaking these programs?

The Hon. J.R. CORNWALL: I think it is more appropriate for me to discuss the matter with the RANF in the first instance and I can certainly discuss it with the commission but, if the hospitals want to discuss the issue individually, I would also be prepared to do that. I do not live in a vacuum. I meet the directors of nursing at the various hospitals quite frequently and I know, as I have said in this place on several occasions, that the Director of Nursing at the Royal Adelaide Hospital is adopting a very flexible approach not only in regard to retraining but also in regard to shifts, working hours, job sharing and so on. It is because of that that the Royal Adelaide Hospital is coping tolerably well. However, we are by no means inflexible and we are quite desperate to attract nurses back into the work force. Therefore, I am quite happy to be propositioned in any reasonable way, provided it is in a professional way, of course.

POLISH LANGUAGE NURSERY/PRESCHOOL FACILITY

The Hon. C.M. HILL: Has the Minister of Tourism a reply to a question I asked on 21 August about a Polish language nursery and preschool facility in the Plympton region?

The Hon. BARBARA WIESE: My colleague, the Minister of Children's Services, has advised that the Polish community has been seeking the establishment of a bilingual child care centre for several years. This project was approved as part of the 1983-84 State-Commonwealth agreement for increased provision of child care services in this State. After numerous inquiries and inspections of State-owned properties, a site was located at Kurralta Park which was appropriate in size, location and price. However, the West Torrens council objected to the proposal, and after lengthy negotiations and upon legal advice, it was decided not to proceed at this address.

Since that time, renewed searching for an alternative site which meets funding and space requirements has taken place. Negotiations are being undertaken with the Enfield Primary School Council, which has agreed in principle to the proposal for this project to be located on their property. Costings are being prepared with a view to determining the feasibility of this particular location. It is hoped that, if this option proves practical, work will be able to commence in the near future. The Polish community has been subjected to a particularly frustrating set of events and it is quite understandable that they are anxious about the progress of this centre. Members of the Polish Nursery Committee have been involved and informed of progress throughout the process.

HYPERBARIC COMPRESSION CHAMBERS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about hyperbaric compression chambers.

Leave granted.

The Hon. ANNE LEVY: I asked the Minister a question yesterday about hyperbaric compression chambers but as Question Time expired before he completed his reply I am taking up his suggestion that I ask the question again today. I refresh his memory by saying that my question arose because of correspondence received from the Abalone Divers Association of South Australia, which is keen to see such a decompression chamber established in Port Lincoln, where its members and other people work. They feel that they might have need for it and are concerned about the time required to reach Adelaide, where such facilities exist, should they have need of such facilities. Does the Minister feel that a hyperbaric compression chamber should be provided in locations such as Port Lincoln?

The Hon. R.I. Lucas: Would you like to incorporate your answer in *Hansard*?

The Hon. J.R. CORNWALL: No, I would not like to incorporate my answer in *Hansard*. The fact is that I do not even have my copious notes with me.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Do not use that disgraceful language in here, Mr Lucas, you should know better.

Members interjecting:

The Hon. J.R. CORNWALL: I could have sworn I saw his lips move. With regard to hyperbaric oxygen chambers, let us address the question of the State services that we ought to provide. One could say that we should provide full accident and emergency services scattered about the countryside, or every 20 kilometres along our highways, in an ideal world. To some extent, although it is an absurd proposition, one can make out a case for that.

I have also had it put to me that the Great Northern War Memorial Hospital at Hawker should be fully equipped for accident and emergency services in case one day there is a two-day bus crash somewhere in the Flinders Ranges. The reality is that we have to decide at the end of the day what facilities can be made available within a very substantial budget without going completely overboard.

What has happened during my period as Health Minister is that we first addressed the question of a hyperbaric recompression facility at a central location in metropolitan Adelaide. When I became Minister there was a single person chamber at the Royal Adelaide Hospital, which was quite unsatisfactory. At the urging of Dr Ritson, and I might say with his assistance (and I thank him for that publicly), I set up a quite high powered committee of which Dr Ritson was a member and which included specialists in the field, a senior representative from the naval diving school in Sydney and people from the Health Commission.

As a result of their work and some good fortune with the National Safety Council I am pleased to be able to tell members that we now have a multi-person facility at the Royal Adelaide Hospital. That has staff available who are quite expert in their field. It is a facility which until six months ago simply did not exist. It is there and operational for this diving season. With regard to the provision of static or portable facilities in other parts of the State, I say that in an ideal world it may be desirable to have a facility at Port Lincoln and it may be equally desirable to have a facility at Mount Gambier.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: There are many divers at Mount Gambier—far more, Mr Dunn, than you are ever likely to find on the West Coast. In case you are unaware of this fact, I point out that places like Piccaninny Ponds and other underwater caves in Mount Gambier have arguably the best diving in this country.

The Hon. Peter Dunn: You know better than that.

The Hon. J.R. CORNWALL: The honourable member is a pretty ignorant fellow. He should have a talk to the Hon. Mr Cameron or his colleague next to him the Hon. Mr Lucas.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: The honourable member knows not what he is talking about. There is a great deal of diving done in the underwater areas around Mount Gambier.

The Hon. Peter Dunn: That may be, but it is not as much as the professionals are doing.

The Hon. J.R. CORNWALL: My simple statement to the Hon. Mr Dunn—and there is no need for him to become offensive about it—is that there is more diving done down in the Mount Gambier area than is ever done on the West Coast. That is a simple statement of fact, so one has to consider what facilities can be provided practically.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: It is a fact. One has to consider what facilities one can provide and under what conditions. All three Eastern States—Victoria, New South Wales and Queensland—have transportable recompression facilities provided which can be deployed to any part of the State quite quickly. They are transportable, of course, and after use go back to the central facility.

It has been put to me that we could buy a Conshelf shell for between $40 000 and $50 000, and that is perfectly true. My advice, on the other hand (and the advice comes through the committee from Surgeon Lieutenant Commander Gorman who, as I understand it, is an outstanding authority in this field in Australia) is that to fully equip that shell and make it fully operational would cost between $400 000 and $500 000—that is Surgeon Lieutenant Commander Gorman's advice, not mine.

He also makes it clear that it would be highly desirable to have staff available to operate the chamber on a part-time basis who have had at least four years experience after the gaining of specialist qualifications. They would have to be either fellows of the Royal Australian College of Occupational Medicine or fellows of the Royal Australian Colleges of Surgeons, Anaesthetists or Physicians. To provide that sort of specialist service in the Port Lincoln area would be very difficult.

I was interested to note that the member of the Opposition who made the announcement was the shadow Minister of Fisheries. I do not know where he gets his specialised advice in the matter of hyperbaric chambers and recompression; presumably he did not get that advice from the Hon. Dr Ritson. It is part of the open ticketing program that this desperate Opposition is carrying on with currently. It has no hope in life of beating Peter Blacker, I might add, in Flinders. My advice—and it comes not only from Surgeon Lieutenant Commander Gorman but also from the National Safety Council—is that we could provide a portable facility for about $70 000 a year.

Let me make three further points. First, it is unsafe to operate a recompression chamber without specialist personnel. Quite a dangerous situation developed at Royal Adelaide Hospital not many months ago in which a doctor and two nurses were placed in some jeopardy because of inexperience. To provide a recompression chamber to Port Lincoln without the necessary specialist support services can be dangerous, based on all the advice that I am given. It may well be that we would be far better off to provide a $70 000 portable facility. That would be a one-off modest capital cost, and

that facility in turn could be used to provide services to Mount Gambier, Port Lincoln and the West Coast.

Secondly, I understand that abalone divers are self-employed and are in a high risk but a high profit industry. Telephone number figures were talked about in discussions of their income. I cannot verify that one way or the other, but certainly I do not believe it is incumbent upon the taxpayers of South Australia to provide a facility for 23 abalone divers. Indeed, for the Opposition to get into that in a pre-election situation is somewhat less than wise. I believe that there ought to be an element of user pays, and that at least there ought to be some sort of cost sharing arrangement on whatever facilities are provided.

The PRESIDENT: Order! Could some of the conversations be toned down.

The Hon. J.R. CORNWALL: Any one of three would do for the present, Mr President. I have lost my train of thought almost entirely. I would be interested in exploring some sort of user pays facility or, alternatively, even some sort of cost sharing.

Thirdly, it is not, and never has been, considered the responsibility of the Government to pay workers compensation premiums. We are talking about people who are self-employed, who are in a high risk industry and who must accept some financial responsibility for the services that are required, just as industry provides services for other people who are in employment. I conclude by making the point that one of the major reasons why abalone divers get into trouble is that they do not follow the protocols.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Dunn should listen to this instead of cackling on the back bench. They dive too long and too deep. While they are down there picking up $10 notes—I understand it is a lucrative industry, or certainly has been in the past—at the same time they must have some regard to their own personal safety. Having said all of that, I am advised at present, on balance, that a transportable facility would be easily the best proposition. It is important that we consider the expertise necessary to operate any such facility—whether fixed or transportable. I would be pleased to consider any reasonable propositions put to me. I would insist at the end of the day that there should be an element of either user pays or cost sharing, or both.

NUCLEAR DISARMAMENT PARTY

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Nuclear Disarmament Party and the Electoral Act.

Leave granted.

The Hon. R.I. LUCAS: A recent decision in the District Court by Judge Burnett has resulted in a situation that, if a State election is held this year, the Nuclear Disarmament Party candidates will be prevented from having their names on the ballot paper. Other Parties, such as the Liberal Party and the Labor Party, can have their candidates' names and the respective Party on the ballot paper but the NDP will be prevented from so doing. This has resulted because of section 40 of the recently passed Electoral Act. In an excess of caution, in a section supported by all Parties, I might add, we included a three-month provision for registration of political Party names. I am now advised that the need for that provision no longer really exists because all the major Parties—Liberal, Labor, National Party, Democrats—have gone through the necessary registration process but, because of this technicality in the Act, the NDP has been prevented from registering as a Party and having its name on the ballot paper.

Because of the court decision the only way to resolve the problem is an urgent amendment to the Act to be initiated by the Government. We know that urgent Acts can be initiated: we have had a couple in the last week or two in regard to the Grand Prix. Bills have been introduced on Tuesday and we have had them through within a couple of days. I am advised that the NDP has contacted the Labor Party and the Democrats seeking support for such action. I am told that the NDP wrote to the Premier about two weeks ago and it has had one or two contacts with the Australian Democrats on both occasions seeking support. To date it has received no answer from the ALP at all and no indication of support from the Democrats or the Labor Party. I hope that the possibility of perceived electoral advantage to the Labor Party or the Democrats in preventing the NDP from having its name on the ballot paper is not the reason for the lack of response. My questions to the Attorney-General are:

1. Has the Premier discussed this approach from the NDP for amendments to the Electoral Act with the Attorney-General?

2. Does the Attorney-General agree that it is only fair that the NDP should be allowed to have its name printed on the ballot paper if an election is to be held some time this year?

3. Will the Attorney-General agree to introduce urgent amending legislation to allow the NDP to have its name printed on the ballot paper?

The Hon. C.J. SUMNER: I have not seen the request from the NDP, nor has that request been drawn to my attention following the decision of Judge Burnett. The Act provides that Parties can be registered so that they can have their name on the ballot paper, but they have to be registered at a certain point in time—

The Hon. R.I. Lucas: Otherwise they have to wait until the end of November.

The Hon. C.J. SUMNER: Otherwise they have to wait three months. My concern is that the Act has been passed. The Premier has announced that there will be an election between November and March, and I suppose that once in an election phase, as one will be in two days (in accordance with the Premier's program), there may be difficulties in bringing in a Bill to amend the Electoral Act, even if it is to do just a simple thing. However, the honourable member has raised the question and I have not had it brought to my attention—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: In normal circumstances, yes. All I am saying is that the law at present does not permit that, and that was a Bill passed by both Houses of Parliament, and that particular clause, as the honourable member suggested, was supported by both Parties. If it has had an unexpected result, that is something that I would need to examine. As I said, the problem with bringing in an amendment to an Electoral Act at present—

The Hon. R.I. Lucas: We could do it tomorrow.

The Hon. C.J. SUMNER: Well, I do not know whether or not the honourable member has consulted his colleagues on that topic. In accordance with the procedures of his Party, I am sure that he would no doubt wish to discuss the matter, if it were to be introduced. I do not think that the honourable member is in a position to give any undertakings on behalf of his Party. If he is, there has certainly been a major change in the power structure in the Liberal Party, particularly in this Council. However, the honourable member has raised the question. It is the first time that that

application has been drawn to my attention. I will examine it and let the honourable member have a reply.

PREVENTION OF CRUELTY TO ANIMALS BILL

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

The Hon. J.R. CORNWALL (Minister of Health): I move:

That this Bill be now read a second time.

With the concurrence of the Council and to expedite the business, I seek leave to have inserted in *Hansard* the second reading explanation without my reading it.

Leave granted.

Explanation of Bill

The purpose of this Bill is to rewrite South Australia's laws for the prevention of cruelty to animals in a form that is suitable for the 1980s and beyond.

The existing legislation is one result of the movement in the latter half of the 19th century that saw the creation of the Royal Society for the Prevention of Cruelty to Animals. At this time also there was written in to the Police Act 1869 a section designed to stop some of the cruel or inhumane practices that occurred in a society that used animals as beasts of burden. By the turn of the century, enough public opinion had been aroused for the Government of the day to table in the House a Prevention of Cruelty to Animals Bill. This Bill became the Act of 1908 and forms the basis of the existing legislation. Despite amendments and consolidations over the years, many of the provisions still in force reflect the attitudes of a non-mechanised society, and are out of place in the late 20th century.

Since the drafting of the original Act, there have been a number of changes in the way animals are used. We no longer rely on them for every day motive power, we use them in intensive agricultural systems, and we use them extensively in experiments and for testing new products. Accompanying these changes has been a change in community attitudes towards animals. Practices that were once carried out without question are now subjected to considerable scrutiny.

The most recent revival of the animal welfare movement began in the mid 1970s with the publication of several philosophical treatises. The most popular, *Animal Liberation* by Professor Peter Singer, was a forceful call to arms, written for the general reader, on the subjects of intensive farming and the use of animals for research. As a result, there emerged in Australia strong community interest in the welfare of animals within the intensive husbandry industries and in those animals which were being exported for slaughter overseas, particularly sheep and horses, and that interest persists today. One practical result of this has been the creation of a Senate Select Committee on Animal Welfare which was set up in 1983 to examine the treatment of animals throughout Australia. It is therefore appropriate that this State's cruelty to animals laws should be reviewed at this time.

Soon after this Government came to office, a working party was formed consisting of representatives from the Department of Agriculture, the agricultural community, the Health Commission and animal welfare organistions, to examine amendments to the Prevention of Cruelty to Animals Act which had been proposed by the RSPCA and to recommend to the Government those amendments that should be adopted. The process has been lengthy, due mainly to the amount of consultation that has occurred. There are many groups and individuals who have considerable expertise and interest in this matter, and the working party called for submissions from them at the beginning of their work. A draft Bill was circulated to those people who originally made submissions, and to many other interested organisations. The comments from this process have been of great help to the working party.

This Bill is the result of their work, and amongst other changes incorporates two important new initiatives. First, it creates an Animal Welfare Advisory Committee to advise the responsible Minister on all matters relating to animal welfare, and secondly, it requires the licensing of research and teaching institutions that use animals. Both initiatives have been well received by those people likely to be affected by them, and by animal welfare organisations.

The Animal Welfare Advisory Committee will consist of Government representatives, and representatives of agricultural and animal welfare organisations. The Committee is not intended as a representative one, but one that has the necessary expertise to provide advice on the administration of the Act, and to be a body to which specific inquiries can be directed. The Committee will also be responsible for advising on the formulation of regulations which will be an important part of this measure.

Research or teaching institutions will be required to create Animal Ethics Committees to examine and approve all work using animals. Ethics committees will also have responsibility to ensure that animals used in their institutions are humanely treated.

The draft Bill circulated for comment had included fish within the definition of animal. Honourable members may remember the comments in the press claiming that such an inclusion would harm both the commercial and recreational fishing industries. Because there is conflicting evidence about the ability of fish to feel pain, the definition of animals in the Bill before honourable members specifically excludes fish, and I have set up a committee to examine the question fully and to recommend appropriate measures.

The offences clause, clause 13, is a consolidation of the offences previously scattered throughout the Act. Honourable members will note that the penalties have been substantially increased over those in the existing legislation. The Bill upgrades penalties to a maximum of $10 000 or 12 months imprisonment. This is in line with recent judicial comment and public opinion.

The powers of RSPCA inspectors will change. They will no longer be special constables but will have all the powers normally associated with inspectors appointed under legislation. They will have the power to enter any vehicle or premises where animals are kept for commercial purposes. They will also be able to forcibly enter premises or vehicles where they reasonably believe that offences have been committed. However, unless the inspector believes that the animal is suffering, or is in danger of suffering pain, that forcible entry can be carried out only after a warrant from a justice has been obtained. At present, in summer, when animals are locked in cars left in the sun, inspectors must find the driver of the car before the animals can be released. This often results in the animal dying of heat exhaustion. The new provision will enable them to take appropriate action to relieve this problem, whilst at the same time providing protection from unwarranted intrusion into private premises.

I would like to draw honourable members' attention to the regulating powers in clause 44, in particular subclause 3, which will enable those codes of practice that have been approved by the Animal Welfare Advisory Committee to be incorporated within the regulations. In particular, agricultural codes of practice can be incorporated, thus removing the necessity of providing a blanket exemption from

the cruelty provisions as exists in the present legislation. This provision has been welcomed by the United Farmers and Stockowners Association and most farmers.

In summary, the Bill before honourable members today provides a modern legislative framework with which protection against cruelty to animals can be enforced, and should be an effective piece of legislation for the foreseeable future.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 provides for the interpretation of certain provisions used in the measure. Some of the more significant definitions are as follows:

'animal'—a member of any species of the sub-phylum vertebrata except a human being or a fish, and including prescribed animals.

'inspector'—means a member of the Police Force and an inspector under the measure.

'pain'—includes suffering and distress.

'the Society'—means the RSPCA (S.A.) Incorporated.

Clause 4 provides for the repeal of the Prevention of Cruelty to Animals Act 1936.

Clause 5 provides that the measure binds the Crown.

Clause 6 provides for the establishment of the Animal Welfare Advisory Committee (the Committee).

Clause 7 deals with the term of office of members of the Committee. Under the clause a member is appointed for a period not exceeding three years, and on the expiration of his term, is eligible for reappointment. A member may be removed from office by the Governor for mental or physical incapacity, dishonourable conduct or neglect of duty. A member's office becomes vacant if he dies, his term expires, he resigns or is removed by the Governor. On a vacancy occurring, the office must be filled under the measure.

Clause 8 provides for the allowances and expenses to which members are entitled.

Clause 9 provides for the conduct of business of the Committee.

Clause 10 is a saving provision.

Clause 11 provides for the office of secretary to the Committee.

Clause 12 sets out the functions of the Committee—

to advise the Minister on any matter relating to the administration or enforcement of the measure;

to consider legislative proposals relating to animal welfare;

to examine codes of practice relating to animals;

to investigate and report on matters referred to it by the Minister.

