LEGISLATIVE COUNCIL

Tuesday 18 November 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

ASSENT TO BILLS

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

Appropriation,
Controlled Substances Act Amendment,
Family Relationships Act Amendment,
Hawkers Act Repeal,
Land Tax Act Amendment,
Metropolitan Taxi-Cab Act Amendment,
Pay-roll Tax Act Amendment.

PETITION: EGG BOARD

A petition signed by 50 residents of South Australia praying that the Council urge the Government to retain the South Australian Egg Board and therefore the orderly marketing of eggs in this State was presented by the Hon. K.T. Griffin.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Children's Court Advisory Committee—Report, 1985-86.
Correctional Services Advisory Council—Report, 1985-86.
Country Fire Services—Report, 1985-86.
Supreme Court—Supreme Court Act 1935—Rules of Court—Solicitor Profit Costs.

By the Minister of Consumer Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Regulations under the following Acts:
Commercial Tribunal Act 1982—Formal Inquiries.
Land Agents, Brokers and Valuers Act 1973—
General Regulations, 1986 (Amendment).
Contracts for Sale of Small Businesses.
Trade Standards Act 1979—Safety Standards for Pedal Cycles.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Building Societies Act 1975—Regulations—Prescribed Securities and Loans.

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Racing Act 1976—Rules of Trotting—Administration of Drugs and Penalties.
Regulations under the following Acts—
Beverage Container Act 1975—Deposit Levels (Amendment).
Fisheries Act 1982—
River Fishery—Number of Licences.
Restricted Marine Scale Fishery—Number of Licences.
Planning Act 1982—Crown Development Report—Intensive Animal Feedlot, Aberfoyle Park High School.
Metropolitan Taxi-Cab Board—Report, 1985-86.
Advances to Settlers Act 1930—Balance Sheet and Reports, 1985-86.
Annual Reports—
Botanic Gardens Board, 1985-86.
Department for Community Welfare, 1985-86.
Office of the Commissioner for the Ageing—1985-86.
Engineering and Water Supply Department—1985-86.
Department of Environment and Planning—1984-85.
South Australian Meat Corporation—1985-86.
Planning Appeal Tribunal—1985-86.
South Australian Psychological Board—1985-86.
State Clothing Corporation—1985-86.

By the Minister of Tourism (Hon. Barbara Wiese):

Pursuant to Statute—

Woods and Forests Department—Report, 1985-86.

By the Minister of Local Government (Hon. Barbara Wiese):

Pursuant to Statute—

Outback Areas Community Development Trust—Report, 1985-86.
Parks Community Centre—Report, 1985-86.
City of Henley and Grange—By-law No. 23—Parklands.

MINISTERIAL STATEMENT: ROYAL ADELAIDE HOSPITAL

The Hon. J.R. CORNWALL (Minister of Health): I seek leave to make a statement.

Leave granted.

The Hon. J.R. CORNWALL: The South Australian Health Commission has been investigating reports of a serious situation involving the treatment of emergency patients requiring operations at the Royal Adelaide Hospital. According to the *Advertiser* newspaper of 14 November 1986, Dr Brendon Kearney, the Administrator of the Royal Adelaide Hospital, accused Flinders Medical Centre of dumping emergency patients on the RAH to save money. The following day the same newspaper quoted remarks by Dr Lehonde Hoare, chief of the surgery division at the RAH, as saying that emergency patients at the hospital had to wait up to 10 hours before being admitted to an operating theatre. Dr Hoare reportedly compared a waiting time of hours in Adelaide to Vietnam where a person blown up by a mine could be on an operating table in 10 minutes, adding that:

> It is not right that you come into a hospital like the RAH and wait up to 10 hours with broken bones sticking through your skin until you can get into an operating theatre.

As Minister of Health, I was concerned about public statements indicating major problems in communication and arrangements for treatment of patients between two major hospitals. The remarks attributed to Dr Kearney were quite disturbing. The further comments by Dr Hoare, however, indicated an appalling situation existed. The major thrust of his description of the situation was that patients were unnecessarily delayed for surgery and that the horrific picture of patients waiting with broken bones poking through their skin could be blamed on lack of funds, the fact that emergency surgical suites were being cluttered up by elective or non-urgent surgery and the transfer of emergency patients from Flinders Medical Centre.

I issued a press release indicating publicly my concern about these matters. I directed the Health Commission to conduct an urgent investigation and asked that the Administrator of the RAH, Dr Brendon Kearney, be interviewed. Obviously, if patients were being subjected to emergency treatment described yesterday in an *Advertiser* editorial as less than that available in a Third World country, the

administration and the board of the Royal Adelaide Hospital would have been expected to alert the Health Commission and the Minister to the situation. I was particularly concerned about the detrimental effect of such public statements upon the hospital and the impact upon public confidence.

I have now received a preliminary report from the Deputy Chairman of the South Australian Health Commission, Dr W.T. McCoy, and I am anxious to place on record his comment that there is no evidence of a crisis in the emergency services or the quality of care provided by the major hospitals in metropolitan Adelaide. Dr McCoy says there are delays before patients who have been admitted to hospital can be treated in an operating theatre but this is not a new situation. In fact, it has applied to major hospitals for decades.