Clause 13 provides that it is an offence to ill treat an animal punishable by a penalty of $10 000 or imprisonment for 12 months. The clause provides that without limiting the generality of the expression, a person ill treats an animal if:

he deliberately or unreasonably causes it unnecessary pain;

being its owner, he fails to provide it with appropriate and adequate food, water, shelter or exercise, he fails to alleviate any pain suffered by it (whether by reason of age, illness or injury), he abandons it or he neglects it so as to cause it unnecessary pain;

he releases it from captivity for the purpose of it then being hunted or killed by another animal;

he causes it to be killed or injured by another animal;

he organises, participates in or is present at an event at which animals are encouraged to fight;

having injured the animal, he fails to take reasonable steps to alleviate its pain;

he kills it so as to cause it unnecessary pain;

he kills it in a manner contrary to regulations;

he transports it in a manner contrary to regulations;

he traps, snares or catches it contrary to the regulations;

he poisons it contrary to the regulations;

he cages or confines it contrary to the regulations.

Clause 14 provides that a person shall not use an electrical good or any other electrical device designed to control an animal in contravention of the regulations. The penalty provided is as under clause 13.

Clause 15 provides that a person shall not carry out a medical or surgical procedure on an animal in contravention of the regulations. The penalty provided is as under clause 13.

Clause 16 provides that a person is not to use an animal for teaching any science or for research or experimentation unless he holds a licence under the measure. The penalty under the provisions is $50 000 in the case of a body corporate and $10 000 in the case of a natural person. A person who carries out such activities in the course of his employment by a licensee is not required to be licensed.

Clause 17 provides that persons may apply to the Minister for a licence.

Clause 18 provides that, on an application for a licence being made, the Minister shall determine the application having regard to the suitability of the applicant to hold a licence, the adequacy of his premises and facilities, the adequacy of his arrangements for veterinary attention, and any prescribed matters.

Clause 19 provides that a licence is subject to such conditions as the Minister may impose. Without limiting the range of possible conditions, conditions may be imposed—

requiring the licensee to establish an animal ethics committee;

requiring the licensee to consult with an animal ethics committee in relation to specified matters;

requiring the licensee to seek the approval of an animal ethics committee before acquiring animals for teaching, research or experimentation, or using animals for teaching, research of experimentation;

requiring the licensee to provide an animal ethics committee with such information in relation to teaching, research or experimentation involving animals as is requested;

requiring the licensee to answer questions put to him by an animal ethics committee in relation to teaching, research or experimentation involving animals.

The Minister may vary or revoke conditions or impose further conditions.

Clause 20 provides that a licence remains in force, subject to the measure, for two years and may be renewed for successive periods of two years.

Clause 21 provides that a licensee may surrender his licence to the Minister.

Clause 22 provides that where a licensee has been found guilty of an offence under the measure, has obtained the licence improperly or failed to comply with a condition the Minister may revoke or suspend the licence.

Clause 23 provides that the Minister may establish such number of animal ethics committees as he thinks necessary. Where a licensee is required, as a condition of his licence, to establish an animal ethics committee, he shall do so in accordance with this clause. A committee shall consist of at least four members appointed by the Minister of whom:

at least one person who is a veterinary surgeon;

at least one person engaged in teaching or research activities involving animals;

at least one person responsible for the daily care of animals kept for teaching or research;

at least one person with an established commitment to the welfare of animals.

The Minister must ensure that the composition of a committee contains an even balance of such persons. A member of an animal ethics committee is entitled to receive:

in the case of a committee established by the Minister—allowances determined by the Governor;

in the case of a committee established by a licensee—such allowance as is agreed by the licensee and the member of the committee.

A member of a committee shall be appointed for a term not exceeding two years.

Clause 24 provides for the procedure of animal ethics committees.

Clause 25 provides that the functions of an animal ethics committee are:

to determine matters required under the measure to be referred to a committee by the licensee;

to approve the use of animals for teaching, research or experimentation proposed to be undertaken by a licensee;

to approve the acquisition, by a licensee, of animals for the purposes of teaching, research or experimentation;

to ensure that animals involved in teaching, research or experimentation are treated humanely and that the regulations relating to such activities are complied with;

to prepare annual returns for the Minister containing the prescribed information in relation to matters referred to the committee under this measure—

any prescribed functions.

A committee may approve the use of animals for teaching, research or experimentation conditionally or unconditionally. An animal ethics committee is not to approve the use of an animal for research or experimentation, or the acquisition of animals for such activities, unless satisfied that the activity is essential for the purpose of obtaining significant scientific data and the person who proposes to use the animal has appropriate experience and qualifications.

Clause 26 provides for appeals to the Minister against decisions of animal ethics committees. The Minister is not to determine an appeal unless the Animal Welfare Advisory Committee has investigated, and furnished the Minister with a report on the appeal. The Minister may confirm, vary or reverse the decision appealed against.

Clause 27 provides for appeals to the Supreme Court from decisions of the Minister. Provision is made for requiring the Minister to give written reasons for his decision.

Clause 28 provides that the Governor may, by notice in the *Gazette*, appoint a person nominated by the Society to be the Chief Inspector and persons nominated by the Society to be inspectors. The Minister is to provide inspectors with certificates of identification.

Clause 29 sets out the powers of inspectors. An inspector may:

at any reasonable time, enter any premises that are licensed under this measure or the Meat Hygiene Act 1980 being used by a licensee under this measure for a purpose for which he is required to be licensed or being used by a licensee under the Meat Hygiene Act 1980 for a purpose for which he is required to be licensed under that Act;

at any reasonable time, enter any premises or vehicle that is being used for holding or confining animals that have been herded or collected together for sale, transport or any other commercial purpose;

where he reasonably suspects an offence against this measure to have been committed on premises or a vehicle, enter or break into the premises or stop and detain the vehicle.

Under subclause (2), while in premises or a vehicle the inspector may:

ask questions;

take copies of documents;

examine any animal, and where he suspects an animal to be suffering unnecessary pain, seize and remove it for treatment and care;

inspect any object;

where he suspects on reasonable grounds that an offence has been committed, seize and remove any evidence of the offence;

take photographs, etc.;

require a licensee or permit holder to produce the licence or permit.

Under subclause (3), an inspector is not to exercise the power of breaking and entering except on the authority of a warrant issued by a justice, unless the inspector believes an animal is suffering unnecessary pain and that urgent action is required.

Under subclause (4), the justice must not issue a warrant unless satisfied by information on oath that there are reasonable grounds to suspect an offence has been committed under the measure and a warrant is reasonably required.

Under subclause (5), where an inspector believes the condition of an animal to be such that it should not be worked, he may by notice in writing direct the owner to rest it, give it food, water or treatment, and require the owner to ensure that the animal is not used for specified purposes for any specified period.

An inspector may be accompanied by assistants (subclause (6)). It is an offence to hinder or obstruct an inspector, penalty $1 000 (subclause (7)). Under subclause (8) a person must answer to the best of his knowledge, information and belief a question asked by an inspector, penalty $1 000 unless the answer would tend to incriminate him (subclause (9)). A person given a direction or a requirement must comply with it (subclause (10)).

Clause 30 provides that where a veterinary surgeon or inspector is of the opinion that the condition of an animal is, by reason of age, illness or injury, such that it is so weak or disabled or in such pain that it ought to be killed he may kill it (subclause (1)). Under subclause (2), an inspector shall not exercise that power without the owner's consent unless, where the owner is not present, he has been unable to contact the owner after taking reasonable steps, and, where the owner is present and does not consent, he has obtained a warrant from a justice authorising the killing of the animal. Under subclause (3) the justice shall not issue the warrant unless satisfied on information on oath that in the circumstances the animal should be killed. Under subclause (4) the inspector incurs no civil liability for the killing.

Clause 31 provides that it is an offence to pretend that one is an inspector, penalty $1 000.

Clause 32 provides immunity from liability for inspectors for acts or omissions done in good faith.

Clause 33 provides that where an animal is injured in an accident involving a vehicle, the person in charge of the vehicle shall take such steps as are reasonably practicable in the circumstances to inform the owner of the animal of its injury, and, where after taking such steps, he has been unable to contact the owner, inform an inspector, within 24 hours of the accident occurring, of the circumstances surrounding the accident, penalty $1 000.

Clause 34 provides that it is an offence to conduct a rodeo unless a permit has been issued, penalty $1 000. An application for a permit must be made to the Minister in the prescribed form with the prescribed fee. The permit may be issued for such period, and subject to such conditions, as are specified in the permit.

Clause 35 provides that, where a person believes on reasonable grounds that over a period of 24 hours or more an animal has not been provided with adequate food or water, the person may, with the authority of an inspector, enter the premises for the purpose of providing the animal with food and water.

Clause 36 provides that where the owner of an animal is convicted of an offence against the measure in respect of the animal, the court may make an order directing the person to surrender the animal to an inspector, and forbidding the person to acquire, or have custody of, any other animal or any other animal of a specified class, either until further order, or for a specified period. A person bound by such an order must comply with it, penalty $1 000.

Clause 37 provides for the service of notices.

Clause 38 provides that where a body corporate is guilty of an offence against the measure, every member of the governing body of the body corporate is guilty of an offence and liable to the same penalty prescribed for the principal offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

Clause 39 makes provision with respect to continuing offences.

Clause 40 provides that where a person commits an offence against the measure in the course of his employment, his employer is guilty of an offence (penalty $5 000). Under subclause (2) it is a defence to a charge of such an offence for the defendant to prove that he could not by the exercise of reasonable diligence have prevented the commission of the offence by the employee.

Clause 41 provides that the offences constituted by the measure are summary offences.

Clause 42 is an evidentiary provision.

Clause 43 provides that the Act does not render unlawful any practice done in accordance with a prescribed code of practice relating to animals.

Clause 44 is the regulation making provision.

The Hon. M.B. CAMERON secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL (No. 2)

A message was received from the House of Assembly agreeing to a conference, to be held in the Legislative Council committee room at 4 p.m. today.

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

That the sittings of the Council be not suspended during the conference.

Motion carried.

OMBUDSMAN ACT AMENDMENT BILL (No. 2)

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to amend the Ombudsman Act 1972. Read a first time.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

The issue which is brought forward in this Bill and which is dealt with in a later Bill I will seek leave to introduce results from the rather unfortunate event last week concerning the State Ombudsman, when the stark horror of what could be done to an Ombudsman or a judge became plain. In the heat of the moment, at any time while Parliament is sitting, day or night, under the present law the Ombudsman or any judge can be removed from office by a simple motion passed by Parliament, with no opportunity for the Ombudsman or judge to offer a defence.

A sacked judge or Ombudsman may not even know the reason, or that Parliament was considering the action. With one Party in control of both Houses this action could be rushed through to suit political purposes. Fortunately, in South Australia we have the Democrats in the Legislative Council to prevent such an abuse of power. The Democrats will press for a change to the legislation so that any motion to sack an Ombudsman or a judge must be referred to a joint committee of both Houses of Parliament for a report. The accused judge or Ombudsman can then be sure of a hearing of their case and there will be a 'cooling off' time.

Parliament would then be in a proper situation to consider the motion for removal. We believe that the legislation must be immediately changed to safeguard an Ombudsman or a judge in future from possibly unfair and intemperate Parliamentary procedures. The Democrats hope that the procedures never have to be used, but they should be devised and put into effect now while there is no emergency situation.

The legislation affected is, obviously, the Ombudsman Act. Members will notice that in a succeeding Bill I will be dealing with the case as it applies to judges in the Supreme Court. Other significant public figures in South Australia are affected by the same potentially quite horrendous and unjust procedure. In relation to the Constitution Act, to which I will apply comments briefly later, I want to deal with some matters comprehensively in this speech so that I will not repeat myself. I will refer back to these comments during the second reading explanation of the next Bill. Section 74 of the Constitution Act provides:

> The commissions of all judges of the Supreme Court shall be and remain in full force during their good behaviour, notwithstanding the demise of the King or of His Heirs and Successors, and notwithstanding any law, usage, or practice to the contrary.

Section 75 of the same Act provides:

> It shall be lawful for the King, His Heirs and Successors, to remove any judge of the Supreme Court upon the address of both Houses of the Parliament.

Section 5f (3) of the Local and District Criminal Courts Act provides:

> It shall not be lawful for the Governor to remove from office any person under the age of 70 years who is holding judicial office under this Act except upon the address of both Houses of the Parliament of South Australia.

The Local and District Criminal Court judges are similarly at risk of what I describe as a kangaroo court type procedure. The Electoral Act deals with the Electoral Commissioner in section 6d (2) as follows:

> The Governor may remove the Electoral Commissioner from office upon the presentation of an address from both Houses of Parliament praying for his removal.

The Police Complaints Authority is dealt with by section 8 (1) of the Police Complaints and Disciplinary Proceedings Act, as follows:

> The Governor may remove the authority from office upon the presentation of an address from both Houses of Parliament praying for his removal.

Section 8 (1) of the Audit Act 1921-1975 provides:

> The Auditor-General shall hold office during good behaviour, and shall not be removable from office unless an address praying for his removal is presented to the Governor by both Houses of Parliament during one session, or by one House during one session and by the other House during the next succeeding session, which sessions, however, need not be both during the same Parliament.

It is interesting that this provision seems to have such wide scope for the removal of the Auditor-General. In the light of the Auditor-General's latest report, I wonder whether the thought had flashed through the mind of the present Government that this may be a very convenient power to retain,

whereby the Auditor-General can be quietly swept from office without any public debate and exposure or with a case being put for the victim before he is rudely bundled out of office.

The case for the Bill is largely based on the natural justice that one must apply to this issue. I will cite excerpts from Hotop's 'Principles of Australian Administrative Law', which is a definitive reference work which is used by the legal profession, and it is highly regarded. I refer to the section headed 'Denial of Natural Justice' on page 169, as follows:

In the United States, the 5th and 14th Amendments to the Constitution provide that no person shall be deprived of 'life, liberty or property, without due process of law'. This constitutional guarantee has consistently been interpreted as meaning generally that the rights or other sufficient interests of citizens shall not be interfered with unless they are first given a fair hearing... Whatever the medieval concept of 'natural justice' may have been, in modern administrative law the expression has a limited and technical meaning. It comprises two common law rules developed to ensure that a fair procedure is followed in making decisions affecting the rights or other interests of individuals. These rules are:

(a) the hearing rule (*audi alteram partem*): the principle that a decision-maker must afford an opportunity to be heard to a person whose interests will be adversely affected by the decision;

Quite obviously, any of the people that I have referred to—particularly the Ombudsman—would be adversely affected by the presentation of an address from both Houses of Parliament for their removal. Under the current legislation that can be done without the person involved having the right to be heard. Page 170 states:

In Australia it is frequently provided by statute that an official or other authority must observe a prescribed hearing procedure when exercising its statutory powers. In such a case, the statutory procedural requirements will normally be regarded by the courts as mandatory, and a failure to observe them will render the authority's action *ultra vires*.

It is quite obvious that it would be a scandal if the procedures of Parliament could be accused of being *ultra vires* because of failure to observe the very simple requirements of natural justice, as outlined in this case. Page 171 states:

(1) *Implication of Duty to Observe Natural Justice*

It must be emphasised at the outset that there are two completely opposed views on whether the exercise of powers by administrative authorities should be made subject to the rules of natural justice. The more generally held view—among lawyers, at least—is that ideals of fair play and justice demand that natural justice be observed in administrative decision-making. It may be added that decisions which are reached after a full and impartial consideration of the facts and issues as presented and explained by appropriate means are likely to be of higher quality and more acceptable to the persons affected thereby.

The opposing view is then described as follows:

Those performing administrative functions must not be unduly hindered in the performance of their duties by holding that an invasion of an individual interest must always give rise to a judicial or quasi-judicial hearing. This view, however, is based on the fallacious assumption that natural justice and administrative efficiency are incompatible—that the requirements of a fair hearing will necessarily hinder effective administration. This is a short-sighted view and its influence has been largely responsible for the general failure, up until relatively recent times, to develop an adequate system of administrative law in England and Australia. Fortunately, it has not prevailed. The better view, it is submitted, is that adherence to the requirements of natural justice will ultimately promote administrative efficiency because of the greater public satisfaction and the fewer grievances that will result from the higher quality of decision-making thereby produced.

I should think that I need do no more than remind honourable members of the words that I have just read. In my opinion, they constitute an irrefutable argument for the Council passing this Bill to provide for compulsory referral to a joint committee of both Houses before an Ombudsman can be removed from office.

As I have said, several other senior public figures also face this risk. One group—Supreme Court judges—are addressed in my next motion on the Notice Paper. In relation to those groups and individuals not dealt with by impending legislation, I trust that the Government will see the wisdom in providing for them and will take necessary action in due course. However, if not, the Democrats will do so. I feel that in many cases this step of offering to the accused a chance to be heard and giving Parliament the advantage of a select committee inquiry is taken in dealing with many less significant matters and, therefore, I should not have to argue the case for this to apply in relation to the Ombudsman. I urge honourable members to support the Bill.

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

CONSTITUTION ACT AMENDMENT BILL (No. 2)

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to amend the Constitution Act 1934. Read a first time.

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

It is an identical Bill in intention and form to the previous Bill dealing with the Ombudsman. It is obvious that judges of the Supreme Court should not be subjected to peremptory removal from office without at least the due course of a parliamentary select committee and the opportunity to submit their case and be heard. I will not go through the argument that I submitted in my second reading contribution to the amendment to the Ombudsman Act, but I refer those readers of *Hansard* to that speech because much of its logic applies directly to this Bill. I believe that it is important to reflect that Parliament should have inbuilt to its procedures the time delay factor at least that the referral to a joint committee of both Houses would afford for a measure so dramatic and so profound as the measure to remove a Supreme Court judge. I commend the Bill to the Council.

The Hon. B.A. CHATTERTON secured the adjournment of the debate.

IDENTITY CARDS

Adjourned debate on motion of the Hon. Diana Laidlaw:

That this Council conveys to the Federal Government its strong opposition to the introduction of a national identification system, incorporating the Australia Card, because the proposal—

1. Was a simplistic response to the need to combat tax avoidance and social security fraud.
2. Represented an unwarranted intrusion into personal liberties and basic rights.
3. Had the potential to legitimise false identities.
4. Ignored overseas experience which confirmed it was virtually impossible to confine their use.
5. Could not guarantee that personal information would be secure.
6. Did not address how the system would be enforced.
7. Was questionable in terms of the cost benefit estimates.

(Continued from 23 October. Page 1443.)

The Hon. M.B. CAMERON (Leader of the Opposition): This is a subject on which I have expressed my views previously in another context. I must say that the question of identity cards Australia wide is one that really gets my goat. I frankly do not support it. I have from time to time been required or requested even in this establishment to have photographs taken, to carry identity discs to enter the place to prove that I am what I am—that I am a member of Parliament—and on every occasion I have refused for

the very good reason that I believe if a person is a member of Parliament, the very least that could be done is to recognise you as such when you enter the place.

The Hon. Frank Blevins: That is not difficult.

The Hon. M.B. CAMERON: That is so. All they have to do is get a side on view and they pick that up. It is my view that such matters are matters on which one should have some personal judgment. Identity cards is a subject on which I have become more and more angry as I hear more and more arguments put as to why we should carry them.

The Hon. C.M. Hill: You might be thin skinned.

The Hon. M.B. CAMERON: That is one of the arguments that has been put to me. It has been put to me that I am carrying pieces of plastic that already identify me. Let me say that those pieces of plastic are carried because I choose to carry them, not because some Government legislates that I must carry them, that I must identify myself, that I must lose my anonymity as a member of the great Australian nation.

The second argument that really gets my goat is the moment you say you are opposed, almost inevitably the presumptuous argument used is: what have you got to hide? All my life I have lived under a system in which I have believed that one is innocent until proven guilty, but in this case it appears that you are guilty if you dare to express the view that you are not in favour of identity cards. In other words, what have you got to hide? I find that an absolutely unacceptable and extraordinary argument and one that I would have thought that freedom loving people in this country would reject to outright, particularly people like the Hon. Mr Hill who went away from this country to fight for it. I would have thought—and I am quite certain that this is the case—that he would be the first one to stand up and protect the freedom of people in this country to choose whether they should carry a card or not.

The Hon. C.M. Hill: I carried one around my neck for five years.

The Hon. M.B. CAMERON: Yes, but that was for very good reason. They probably wanted to know who you were in case you ran into difficulties. That is a totally different matter. I was in the armed services too.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: That is probably one of the matters that turned me off it more than anything. I remember my number from the armed services quite clearly.

The Hon. Frank Blevins: What was it?

The Hon. M.B. CAMERON: A42191. I must say I did not get on too well and it is probably due to my general attitude towards freedom. We had no choice in that matter. It was compulsory national service and the moment you entered it, you seemed to lose your identity. I take exception to this general question that is brought up almost every time—in fact, every time that I say I am not in favour of it, straight away people say: what have you got to hide? Let me say I have got nothing to hide except that I believe I should have the right to choose whether to have an identity card or whether not to have one. When one goes overseas, the first thing you feel when you get back to this country is a general feeling of freedom, yet there are people in this country who want to cut away at that base of freedom. They want to put public servants in charge of our identity. They want public servants to have us on records. They want us to have numbers. All members would remember the cartoons that came out soon after this whole concept came into being, that when one was christened from now on, it would not be the name that was important but the number. The number will identify you in banks and anything to do with Government They will not ask: what is your name? They will ask: what is your number? What is the number we can identify you with on our computer? From that moment on, you lose control of all the information that—

The Hon. C.M. Hill: All this argument about numbers does not apply overseas.

The Hon. M.B. CAMERON: I get the impresssion from that interjection that the Hon. Mr Hill may well be in favour of this system.

The Hon. C.M. Hill: Yes, I am.

The Hon. M.B. CAMERON: That is extremely disappointing. I will be disappointed if that is the case. Does the honourable member mean that because they have it overseas we have to support it? I find that again another extraordinary argument because I have just said or was in the process of saying—

The Hon. C.M. Hill: I am saying that you don't call people by numbers overseas.

Members interjecting:

The PRESIDENT: Order! We have all this afternoon, but there are at least six people talking at the one time.

The Hon. M.B. CAMERON: I can handle it. It is all right.

The PRESIDENT: I am not asking you to handle it. I am asking the others to desist.

The Hon. M.B. CAMERON: I will keep the voice level up high enough so that everybody else will hear me.

The Hon. Frank Blevins: They don't have it in the United States.

The Hon. M.B. CAMERON: No. The two major democracies of this world do not have it. Perhaps the Hon. Mr Hill spent too long in Italy just recently learning a new language. Maybe they have it over there, but I say that the place that our constitution, our laws, came from—the United Kingdom—has not gone to this system for the very good reason that it believes in freedom. They believe that a person should have the right of anonymity as we do in this country. This is something that I feel very strongly about. I firmly reject this presumptuous statement: what have you got to hide? I find that the worst argument possible. It is a presumption of guilt until you prove that you are innocent by accepting a number given to you by the Public Service.

The Hon. Frank Blevins interjecting:

The Hon. M.B. CAMERON: Yes. I find it extraordinary that I, as a Liberal who believes in freedom, find myself allied in very severe opposition to this question with members of the extreme left of the Labor Party. I find it extraordinary that people on my side of politics, in many cases who I would have thought believe in freedom more than many of the extreme left, are in fact in favour of this particular proposal. The fact that the identity card has a photograph on it or not is another matter, but I do not think that is the real question.

The real question gets back to this point: do we have it or do we not? I frankly reject it. I do not believe it is necessary. I reject the proposal that, because some people do the wrong thing and some people take money out of the system that they should not take and because the system cannot cope with that. I, as a citizen, or any other citizen, has to accept a proposal that will take away what I regard as a basic right, that is, the right to decide whether or not I should be known by a number in this country. This is a country in which freedom is a very important word. It is a country that is based on freedom. It is probably the country with the freest system in the world, one where everybody feels free to express their point of view on any subject.

The Hon. G.L. Bruce: Free to rip off the system.

The Hon. M.B CAMERON: That is a matter of opinion. One of the problems that we face is that of some citizens losing their freedom. I do not want to get into this subject too much but unions do not regard people as having real

freedom because they force them to join unions before they can get work. If the Hon. Mr Bruce wants me to develop that sort of argument, I am happy to develop it now or at any future time.

The PRESIDENT: Order! The honourable member must ensure that his remarks are relevant to the motion.

The Hon. M.B. CAMERON: You are a person, Mr President, who spent some time away from this country fighting for freedom, and I know that a person like you would have grave doubts about this matter. I trust that this motion will pass so that it can be sent off to the Federal Government. I have been amazed that the Federal Minister of Health, Dr Blewett, a person who in the past was well known in South Australia for his defence of freedom and his work on the Civil Liberties Council (of which I think he was President), is the person now bringing this system forward. I find that somewhat hypocritical in view of his past performance. I wonder whether his heart is really in it. However, that is a question that he has to answer. I trust that the opposition we are now seeing arising even within the Labor Party will come to the fore and that the whole matter will be thrown aside and laid to rest forever, never to arise again. If there is a problem with people cheating the dole system or in other areas, then let us change the system to cope with that, but do not put a number on every citizen of Australia and take away a basic freedom for the purpose of achieving that. I have not yet been shown that that will be achieved and that there will be a sufficient return to justify the cost of this proposal, so I urge members to support this motion and in that way express a view against this proposal.

The Hon. R.J. RITSON secured the adjournment of the debate.

ENERGY RESOURCES

Adjourned debate on motion of Hon. K.L. Milne:

1. That a select committee be appointed to inquire into and report upon—
   - *(a)* The pricing and supply of natural gas in South Australia including reserves, prospectivity, cost of exploration for and production of gas and the need for any change in current and future contractual arrangements.
   - *(b)* The role of the South Australian Oil and Gas Corporation and the extent to which this organisation should be subject to public scrutiny and control.
   - *(c)* Present energy decisions regarding future power needs in South Australia.
   - *(d)* The most economical means of providing South Australia's future power needs with due consideration of environmental factors and local employment and in particular the relative advantages of—
     - (i) an interstate connection
     - (ii) importing black coal
     - (iii) development of local coal fields
     - (iv) Northern Power Station unit 3 and further development at Leigh Creek.
   - *(e)* Possible technologies for the development of South Australian coal resources.
   - *(f)* The 'Future Energy Action Committee, Coal-Field Selection Steering Committee, Final Report'.
   - *(g)* Alternative sources of energy.
   - *(h)* Methods of conserving energy.
   - *(i)* The advantages and disadvantages of having the portfolios of both Mines and Energy in one Government department and under the control of one Minister.
   - *(j)* Any other related matters.

2. That in the event of a select committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at our members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the select committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 23 October. Page 1444.)

The Hon. B.A. CHATTERTON: Last week when I spoke on this motion I touched briefly on the terms of reference of this proposed select committee. It is the Government's intention to support the establishment of this select committee. Since the motion was moved last week, the Government has introduced in another place a Bill to deal with the questions of natural gas supply and price on an interim basis. The Government has moved to establish a select committee in another place to consider that Bill and it will report next Tuesday.

That select committee will consider only that legislation, which is limited in scope as it is an interim measure. The Government envisages that this select committee proposed by the Hon. Lance Milne can deal with the wider question of long-term gas supply and price in the context of other energy options and the energy demand prevailing in South Australia.

The Government has a clearly defined energy policy which has been thoroughly developed over its term of office which covers gas, local coal and alternative energy development. Recognising the importance of these issues to South Australia, the Government considers it entirely appropriate that a select committee of this Council should be formed to examine that policy and the strategies which it is purusing and to report to the Parliament. The Minister had indicated to me that he does not view the establishment of such a committee as implying any criticism of the operation of the Advisory Committee on Future Electricity Generation Options and the Future Energy Action Committee. It is a parliamentary review of the major energy issues facing the State. I support the motion.

The Hon. M.B. CAMERON secured the adjournment of the debate.

TOBACCO SMOKING

Adjourned debate on motion of Hon. K.L. Milne:

That this Council, being aware of the harmful effects of side-stream tobacco smoke on non-smokers in the community, requests the Minister of Health to introduce legislation that would—

1. prohibit tobacco smoking in confined working and public places;
2. enforce the provision of non-smoking areas in all recreational, retail, restaurant and working areas not covered by 1 above;
3. prohibit the advertising or sale of all tobacco and tobacco smoking products on Government premises.

(Continued from 23 October, Page 1447.)

The Hon. J.C. BURDETT: I think that the Hon. Lance Milne is to be congratulated on bringing this motion before the Council. The question of the effect of passive smoking is important. Certainly, people who do not want that inflicted on them should not have it so inflicted upon them. I appreciate the remarks made by the Minister of Health when he spoke in this debate. The general thrust of his speech was that he is also sympathetic to the Hon. Lance Milne in what he is trying to do but the Minister feels that legislation is somewhat heavy-handed and that this aim of getting people not to smoke when it could adversely affect their fellow citizens should be a matter of education rather than the heavy iron first of legislation. I have some sympathy for this view, as well. The motion commences:

That this Council, being aware of the harmful effects of side stream tobacco on non-smokers in the community requests the Minister of health to introduce legislation that would—

I do not know that I am entirely convinced about the harmful effect of side stream tobacco smoke on non-smokers. With regard to people getting lung cancer through passive smoking, that is certainly not documented. It can be distasteful and unpleasant, there is no doubt about that, and sufferers from asthma and similar conditions can suffer.

However, the scientific research that has been done on the effects of side stream or passive smoking is somewhat ambivalent. The latest and most authoritative report on the issue was released by Professor H. Schievelbein of the German Cardiac Centre in Munich in the last few months. He, in summary, maintains that available findings from analytical epidemiological and dosimetric investigations do not verify the claim that passive smoking represents a general health risk for healthy adults. A Vienna symposium on *Passive Smoking from a Medical Point of View*, in 1984, cosponsored by the World Health Organisation, concluded:

> Should lawmakers wish to take legislative measures with regard to environmental tobacco smoke, they will for the present not be able to base their efforts on a demonstrated health hazard from environmental tobacco smoke.

As I have said, it can be most offensive to people who do not wish to subject themselves to the unpleasantness that they feel from people smoking in their company. Certainly sufferers from asthma and certain lung conditions do suffer through people smoking, particularly in confined places.

For the reasons outlined, and relying on the two reports that I have summarised, I do not necessarily agree with the assumption that the Council is aware of the harmful effects of sidestream tobacco smoking. I sympathise with the intent of the motion, namely, to try to procure a situation whereby people who do not wish to be subjected to other people smoking in their presence are not so subjected. The legislation that the motion calls on the Minister of Health to introduce is 'to prohibit tobacco smoking in confined working and public places'. If they are confined (I suppose it is a matter of definition), certainly tobacco smoking can be most offensive. The problem of definition and the practical questions involved are important. The second paragraph of the motion states:

> enforce the provision of non-smoking areas in all recreational, retail, restaurant and working areas not covered by 1 above.

Again, I sympathise with this paragraph but it could be very difficult to enforce, and this is to be done by legislation. There is a problem in this area. Certainly, people who wish to go to what I have in mind, particularly restaurants, and who do not want to be subjected to tobacco smoke being blown all over them should have the right to be free from that. Conversely, people who smoke (and they comprise about a third of the community) particularly enjoy smoking when they go out for a meal. If they go to a restaurant and want to enjoy their meal, that is just the time when they enjoy a smoke. There is a problem and the Minister acknowledged that when he spoke in the debate.

What do we do? Will it be possible for all restaurant proprietors to have separate areas for smokers and non-smokers? Do they have to be in separate rooms and so on? It is a difficult problem. The third paragraph of the motion states:

> prohibit the advertising or sale of all tobacco and tobacco smoking products on Government premises.

Again, that is difficult and the Minister was correct when he suggested that it is a matter of education; there needs to be a process of moving towards this kind of position rather than prohibiting smoking by legislation. After all, if one is talking about banning the advertising for sale of all tobacco and tobacco products on Government premises, it does not have to be by legislation. If one is talking about Government premises, it can be done administratively without relying on legislation at all.

Certainly, I am aware of situations such as prisons and mental hospitals where residents commonly smoke a lot and want to purchase their requirements on the premises. I am convinced that it is not to their health advantage to do so and that, if they could through an education program or through some other means eventually be prevented from doing this, it would be a good thing. That is what we should be aiming at, and I do not see that legislation is necessary in that regard. Therefore, I move:

> Leave out all words after 'That this Council' and insert:
> being aware of the possible harmful effects of passive tobacco smoke on non-smokers in the community, request the Minister of Health to develop proposals in conjunction with local government that would—
> (1) prevent tobacco smoking in confined working and public places;
> (2) support the provision of non-smoking areas in all recreational, retail, restaurant and working areas not covered by (1) above;
> (3) where practicable, prohibit the advertising or sale of all tobacco and tobacco smoking products on Government premises.

The reasons for my amendment are, first, I have inserted the word 'possible' before the word 'harmful'. I have indicated that it is not documented that passive or sidestream smoking is always harmful. I have covered that by inserting the word 'possible'. The most important part of the amendment is that, apart from asking the Minister to introduce legislation and asking him to develop proposals in conjunction with local government that would do those various things, for the reasons I have mentioned before, this would be far more productive than trying to do those things by legislation.

I have introduced the concept of involving local government because I am informed that overseas, particularly in Canada, these kinds of things are done and are done effectively, and it is largely in cooperation with local government. Local government has been most active in taking initiatives in this area, and in the local press we have seen recently in South Australia that the city council has concerned itself with this issue. Therefore, I think we should depart from asking the Minister to introduce legislation and, instead, ask him to develop proposals that will have these results and do so in conjunction with local government.

The specific parts of the initial motion are still in my amendment, slightly amended, to emphasise what is practicable rather than what is ideal. Certainly, we ought to pursue the ideal but we ought to acknowledge the practicability of doing so when we are talking about specific legislation or, as in this amendment, specific proposals. I believe that the amendments capture the spirit of the original motion and, as I said, the Hon. Mr Milne is to be complimented on bringing that motion to the Council. Also, the amendments pick up the point made by the Minister about the heavy handedness of legislation and its possibly being counterproductive. I commend my amendments to the Council.

The Hon. G.L. BRUCE secured the adjournment of the debate.

WINDSOR GARDENS TRAFFIC REGULATIONS

Order of the Day, Private Business, No. 8: The Hon. M.B. Cameron to move:

> That regulations under the Road Traffic Act 1961 concerning traffic prohibition (Windsor Gardens), made on 16 May 1985 and laid on the Table of this Council on 1 August 1985, be disallowed.

The Hon. M.B. CAMERON: I move:

That this Order of the Day be discharged.

Order of the Day discharged.

BUILDERS LICENSING BILL

Adjourned debate on second reading.
(Continued from 29 October. Page 1571.)

The Hon. M.S. FELEPPA: I commend the Government for bringing this legislation before the Parliament. I am sure that if the Bill is passed, to some extent it will reduce disputes about building constructions by the establishment of the Commercial Tribunal. However, it is a pity that the Minister, with the assistance of his department, in drafting this legislation has omitted the category of building consultants in private practice. These people, whether operating in an individual capacity or as a company, are involved in building plans, the supervision of the structural design of buildings, and problems in relation to building faults such as soil tests, cracked homes, bad roof construction, bad drainage, etc.

However, more than anything else these people are involved in legal disputes over the technical construction of buildings. I am aware that presently there is no minimum qualification or any legislation governing qualified building consultants. These people are not permitted by the professional institute to advertise in the media. They are forced to be listed under the heading of 'Building Consultants' in the yellow pages of the telephone directory and are grouped together with building contractors and other categories. Because they are grouped together—qualified and unqualified under the same heading—it could be the case that a qualified consultant who is best suited to give advice is passed over for the unqualified person because of the difference in fee.

Further, I point out that a qualified consultant is governed by his recommended professional fee structure, whereas an unqualified person is not. Therefore, that person is able to charge any inspection cost well below the normal fee and possibly not be able to offer the best professional service to members of the community in relation to structural problems of buildings. I believe that home owners need to be protected against any structural fault in a home, particularly in relation to foundations and roof constructions (which are very expensive parts of any building), and proper drainage.

This legislation, as it is drafted, with the complete omission of building consultants in private practice, will not give to the public of South Australia the necessary guarantee of protection. I draw to the attention of members of this Council, and particularly the Minister, that if we believe that a person buying a secondhand car should seek an inspection by an independent motor mechanic and advice from the Department of Consumer Affairs, I consider it logical that a home owner should be able to freely seek an opinion from a building consultant in private practice, who is also involved in legal disputes in these matters.

I feel very strongly about this and I am honest enough to suggest that we should provide an assurance to home owners, in particular, and to home buyers when they seek an inspection by a qualified consultant. In the legislation before us, we should give this assurance by bringing the building consultants in private practice in line with all other categories of trades dealing with building construction.

After all, the buying of a house is, for most people in this country, the largest financial transaction they will have to cope with in their lifetime. The trauma of selecting a qualified building consultant could be eliminated by registration or licensing for all building consultants, bringing them in line, as I said, with other sections of the building industry covered by the Commercial Tribunal.

I point out to the Minister that a written submission is to be forwarded to him shortly by the Master Builders Association (MBA) with an addendum in relation to private building consultants. There will be a seminar early in November to discuss the implications of this legislation and, in particular, to deal with the omission of private building consultants. In view of this, I wonder whether the Minister is able to reconsider this specific part of the legislation and to accept my proposals that I personally forwarded to him days ago. I will reserve further comment on part III for the Committee stage.

The Hon. L.H. DAVIS secured the adjournment of the debate.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 24 October. Page 1510.)

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill arises as a result of a long standing and difficult problem between what seem to be regarded as two separate areas of South Australia. It is and has been a matter of concern not only to the present Government but also to previous Governments. There is a very strange set up whereby some sort of artificial boundary has been created between the South-East and other areas of the State in relation to the supply of milk to the metropolitan area. This boundary shifts occasionally, and there has been some alteration to it. In fact, I understand that one part of the South-East is contemplating supplying milk to the metropolitan area through a system which will attempt to overcome the boundary. For some time I have regarded the boundary as being somewhat anachronistic. The boundary obviously came about as a result of the inability in the past of people to get milk to the metropolitan area in a satisfactory condition for sale. Of course, that time has long since passed. As the Minister would be aware, it is now possible to transport milk over a long distance and have it arrive in good condition.