Neither I nor the Health Commission, however, discount the need for the inquiries to continue. There is no doubt that there have been avoidable breakdowns in communication between Flinders Medical Centre and the Royal Adelaide Hospital concerning patient transfers. Dr McCoy issued instructions last Friday that these should be addressed. According to Dr Kearney, who has written a formal letter of complaint to the Editor of the *Advertiser*, he did not refer to emergencies being dumped at the Royal Adelaide Hospital nor does he believe the hospital is being swamped with emergencies day and night. The transfer of patients from Flinders Medical Centre has been conducted as part of a policy endorsed by the South Australian Health Commission and designed to reduce the level of emergency treatment conducted at that hospital. Patients are transferred, when appropriate, not only to the Royal Adelaide Hospital but to the Queen Elizabeth Hospital and other hospitals. The lack of communication between Flinders Medical Centre and the Royal Adelaide Hospital was noted in a letter from Dr Kearney to the Administrator of Flinders Medical Centre (Mr John Blanford) on 3 November 1986. In that letter Dr Kearney acknowledged difficulties which arose because 'at times large numbers of patients have been transferred without notice and certainly without prior discussion with this hospital'.

Extraordinary though it might seem that one major hospital could transmit patients without adequate discussions, at least the situation was then apparently resolved. Dr Kearney continued:

> I think now that we have a formal request that we can communicate within the hospital and minimise those difficulties.

I think it is important that we keep the question of patient transfers and the load on the Royal Adelaide Hospital in perspective. Although Dr Kearney went on to make a cautionary comment about the limit to the capacity of the Royal Adelaide Hospital to absorb additional emergency patients, there is no doubt that the hospital agreed that the percentage of emergency admissions to Flinders Medical Centre was higher than that at the Royal Adelaide Hospital and that the Royal Adelaide Hospital could absorb some additional emergency patients. The actual figures for transfers are nothing like those which have been published. According to the Administrator of the Flinders Medical Centre, transfers to the Royal Adelaide Hospital since 2 November are contained in the table that I now seek leave to have inserted in *Hansard* without my reading it.

Leave granted.

Date	Medical	Surgical	Other
Nov. 2	2		
3	2	9	
4		4	
5		3	
6		3	
7	1	2	
8		Nil	
9		2	
10			1
11		Nil	
12		Nil	
13		Nil	
14		Nil	
15		Nil	
16		Nil	
	5	23	1

The Hon. J.R. CORNWALL: This table indicates that in that 15 day period there were five medical, 23 surgical and one patient classified as 'other'—a total of 29 patients, which is a little less on average than two a day.

There may have been undue pressure upon emergency services at the Royal Adelaide Hospital on one or two days during this period but it is nonsense to suggest there has been a pattern of 'dumping' or that the hospital has been swamped. Similarly, Dr McCoy has advised me that he has met with Dr Hoare. Dr McCoy says Dr Hoare 'is genuinely concerned that people should have to wait to receive emergency surgery but agrees that this is a problem that has faced general hospitals for a very long time and that there is no crisis at present though he believes that the situation may have worsened recently'.

It is clear to me that Dr Hoare's statements were made out of concern for patients but they were not just inaccurate in some cases—they were completely overblown. Dr McCoy reports that Dr Hoare 'agrees that his alleged statement that "patients were waiting up to 10 hours with broken bones sticking through the skin" gave a very misleading picture of the situation at the Royal Adelaide Hospital'.

It is regrettable that the overall picture has been distorted. Nevertheless, the hospital board and administration had identified a number of problems relating to emergency services several months ago. Concerns about this situation are shared by the Health Commission and the Minister. As a result of the Health Commission investigation, a copy of a review of waiting times in the emergency operating theatres at the Royal Adelaide Hospital has been forwarded to the commission. In that report, compiled incidentally in June of this year, the Senior Director of Emergency Services, Dr Mervyn Allen, addressed a number of questions following concern expressed by Dr Hoare about long delays occurring periodically for patients being operated on in the emergency theatres. Dr Allen in the review identified a number of 'trouble spots' in organisation, administration and staffing of the theatres. Taking into account that report, which was released in July, the hospital devised a strategy to overcome these deficiencies. The Health Commission will assist in its implementation, as necessary.

In addition to the initiatives flowing from the Allen report, the RAH has also submitted proposals to improve the staffing of the emergency surgical suite and to address the elective surgery waiting list problem. It plans to recommission a theatre early in 1987 and to use it exclusively for waiting list work. The hospital will fully staff the second emergency theatre each morning in order to lessen the waiting time between admission and treatment in an operating theatre and to smooth the flow of elective orthopaedic surgery. I want to stress, Ms President, that funding for both these initiatives has been approved in the 1986-87 budget. The RAH has received $1.58 million in full-year funding under the State Government's waiting list strategy. The hospital has recruited extra nursing staff, is engaging anaesthetic staff

and hopes to introduce five additional sessions in these emergency surgical theatres within two to three weeks.

As I mentioned earlier, the Health Commission is continuing to make inquiries. Although the situation is obviously nowhere near as serious as it has been painted, I have some outstanding concerns, It is my intention to meet with Dr Kearney, Dr Hoare and the Chairman of the RAH Board, Mr Lewis Barrett, within a week. Following that meeting the need for further investigation will be considered and, if it is necessary, arrangements will be made for an independent assessment of the situation at the Royal Adelaide Hospital to be undertaken. In the meantime, I am happy to be able to reassure the South Australian public that they can continue to rely on the RAH for high-quality medical treatment.

QUESTIONS

MARIJUANA

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Health a question about his misleading—I am sorry, Ms President, that term is unparliamentary—deceiving Parliament. Is that all right?

The Hon. L.H. Davis: 'Misleading' is all right.

The Hon. R.I. LUCAS: No, the President has ruled that to be unparliamentary.

The Hon. L.H. Davis: Not today, though.

The Hon. R.I. LUCAS: She ruled it unparliamentary last time I used it.

The PRESIDENT: I did not rule it unparliamentary.