The Hon. Frank Blevins: Even from New Zealand.

The Hon. M.B. CAMERON: Yes. That argument no longer applies in relation to the transportation of milk: it is no longer a question of milk arriving in good condition. The present system has grown as a result of the artificial boundary. It is all very fine: the system works as long as everyone in the system receives a reasonable deal. Of course, what has happened is that the majority of the South-East product goes into manufacturing; the other areas supply the metropolitan area with milk for human consumption. The price differential between the two markets has grown—in fact, I understand that the present difference in price is about double. Producers in the South-East receive about 70 cents less for their product than do the metropolitan suppliers. In fact, I understand that the figure is 148.67 cents per kilogram of butter fat. I do not know whether the Minister is aware of that figure but, from what I have been told, that appears to be the situation.

That is not the only question that must be considered. In terms of return, one must also take into account the question of production costs and the potential cost of transport of the product. There are also other factors involved. If one considers that the return from one market is almost double the return from the other market, it would not necessarily work out properly; therefore, it would be unfair to say in any adjustment that that figure should be taken into account.

When my Party was in Government we waited for some time while the two areas negotiated. The system decided on provided that the price to growers in the South-East would be augmented by an amount from city milk sales to ensure

that producers in the South-East received what was regarded as a reasonable share of the overall price. Because of that, producers in the South-East agreed to continue not supplying to the metropolitan area based on the old boundary. I cannot help thinking that one day this system will stop working because, whenever there is a difference in price between the two areas, the question arises as to how much the augmentation will amount to, how it will be paid and to whom it will be paid. It becomes a very complicated exercise indeed.

At present, I know that producers in the South-East—who I think are entitled to about $900 000 from last season's production—have not yet been paid, and I am not really sure why. I understand that one reason could be that factories in the South-East have not provided the necessary information to allow for payment. Another reason given to me is that people in the metropolitan area industry have decided to withhold the money as some sort of bargaining weapon. I do not know which of the two suggestions is correct. Either way, it is very unsatisfactory for growers in the South-East who are waiting for payment. When the $900 000 agreed price became due the differential between the South-East price and the metropolitan area price was not as great as it is now. It has become a very difficult question indeed.

A short time ago my Party was approached for its policy in relation to this matter. One of the greatest problems is that whenever negotiations take place both sides seem to square off in an attempt to achieve the strongest possible negotiating stance. It appeared to the Liberal Party that an impasse had been reached. We came up with a policy, as follows:

1. A Liberal Government will give the two industry groups until 31 December to negotiate an appropriate amount of funds to be transferred from SADA dairyfarmer returns to SEDA dairyfarmer accounts.
2. If an acceptable figure is not agreed by both parties by 31 December, then an independent accountant will be nominated to consider all of the factors and determine an appropriate amount for transfer.
3. If the independent arbitrator's determination is not accepted by 31 March 1986 the Metropolitan Milk Supply Act will be amended to enable free trade and access to the metropolitan market place by SEDA producers and/or any others who choose to seek that whole milk market.

The Liberal Party devised that policy because we were asked to have something that could be considered in the event that we were elected to Government. We have devised what we consider to be a reasonable approach, and we have allowed a reasonable time limit. One problem that the Minister would be aware of is that, unless a timetable is placed on considerations of this type, they can drag on and on. That has been a problem for some time.

The Hon. Frank Blevins: Two and a half years.

The Hon. M.B. CAMERON: That is right. It really becomes an absolute pain in the neck for anyone trying to achieve a result in this area. We thought that the quickest way to achieve a result was to have a time limit. During the time that these negotiations have taken place I have accepted that the Minister has been aware of the situation and has tried to do the best possible job. I have always felt that he was trying to do this without allowing politics to come into the matter.

However, I was somewhat disappointed when I saw a press release from the Minister indicating that he was going to amend the Metropolitan Milk Supply Act. The press release stated that this had come about because of strong representation from an individual in Mount Gambier—who just happens to be the ALP candidate for that district. I hope that the Minister included that fact in his press release as part of the normal process of politicking before an election and not because that was the only representation that he had had on this issue. I was somewhat concerned by that.

I think (as does the Opposition) that the question of introducing legislation is a little premature. If we are not careful, this is going to develop into a confrontation situation between the groups and this legislation could well bring that about. I would far rather see the question of legislation put aside for the time being. The Minister has issued that indication in the past, as I understand it, to the organisations concerned, and to rush into it at this stage is not necessary, in our opinion.

What I would prefer the Minister to do is to take a similar stand to that which we took, and that is to put time limits on the parties to enable them to achieve a result by a certain time. I am fully aware of the problems that he faces with the various individuals. I am fully aware of their personalities and the way they go about things. I urge him not to proceed with the legislation at this stage because, if he does, I indicate that we certainly would be compelled to oppose it. I ask him to allow the situation to continue for a period of time sufficient to enable the various parties to resolve their differences. It is certainly a question that has caused a real degree of concern amongst people who are not necessarily dairy farmers up here but who will be the collection agents under the Bill, and I have no doubt that the Minister has been hearing from those people as we have. I believe that it is necessary to have more discussion with those people before the matter proceeds.

The Hon. R.I. LUCAS: The problems of the dairy industry have been well documented by many spokesmen. The problems of the South-East dairy industry are particularly complex, as the Hon. Mr Cameron has just stated. These problems are well known to many members and they are particularly well known to the local member, the Hon. Harold Allison, who has been a very strong supporter of the South-East dairy industry during his decade in Parliament. Indeed, he has been a very strong supporter of all things connected with Mount Gambier and the South-East and in particular the Lower South-East. Members will know, and particularly members on this side of the Council, that Harold has a fiercely independent streak in him, and he certainly makes the views of the South-East and Mount Gambier clearly heard in our Party room and in the Parliament and in any other forum where he gets the opportunity.

When he is required to do so, the Hon. Harold Allison has certainly demonstrated that he is prepared to put the views of Mount Gambier citizens or Lower South-East citizens before all other things—and I mean all other things. He has represented their views very strongly over that decade and we have only to recall a recent debate in another place in relation to potato marketing where he felt so strongly in representing the South-East that he took a fiercely independent line and crossed the floor to vote against our Party line on that matter.

Whilst this matter is a day or two away from getting to another House, I will be very surprised if the Hon. Harold Allison does not once again strongly support the views of the South-East and Mount Gambier in relation to this Bill. All members would know, and I think even the Minister would acknowledge, that the one thing the citizens of the South-East have is a fiercely independent streak, and the one thing that they want in their local member is that very thing. They want their views represented, whether it agrees with the particular Party policy or philosophy or not. I do not think that concerns Mount Gambier residents or South-East residents too much. They leave that to the Parties to worry about. They want their views put to the Parliament, and the Hon. Harold Allison has a good record of doing that for 10 years.

The Hon. Mr Cameron has referred to the actions of the Liberal Government in the period 1979-82. I think it is only fair to put on the record the fact that the local member, as a member of the State Liberal Cabinet during that period, was involved in the negotiations in quite an intense way between the South-East Dairymen's Association and the South Australian Dairy Association and the State Minister of Agriculture of the time, to put into effect the augmentation scheme that the Hon. Mr Cameron has referred to in his contribution today.

The Hon. M.B. Cameron: I had a bit to do with that too.

The Hon. R.I. LUCAS: I am sure that is the case, but credit ought to go to the Hon. Harold Allison on this occasion and not necessarily to the Hon. Mr Cameron. In October of this year, he received a representation from the SEDA under the signature of Mr H.J. Bruins, Secretary of the South-East Dairymen's Association. The letter went under the heading, 'Re: Equalisation of market milk premiums on a Statewide basis, and extending the Metropolitan Milk Supply area to include the South-East of South Australia'. He indicates in the letter that the association represents 300 dairy farmers and relates some of the history of the problems of the negotiations. The letter then states:

> At present, our members are prevented by the Metropolitan Milk Supply Act from selling market milk in the Adelaide area, thus denying them access to their equitable share of market milk premiums. The purpose of this letter is to request that your party—

that is the Liberal Party—

> states in unequivocal terms your attitude towards the full State equalisation of market milk premiums, and the extension of the metropolitan milk supply area to include the South-East of the State. We request that you convey your Party's policy on these matters to us in writing, as well as making it publicly known. This will assist our members in deciding on which way to cast their votes at the next State election.

The Hon. Frank Blevins: Very subtle.

The Hon. R.I. LUCAS: Yes, but still a genuine request from an industry lobby group. They wanted to know where the local member stood on the issue. That was signed by the Secretary of the South-East Dairymen's Association. In response to that request, the Hon. Harold Allison addressed a large meeting some two weeks ago in the South-East and laid down the Liberal Party policy. The Hon. Mr Cameron has read that in full, but in essence it was basically a three part plan. First, it was a request to the industry groups to get their heads together to come up with some sort of compromise by 31 December. Secondly, if that did not work, an independent arbitrator would be appointed by the Liberal Government and that arbitrator would determine an appropriate amount for transfer between the two parties. If that was unacceptable to the parties by 31 March, then the Liberal Party would amend the Metropolitan Milk Supply Act to enable free trade and access to the metropolitan market place by SEDA producers and/or any others who choose to seek that whole milk market.

I repeat that that section of the Party policy is exactly what the South East Dairymen's Association requested from the local member and the Liberal party in its letter of this month, which I have quoted in this Chamber today. Therefore, the Liberal Party policy, if in government, would at least in point three mirror what the South East Dairymen's Association requested from the local member in that letter. I would support that policy. The simple fact of life is that at this stage we are not in government and might not be until March or April of next year, if an election is not held until that time.

We are confronted with a situation where negotiations between the two factions have broken down. The Hon. Harold Allison has put to me and other members the genuine cases of hardship that exist amongst South East dairy farmers at this very moment. The local member has put the view strongly to me that these people are in genuine need and cannot wait until possibly March or April of next year for the situation to be resolved. My position in relation to the Bill will be that as a short term measure or attempt to resolve the problem by the Minister and the Government, and as an attempt to assist those genuine cases of hardship in the South East that exist at the moment, the Bill should pass. However, I would not like to see this legislation on the books forever and a day.

Members interjecting:

The Hon. R.I. LUCAS: The part I like about our policy is the third section about opening up the market as the SEDA would like to see it, as it said in representations to the local member. As a short term measure I will be supporting the Bill.

The Hon. PETER DUNN: This is an unusual Bill. The Minister has ripped into gear with it. He must understand that people involved in an industry spread across the State cannot get together as frequently as they would like. This point of view cannot always be expressed as clearly and concisely as they would like and it takes time to get their views out. It takes time to work out solutions to problems such as this, but the Minister jumps in. As he is a member of the consensus crew that is sweeping the country just now, I am surprised he has jumped in at such a speed and has not allowed the industry to sort out what it can legitimately do and will do if pressed to do so.

The industry has run along well for some time. It is at the moment feeling a bit of pressure, but what rural industry is not feeling pressure at the moment? If the Minister is going to jump into every rural industry that has a slight problem he will be a very busy boy in the next few years, days or months, however long he is Minister.

We put a plan forward that allowed for simple, plain and clear negotiation by the industry. This industry is a complicated one. There are boundaries and a difference between whole milk and manufacturing milk. There are schemes coming from every angle including one from the Federal Government which will help those producing and manufacturing milk, which is fundamentally what the South East producers do. If the scheme is introduced, does the Minister consider that the Mid North, that is, Golden North, the Maitland producers and those on Eyre Peninsula, few as they are, will be drawn into the scheme?

The Hon. Frank Blevins: The answer is 'No'.

The Hon. PETER DUNN: The Minister answered 'No'. I hope that that is on the record because it would be a shame if those people not involved in this argument were to become embroiled in it. It is a totally different kettle of fish and demonstrates to me how the industry is fractionated purely on boundaries and where people live. I think that the Minister has been rather rapid in his response and I do not think that that was for all the motives that he will stand up shortly and tell us. Having read his press release, I think that the motives for his introducing this legislation are quite clear. I do not support the Bill.

The Hon. FRANK BLEVINS (Minister of Agriculture): I thank honourable members who have contributed to this debate. I will deal briefly with the responses. The Honourable Martin Cameron basically set out the problem and did so accurately. The following two speakers made speeches that were only satisfactory in as much as they were brief. What they said was brief and for that we are grateful, because normally they say little, but at great length. At least on this occasion they were brief.

There are a couple of points that I make in response to the Hon. Martin Cameron who said that there is an artificial

boundary drawn between the two regions in question—the central region and the South East. Whilst in one sense that is correct, in another sense it is quite incorrect. The problem is that they are two separate regions. The South East, for example, has very cheap costs of production and seasonal production. It has extensive production, but the problem is that it does not have a liquid milk market. It has a small liquid milk market, I think of the order of 3 per cent of production and that is the problem in the South East. In the central region the costs of production are higher.

The Hon. Peter Dunn interjecting:

The Hon. FRANK BLEVINS: The Hon. Mr Dunn interjects saying that there are too many producers.

The Hon. Peter Dunn: I said, 'Maybe there are too many producers'.

The Hon. FRANK BLEVINS: He corrects that and says that he said, 'Maybe there are too many producers.' I was not going to go into that, but as the Hon. Mr Dunn has raised the matter I will. The central region has about 40 per cent of its production going to the metropolitan area, although costs of production are quite high. Some would argue that one should not produce milk in the Adelaide Hills on land of that value.

The Hon. M.B. Cameron: That is because we let them have the market.

The Hon. FRANK BLEVINS: That is another argument, but they are two distinct regions with distinct problems. Attempts to come to grips with the problems over the years have been difficult. While there was an overseas market for manufactured products from milk and while that was paying reasonably well the problem was not too large. Of course, now everybody else is dumping dairy products into what we regard as our traditional markets and we are now screaming about that. There is a whole range of problems here.

I do not want to go into all the problems of the dairy industry. They are complex but understandable and I suppose they are interesting. Some day someone will write a book on the dairy industry that we once had—the history of the industry and the way in which it has gradually got itself tied up with more and more regulation. It will make fascinating reading for historians. There are two quite distinct regions.

I refer now to one or two other points made by the Hon. Martin Cameron. I was very pleased that the honourable member did not bring politics into this debate to any significant degree, because it really is not a political issue. It was a pity that the Hon. Mr Lucas did not see it that way. Very strong representations have been made to me by a number of people, including our candidate in Mount Gambier.

The Hon. R.I. Lucas: He is not political?

The Hon. FRANK BLEVINS: In all fairness, he also made very strong representations as an advocate in court against the Labor Party's assets test for farmers. So let us be clear about that.

The Hon. R.C. DeGaris interjecting:

The Hon. FRANK BLEVINS: I do not know. It is not necessary, as the Hon. Martin Cameron said, to go into politics on this occasion. On the first occasion I went to Mount Gambier as Minister of Agriculture the first person I saw was a representative of the South-East Dairymen's Association.

They came to see me and asked, 'Were you elected on a platform of legislating for a more equitable share of the market if the present system does not deliver?' I said, 'That is correct.' They asked, 'Will you legislate?' and I said, 'At the moment, no. I have no interest in legislating. If you sort out the problems yourselves, as you appear to be doing, I will not legislate, but if it is necessary I will legislate.'

So for the Hon. Mr Dunn to say that I have jumped into this precipitously is nonsensical, because I have had representations on this issue going back for 2½ years. If that is precipitous, then the Hon. Peter Dunn works at a different pace than I do. I would have thought that 2½ years was not a bad gestation period for this legislation. I spoke to the two parties personally and extensively, and I had my officers speak to them extensively, attend their meetings in the central region and in the South-East and meetings between the two parties. I have told them repeatedly—personally and publicly—as late as last week on the *Country Hour* (and I am sure that many members would listen to the *Country Hour*, as I do)—

The Hon. Peter Dunn: We all do.

The Hon. FRANK BLEVINS: I am pleased to hear it. I told them that even at this late stage I want to see them come to some agreement, because I am always loath to legislate. However, I have received a letter saying that that is not possible and that negotiations have broken down.

The Hon. M.B. Cameron: Where was it from?

The Hon. FRANK BLEVINS: It was from the South-East.

The Hon. M.B. Cameron: Who was responsible for the breakdown?

The Hon. FRANK BLEVINS: When there is a breakdown in negotiations, it is probably unfair to blame one party or another. There are two parties in negotiations and, if negotiations break down, I suppose the reason can be directed to both parties. I am happy to quote the letter to the Council if members feel it is necessary.

The Hon. M.B. Cameron: Are you aiming for the negotiations to start again?

The Hon. FRANK BLEVINS: I will come to that in a moment. I put forward the proposition very strongly that I have done everything possible to get the parties to agree. I have stated publicly that even at this stage that is what I want. When this legislation passes, I will approach the parties again and say, 'I now have the authority to do something about it. I did not have the authority previously. I can make suggestions, as I have done for 2½ years, but I have not been successful with the various propositions so now I have the authority to do something. Parliament has given me that authority.'

The Hon. Peter Dunn interjecting:

The Hon. FRANK BLEVINS: Yes. I will then say to the parties, 'However, I still do not want to use the authority and, if you come to an agreement, the legislation will not be proclaimed.' Unfortunately, I believe that the parties will come back and say, 'No, we cannot come to an agreement' so the legislation will be proclaimed. However, I will attempt to get the parties to tell me their final position and to say whether they are prepared to negotiate further before the legislation is proclaimed.

Regarding the augmentation scheme, accusations have been thrown around that the South-East is demanding too much of the central region, that the central region is being asked to pay too much and that the central region, while being technically correct regarding the payments sent to the South-East, has used the fine print in the agreement to the nth degree. I think there is probably a bit of truth in all those accusations, but that does not alter the fact that there is an unanswerable case for payment to the South-East from the central region. If your basic premise is that you are not interested in orderly marketing of milk, there is no rationale at all for sending money to the South-East but, if you want to maintain orderly marketing and if you feel that it is for the benefit of the dairy industry, then the South-East has an unanswerable case. The question is how much.

The South Australian Dairy Farmers Association, representing the central region, has admitted that. I think its last

offer was about $1.7 million a year, and I will refer to previous year's payments later—about $980 000 or almost $1 million. So, the central region, by the offer it has made, has conceded that there is a case for sending a considerably larger sum to the South-East, because basically they want to maintain orderly marketing.

The Hon. Peter Dunn interjecting:

The Hon. FRANK BLEVINS: The problems of the manufacturers are of interest, and I would be happy to go into that. However, I believe that some of the manufacturers in the South-East do not do the right thing. They do not pay the dairy farmers enough for their milk. But that is a different question. I will go into it if the Hon. Mr Dunn wishes me to—if he does not, he should read his paper. The central region recognises that a significantly larger sum must be transferred to the South-East. The people who have contacted the Hon. Martin Cameron or other members opposite have contacted me. It was stated in a letter quite openly that they sent a copy to the Opposition spokesman on agriculture. That is perfectly legitimate, and I do not criticise it. All I can say is that the processors who have contacted us have a very real stake in maintaining the orderly marketing of milk in South Australia. They have certain guarantees of price and profits and quantity of milk. It is a very good business. I do not suggest it is a rip-off—it is a very good business.

The fact that one of Australia's top businessmen—Ron Brierley—has decided that it is a business worth having and has bought into it is an indication that they have done well out of the orderly marketing of milk. The consumer does well also. There is an argument that the consumer would do better under a deregulated system—that whilst the retail price would fluctuate more, on average it would be lower.

The Hon. J.C. Burdett interjecting:

The Hon. FRANK BLEVINS: We have the cheapest milk of any mainland State—69 cents retail; it is 66 cents in the ACT. In regard to the representations of processors, I have noted their representations but I am also aware of the stake that they have in the orderly marketing of milk: many people have a stake in the orderly marketing of milk. The defence of the Hon. H. Allison by the Hon. Mr Lucas was understandable. It was not required or necessary in this debate. I would rather the Hon. Mr Lucas kept his politics outside the Council because we try to deal with these matters on a non political basis. What amused me in the comments of the Hon. Mr Lucas was that he seemed to be claiming credit for the augmentation scheme for the Liberal Party. As the scheme started in 1978-79 I am not sure where his information came from, but the honourable member was wrong. That is all that needs to be said about his contribution. I have already covered the comments of the Hon. Mr Dunn, who alleged that it was a precipitous action by the Minister in regard to the 2½ years gestation period for the Bill. It seems that we move to a different time scale. If that is precipitous to the Hon. Mr Dunn, it is certainly not precipitous to me.

The Hon. Mr Dunn also mentioned the new federal scheme. I have been Minister of Agriculture for 2½ years and there has been talk about a new federal scheme for 2½ years. I understand from the industry that it was talking about it for 7½ years prior to that and probably, if one asked some of the older people in the industry, one would find that it goes back much further.

I hope there is a new federal scheme for the dairy industry but, after my experiences of the last 2½ years, I will not be holding my breath while I wait. I refer to the recent agreement allegedly made between the leader of the Victorian dairy farmers and John Kerin. I understand that when the Leader went back to his rank and file they threw out the agreement, so I am not sure whether or not we are back to square one.

This problem has to be solved now. Last year's augmentation payment has not yet been sent to the South-East. I understand that at present it has been invested on the short-term money market at the prevailing interest rates, which are quite high, but that interest is not accruing to the augmentation scheme: it is accruing back to dairy farmers in the central region.

The Hon. M.B. Cameron interjecting:

The Hon. FRANK BLEVINS: That is what has been reported to me. If that is the case, then there is all the more reason for the urgency of this measure.

The Hon. R.I. Lucas: Should it be paid on a monthly basis?

The Hon. FRANK BLEVINS: The honourable member will have a chance in the regulations.

The Hon. R.I. Lucas: Do you support that?

The Hon. FRANK BLEVINS: I cannot give the honourable member an unequivocal guarantee because, when we draw up the regulations, I will be taking advice from the department. In all, it is an exercise in what is proper and fair. If it is fair that it be paid monthly, it will be in the regulations. I do not have enough knowledge. It may be that a quarterly payment is a better proposition. When the regulations come out with these times in them they will have a rationale to them that has been carefully thought out by people who understand the dairy industry even more than I do. The Hon. Mr Dunn asked about other schemes. This allows me to declare an equalisation scheme. It is not necessarily to stipulate the whole State (theoretically it is possible) as an equalisation scheme, or we could have the Mid North tied up with the Riverland and so on; anything is theoretically possible. The intention is clear: for me to declare an equalisation scheme between the South-East and the central region. I am not sure whether honourable members asked anything else—they obviously did not—to which they require a response. In thanking them for their contributions I urge the Council to support the second reading.

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

VETERINARY SURGEONS BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 1571.)

The Hon. J.C. BURDETT: As I indicated yesterday, I was still discussing matters with the Australian Veterinary Association—and I have done that—and with other people. The matters arising from those discussions I will address in Committee. Certainly, I support the second reading of the Bill, which is a good Bill and which both the veterinary profession and its clients have been wanting for a long time in order to make the profession effective in the present-day situation. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Members of the Board.'

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

Page 4, lines 12 to 14—Leave out subclause (3) and insert the following subclause:

(3) Subject to subsection (3b), a member shall be appointed for a term of 3 years on such conditions as the Governor determines, and is, subject to subsection (3a), on the expiration of a term of appointment, eligible for re-appointment.

My amendments contain two separate concepts. This is a matter about which the Liberal Party has fairly consistently

moved amendments when provisions of this kind have come before the Council. This clause provides that a member of the board shall hold office for a period not exceeding three years. As I said during my second reading speech yesterday, it could technically be as short as a month, six months or 12 months. Members on this side of the Chamber have consistently felt that that is not proper: that a member appointed for a very short period of time would be totally dependent for continuity of his term of office on the Minister, and therefore could be influenced by that instead of exercising independent judgment as he should be able to do.

The Liberal Party has consistently moved amendments that have been accepted by the Government in relation to this type of provision to make it a term of three years. However, we have recognised that it is desirable in respect of the first term of office (the first three years) that members may be appointed for a shorter period than three years so that one does not have the whole board coming out at the same time. In other words, one can stagger terms of office in respect of the appointments of the first members of the board.

The first concept is to make it a term of three years to guarantee security of tenure for three years so that people can be truly independent, but to have an ability to stagger the appointments in respect of the first members of the board so that one gets them coming out at different times and is not faced with a whole new board. These two concepts are included in new subclauses (3) and (3b). New subclause (3a) is an entirely different concept and is a matter that has been put to me by the Australian Veterinary Association. It provides:

A member shall not be appointed for more than two consecutive terms of office.

The association maintains that one needs new blood on a board such as this—that it is not productive for people to go on for a long time. While it is common in boards of this type not to have this kind of restriction, I am told that in this case, in relation to the Veterinary Surgeons Board, there have been cases where the board has been, to a certain extent, gummed up by particular people who have gone on being reappointed and have held office for too long. The association feels quite strongly about this and wrote to the Minister on 26 September 1985 making some submissions about the draft Bill. Yesterday, I pointed out that the association was consulted about a draft Bill, and it set out its submissions at that time. Page 2 of the response from the Veterinary Surgeons Board referred to confining the consecutive period of employment for no more than two consecutive terms of office. The response that the board gave, when it opposed this, was:

The board disagrees with this proposal on the grounds that:

- It could lead to a situation whereby all experienced members are compelled to retire at the same time.

With a staggered board that would not apply. It continues:

- Further the Chief Veterinary Officer is generally the 'official' representative and his tenure may exceed six years.

The response of the AVA is that it does not think that the Chief Veterinary Officer should necessarily be on the board. It pointed out that very often that person is not a practising veterinarian and sometimes never has been. The response continues:

- The AVA does have some say in appointments as you are invited to nominate candidates whenever the term of office of a 'non-official' veterinary member expires.

That is a fact. The response continues:

- There could be extraordinary circumstances in which it is desirable for a member to hold office longer than two years.

The Hon. Frank Blevins: Two terms.

The Hon. J.C. BURDETT: In actual fact the letter says 'two years', and I was reading from the letter. The Minister was very sharp in saying, 'two terms'. Obviously, the Minister is right; what is meant is two terms. The AVA says with some justification that the circumstances would be extraordinary and it would prefer this safeguard to see that there cannot be people going on and on on that board. It says that it feels that it has suffered through this situation having happened in the past. The response continues:

- The board would prefer to leave the matter to administrative discretion.

The AVA would prefer to put it in the legislation and spell it out.

The Hon. FRANK BLEVINS: I do not think that the amendment is as valuable as the Hon. Mr Burdett assumes. His amendment is one way of doing it and the Bill is another. I do not think it is of sufficient consequence for me to bother opposing it. I accept the amendment.

Amendment carried.

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

To insert the following new subclause:

(3a) A member shall not be appointed for more than two consecutive terms of office.

The Hon. FRANK BLEVINS: The Government does not believe that anyone should be excluded from membership of this board. It may well be that if one restricts someone to two consecutive terms of office one is depriving the board of a very talented person. There is no reason to do that. Discretion is always used in these appointments, and we are dealing with adults. If someone is proving a problem and wants to stay on the board longer than that person should, or where perhaps that person's contribution has been maximised (maybe even maximised 10 years earlier) then as adults we should be able to take care of that situation. I do not support precluding any individual who has a contribution to make and preventing that individual from making that contribution merely because the individual has had two consecutive terms of office. I oppose the amendment.

The Hon. J.C. BURDETT: I will be very brief. The Minister says that the problem with a person staying on the board for too long can be coped with by responsible adults. That is true. However, the Australian Veterinary Association points out that that has not occurred in the past, and it would prefer it to be spelt out in the Bill.

The Committee divided on the amendment:

Ayes (7)—The Hons J.C. Burdett (teller), L.H. Davis, R.C. DeGaris, Peter Dunn, C.M. Hill, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins (teller), G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, K.L. Milne, and Barbara Wiese.

Pairs—Ayes—The Hons K.T. Griffin and Diana Laidlaw. Noes—The Hons. Anne Levy and C.J. Sumner.

Majority of 2 for the Noes.

Amendment thus negatived.

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

To insert the following new subclause:

(3b) The first members of the board may be appointed for any term not exceeding three years.

The Hon. FRANK BLEVINS: I accept the amendment, which is part of the parcel including the first amendment to which the Hon. Mr Burdett has already spoken.

Amendment carried; clause as amended passed.

Remaining clauses (7 to 61), schedule and title passed.

Bill read a third time and passed.

[Sitting suspended from 5.23 to 7.45 p.m.]

GOVERNMENT MANAGEMENT AND EMPLOYMENT BILL

Adjourned debate on second reading.
(Continued from 29 October. Page 1573).

The Hon. K.T. GRIFFIN: I support the second reading of this Bill in order to support amendments which will be moved to various parts of the Bill. I have recognised that the present Public Service Act, which regulates the employment of persons in the service of the Government and of the people of the State has been in need of overhaul for a long time. I think the first review of the Public Service Act was undertaken in the late 1970s.

Certainly, when the Liberal Party was in office from 1979 to 1982 there were further proposals for significant review of the Public Service Act, but now finally there comes before us the Government Management and Employment Bill. It does streamline quite considerably the management procedures within the public sector of employment. There are some matters, however, with which I do not agree. In essence, what the Bill seeks to do is to decentralise the management of human resources within the Public Service; this would give to the heads of departments, particularly, a greater flexibility in the employment of staff and deployment of staff, and provide for an overriding responsibility for the senior levels of the Public Service in a body, either the Commissioner for Public Employment or the Government Management Board, depending on how the Bill is amended during the Committee stage.

I certainly support the review which has been undertaken. I support a large amount of what is in this Bill as being long overdue. It will make significant improvements in the management of human resources as well as the relationships between employees within the Public Service. I do not think anyone disagrees that the objective of the Public Service is to serve the public.

The taxpayers pay the public servants; the public servants administer the affairs of government, implement the policies of the Government of the day—

Members interjecting:

The PRESIDENT: Come on, members: we have a speaker on the floor. Show some deference to the procedure.

The Hon. K.T. GRIFFIN: —and serve the people. As has already been indicated, that is one objective which we would want to include in the Bill specifically; that is, the obligation to provide a service to the public. We also believe that the Public Service ought to be apolitical. It can only have the confidence of the public if it is not only seen to be apolitical but is in fact apolitical.

There is no doubt that, provided certain procedures are followed under the proposed legislation, it will enhance the objectivity of public servants and the apolitical nature of both their appointments and their work, although I must say that there are several areas for concern, particularly in relation to the Commissioner for Public Employment, who becomes an *il supremo* with very wide-ranging powers throughout the Public Service. Let me deal first of all specifically with the Government Management Board. That specifically is established under Division III of Part II of the Bill. The Government Management Board is to comprise the Commissioner for Public Employment and five other members appointed by the Governor.

Of those persons appointed by the Governor, one is to be a person nominated by the United Trades and Labor Council and the remainder shall be persons who, in the opinion of the Governor, have appropriate knowledge and experience in the area of management. There are two comments I would make about that. The first is that if the remainder are to be persons who have appropriate knowledge and experience in the area of management, it is open to interpretation that the person nominated by the United Trades and Labor Council does not have that appropriate knowledge and experience.

The second point is that, in any event, I do not support a nominee of the United Trades and Labor Council being appointed to the Government Management Board. I think it totally inappropriate that there be that person as a member of the body which has the responsibility for giving advice to the Government of the day. There is no doubt that the United Trades and Labor Council cannot be seen to be apolitical, and immediately politicises the employment mechanisms within the Public Service. The Government Management Board has functions which are set out in clause 16 of the Bill.

It is interesting to note that those functions are essentially of an advisory nature. They are to keep all aspects of management in the public sector under review and to advise the Minister on policies, practices and procedures that should be applied to the management of public sector operations; to advise the Minister responsible for the administration of the Act on structural changes; to carry out or recommend the carrying out of neccessary planning; to review, either on its own initiative or at the request of the Minister, the efficiency and effectiveness of any aspect of public sector operations; to devise, in cooperation with Government agencies, programs and initiatives for management improvement in the public sector and to recommend their implementation to the Minister, and to carry out such other functions as may be assigned to the board by the Minister. It is, therefore, essentially a body which looks at advising rather than doing anything to supervise the administration of the Act. It has no executive power. All that executive power resides with the Commissioner for Public Employment. The Commissioner is established under Division II of Part III of the Bill.

The Commissioner is to be appointed by the Governor for a period of five years, but is entitled to be reappointed. However, it is interesting that the same sort of provision which presently applies to the Ombudsman and the Auditor-General, and a number of other persons whose position is protected from the whim of the Government of the day, can only be removed by an address of both Houses of Parliament when that is presented to the Governor.

It is also interesting to note that the Governor can suspend the Commissioner on the ground of incompetence, misconduct or neglect of duty. That terminology is of course different from what appears in the Ombudsman Act, which relates to suspension for incompetence or misbehaviour.

Last week the Attorney-General explored the extent of the Governor's authority to suspend the Ombudsman. I suggest that during the Committee stage of the consideration of this Bill we ought to look very carefully at in what context the Governor can suspend a Commissioner for Public Employment and what is the extent of the Parliament's power to recommend the removal of a Commissioner from office. It seems to me that we are getting to the point where we are seeking to preserve too many positions from investigation and from action and that we are limiting the opportunity for proper dismissal to a mechanism that is very difficult to administer.

I should reflect that in 1978-79 there was a Bill before the Parliament to deal with the position of the Police Commissioner after the sacking by the Dunstan Government of the then Police Commissioner Salisbury. At that time the Liberal Party was proposing mechanisms which would seek to put the Police Commissioner aloof from a political dismissal; in fact, to give to the Parliament the same sort of right which now appears to be enshrined in respect of the Commissioner for Public Employment.

As it turned out, the Government of the day proposed some less protective mechanism for the Commissioner of Police. It is certainly nowhere near as secure as the provisions in clause 22 of this Bill in so far as they relate to the Commissioner for Public Employment, who is subject to the direction of the Minister under clause 26 but is not in any way subject to the Government Management Board. It is strange, I suggest, that this one person, notwithstanding being subject to the direction of the Minister, has very wide powers indeed.

The functions are set out in clause 27: to establish appropriate policies, practices and procedures in relation to personnel management and industrial relations in the Public Service. That is all very well provided that the Commissioner is a person who has the appropriate skills, training and experience in being able to do that. However, if the Government of the day appoints a commissioner who although he may be coming with good recommendations subsequently turns out to be a blunder, notwithstanding the provisions in clause 22 of the Bill, he cannot be removed from office because there may not be demonstrable incompetence; there may not be misconduct or neglect of duty, but just an incapacity effectively to deal with all of the complexities of developing and applying and implementing policies, practices and procedures as envisaged by clause 27. Therefore, we are stuck with an *il supremo* who may have looked good but in practice proves to be ineffective in properly administering the affairs of government in so far as they relate to public sector employment.

The Commissioner for Public Employment under clause 27 has a variety of other functions to determine the occupational groups within the Public Service, to determine in respect of the various occupational groups the appropriate classification structures, to determine conditions of service, to determine criteria, standards and procedures for the classification of positions or classes and a whole range of other issues and functions which would give to this particular person very considerable power. It is my view that it is inappropriate, whether in the Public Service of South Australia or any other public service, for one person to have such wide ranging power over the employment structure and employees of the public service of a State. I would want to see the Commissioner for Public Employment being responsible to the Government Management Board, a board where issues could be explored, decisions taken and problems shared.

We do not have the prospect of one person either making or breaking either particular individuals, departments or Public Service policies. It may be appropriate at some stage, in light of the fact that so many Acts of Parliament are now providing special protection for officers and public officials also, that we develop some consultative mechanism to ensure that there is a bipartisan approach to the appointment of those persons. I am not suggesting that we are yet at that point, but I want to throw it into the ring because if a Government appoints without any consultation with any other Party within the Parliament there is always the real prospect that there will be Party criticism of the appointment, maybe as a job for one of the persons who most closely relates to the Government of the day.

Yet, ultimately, the Government having made that appointment, the person cannot be removed from office except by the Parliament where all Parties have to agree. There is an interesting procedure in the United States where public officials are required to appear before Congressional committees to be investigated before the final imprimatur of the Congress is given to a particular person holding a particular office. Again, whilst I am not suggesting that we ought definitely to follow that policy here at this moment, I think that it ought to be investigated because the last thing that we really want is a politicisation of the office of Commissioner or of the Government Management Board in a very sensitive and extraordinarily important aspect of government of the people of South Australia: that is, the service that is provided by public employees paid by the taxpayers of this State.

I think we ought at some stage to come to grips with this problem of public officials being appointed by governments of the day and not being able to be removed except by agreement of all political Parties through the parliamentary process. There are, of course, additional powers and responsibilities of the Commissioner for Public Employment as presently provided for in the Bill.

Clause 27, for example, I have dealt with. There is clause 48, which provides for certain appointments to be made and for appointments on the basis of negotiated conditions only being able to be made with the approval of the Commissioner for Public Employment. That means of course that although it may be appropriate and recognised by the public as appropriate for persons to be offered negotiated terms and conditions, if the Commissioner for Public Employment says 'No', then that is the end of the day. The other interesting aspect is that the Commissioner may delegate his or her responsibilities under clause 31 and those powers or functions can themselves be subdelegated if the instrument of delegation so provides. The difficulty I see with that—

The Hon. J.C. Burdett: That is astonishing—the subdelegation.

The Hon. K.T. GRIFFIN: Yes, the subdelegation is quite astonishing because it is every power and function under the Bill that can be delegated and subdelegated; that includes powers to investigate, appoint, rearrange classifications and structures, and so on. I would have thought that, notwithstanding that there is a need for flexibility, that ought to be a shared responsibility by the Government Management Board and not a responsibility of one person only who, except in certain instances, is not subject to direction of the Government of the day.

I now make another reference to a problem I see in relation to both the Government Management Board and the Commissioner for Public Employment as well as other employees in the Public Service, while I am dealing with these two structures. My comment relates to the pecuniary interest provisions in clauses 15, 25, 63 and 64.