The Hon. R.I. LUCAS: You ruled it unparliamentary when I used it on the last occasion.

The PRESIDENT: No, I did not. I ruled it as an injurious reflection on a member.

The Hon. R.I. LUCAS: And, therefore, I should not use it. Is it all right if I use 'deceiving the Parliament'?

The PRESIDENT: Your question can be about deceiving Parliament as long as it contains no injurious reflections on a member.

The Hon. R.I. LUCAS: So you rule that to be okay, Ms President. On 30 October—

The PRESIDENT: Are you seeking leave to explain your question?

The Hon. R.I. LUCAS: Yes.

Leave granted.

The Hon. R.I. LUCAS: On 30 October this year I indicated in this Council that a number of Labor Party members holding marginal seats had indicated to me their concerns about their future electoral prospects, as a result of the Minister's marijuana Bill. One of those members said that what was needed was an advertising campaign to sell the Government's view on this matter. As a result of those conversations, I asked the Minister in this Chamber on that day a number of questions. I asked whether there would be an advertising campaign on the Controlled Substances Bill and that, if the answer was 'Yes' when it would be conducted and what would be the estimated cost to taxpayers. The Minister replied:

> Specifically, with regard to this furphy the Hon. Mr Lucas is trying to create that public funds will be expended to specifically, as he puts it, sell the Controlled Substances Bill, the simple answer is 'No'.

I must say, therefore, that I was quite amazed to find in the *Sunday Mail* a full page advertisement inserted by the Drug and Alcohol Services Council outlining, in effect, the Minister's arguments on this particular Bill.

Evidently this was part of a two week $40 000 coordinated advertising campaign in the press and on the radio. The Drug and Alcohol Services Council is not an independent body; it is an incorporated health unit under the Health Commission Act and as such it must present budgets to the Health Commission. Its financial statement for last year shows that of total receipts of $4.7 million—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —it received $4.6 million from the State Government (in other words, the taxpayer). It is virtually 100 per cent funded by the taxpayers of South Australia. Clearly, there is a very close connection between the Minister, the Chairman (Mr Graham Forbes) of the Drug and Alcohol Services Council, the Health Commission and the Drug and Alcohol Services Council. I have also been informed that the Minister was aware of the advertising campaign prior to its launch on the weekend. The evidence is clear: the Minister has deceived the Council over this particular issue. My questions are as follows:

1. Why did the Minister mislead or deceive Parliament on this issue?

2. Is it true that the Minister had discussions with Mr Forbes about the advertising campaign prior to its launch?

3. On what date did the Minister become aware of the proposed advertising campaign?

The Hon. J.R. CORNWALL: If there is anyone who should resign, it is the members opposite who have been quite scurrilously involved in a campaign of disinformation concerning this legislation and concerning—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —the Government's anti-drugs strategy for a period of three weeks. Members opposite have done the people of South Australia generally a grave disservice. Most importantly of all—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —they were creating a situation where a significant number of people in all age groups were beginning to get an impression that the personal possession of marijuana in this State had been decriminalised or legalised. That was never the case.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Members opposite created for the most cynical—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —for the most base and for the most hypocritical reasons a very clear impression—and quite deliberately they created this impression—that the personal possession and smoking of marijuana in public places and otherwise was no longer an offence. That is absolutely wrong.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.C. Burdett: We didn't ever say that.

The Hon. J.R. CORNWALL: The honourable member says they did not ever say it. They said it and they said it consistently and they fostered it in every media outlet in this city. They fostered it on talkback radio, on television and particularly in the afternoon newspaper. There was a very clear impression abroad—

The Hon. R.I. Lucas: You're frothing at the mouth.

The Hon. J.R. CORNWALL: No, I am not frothing at the mouth at all.

The Hon. R.I. Lucas: Answer the question.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: There was a very clear impression abroad which could have led to a most undesirable situation where young people—particularly that age group which has a passing acquaintance with media outlets—were led to believe and given the wrong impression that somehow personal possession and smoking of marijuana in public places had been decriminalised or legalised. As I said, that was never the situation.

I will not go through all of the facts contained in that legislation again—it is being done adequately and quite skilfully in a campaign that will be conducted in the two metropolitan daily newspapers and 19 provincial and country newspapers around the State during this week. It will also, most importantly—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! There were no interjections when the questions were asked. Could members give the same courtesy to the reply?

The Hon. R.I. Lucas: We told the truth.

The Hon. J.R. CORNWALL: 'We told the truth', says the Hon. Mr Lucas. They embarked on an advertising campaign to mislead the people of South Australia.

The Hon. L.H. Davis: Have you thought of trying the song and dance circuit?

The Hon. J.R. CORNWALL: A very witty interjection! He is practising to become a wit but he is only halfway there. The Opposition spokesman—a traitor to the working class, the boy from Mount Gambier and a traitor to his own—with the Hon. Mr Griffin deliberately went out into the community and embarked on this campaign of disinformation for the most cynical and base political reasons. The fact is that the personal possession of marijuana has not been decriminalised in this State. The personal possession of marijuana will carry, when clause 8 is proclaimed, quite clearly well established fines. For trafficking and trading in marijuana the maximum sentence will vary from 25 years and $500 000 as well as the confiscation of assets. There will be a maximum penalty of 10 years gaol for trading in amounts as small as 15 or 20 grams. Let everyone be aware of that. On 30 October I stated:

> Specifically with regard to this furphy that the Hon. Mr Lucas is trying to create that public funds will be expended to specifically, as he put it, sell the Controlled Substances Bill, the simple answer is 'No'.

The simple answer remains 'No'.

The Hon. R.I. Lucas: Rubbish! Look at this! What is that?

The PRESIDENT: Order, Mr Lucas!

The Hon. J.R. CORNWALL: The simple answer remains 'No'. If the honourable member could control his falsetto voice for a moment I will explain why the simple answer remains 'No'. Anybody as promising as the honourable member used to be looked after permanently in the old days in the choir. The simple answer is that we are not involved in selling the Controlled Substances Bill. The Drug and Alcohol Services Council is involved in explaining to the public the full ramifications of the Controlled Substances Act—

The Hon. L.H. Davis: You had no discussions with them?

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —as it now is, and the penalties in the Act, as it has passed this Parliament, and the very important place—but by no means the exclusive place—in the Controlled Substances Act in the Government's and the Drug and Alcohol Services Council's anti-drug strategy. Most importantly, we will have advertisements running this week on radio station SA.FM.

The Hon. R.I. Lucas: Paid by the taxpayer—we.

The Hon. J.R. CORNWALL: We, the Drug and Alcohol Services Council—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: We, the Drug and Alcohol Services Council, with the complete support of the Minister of Health, will have running on SA.FM—

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: I said, 'With the complete support of the Government' we will have advertisements running on SA.FM all this week. I make clear that the management of SA.FM considered it so important to get across this message to its listeners, who are generally in the under 30s age group, that for every one advertisement for which the Drug and Alcohol Services Council is paying my information and understanding is that SA.FM will be running a second advertisement as a community service. That is the importance it places on the campaign and on the perspective of the campaign. Presumably it is as worried as is any other responsible organisation in the South Australian community about this campaign of deliberate disinformation that has been conducted by a few desperate members of the Opposition. On that same day, 30 October, I went on to say in my answer:

> We will continue community education programs. They will not be based on generating hysteria, they will not be irresponsibly based for short-term political expediency. They will be about genuine community information for parents, for children and members of the community at large.

That is what the Drug and Alcohol Services campaign is about. Specifically with regard to the questions the Hon. Mr Lucas asked, as to why I misled the Parliament, quite obviously I did not mislead the Parliament. He asks whether it is true that discussions were held. It is perfectly true that discussions were held. In the first instance discussions were held between me as Minister of Health, the Chairman of the Drug and Alcohol Services Council and a number of other officers who were genuinely and deeply concerned about the misinformation being put abroad. These talks, however, were held after 30 October. There was no specific proposal before me on the day that I answered that question. However, even if there had been a proposal it would not have significantly altered my reply because we did not have, as the Hon. Mr Lucas puts it, some campaign to sell the Controlled Substances Bill. We did not have at that time, do not have now and will not have in the future. We do have a campaign which is part of the ongoing community education campaign to ensure that the people of South Australia understand what we are about with our comprehensive anti-drug strategy.

To my recollection, discussions were probably held on or about 2 November, although I cannot vouch precisely for that date. It was certainly some days after that question was asked in this Chamber. I do know that on 4 November (and this is well documented) the Chairman of the Drug and Alcohol Services Council wrote to the Executive Director of the Central Sector of the Health Commission, to whom the Drug and Alcohol Services Council specifically responds, and expressed his deep concern at the misinformation and disinformation which had been created over the Controlled Substances Bill and the deleterious and potentially very serious effect that it would have on the anti-drug strategy.

So, that concern was expressed by the Chairman of the Drug and Alcohol Services Council to the Executive Director of the Central Sector. If Mr Lucas or any other member opposite wants to stand in this place and impugn the good name of Graham Forbes, the Chairman of the Drug and Alcohol Services Council and the Executive Director of the

Adelaide Central Mission, let them do so. Let them stand up and criticise the very good work that is done by Graham Forbes, not only in his capacity as the Executive Director of the Adelaide Central Mission, but also as the honorary Chairman, the unpaid Chairman, of the Drug and Alcohol Services Council of South Australia. I would estimate that Mr Forbes, in that honorary capacity, both in this State and on numerous visits that he makes interstate as an officer of the standing committee on drug strategy, which supports the ministerial committee on drug strategy, would give the people of South Australia somewhere between 10 and 15 hours of work every week. It was at his suggestion and because of the concern that he expressed that this campaign was mounted. The day that I have to stand in my place and apologise for supporting the Chairman of the Drug and Alcohol Services Council in wanting to inform the people of South Australia what we are doing as part of our comprehensive anti-drug strategy would be the day that I would no longer want to be associated with this Parliament.

The PRESIDENT: The Hon. Mr Elliot.

Members interjecting:

The PRESIDENT: Do you wish the call, Attorney?

The Hon. C.J. Sumner: No, it is all right.

The PRESIDENT: Under Standing Orders, the way to get the call is to rise to your feet, not wave your hand.

The Hon. C.J. Sumner: I did not want to be rude.

The PRESIDENT: It is not rude to rise to your feet to attract my attention. If you wish the call, you can rise to your feet and I will happily give it to you.

The Hon. C.J. Sumner: It does not always work, that is the problem. It does not work.

The PRESIDENT: The Hon. Mr Cameron.

BEVERAGE CONTAINERS

The Hon. M.B. CAMERON: I seek leave to make a brief statement before asking the Attorney-General, as Leader of the Government in this House, a question on deposits on bottles.

Leave granted.