One of the difficulties in the Bill is that nowhere does it identify what is a 'pecuniary or other personal interest'. In those clauses to which I have referred there is reference to the resolution of a conflict between a 'pecuniary or other personal interest', and official duty. 'Pecuniary or other personal interest' is not defined under this Statute. There is a reference to pecuniary interests in the Members of Parliament (Register of Interests) Act, but that is specifically in the context of that legislation. There is a reference in the Standing Orders of both Houses of Parliament to 'pecuniary interest' and there is a certain amount of precedent in this Parliament and in the United Kingdom Parliament in identifying what is a pecuniary interest. However, nowhere in this Bill is there a description of what is or is not a 'pecuniary or other personal interest'.

Let me say in regard to clause 15 that, if there is such a conflict, the Minister responsible for the administration of the Act may direct an appointed member of the board to take specified action with a view to resolving a conflict between a 'pecuniary or other personal interest' and an official duty as a member of the Government Management Board. The same sort of provision applies in relation to the Commissioner for Public Employment under clause 25, where the Minister may direct the Commissioner to take a

specified action with a view to resolving a specified conflict. Clause 64 (2) provides:

The appropriate authority may direct an employee to take action specified in the direction with a view to resolving a conflict between a pecuniary or other personal interest and a duty as an employee.

There is no limit to what can be directed by the relevant Minister or appointing authority with respect to the resolution of a conflict. It may be that, if the person to whom the direction is given is an employee, there is an appeal on the basis that that is an administrative act defined in clause 4, but I do not believe that that is as clear as it ought to be. What if the direction is to take some action that might be quite extraordinary (nevertheless legal) and perhaps against the interests of the person to whom the direction is given? In that instance I suppose the person to whom that direction is given must make a decision between whether or not that direction will be obeyed or a resignation will occur.

It seems to me that, unless there is some mechanism for safeguarding against capricious or vexatious directions, the person to whom a direction is given in order to resolve a conflict will have no right to argue whether or not it is fair and reasonable that the action contained in the direction is appropriate.

I turn now to several other matters of concern, and the first is in regard to a recognised organisation defined in clause 4 and referred to in various parts of the Bill. A recognised organisation is one that is registered under the Industrial Conciliation and Arbitration Act and is declared to be a recognised organisation by the Commissioner under this Bill. Obviously, under clause 10 (2) it seems that the UTLC might well be a recognised organisation.

Under clause 19, which deals with the structure of the Public Service, in subclause (6) there is a provision, that the Minister responsible for the administration of this Act, before making a recommendation with respect to a transfer of positions or a group of positions from an administrative unit to another administrative unit, the incorporation of a group of employees into an administrative unit, or excluding certain employees from an administrative unit, must notify the recognised organisation of the proposed recommendation. He must hear any representations or arguments that the organisation may desire to present in relation to the proposed recommendation.

What that seems to do is prevent a Government desiring to restructure certain areas of the Public Service from reorganising departments and units within departments, transferring certain units to other departments and so on, and that may well prejudice what the Government of the day believes is an appropriate departmental portfolio structure by delaying it for the purpose of consultation.

Generally, there is likely to be some consultation but I can envisage a number of instances where it may be important to restructure within a matter of days rather than a matter of weeks or months. I would be interested to hear from the Attorney, for example, how the recent restructuring of the portfolio areas (establishing the Department of Housing and Construction and the other changes included then) could have been implemented quickly if clause 19 (6) had been in place at that time. I can envisage a number of problems arising if that subclause is designed to frustrate or at least delay reasonable Government restructuring of its various portfolios.

Clause 32 provides a right for a recognised organisation to make certain representations to the Commissioner before a proposed decision, determination or action is taken. There is also provision in clause 40, again, for a recognised organisation to be notified by the Chief Executive Officer of a proposed decision or action and for the Chief Executive Officer to hear any representations or argument that the organisation may desire to present. Clause 46 contains a reference to a recognised organisation being represented on a classification review panel. There are other references to recognised organisations being involved directly and by Statute in the process of structuring and restructuring of various parts of the Public Service. I have a concern about the extent to which such provision is formally made in the Bill.

Let me now address the question of equal opportunity. Clause 6 (1) contains a specific provision that certain principles of personnel management should be observed in the public sector. One of those is that there shall be no unlawful discrimination against employees and persons seeking employment in the public sector on the ground of sex, sexuality, marital status, pregnancy, race, physical impairment, or any other ground, nor shall any form of unjustifiable discrimination be exercised against employees or persons seeking employment in the public sector. I do not have any real difficulty with that principle being expressed in this Bill. The difficulty I have is that that is already covered in the Equal Opportunity Act, which has not yet been proclaimed. It seems to me to be superfluous to include that reference in clause 6.

However, the other difficulty I have is that it includes 'any form of unjustifiable discrimination'. While I do not support any form of discrimination, I have some difficulty in understanding what is encompassed by the description 'unjustifiable discrimination' in the context of the other references to discrimination in clause 6 (1) *(d)*.

The Hon. Anne Levy: Would it be religion that is being referred to?

The Hon. K.T. GRIFFIN: I have no idea what they are referring to. I am just raising the question of what is really meant by it, remembering that there is an Equal Opportunity Act and that there are no definitions in this Bill as to the matters that might be included in the descriptions in paragraph *(d)*. If it is to be included in the Bill it would seem to me necessary to at least have some definitions, if it is intended to be applied.

I also draw attention to subclauses (2) and (3), which appear to override the provisions of the Equal Opportunity Act in providing for the Minister to publish in the *Government Gazette* a program designed to ensure that persons of a defined class have equal opportunities in relation to employment in the public sector with persons not of that class. The Minister may, in an equal employment opportunity program, make provision for the according of preference to young persons or persons of a defined class disproportionately represented amongst the unemployed in securing employment in the public sector. Again, I am not clear what is actually proposed by those two subclauses.

It may be that it means something more than what I understand to be affirmative action. Is it to be preference on the basis of proportions of persons (male/female, young/old, those of a different ethnic background to others)? What is intended in the adoption of an equal employment opportunity program? As I have indicated, I have some concern because there is already an Equal Opportunity Act which is designed to apply across the Public Service and all other areas of employment in South Australia. It is not clear whether these provisions are designed to override the Act or to add to it and, if they are to add to it or vary it in some way, what does the Government have in mind?

Another matter to which I want to draw attention is the following definition of 'State instrumentality':

An agency or instrumentality of the Crown and includes any body corporate that is established by or under an Act and—

(a) is comprised of persons, or has a governing body comprised of persons, a majority of whom are appointed by the

Governor, a Minister or an agency or instrumentality of the Crown;

(b) is subject to control or direction by a Minister; or

(c) is declared under subsection (2) to be a State instrumentality.

That means that, as with the South Australian Financing Authority Act, a range of statutory bodies that are not necessarily under the control of the Crown could be caught. I seek clarification from the Minister in his reply as to what sort of instrumentalities are proposed. For example, is the Institute of Technology a State instrumentality within the meaning of the definition? Are universities within that definition? Is the Legal Services Commission, which is presently under its own Act and independent of the Government of the day, within that definition? What about the Pipelines Authority of South Australia? What about the Credit Union Stabilisation Board? It certainly does not include the State Bank or SGIC. In one of the schedules there is reference to employees of ETSA not being subject to the Act because they are excluded from the Public Service. It is important for that to be clarified. If it is to apply to those various agencies, in what context is it to apply and what is proposed to be the extent of the application of the Bill to that?

There are a number of other matters that I will raise during the Committee stage, and it is appropriate to leave them at this stage. To some extent those matters are of a technical nature, and to some extent they are matters that will require answers of substance. Keeping in mind the matters to which I have referred and on which I think further attention needs to be given during the Committee stage, for the moment I support the second reading of the Bill.

The Hon. R.I. LUCAS: I rise to support the second reading of the Bill. Certainly most of the reforms included in the Bill are being supported by all members of the Parliament. Many speakers both in this Council and in the other House have indicated that many of the reforms have been much needed. Certainly, I add my words of support to those views. In particular, I support the thread running through the Bill with respect to the devolution of power from some of the central agencies down to the departments and heads of departments, who will now be called chief executive officers. That thread that runs through the new Bill is certainly a concept I strongly support. Other speakers have referred—

The Hon. C.J. Sumner: What if they are no good?

The Hon. R.I. LUCAS: I think that there are other provisions in the Bill which will (at least, under the Bill should it become an Act) allow a turnover of chief executive officers after five years. One could say, 'What if the present Director-Generals are no good? What can one do with them under the present system?'

The Hon. C.J. Sumner: Not much.

The Hon. R.I. LUCAS: One is stuck with what one has got under the present situation. I think that the Attorney has raised an important point: under the proposals Governments will be able to do a little more with regard to the level of talent at the top of the departments and, if they are not happy with the level of performance of a particular chief executive officer, there will be specific provision for turnover of that officer, albeit after a period of five years. Some of the concerns I have with specific provisions of the Bill have already been outlined by the Hon. Martin Cameron and the Hon. Trevor Griffin. I do not intend to repeat them in my contribution.

I only want to refer to four matters. First, it is a little ironic that in a quest for a leaner and more efficient Public Service we have gone from a situation where we had a Public Service Board to a situation where we will have a Government Management Board, a Commissioner for Public Employment and a Department of Personnel and Industrial Relations.

The Hon. Trevor Griffin spent some time in his contribution on the makeup of the Government Management Board. I join others in objecting to the proposal to specifically list in the legislation the inclusion on the board of a representative from the United Trades and Labor Council. I do not think that that necessarily accords with the concept of merit which pervades the appointment processes discussed in the Bill. If there is someone within the United Trades and Labor Council who is sufficiently meritorious to justify appointment to the Government Management Board, there is no reason why the Government of the day cannot appoint that person to the board for the projected term of three years.

The Hon. Martin Cameron and the Hon. Trevor Griffin referred to amendments that are to be moved in relation to the respective power balance between the Government Management Board and the Commissioner of Public Employment. I will support those amendments. When I first read the Bill I had considerable concern about the Commissioner of Public Employment. Many terms have been used during the debate to describe the office of Commissioner of Public Employment, including 'monster', 'commissar', and so on. My first reaction was to agree with those descriptions. However, having read the Bill again and having discussed it with people involved in the Public Service, I am not as concerned as I was originally with respect to the powers of the Commissioner, particularly if the Hon. Martin Cameron's amendments succeed.

I have not yet been able to resolve one question: given that the Commissioner for Public Employment will be responsible for personnel and industrial relations as well, is there any legal need for an office of Commissioner of Public Employment? Could the same objective be achieved by having that person designated as a chief executive officer under terms laid down in other clauses of the Bill? I accept that there may well be legal reasons why the office of Commissioner of Public Employment is necessary as a separate position. I will be interested to hear the Attorney's response during his reply.

I refer to clause 48 and what is termed appointment 'on the basis of negotiated conditions' or, as I understand it, contract positions in the Public Service. I certainly agree with the need for flexibility in appointment provisions within the Public Service. I refer to what has become known as the Guerin report—the final report on Public Service Management, 1985, at page 33, as follows:

> Further, there are no provisions in the present Act to make contract appointments which are sometimes needed to bring in persons from outside the Public Service, or to make term appointments for permanent staff to enable them to move from a position at the expiration of an agreed period.
>
> Many Government initiatives have a limited life. In many of these situations, it is more appropriate to employ staff only for the duration of the project. The Jubilee 150 Office currently located in the Department of Premier and Cabinet is an example. This office has a defined life which will culminate with the Jubilee 150 celebrations in 1986.
>
> The present Public Service Act does not allow for the appointment of a person outside the Public Service under contract—this has to be undertaken as a separate ministerial contract. The public servants presently working in the Jubilee Office have been located there under the 'temporary' transfer provisions. In some cases, these 'temporary' transfers will amount to some four years, which causes problems for the departments where they are permanently located, with only acting appointments possible to the positions they have vacated.

Of course, the departments where they are permanently located must exist somehow for periods up to four years and cover the tasks formerly being covered by the officers

who are temporarily located in offices such as the Jubilee 150 office. The report continues:

It would be more sensible for the staff of the Jubilee Office to be appointed on a 'term' basis . . . Accordingly, legislation should provide additional ways of employing and deploying employees to ensure the continued responsiveness and vitality of the Public Service.

These changes should provide management with additional flexibility and help to retain high calibre staff, who will be offered specific challenges in new roles, which would not currently otherwise be possible.

I think those words from the Guerin report make a lot of sense. That is why I was a little disappointed when I saw the attempted implementation of those findings in the report in clause 48. It appears that betwixt and between the Guerin Report and the Bill some other body (and one would suspect the Public Service Association) has had some input into what the Government has presented to the Council tonight.

The Hon. M.B. Cameron: The Premier acknowledged that in another place.

The Hon. R.I. LUCAS: Yes. In the process of consultation the changes were made. That is disappointing. I think that all the words used by Mr Guerin and his committee on pages 33 and 34 of the final report are appropriate and would have provided much needed flexiblity in the Bill. Instead, we now have a doctored clause 48(4) relating to contract appointments. In subclause (4)(a) the Government wants us to accept that:

a person shall not be appointed on that basis [contract] unless selected through selection processes conducted in pursuance of this Act;

That means that the whole gamut of the selection process for permanent appointments under the legislation will have to be followed in relation to contract appointments. Subclause (4)(c) provides:

an appointment shall not be made for the purpose of filling a position with duties of a continuing nature unless the appointing authority, after having sought applications in respect of the position, is of the opinion that no suitable person is available for the position who—

(i) is already an employee;
or
(ii) is prepared to accept appointment on the terms and conditions that apply in relation to appointment on a permanent basis;

That means that should a Government, Minister or chief executive officer decide that the expertise for a particular job does not exist, in their view, within the public sector and they would like to headhunt in the private sector and put someone into a particular department on a three year contract, at the very least that process will be delayed for some period while the selection processes described in subclause (4)(a) and (4)(c) are followed. However, it is probably more likely that the whole process will grind to a halt and the possibility of the Government of the day or chief executive officers making contract appointments will be severely limited. That is because the Government of the day or the chief executive officer will have to go through a cumbersome appointment process—advertising, panels, and so on—to find whether anyone else is suitable in the Public Service before they can offer a contract to someone outside the Public Service.

The Hon. M.B. Cameron: That is more respectable, too.

The Hon. R.I. LUCAS: That may be the case; I am not really sure. I do not profess to be an expert on the current situation, but certainly reading the section of the Guerin report that I have, it would appear—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Hon. Ms Levy expresses surprise. There are very few things in which I profess to be an expert.

The Hon. M.B. Cameron: Some prominent members of the present Public Service came through a system of contract employment.

The Hon. R.I. LUCAS: Certainly from reading that section of the Guerin report, it would indicate that some devices have had to be used under the current Act—temporary appointments and separate ministerial contracts with people—and I think the Guerin report was trying to make for a better system whereby we could use, quite freely and easily on limited term, the talents of persons not within the Public Service at the moment who might be able to contribute to the Public Service for periods of, say, up to three years and then go their own way. I thought the recommendations of the report were sound.

The Hon. M.B. Cameron: But they were messed up somewhere along the line.

The Hon. R.I. LUCAS: The PSA has obviously got to them, and that is disappointing. The amendments that the Hon. Mr Cameron will be moving merit consideration. I suspect that they probably go a smidgin too far the other way but, in discussions with the Hon. Mr Cameron, I have not yet been able to come up with anything better than the amendments which were moved in another place and which will be moved in this Council. Certainly my intention, subject to not being able to come up with a slightly tighter form of words, is to support the amendments of the Hon. Mr Cameron.

The third matter that I want to refer to briefly is in relation to the reporting provisions of the Bill. I must say that the reporting provisions of this Bill are excellent. I think they are a model for other Bills that we have before us. The reporting provisions—for example, clause 8, Government agency annual reports; clause 18, reports from the Government Management Board; and clause 33, reports from the Commissioner for Public Employment—in general are excellent and are certainly an improvement on many of the reporting provisions that we see in this Council on many occasions.

In particular, I am delighted to see that the Bill includes specific sitting day restrictions placed upon the Minister within which the Minister must table the report in the Parliament. I do not know where the acclamation ought to go, whether it was the Government officers in the first place or Parliamentary Counsel. Members will probably have tired of the number of occasions that I have moved amendments—the Hon. Trevor Griffin nods his head and agrees; he is not the only one—to reporting provisions of statutory authorities where it is left open ended: phrases such as, 'a Minister as soon as practicable shall table a report' or 'may table a report' of a particular authority in the Parliament. I have generally moved fairly broad amendments such as 14 sitting days, and I notice the provisions in clauses 8, 18 and others restrict it to 12, and I am happy about that. I have indicated previously that I feel it ought to be even tighter because 12 sitting days generally amounts to at least a month or five weeks anyway. Nevertheless, I am certainly most supportive of the reporting provisions in that respect and in another respect.

I want to refer to clause 26 (3) of the Bill which says that a ministerial direction to the Commissioner for Public Employment *(a)* must be communicated to the Commissioner in writing and *(b)* must be included in the annual report of the Commissioner. Once again, this is a matter that I have raised on a number of occasions. Where we have statutory authorities or bodies subject to either a general power of control or direction of a Minister, if a Minister utilises that general power of direction by issuing a directive, it ought to be reported in some way through the annual reports to Parliament.

The Hon. M.B. Cameron: Is that called open government?

The Hon. R.I. LUCAS: Yes, I think it is open government. It is certainly something that was raised in the Commonwealth arena with respect to the Ray committee reports, the Senate Committee on Government Financial Operations, and certainly in relation to the Hon. Mr Sinclair and the Asia Dairy Corporation—I think that is the name of it—when directions were being issued but were not being reported. I have certainly always supported the fact that if there is a general power of control and direction of a Minister over a statutory authority, and that is utilised, that ought to be reported to Parliament, and that is why I am delighted to see provisions such as clause 26 (3) *(b)* where we will see reporting to Parliament of such ministerial directions.

The last matter that I want to refer to is in relation to the application or non-application of this Act to certain statutory authorities. As we all know, the arena of the statutory authority is ever-growing, and many members in this Council have referred to that over the years. We have literally hundreds—at the last count I think there were some 350 specific types or examples of statutory authorities in South Australia—

The Hon. R.J. Ritson interjecting:

The Hon. R.I. LUCAS: You keep fighting them. If the definition is broad as in Victoria, there are some thousands, but on the tightest definition, there are about 350. On the first reading of the Bill and the definition on page 4 of a State instrumentality, I understood that the whole Act applied to what I know as State instrumentalities and would therefore apply to something like the Health Commission or a range of other statutory authorities. As I said, that was my first impression of the import of the Bill. However, it was really only this morning after discussion with wiser counsel than myself—that is Parliamentary Counsel—that I understood that in effect the only provisions that will apply to such statutory authorities that are not strictly Public Service departments as we know them, are in effect the first 18 clauses or Part II of the Bill. Therefore, all the provisions within Part III of the Bill—that is from clause 19 through to the end—will not apply to the ever-growing area of statutory authorities. I did not understand that, but now I can see some of the reasons why those particular provisions will not or should not apply to statutory authorities.