The Hon. M.B. CAMERON: Some years ago—and I am sure that the Minister of Health will recall the occasion—I moved to have a firm deposit put on beer bottles. There was a lot of controversy at the time about that matter. The major reason for my decision at that time—it was at the stage of the introduction of deposits on cans and at a later stage—was the potential danger for people, particularly young children, at the beach. I do not have to explain to anybody here the potential effect of beer bottles on beaches. Soft drink bottles tend to be used by families, whereas beer bottles tend to be the result of gatherings on the beaches of this State and in recreation areas, and there tends to be from time to time an irresponsible element who break those bottles for fun or for whatever reason, but they never clean up the mess that they leave behind. In past years there have been some ghastly accidents with young people and children as a result of those irresponsible actions.

We have, no doubt, an excellent system of bottle returns with a very large return rate in South Australia, and the South Australian Brewing Company has recognised since the time that I made that move the need to increase the amount of money available for the return of the bottles. I applaud them for that very responsible attitude which they have shown over a number of years and which they have continued to show in recent times. It is a matter of great disappointment to me (and, I am sure, to most people in this State) that they appear to have been placed in the position of potentially having to move back to the system of non-returnable bottles—one-way trip bottles—and that will be an absolute disaster if that occurs in this State and one that I certainly would not want to see. It would be a disaster for our beaches which have been the cleanest and the best in Australia from the point of view of deposits of broken glass.

I recall—and I am sure that the Minister recalls—picking up glass from an old hotel in this State which has long since been deserted (it has been deserted for probably 100 years), and the broken bottles were just as sharp as they were on the day they were broken. That is why there needs to be a very high level of concern. A bottle is not something that rusts away on the beach. It is there for ever and there is the potential for permanent damage to adults and children alike because of the litter on the beaches and other recreation areas and the lack of incentive for picking up bottles from beaches and along the roadside.

I think it is a great shame that an interstate brewer has taken this action and I say with some sadness that that interstate brewer was in fact the beneficiary of a very large capital increase in the money that he invested in this State. I am sorry to see that he and his company have not shown a responsible attitude towards this problem and have taken the Government to court on this matter. It is also a shame that the Government appears to have not proceeded to test the matter. My questions are:

1. What steps will the Government take to rectify the position in which the South Australian Brewing Company now finds itself in terms of capital costs involved in gearing up for the new arrangements which were outlined in the Bill passed in this Chamber and this Parliament and on which regulations have been prepared?

2. Does the Government intend to reimburse the South Australian Brewing Company for the capital costs?

3. What steps will the Government take to try to persuade all people producing beer for sale in this State to ensure that the system of bottle returns that we have enjoyed for so long continues?

The Hon. C.J. SUMNER: The first point to be made is that the system for return of bottles which has hitherto existed will continue to exist. Certainly, there is no reason why it ought not continue to exist. The reason that the Government acted in the way it did in this matter was on the basis of advice received from Crown Law officers that the differential of 15c for non-returnable bottles and 4c for returnable bottles would not be upheld by the High Court in a challenge to—

Members interjecting:

The Hon. C.J. SUMNER: If members would like me to go into the matter in more detail, I will. The fact is that there are some Statutes and regulations and actions within the State of South Australia which, if challenged, could run foul of section 92 of the Constitution as presently interpreted. The fact of the matter is that those challenges are not always mounted and the State is entitled, I think, to legislate as it sees fit in the best interests of the State. Sometimes acting in that way does produce challenges and in particular challenges under section 92 of the Constitution.

When the challenge was mounted, and when the matter was further investigated in relation to the factual basis of the challenge, our advice was that the difference of 15c and 4c between non-refillable and refillable bottle deposits would not be allowed by the High Court. Members would know that section 92 of the Federal Constitution, which binds the States and the citizens of the States, provides that the trade, commerce and intercourse amongst the States shall be absolutely free. It was considered that the differential of 15c and

4c in this area would have been an imposition on interstate trade and would not have been justified as reasonable regulation.

The Government was faced with the position of proceeding with the court matter and the probability that the end result of the court case would have been the removing of any differential in the deposit on refillable and non-refillable containers. I am sure that members opposite would have seen that as a less desirable result than the one that has been achieved. What needs to be remembered are the Government's and community's objectives in this area. The first objective was to retain a bottle and container deposit system. The second objective was to retain a differential between refillable and non-refillable bottles. Those objectives have been maintained in the settlement of the court proceedings issued by the Bond Corporation.

The deposit system remains in place. There was a possibility—and I do not put it as a very high possibility—that the whole deposit system could have been struck down in the High Court by the challenge. The settlement that has been arrived at does retain the deposit system. From the point of view of litter and the return of bottles, it is clear that 4c or a 6c deposit on containers will ensure that those containers are returned. The level of deposit is adequate to ensure the return of the containers, whether they are of a refillable or non-refillable kind.

With respect to the problem of litter and of broken bottles on the beach or elsewhere, the deposit system that has been retained will be sufficient to ensure that the bottles are returned and that those problems do not exist.

The Hon. M.B. Cameron: A one-way bottle is much weaker.

The Hon. C.J. SUMNER: The reality is that the one-way bottle is not weaker than the returnable bottle. Members may or may not consider that correct, but that happens to be the fact of the matter. In other words, with a deposit system the bottles will be returned.

The Hon. M.J. Elliott: What about resources? That was the other reason for the Bill.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No, it wasn't. There is no question that the legislation is valid because it has worked in terms of the return of the containers and in ensuring that we do not have the litter problem in this State that exists in some other States. Those objectives—

The Hon. M.J. Elliott: You look at the debate in February. Clearly there were two reasons and you've caved in on one of them.

The Hon. C.J. SUMNER: All I can say to the honourable member is that that was done on the basis of advice, which came from the Crown Law officers, faced with the risk—which I am sure the honourable member would not wish us to take—albeit a slight risk, that we end up with no container deposit. What would the honourable member say if that had occurred? What would the honourable member say in May or June of next year if we came into the Parliament with the Government having lost the case in the High Court and the deposit system having been completely abolished? He would be sitting there not quietly, but condemning the Government for not having taken some action on the matter. That is not the most probable result, I should say, but it was a possibility in a contested circumstance.

The other possibility, which was more likely and probable on our advice, is that the differential between 6c and 4c, which we have maintained, would not have been allowed. What would the honourable member have said if that had occurred? He would not have been sitting there quietly; again, he would have been condemning the Government. All I can say is that, on the basis of the information that was available to us once the challenge had been mounted and further information obtained, the action taken by the Government was reasonable in the circumstances in the terms of the objectives; the first objective ensuring the return of the containers, which the deposit system does, and the second objective ensuring some differential between the refillable and non-refillable containers. Those two objectives have been retained in the position that we have now arrived at with the settlement of the court proceedings. I would have thought that, rather than being condemned, the Government should be congratulated for having reached a solution which saw those two objectives still in place. As I have said, the situation could have been worse.

It is not an absolute disaster as far as litter is concerned or as far as broken glass is concerned because all the evidence is that a deposit system will see the return of the containers. From the resources point of view, once the containers are returned they are re-used. They have to be remade, but the material is used again in the glass.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Well, what about the heating that is needed to wash the returnable bottles; what about the transport that is needed—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: I would be interested to see the honourable member's evidence. If he looks at that I think he will find that that is a reasonably problematic area. In any event, as I have said, within the objectives of the Government and the community, this settlement achieves the objective of the Government, the community and, I hope, the Parliament.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: The fact is—and the honourable member seems to have forgotten this—that the South Australian Brewing Company has been operating a system of refillable bottles since time immemorial. How has the situation in that respect changed, except that the Bond Corporation, because of the Constitution, will now be able to enter the South Australian market with non-refillable bottles and, one should say, at a disadvantage, which if the matter had gone to the High Court would in all probability not have been there. The honourable member can shake his head but I assure him that that was the legal advice given to the Government. We were faced with a situation where if we proceeded we ended up, as the probabilities were, with no distinction between refillable and non-refillable bottles, and that situation would not have met the objectives that I have outlined.

There is no obligation on the Government as far as the South Australian Brewing Company is concerned. That company has operated a system of refillable containers for a long time and there is no reason why it should not be able to continue that operation if it decided that that was appropriate in terms of its operations and marketing strategies.

EDUCATION STAFF CUTS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Education, questions on the effects of staff cuts and other staffing changes.

Leave granted.

The Hon. M.J. ELLIOTT: This year's staffing exercise in the Education Department is in total chaos, more than

in any other year that I am aware of. The very good education system in South Australia is under threat. A number of factors have come together to cause this.

First, the Government, contrary to previous undertakings, is cutting staff numbers. There will be a reduction in teaching positions of 230 from February 1987. Secondly, the cuts of 67 positions at the advisory level and other key support services will lead to some displacements back into schools. Thirdly, a large number of teachers will be returning to the metropolitan area under the guaranteed transfer scheme.

The Government will be displacing large numbers of teachers on the basis of the staffing formula. It will also be cutting by half the number of negotiable staff, that is, those given to schools over formula on the basis of recognised need. One wonders if needs have suddenly been halved. In a school which has maintained student numbers, there will be problems because, where any staff replacement must occur, they must accept what is available from the pool of displacees, advisers and guaranteed transfers.

However, already some schools are being told, 'We don't have the sort of teacher you want; you will have to take another.' For instance, I have heard of one school that will get an English teacher because the department does not happen to have a mathematics teacher available. These schools will have to either use unqualified staff or drop the subject. There is even talk of one large metropolitan school losing Matriculation English, and I know of another one that is losing Modern European History as things currently stand. This makes things difficult, when one looks at the Government's guaranteed curriculum—an election promise.

The problems are far more severe in schools with declining enrolments. I am told that Gawler High will lose 11 staff, Mitchell Park 10, Plympton High nine, Thorndon 8.3, Dover High seven and the list goes on. The whole northern metropolitan area is losing something like 83 staff, plus for every member lost, five hours of ancillary time is lost. These schools will be far more drastically affected than those holding static numbers. One of two effects will result: either the number of subjects offered decreases or class size increases. The reasons for that are complicated, unless one understands the way classes are staffed, but that is what happens. The other possibility is a combination of fewer subjects and increased class size, with the most serious effects at the senior grades. As an example, Elizabeth High, which is losing 5.3 staff, has nine year 11 subjects at risk and four year 12. I believe that some of these have been now saved but at the cost of increased class sizes.

Paralowie, a school that is maintaining student numbers, may be losing programs that are already operating and there has been talk of classes approaching 40. Practical classes that should be around the 16 level are at 26. How well, I wonder, does this mesh in with the Occupational Health, Safety and Welfare Bill? Primary classes continue to be too large and second languages in schools seem to be at risk. Often primary schools, which have not been allocated a language teacher, have a person within their staff with ability with another language. As long as the staffing ratio allows, the school can often free this person to teach language to classes other than their own. Any pressure on the ratio removes that language program.

The Hon. C.J. SUMNER: I raise a point of order. Madam President, with respect to the honourable member's question. He is obviously debating the issue in the manner of a second reading speech.

The PRESIDENT: As to the point of order, I was noting the considerable length of the explanation. Leave was granted to give a short explanation prior to asking a question. I ask the honorable member to recall that leave has been granted to him.

The Hon. M.J. ELLIOTT: I am mindful. I am keeping my question as brief as possible. It is a major problem.