Nevertheless, I think it begs the question as to what control Government and ultimately the Parliament ought to have over the personnel and industrial relations practices of the ever-growing area of the statutory authority. I would have thought that there is some merit in some of the reforms that have been introduced in this Bill for Public Service departments being steadily used or incorporated or introduced into the operations of some of our statutory authorities.

I want to look quickly at the South Australian Health Commission. In a document produced in March of 1983 'Review of SA Health Commission Management' headed by Mr D. J. Alexander, a number of findings and recommendations were made. On page 94 that review found:

> There is misunderstanding and some conflict between the Public Service Board—

which will no longer exist, of course, so we will have the new bodies there—

> the Health Commission and the health units as to their respective roles in industrial relations matters. The legislative framework does not clearly determine roles. There have been amendments to the Health Commission Act since the Crown Law opinion was given in 1977.

I might interpose that the Crown Law opinion they are referring to there indicated the fact that the Public Service Board has traditionally represented the Government as the employer under the Industrial Conciliation and Arbitration Act. This has included all Health Commission and health unit employees. The review continued:

> Hence, although the Public Service Board has continued to take the leading role in major issues, this is not well accepted by commission officers who feel that they could and should play a wider role. There have also been allegations of the board dealing directly with the health units without involving the Health Commission. A further issue is whether the commission has sufficient numbers of staff and the expertise to take on an expanding role even if this was considered desirable. This confusion of roles and lack of cooperation has meant that some disputes have escalated unnecessarily before being properly addressed. The atmosphere of uncertainty can also affect the level of commitment to the task.

A further finding was:

> Some health units feel the lack of basic guidance and training in the handling of local industrial disputes.

The report goes on to recommend that there ought to be some training of health unit managers in industrial relations, or some better training of health unit managers in industrial relations. Once again, there would appear to be some role for—not the Public Service Board now—the new bodies that will come into existence, the Commissioner for Public Employment and his or her department of personnel and industrial relations. A final recommendation of that report to which I want to refer is on page 95. It states:

> A task force should be established to recommend on appropriate industrial relations roles for the Public Service Board, Health Commission and health units.

I am not sure whether that task force has been established and, if it has, whether it has reported. I suppose it is not fair to ask the Attorney-General in charge of the Bill whether a task force has been established within the Health Commission on this particular matter; that is a question I ought to put to the Minister of Health.

The reasons for raising those particular findings in that Review of Health Commission Management are that I do think there ought to be some consideration in the future—obviously we cannot do it now—to the level of management and industrial relations and personnel matters, not only within what we know as the Public Service but in the ever-increasing areas of statutory authorities which, as I understand it, are not going to be covered by provisions of the Act that we have before us.

I have a number of other matters that I would like to put to the Council and will do so in the Committee stage, but I indicate once again my pleasure in supporting the second reading of the Bill. I believe there are some much-needed reforms in it. I believe the Guerin committee is to be congratulated for much of what it attempted to do—not all of it, but much of what it attempted to do. As I said, I am disappointed it was not able to convince the Government over the PSA with respect to some provisions like contract appointments, but certainly Public Service management will be much the better for a Bill being passed in a similar form to the one we have before us, and I indicate my support for the second reading.

The Hon. C.J. SUMNER (Attorney-General): I thank honourable members for their contributions and will respond tomorrow to the main points made by them, and then move into Committee. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

DOG CONTROL ACT AMENDMENT BILL

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

INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL

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

HOLIDAYS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

EVIDENCE ACT AMENDMENT BILL (No. 2)

At 8.54 p.m. the following recommendation of the conference was reported to the Council:

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

TOBACCO SMOKING

Adjourned debate on motion of Hon. K.L. Milne (resumed on motion).

(Continued from page 1631.)

The Hon. ANNE LEVY: In speaking to this motion I admit that the topic raised therein has led me to read a certain amount on the question of the harmful effects, if any, of passive smoking. There is a great deal of literature on this matter and I am sure that a great deal more will be produced in years to come. I am sure that some of the literature that one reads is influenced by personal considerations and is written by people who take passionate views on one side or the other of smoking.

I have read *The Risks of Passive Smoking* by Roy Shephard, which is a summation of 694 different references on the topic. The author is a passionate anti-smoker. I have also read a document issued by the tobacco industry which summarises 146 different references and, of course, is passionately in the other direction. Many of the references referred to are the same in the two documents.

Trying to summarise or examine the effects of passive smoking from the different papers is a fascinating task but hardly one that a busy member of Parliament can undertake with any thoroughness. However, there are a few matters from Roy Shephard's book which do seem to be fairly well established and which I will mention. The first is the effects on respiration of passive smoking. A summation in the book states that at worst passive smoking in terms of its effect on respiration is equivalent to smoking .2 of a cigarette in two hours; in other words, equivalent to one cigarette in 10 hours.

This, of course, is for a passive smoker who is breathing through his or her nose. The effect is likely to be less if the individual breathes through the mouth as, of course, do smokers when they are inhaling smoke. There was mention of papers which spoke of the bronchial effect of the particulate cloud from tobacco smoke being reversed by adrenergic activity such as annoyance, so it is suggested that people who are annoyed by inhalation of passive smoke will be less affected by it than those who are not annoyed: this is in terms of its effect on the bronchial tubes.

Numerous studies have been done on the nicotine content of rooms where a good deal of smoking is occurring and on the body fluids of non-smokers in such smoky atmospheres, as nicotine only occurs in normal situations where smoking is occurring. It is a good indication of the presence of tobacco combustion. Numerous studies of nicotine content of urine in passive smokers seem to show that in general their nicotine uptake is about 1 per cent of that of smokers. One particular experiment in this area was performed in the very smoky atmosphere of a submarine which was submerged for a considerable time.

The Hon. C.J. Sumner: One per cent is still too much, isn't it?

The Hon. ANNE LEVY: One per cent of the level in smokers. I am not passing judgment, all I am saying is that in a very smoky atmosphere the non-smokers were excreting 1 per cent of the nicotine being excreted by smokers. The industrial threshold limit for workers where nicotine is one of the chemicals that is part of their work is .5 milligrams of nicotine in a cubic metre. In this very smoky submarine, during a 24 hour period when there was no fresh air introduced the nicotine level in the atmosphere rose to .03 milligrams per cubic metre—that is only 1/17th of the industrially acceptable threshold.

A different analysis showed urinary nicotine at 13 times the level in smokers than that found in non-smokers after being in an atmosphere of very dense cigarette smoke—smoke which could be characterised as having 38 parts per million of carbon monoxide. I will talk in a moment about carbon monoxide. Yet another study had nicotine levels in non-smokers as 5 per cent of that of smokers in the same atmosphere. The statistics show that passive smokers do take up some cigarette smoke. On the basis of the nicotine analysis one could say it amounted to the equivalent of one or two cigarettes a day.

Carbon monoxide has been analysed a great deal in the experiments on passive smoking, as it is a product of tobacco combustion. The industrial threshhold limit for carbon monoxide is 50 p.p.m. The many experiments to determine carbon monoxide levels where tobacco is being smoked vary from the concentrations in very small rooms with a very large number of cigarettes to moderate amounts of smoke in fairly well ventilated rooms. It was found in a small room with no ventilation at all that the smoking of 20 cigarettes gave 50 p.p.m. of carbon monoxide, which of course is the industrial threshhold limit; 10 cigarettes smoked in a closed car (a very small space) gave 60 p.p.m—above the industrial limit.

It is obvious that the degree of ventilation is crucial to the concentration of carbon monoxide. In the two examples that I have quoted it returned to the background level within two minutes once ventilation was admitted. In more real life situations, studies have been done such as measuring the carbon monoxide level when about 60 cigarettes had been smoked at a party over a period of 1½ hours, and the carbon monoxide concentration was found to be 7 p.p.m.—one seventh of the industrial threshhold.

Various studies have been done in bars and restaurants, where there is a good deal of smoking, to measure the carbon monoxide level. The studies reported vary from 8 p.p.m. to 38 p.p.m., but many other factors can influence carbon monoxide concentration. It depends a great deal on the pollution in the air outside because there is a high degree of carbon monoxide along busy highways because of the internal combustion machine—the car.

However, tests have been done measuring carbon monoxide concentration in a bar or restaurant before it opened and then seeing what the concentration was a few hours after it opened. In one study the concentration doubled from a background of about 8.5 p.p.m. to 15 p.p.m.—all readings much lower than the industrial threshhold. Those experiments that I have discussed have been done by measuring some of the chemical constituents of tobacco smoke and measuring to what extent they are absorbed or are present to be absorbed by passive smokers.

There have been other experiments with individuals to see what effects they report. Here there can be far more subjective considerations. There would not be anyone who could come into contact with tobacco smoke and not be aware of this, because of the very characteristic smell. The main complaint (from the literature) of non smokers put into smoky atmospheres overwhelmingly is one of irritation to the eyes, and this degree of eye irritation is reported also by smokers who are put into very smoky atmospheres.

The frequency of this complaint varies from one study to another. In other words, smokers vary from complaining about eye irritation half as often as non-smokers up to complaining equally frequently about eye irritation. If we look at the demonstrated health effects of passive smoking, we see that the main studies often quoted are two studies of the effects on lung cancer, where work was done examining the frequency of lung cancer in the non-smoking wives of smoking husbands compared to the frequency of lung cancer in the non-smoking wives of non-smoking husbands.

A very large study was done in Japan by Hirayama and other authors, and a smaller study in Greece by Trichopoulos, with other authors. They found that non-smoking wives of smoking husbands have between 1½ and two times the chance of getting lung cancer compared to the non smoking wives of non smoking husbands. The probability of course is very much less than for women who actually smoke themselves, but these non-smoking spouses obviously are considerable passive smokers if their husbands smoke.

These two studies agreed in about 1½ or two times the risk for the non-smoking wives of smoking husbands compared to non smoking wives of non smoking husbands, but the studies have been criticised on various grounds in terms of the design and set-up of the experiments. The Council must realise of course that, even though these and other studies may show considerable limitations in data and in study design, it is extremely difficult to ever achieve the exactitude that some of the purists would want in epidemiological studies such as this.

There have been several other studies done comparing lung cancer rates of passive smokers using the idea of examining the rates of non-smoking wives of smoking husbands compared to non-smoking wives of non smoking husbands. The United States studies do not show any increase in lung cancer rates for these passive smokers. In scientific work, one is always going to get studies that disagree with one another, and there may be many good reasons why this occurs.

The two cultures where the studies showed an increase in the lung cancer rate were studies where there was little social or marital mobility of women and few women in the work force. By way of contrast, in the United States women are more likely to be in the work force, be more mobile, and are likely to have many environments other than those of their own homes. Therefore, whether or not their husbands smoke is only a small portion of any passive smoking they may be doing, seeing that they are likely to be in many other environments where there may or may not be smoking. This may make it that much harder to ever obtain any significance. A paper from the National Health and Medical Research Council of Australia about the 'Relationship of Passive Smoking to Lung Cancer' concluded:

> While the available epidemiological evidence suggests that passive smoking may increase the risk of lung cancer, the limitations in data and study design do not yet allow a judgment on causality. In the meantime, the available epidemiological data indicate that there is limited evidence of the carcinogenicity of passively inhaled cigarette smoke.

If one looks at the work environment as opposed to a home environment, one notes that it has been shown in several studies that non-smokers who work alongside smokers can have up to 10 per cent poorer lung function (this was brought out in one study), but no carcinogenetic effect has been shown by passive smokers in the work place.

Certainly, the effects of passive smoking on children have been well examined in a number of studies. Children from homes with smokers have up to 10 per cent more respiratory infections than children from homes where there are no smokers. This has been confirmed in several studies of children under the age of five years. However, other studies have found no association at all between respiratory infections in children and the smoking status of their parents.

Two studies concluded that the greater rate of respiratory infections in such children was more related to whether the parents coughed a great deal than whether or not they smoked, and suggested that this was related to parental infection. They reasoned that if parents coughed a great deal they were more likely to be spreading infections by means of their cough and children were more likely to get respiratory infections. Those studies suggested that this may be the reason for the greater number of infections, rather than the passive smoking undertaken by the children themselves.

Other studies have shown that chest disease in children is correlated with parental smoking in the first year of life, but only in the first year of life, not subsequently. This suggests that once the children become more mobile the effect of passive smoking would be much less. No experimental studies have been conducted on the effect of passive smoking on sick or elderly people. Quite understandably it would be rather unethical to start undertaking such experiments. Although animal studies have been conducted, one cannot necessarily extrapolate from animals to humans.

Numerous studies have documented quite well that asthmatic children are more likely to be aggravated by tobacco smoke if their parents smoke. If the parents are non-smokers the asthmatic children are less likely to be affected by tobacco smoke. A surprising result in one experiment was that asthmatics who were put in a smoke chamber gave their major symptom of irritation as being eye irritation—the same as non-asthmatics do. They commented on this far more frequently than they did on any wheezing that might occur, although certainly wheezing did occur more frequently for asthmatics than for non-asthmatics, but not to any great extent.

I have read other papers with great interest. As I am not an expert in the field I cannot judge these papers in any great detail. In 1985 a paper on the 'Cancer Risk in Adulthood from Early Life Exposure to Parent Smoking' contained a conclusion by the authors, as follows:

> Although they should be considered tentative, study findings suggest a long-term hazard from transplacental or childhood passive exposure to cigarette smoke.

That indicates it does not occur to a very large extent, but they obtained statistical significance. Another paper entitled 'Passive Smoking and Height Growth of Pre-adolescent Children' in 1984 by Berkey, Ware, Speizer and Ferris concluded:

> However, passive smoking was not correlated with child's growth rate. These results indicate that passive smoking in 6 to 11-year-old children does not continue to affect the growth rate of height and that the observed association between attained height and maternal smoking behaviour is due to exposures *in utero* and/or during infancy and the preschool years.

Again, that suggests that the effect of passive smoking is *in utero* and the first year of life, but not subsequently. In all these studies the effect of ventilation is critical, and numerous papers refer to the effect of ventilation particularly when discussing the carbon monoxide question, as I indicated earlier. A 1985 paper by Cox and Whichelow entitled 'Carbon Monoxide Levels in the Breath of Smokers and Non-smokers: Effect of Domestic Heating Systems' states:

The results suggest that many people, both smokers and non-smokers, may be at risk from carbon monoxide generated by certain domestic heating systems and that non-smokers are far more likely to be exposed to high levels of carbon monoxide from these sources than being in a room with a heavy smoker.

Poor ventilation associated with the current trend towards excluding all draughts is likely to exacerbate the situation for both smokers and non-smokers.

The sort of thing found was that non-smokers had carbon monoxide levels up to 38 parts per million in their breath—very much higher than the levels found in many smokers—but that this was associated with being in rooms heated by gas heaters, open fires or stoves and that this had about three times the effect on carbon monoxide levels as did tobacco smoking.

One could say a great deal about the various pieces of evidence put forward. I refer to a statement from the very responsible National Health and Medical Research Council, as follows:

Children in households with adult cigarette smokers have more coughs, more days of restricted activity and disability due to acute respiratory disease than children in households without adult cigarette smokers, an effect which is especially pronounced in younger children. Council noted that passive smoking may trigger asthma attacks in children who suffer from asthma.

I refer to a South Australian Health Commission document, as follows:

The evidence available on health effects of passive smoking is much less abundant than the evidence for the effect on smokers themselves.

There is a good deal of evidence on numerous aspects, but the overall evidence is contradictory and inconclusive. The report of a major symposium held in Vienna in 1983 sponsored by the World Health Organisation, amongst other bodies, has been quoted by other speakers in this debate. The symposium concluded:

Should law-makers wish to take legislative measures with regard to environmental tobacco smoke they will for the present not be able to base their efforts on a demonstrated health hazard from environmental tobacco smoke.

The South Australian Health Commission document also states:

It should be noted, however, that the research difficulties in demonstrating conclusively any such effects are immense. On the basis of the evidence so far at hand the potential for adverse effects and the attitudes of non-smokers some law makers may feel it would be wise to act now.

In summary, the current state of knowledge in this area suggests that passive smoking may well have an effect on certain aspects on people's health, particularly for young children and for people who suffer from disabilities such as asthma. Of course, those effects are very minor compared to those to which smokers are subject.

While I am sure that very few people would deny that there probably are health effects from a good deal of passive smoking, we must not exaggerate those effects. I think the summary previously quoted—that people who wish to take measures against passive smoking cannot firmly base their arguments on a health effect—certainly leaves many questions unanswered, such as consideration for other people as part of normal human courtesy.

As a smoker myself I certainly do not wish to cause annoyance to other people. Non smokers have rights, as do smokers. I fail to see that there cannot be courtesy and consideration all around. The two groups can co-exist quite happily. I think in terms of the annoyance caused to non-smokers by smokers the question of reasonableness must be considered. An analogy could be that there are people who object strongly to crying children; therefore, are we to say that no children are ever to enter a restaurant because they could cause annoyance to other people present? Some people are very much annoyed by loud music; therefore, should all loud music be banned? Some people may be annoyed by the physical appearance of others—such as those who wear long hair—and there would be individuals who are extremely annoyed by the sight of green socks. Should we then say that it is reasonable to exclude people with green socks from restaurants or public places because they might cause annoyance? I think that the question of causing annoyance is not one of absolutes. People do wish to extend courtesies to others and to not unnecessarily annoy others. However, there must be reasonableness in the degree of annoyance and we should not go as far as applying what could be regarded as unreasonable restrictions on, say, the wearing of green socks because someone might be annoyed at the sight of green socks.

The Hon. M.B. Cameron interjecting:

The Hon. ANNE LEVY: Someone might object to the sight of green socks and feel very annoyed. I do not think that we would suggest that green socks should be banned.

An honourable member interjecting:

The Hon. ANNE LEVY: Obviously green socks are not as annoying to the honourable member as smoking, but one could think of some people who could take it the other way round. I do not necessarily know anyone who wears green socks; I have simply used that as an example. Whether or not one person is annoyed is not in itself a reason for a complete ban. There are degrees of annoyance, and there are what are regarded as reasonable grounds for annoyance and also unreasonable grounds for annoyance

I certainly do not feel that legislation to ban smoking in public places is warranted at this stage. There is a very large number of smokers and an even larger number of non-smokers in our community. Smokers are not a fringe minority. Even if they were, they would still have rights. At this stage it is a question of common courtesy, education, and consideration for others. With a little tolerance, society can continue to contain the smokers and non-smokers that are in existence without rushing into punitive measures unless it can be shown (and it has not been shown yet) that the effects of passive smoking are indeed strongly deleterious to health. However, at this stage nobody has suggested that the health effects of passive smoking are so serious that strong legislative action must be taken.

The Hon. M.B. CAMERON secured the adjournment of the debate.

GROUNDWATER (BORDER AGREEMENT) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to approve and ratify an agreement made between the States of South Australia and Victoria which provides for a coordinated management strategy for the underground water resources in the vicinity of the Victorian and South Australian borders. The agreement is set out as a schedule to the Bill.

As some honourable members will know an examination of groundwater resources along the border was commenced some years ago. This stemmed from a South Australian request that a mechanism for the legal sharing of the resource be arranged. In most areas adjacent to the border underground water is the only reliable water source and the

agencies of both States responsible for these resources had been concerned that unregulated large scale withdrawals could compete with existing private and urban supplies, perhaps to a point where continuity of supply could not be assured. As well, because there is at present no provision for consideration of the potential effects of such withdrawals across the border, new and large-scale uses of groundwater in one State could adversely affect established uses in the other.