The PRESIDENT: I also point out—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I point out to the Council that it is also open to any member at any time to call 'Question', at which stage that explanation ceases forthwith and the question itself must be asked.

The Hon. M.J. ELLIOTT: I had two paragraphs remaining. The Government has encouraged students who went to special schools to attend ordinary schools. However, there is often a need still for special assistance. Cuts in negotiable staff have led to one school losing three teachers allocated to special education. Special education students are sometimes inappropriately in classes of up to 30.

It is a recognised fact that until this year South Australia had the best public education system in Australia. As a teacher of nine years experience, while recognising some flaws, I was proud of it. I ask the Minister the following questions:

1. Will the Minister confirm that the Northern Metropolitan Region of the Education Department will be losing approximately 80 teaching staff and 10 ancillary staff at the end of this year?

2. If so, will the displacees be going into permanent positions in other schools or will a number find themselves acting as permanent against temporary?

3. Will the Minister confirm whether negotiable staff has been cut by half?

4. Does the Minister agree that the reduction in staff numbers must lead to either a decrease in subject range or increase in class size, or a combination of both?

5. Does the Minister believe that the decrease in subject range is consistent with the Government's stated policy at the last election of curriculum guarantee?

6. Is the Minister aware that the greatest cut in available subjects will be occurring in senior classes, with a significant decrease in the number of non-academic subjects being offered and that even more conventional academic subjects are also at risk?

7. Is the Minister aware that practical classes are frequently 26 or more?

8. Is the Minister aware that many primary schools which are now offering second languages from within existing staff allocation will no longer be able to do so?

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

BILLS PAYMENT

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about slow payment of bills.

Leave granted.

The Hon. L.H. DAVIS: In the last week of September a major national tourism conference was held in Adelaide which the theme 'Making the Dream Come True'. Delegates had to register for this conference by 29 August or pay a late registration fee. One of the activities arrange for delegates was an evening meal at one of seven city or near city hotels, including the Newmarket, the Kings Head, the Robin Hood, the Royal and the Duke of York. Delegates had to register for this meal and pay the cost of $23 at the time

of registration for the conference or $28 if they registered after 29 August.

It proved to be a most popular function with up to 40 delegates at each of the seven hotels. The meals were served to delegates on Tuesday 23 September and Thursday 25 September. However, I have had complaints that the hotels were not paid for these dinners until they put considerable pressure on the Department of Tourism. One hotel did not receive its cheque until 10 November and another on 7 November. I have spoken to several of the hoteliers, who have confirmed the slow payment. In fact, one hotelier was quite bitter about the slow payment. Apparently there was no previous arrangement to pay on account.

When the Department of Tourism was asked for the money the person making the inquiry was told that the cheque was on a computer run. When the cheque had not arrived three weeks later the department was telephoned again. On this occasion the department admitted that the cheque had not yet been processed. The hotelier made the point that the hotels are required to pay the Government licence fee by the due date and that running a hotel is essentially a cash business. In this particular case the department had received moneys for the dinner almost a month before the dinner was held. However, the department did not pay some hotels until 45 days after the dinner; and, in fact, in one other case a hotel was not paid until 48 days after the dinner—nearly seven weeks later.

Hotels are on overdraft rates up to 20 per cent, so the department's slow payment has effectively skimmed off between 15 and 20 per cent from the hotels' dinner profits. Last year the Premier announced that all State Government departments had been asked to pay accounts promptly. That certainly has not happened on this occasion. As one hotel observed to me: how can the Department of Tourism be serious about promoting tourism and have a slogan of 'Making dreams come true' when it cannot get its own act together. My questions to the Minister are as follows:

1. Does the Minister accept that, if Government departments do not pay their accounts promptly, dreams will not come true and small businesses will have to battle harder to survive?

2. Will the Minister write to the hotels affected and apologise for the slow payment?

The Hon. BARBARA WIESE: I am not aware of the slow payment of the accounts as mentioned by the honourable member. Normally, it is the practice of my department to pay accounts promptly in accordance with Government policy. Normally, that is the way my department does business. If that has not been the case in this instance, I am very concerned about it because I agree entirely that businesses, particularly small businesses, rely very much on the prompt payment of accounts in order to run efficiently. So, it is of considerable concern to me if in this instance accounts have not been paid within a reasonable time.

I will have the matter investigated to determine just why it is that some accounts may have been paid later than others. I will endeavour to see that that sort of thing does not happen again. It certainly does not happen with my approval. I venture to say that it does not normally happen with the Department of Tourism because it does pay bills promptly. There must be some good reasons for this to have happened in this case.

LAND BROKER'S DEFAULT

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General about a land broker's default.

Leave granted.

The Hon. K.T. GRIFFIN: There have been media reports of a land broker, Ross Daniel Hodby, being in serious financial difficulty and that many investors have suffered financial loss. For many it is their life savings, for others, it has been the money they were putting away for a special purpose, such as the children's education. Now, their hopes have been shattered. I understand that Hodby was declared bankrupt on 17 October 1986, that he has been charged with six counts of fraudulent conversion and that figures from $2 million to $5 million have been quoted as the deficiency.

The Official Receiver in Bankruptcy has the conduct of the bankrupt estate of Ross Hodby and I understand he still does not know the full extent of the deficiency or the total number of investors involved. Police, too, have not any idea of the extent of any deficiency at this stage. The Official Receiver in Bankruptcy has suggested that it may be helpful if there was some publicity about this matter in that people who may have claims may come forward to identify possible losses. Some investors have contacted me expressing the concern that even though they have registered first mortgage securities they have been told they cannot discharge them and get their money. They have also been told that the Official Receiver intends to apply for a Supreme Court injunction to freeze all those mortgages.