Projections of existing and possible development of the resources in the border area have confirmed the advisability of joint management and sharing of the resources between the two States. The management strategy which is the subject of the agreement was evolved by a joint committee representing the agencies concerned. These agencies are: the Engineering and Water Supply Department, South Australia; the Rural Water Commission of Victoria; the Department of Mines and Energy, South Australia; and the Office of Minerals and Energy, Victoria.

The joint committee, with the aid of Professor S.D. Clark and Harrison Moore, Professor of Law at Melbourne University, prepared a report incorporating a draft agreement and relevant supporting legislation. The joint committee investigated several possible institutional arrangements for sharing and managing the resource adjacent to the border. It concluded that the most appropriate one was for an inter-State agreement to ensure protection to existing underground water uses and facilitate the future use of that resource. Such an agreement forms the schedule to the Bill now before the Council.

The agreement is expressed to operate in both States within a distance of 20 km from the border along the total length of the border. This strip of border land, which is defined in the agreement as the 'designated area' is thus 40 km wide. The joint committee's investigations have disclosed that the volume of the underground water resources within the designated area is such that existing groundwater uses can safely continue and there is opportunity for expanded use in most areas with no significant adverse implications over the next century. The proposed policy is to divide the resource equally between the two States. For South Australia, the proposal will make available of the order of 137 000 ML per annum for agricultural, industrial and urban purposes, in addition to the present use of about 35 000 ML per annum. Whilst not quantified by the joint committee's investigation, the assured future availability of this resource has obvious potential economic benefits to the community.

Before dealing with the Bill, proper, I would now like to explain, generally, the scheme of the agreement. The first two clauses provide definitions of various terms which take account of the different terminology of the South Australian Water Resources Act 1976 and the Victorian Groundwater Act 1969 and apply the usual interpretation provisions. Clauses 3-19 are closely based on the provisions of the River Murray Waters Agreement signed by the Premier, the Prime Minister and the Premiers of Victoria and New South Wales on 1 October 1982. Within this group clauses 6 to 8 provide for the appointment, by the responsible Minister in each State, of two members and one deputy member to a review committee, which has the general oversight of the management plan. The remaining clauses in this group deal with formal procedural matters such as terms, powers, and remuneration of members, meeting procedure, and delegation.

Clauses 20 to 23 are again closely based on clauses in the River Murray Waters Agreement. They empower the review committee to coordinate studies of the use, control, protection, management or administration of groundwater within the designated area; to make recommendations to contracting Governments on such matters; and to review and recommend alterations to the agreement. Each Government binds itself to furnish the review committee with all necessary information for its functions.

For the purposes of the management plan the designated area is divided into 11 segments or zones in each State, a total of 22 zones. Clauses 24 to 26 state the management plan and provide means for applying appropriate management prescriptions to the various zones in each State. The legislation of each State is to be applied to all existing or future wells, except domestic and stock wells, within the zones in that State. No permits are to be granted or renewed within those zones, except in accordance with the management prescription set out in clause 26. In brief, this requires wells to be cased, where appropriate, and prevents further development when the permissible annual volume, or rate of draw-down, has been exceeded. Wells for other than stock and domestic purposes may be constructed within one kilometre of the State border only with the consent of the review committee.

Clause 27 obliges each State to prepare an annual report for the purposes of the review committee. Clause 28 requires the review committee to review the management plan for each zone at not more than five-year intervals. It has power to make adjustments to minor aspects of the management plan on its own motion. It may recommend more important changes to the Ministers of both States. These more important changes are the establishment or alteration of permissible levels of salinity and the alteration of the permissible rate of draw-down in any zone. Such more important changes can only occur if both Ministers are in agreement.

Clause 29 gives the review committee power to declare restrictions in relation to any zone as the optimum level of development for that zone is approached or exceeded. The effect is not to prevent all future development, but to require all further development to be referred to the review committee for comment, before it proceeds. A compulsory cooling-off time of 30 days is also included before the Minister grants any permit in a zone subject to restrictions. In addition, if the Minister decides to grant a permit against the recommendations of the review committee he is obliged forthwith to notify the Minister of the other contracting State in order to allow that State to decide whether to excercise the right of appeal given to it.

Clause 30 provides that the review committee shall report annually to each contracting Government. Clause 31 requires publication of decisions taken by the review committee, or by the relevant Minister, with respect to the management prescriptions embodied in the management plan.

If I could turn now to the provisions of the Bill, generally, as distinct from the agreement which is its schedule. The proposed legislation provides that the day-to-day execution of the management plan should rest with the licensing authorities of the respective States. In other words, no inter-State executive body is needed to implement the management plan. This arrangement contrasts with other inter-State agreements such as the River Murray Waters Agreement which provide for executive bodies. One advantage of such arrangement is that no additional costs to government are anticipated as the proposal will form part of the general management of the State's underground water resources.

The main advantages of the agreement are that it:

(a) commits each State to legislative action to require licensing authorities and appellate bodies to abide by the agreement and the management plan embodied therein;

(b) assumes that the licensing authorities in each State will remain responsible for administering the management plan in zones within that State;

(c) requires inter-State consultation between the licensing authorities before granting permits for the construction or use of wells, other than domestic and stock wells, in certain defined circumstances: or in order to change details of the management plan;

(d) provides for the joint imposition of restrictions within any zone, after which inter-State consultation becomes obligatory before further development is allowed in that zone; and

(e) provides for the regular review, with a view to amendment, of the management plan and the agreement by means of a review committee.

In summary I state that the Government believes this agreement provides a realistic and equitable framework for inter-governmental cooperation in the development of long-term strategies for protecting and harvesting the groundwater resource in the border area. As with any agreement, this one depends on the goodwill of the contracting parties—events so far confirm that this will be forthcoming.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides that the Act is to bind the Crown.

Clause 4 is the interpretation section.

Clause 5 approves the agreement.

Clause 6 relates to the appointment of two members and one deputy to the review committee constituted under the agreement.

Clause 7 makes provision for the remuneration of members of the Committee.

Clause 8 confirms the powers of the Minister under the Act and the agreement.

Clause 9 confirms the powers of the Committee.

Clause 10 allows members of the Committee and other persons authorised by the Committee to enter lands and to have access to any bore situated on those lands.

Clause 11 allows the acquisition of land by the Minister under the Land Acquisition Act 1969 for the purposes of the agreement. A similar provision is contained in the Water Resources Act 1976.

Clause 12 provides for the establishment and maintenance of observation bores.

Clause 13 requires the Minister to submit to the Parliament a copy of the Annual Report received from the Committee.

Clause 14 provides for consequential amendments to the Water Resources Act 1976.

The first schedule contains the amendments to the Water Resources Act 1976. The amendments are designed to prevent the Minister issuing certain licences and permits where to do so would be contrary to the agreement and also provide a right of appeal (given to the Victorian Government) in the event that a licence or permit is granted in contravention of the agreement.

The second schedule contains the agreement.

The Hon. M.B. CAMERON secured the adjournment of the debate.

EVIDENCE ACT AMENDMENT BILL (No. 2)

Later:

The House of Assembly intimated that it had agreed to the recommendation of the conference.

Consideration in Committee of the recommendation of the conference.

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

That the recommendation of the conference be agreed to.

The only difference between the House of Assembly's position and the Legislative Council's position on this Bill was that the House of Assembly believed that there should be some provision for a judge to permit an unsworn statement to be made in circumstances where the judge believed that some injustice could arise in the conduct of a trial if the defendant was forced to give sworn evidence and the circumstances were specified as being those related to physical or intellectual disability or cultural factors—those being the very limited grounds that could provide the judge in his discretion the power to permit an unsworn statement.

This clearly was envisaged to be a very limited category of persons, but the Government in the House of Assembly believed that it was a reasonable safety net to obviate any potential difficulty from the complete abolition of the unsworn statement. However, that was not a view adopted by the majority of the Legislative Council and, accordingly, the conference resolved, as there was agreement on the abolition of the unsworn statement, that the House of Assembly should no longer insist on its amendment. Therefore, when the Bill is passed, we will have the complete abolition of the unsworn statement in this State.

During the conduct of the conference a number of points were raised, although not directly related to the unsworn statement but certainly related to the conduct of a criminal trial. Those who have argued for the retention of the unsworn statement have done so on the basis that although to some extent anomalous it has an important role to play in the correct balance, as they see it, between the prosecution and the defence in the fair conduct of a criminal trial.

The opposing argument is that it is unfair to the Crown, to witnesses and victims in that witnesses and victims should be subject to cross-examination whereas the defendant is not. The argument for retention of the unsworn statement is that it has to be seen as part of a package of measures that protect the rights of accused persons in our democratic system—those rights being the right to a fair trial and the prosecution having to prove guilt beyond reasonable doubt (innocent until proved guilty). Part of that procedure has been the unsworn statement.

That has now been rejected, but in the context of examining the criminal trial procedure it was put to me that, if the unsworn statement is to be abolished (and that, as the argument goes, has the capacity to upset that delicate balance between the rights of the prosecution and the defence), perhaps consideration can be given to amending the trial procedure in two respects: first, with respect to the right of defence counsel to open the case for the defence; and, secondly, the question of the right of reply, that is, who should have the right—prosecution or defence—to give the final address in a criminal trial.

With respect to the right of defence counsel to give an opening address, the situation is that, if the accused calls witnesses to facts other than his character, he or this counsel can address the jury before or after doing so, or on both occasions. Section 288 (3) of the Criminal Law Consolidation Act provides:

> Every accused person, whether defended by counsel or not, shall be allowed to open his case, and after the conclusion of such opening, or of all such openings if more than one, to examine such witnesses as he thinks fit, and when all the evidence is concluded, to sum up such evidence.

On a superficial reading of that section one would have thought that that does give an accused person the right to an opening address in a criminal trial irrespective of whether the defendant calls witnesses other than himself.

However, the practice in South Australia, presumably based on an interpretation of that section, seems to be clear—that an accused or his counsel cannot give an opening address if the defendant is the only witness or his witnesses

are as to character only. Therefore, in that situation the prosecution can give an opening address in a criminal trial but the defendant cannot.

It has been put to me that that is an anomalous situation and that the defence should be able to open in all circumstances, thereby giving the defendant the same rights as the prosecution. It seems to me that the rule relating to opening is no doubt grounded in ancient rules of evidence (and I do not wish to prejudge this situation). It seems to me at an initial glance that there is considerable force in the argument that there is no rational reason for precluding an opening address by defence counsel in those circumstances where the only witness for the defence is the defendant or his character witnesses. Therefore, the first question that was put to me was whether or not that could be addressed in any change that is made to this balance of the rights between the prosecution and the defence.

The second question was the right of reply, that is, who addresses the jury last. The present situation is, if an accused calls witnesses to facts other than his character, he can (as I said previously) address the jury before doing so. However, the prosecutor has the right of reply. In other words, where the accused calls witnesses to facts other than his character, then the right of reply rests with the prosecution. Where other evidence is called (that is, evidence in addition to that of the defendant or witnesses as to the defendant's character) then the defence has the right of reply. Section 288 (4) of the Criminal Law Consolidation Act provides:

> The right of reply and the practice and course of proceedings shall be the same as on the trial of an action, but (subject to the provisions of section 20 of the Evidence Act 1929), no right of reply shall be allowed to counsel for the prosecution unless the accused or some of them have called evidence.

Section 20 of the Evidence Act provides:

> In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply.

In Victoria the position appears to be different from that in South Australia in that in all trials for indictable offences the second speech of the prosecutor precedes the final speech of the accused, save where that speech asserts new facts. Again, it has been put to me that defence counsel should have the right of reply in all cases. It may be that the position adopted in Victoria is one that could be considered in South Australia. Certainly, it has been put to me that again what appears to be an arbitrary rule as to who has the right of reply (that is, the right of final address) should be examined in the context of the abolition of the unsworn statement as it does with the question of when the defendant is able to give an opening address. It appears anomalous and somewhat illogical to provide a set of rules depending on whether or not the only evidence is evidence of the defendant himself or character witnesses for the defendant. Those two questions were raised in the conference.

The end result of the conference was that it was considered, rightly I believe, that those two questions could not be addressed in the context of the Bill for the abolition of the unsworn statement. However, the conference agreed that both sides of Parliament would give serious consideration to those two issues if a Bill were to be introduced in relation to them, and that serious consideration would be given to the matters raised without, I freely admit, any commitment by anyone to necessarily adopt them, but at least an acceptance that they were issues that were raised that required some consideration.

I believe that that is a fair statement of the conclusions of the conference, and I will certainly be examining these two issues with a view to seeing whether or not the representations that have been made to me have any validity and, if so, what remedies might exist. I think that that concludes my discussion of the results of the conference.

I now address some remarks to an issue which was raised in the House of Assembly and which is still, I believe, of concern to some members of Parliament, that is, the fact that this Bill now provides for the complete abolition of the unsworn statement. Arguments have been put in the past in debate on this Bill that the reason for retaining the amendment moved by the House of Assembly (that is, the Government position) is that there are people in the community who cannot properly give sworn evidence subject to cross-examination, although they may not be sufficiently incapacitated for mental or other reasons as to be precluded from giving evidence altogether.

The example that was put generally concerned cultural factors, particularly tribal Aborigines, and also the question of people who for reason of mental or physical disability could not fairly be expected to be cross-examined.

The case was put in the House of Assembly tonight of a person who is a deaf mute, unable to communicate satisfactorily in any language, and who may also have some intellectual disability and therefore be unable to formulate responses to what might be complex questions or be unable to link chains of thought. It has been put to me that conditional statements are not readily understood by someone in this category.

The abolition of the unsworn statement, it is argued and was argued tonight, will place those people potentially in some jeopardy in obtaining a fair trial. Obviously that is not a matter that can be taken any further tonight, although it would have been accommodated in the Government's original Bill, but that was seen as being too broad by the Legislative Council.

The Hon. M.B. Cameron: Hear, hear!

The Hon. C.J. SUMNER: The honourable member says, 'Hear, hear' but the point I am raising is important. I therefore intend to examine the remarks of honourable members in another place on this point. The question that is raised is this: are the procedures for obtaining evidence from people with intellectual disability, with a substantially different cultural background, with physical disabilities such as deafness or muteness, adequate in our criminal justice system? I propose that that question be examined. I note that there is a reference of the Australian Law Reform Commission under consideration at the moment on evidence and maybe that is being addressed by that commission. The unsworn statement has been abolished in two States and one Territory of Australia, and I wish to try to ascertain information from them as to any difficulties that have arisen with respect to the sort of person that I have mentioned.

At present the provision put forward by the Government is rejected. One would not anticipate returning to a situation where the problems that might be suffered by people with intellectual problems, physical handicap or cultural differences are dealt with by means of the unsworn statement. Nevertheless, I think there is a case for examining the problems that may exist in the giving of evidence generally in relation to people who come into those categories. I certainly propose to do that. One solution, which has occurred to me only this evening, might be for the judge to take that evidence initially—because it may be a long drawn out process—and provide some means of getting it before a jury. This would apply in circumstances where cross-examination, in the normal sense of the word, is not a feasible proposition.

I think that I have given a reasonably complete summary both of the results of the conference and in relation to what I still see as difficulties associated with the complete abolition of the unsworn statement. Certainly, the abolition of

the unsworn statement is something that is accepted by the Government, and promoted by the Government in its Bill introduced in this Council. However, there are some difficulties that I think need to be addressed—some of which were resolved at the conference. The Government will certainly examine those matters. I will examine the other matters that I have mentioned to see whether or not the general question of obtaining evidence in court proceedings from people who suffer some disability, whether intellectual, physical or cultural does need to be examined—with respect not just to criminal trials but also civil trials.

The Hon. K.T. GRIFFIN: I support the motion. The decision of the conference ends a long, hard six-year battle for the total abolition of the unsworn statement. The decision of the conference is a cause for celebration. The Government has conceded, through its House of Assembly representatives, that the exemptions provided in the original Bill were not appropriate and in some respects likely to be unworkable, and I am delighted that that has been recognised and that total abolition has been accepted. In fact, it has been only in the past two or three months that the Government has come around to recognising the desirability of the abolition of the unsworn statement.

I place on record my delight that we are now at the point of achieving total abolition. The Attorney-General mentioned a number of matters raised at the conference. He referred particularly to two matters arising out of discussion about the right of an accused person or his or her counsel to make an opening address at a trial, and also to the timing of a closing address. I recognise the concerns about these matters and that they may need some consideration. In accordance with the commitment that I gave at the conference, I now give a commitment that the Liberal Party and I will give serious consideration to reviewing those two matters. As the Attorney-General indicated, no commitment has been made to support amendments dealing with those two matters, but serious consideration will be given to those two issues and to the provisions of the Criminal Law Consolidation Act which deal with the procedures undertaken at criminal trials.

The instance of a deaf mute was raised by the Attorney-General. It was not a matter on which any commitment was given by any party at the conference, but I am prepared to indicate that if there is a problem—and I do not believe that there is—if there is a satisfactory solution we will give consideration to that when it comes before the Parliament again.

The difficulty with a deaf mute, as with any other person experiencing disability, is that any problem already arises in relation to the giving of sworn evidence and not just in relation to an unsworn statement. That difficulty has been in the system of the administration of justice for a considerable period, but if it is a matter of concern I have no objection to the matter being reviewed.

Notwithstanding that, the removal of the exception that was in the Government's original Bill will not prejudice accused persons. It will achieve the objective of the Mitchell committee's recommendation for total abolition in 1974 and will bring us into line with other States and Territories of Australia, where the abolition of the unsworn statement is now a fact of life in the criminal justice system. Again, I record my pleasure at the final outcome of this very hard battle. I support the motion.

The Hon. K.L. MILNE: I, too, support the motion. I place on record that the summary of the conference that was given by the Attorney-General is certainly fair. I am very pleased to see the unsworn statement go, although I supported the Labor Opposition at the time, and I am glad that I did because I still believe that it was proper to take it a step at a time, because some States were in favour of it and some States were not and had abolished it.

The present Attorney-General's guidance at that time was correct. I hope that consideration will still be given by judges, lawyers and juries to the very small group who need special understanding and help. Now that the unsworn statement is finally to be abolished we can all breath a sigh of relief. It all looks simple in retrospect. It may have made sense many years ago, but the unsworn statement and the nonsense by way of procedure that came to surround it became less and less relevant to the justice of today. The performance of the courts will be the better for its demise.

I support instinctively the suggestions that the Attorney-General made to this Council this evening for improving the rights of the defence. That is a sensible and natural corollary to the abolition of something that the courts and lawyers had become accustomed to. The improvements to the somewhat irrational procedure for the order of hearing the prosecution and defence appeal to me greatly and made the decision for abolition much easier.

I congratulate the Attorney-General, the Hon. Mr Griffin and the Hon. Mr Crafter—the three lawyers at the conference—for the guidance that they gave to the conference, and I support the decision of that conference and the Bill.

Motion carried.

ADJOURNMENT

At 10.42 p.m. the Council adjourned until Thursday 31 October at 2.15 p.m.