The human pain, anxiety and problems all this causes is extensive. Among other things, I have been told that no audit of Ross Hodby's books had been made for three consecutive years. If it had, discrepancies may well have been detected earlier. If no audit had been conducted for three years, that is of very grave concern. If that is the position, it raises the question why Hodby's licence has been renewed annually. The concern expressed to me, and I agree with that concern, is how can this occur and, if ordinary investors do all that is required of them to obtain security, what more protection can they have? My questions are as follows:

1. Is it correct that no audit had been conducted of Ross Hodby's trust account for three years?

2. If so, who in Government was responsible for the ensuring that audits were undertaken?

3. Has the Attorney established (and, if not, will he do so) a central location where investors affected by this collapse can lodge claims and obtain information as to the likely effect on them?

The Hon. C.J. SUMNER: As to the second matter, assistance has been provided to all people who have contacted the Department of Public and Consumer Affairs. A large number of people have done that, so Mr Peter Kay has been appointed to handle these complaints within the Department of Public and Consumer Affairs. Furthermore, the Land Brokers Licensing Board has now had its responsibilities transferred to the Commercial Tribunal and is now no longer in existence, but the same system exists. A person within the Department of Public and Consumer Affairs has been nominated to handle complaints and provide advice on these matters.

I know that some individuals have been advised to seek their own legal advice to see whether or not they can take action to recover some of the money if in those individual cases mortgages had been registered on titles. I understand that in most cases that was not the case. It is not really possible for me to go into great detail because Mr Hodby is now the subject of criminal charges. Nevertheless, it is alleged that he was obtaining money from investors and not placing it appropriately by way of mortgage over the properties of the people to whom he was lending the money.

In fact, no transactions were taking place but Mr Hodby was advising the people who had invested the money with him that the money had been re-lent and secured appropriately. In fact, this had not occurred. That may be subject to court proceedings at some stage.

Mr Hodby was a licensed landbroker. He filed a petition for his own bankruptcy with the Official Receiver and reported the matter to the police. As I have said, the allegation is that he misappropriated money which people had invested with him to be placed on first mortgage investment. The Land Brokers Licensing Board met on 22 October 1986 and resolved to conduct an inquiry into Mr Hodby's alleged misconduct. The board appointed Mr J.B. Pridham, accountant, under the Land and Business Agents Act to supervise Mr Hodby's trust. However, it is understood that there is only $500 in the trust account.

Mr Pridham has also agreed to assist the board with the assessment of claims against the consolidated interest fund. That consolidated interest fund will have some moneys available to disperse to people who have lost money as a result of the activities of Mr Hodby but the fund, under the terms of the fund, is not able to repay all moneys lost and there will be only a small amount of the money lost that could be repaid through the fund. The Land Brokers Licensing Board conducted an inquiry on 30 October 1986 and certain submissions were made. The board found that evidence existed for disciplinary action against Mr Hodby on the following grounds:

a. that he failed to lodge audit reports for the years ending 31 December 1984 and 31 December 1985;

b. that he failed to keep properly an audited trust account;

c. that he withdrew moneys other than for the purpose of completing transactions;

d. that he misappropriated funds entrusted to him.

The board resolved on that day that the licence of Ross Hodby be cancelled and in addition that he be disqualified from holding a landbrokers licence until further order of the board. It can be indicated also that it would not entertain an order or an application for the return of that licence within a period of less than 10 years. It further found that there was, implicit in the findings that it made, that there had been fiduciary default on behalf of the client. It made no order as to costs. Mr Hodby was arrested on 30 October 1986 and charged on six counts of fraudulent conversion of approximately $300 000. He is currently on bail to appear on 19 January 1987. A further 80 counts involving a significant amount of further money are still under investigation. That is the current situation.

The Department of Public and Consumer Affairs has been offering all the assistance possible to people who find themselves in the situation of having potentially lost funds as a result of Mr Hodby's activities and that assistance will continue. If the honourable member has anyone that he wishes to refer to me, I am happy to try to provide every assistance through the department as is possible, although it may be necessary for people to get their own legal advice. Ultimately it may be useful for the aggrieved people as a group to get legal advice with respect to their rights under the consolidated interest fund.

With respect to the question of the lodging of audit reports, the board found that they had not been lodged for those two years. The obligation to lodge an audit report is imposed upon the broker. In any event I understand—and this presumably will become clearer as investigations proceed—that this operation of Mr Hodby had been going on for some considerable time prior to that, but had not been shown up by the audits that had been conducted prior to that time. That position will become clearer as time goes by and as investigations proceed. If there is any further information I can give the honourable member when it becomes available, I will be happy to do so.

QUESTIONS ON NOTICE

COMMUNITY AIDES

The Hon. J.C. BURDETT (on notice) asked the Minister of Health: How many community aides are currently registered with the Department of Community Welfare?

The Hon. J.R. CORNWALL: There are 559.

NUCLEAR ACCIDENTS

The Hon. M.J. ELLIOTT (on notice) asked the Attorney-General:

1. Have the State Emergency Services procedures in place for the evacuation of populations in the vicinity of Port Adelaide in the event of—

(a) an accident involving nuclear powered ships?

(b) an accident involving ships which are nuclear armed?

2. Does the Metropolitan Fire Service have procedures in the event of a fire on nuclear powered and/or capable ships?

3. What protective equipment and medical facilities are available for personnel handling an accident?

4. What monitoring occurs to detect accidents?

5. Of what positive value to South Australia are visits to Adelaide by foreign nuclear capable ships?

6. Does the Government have a supply of potassium iodate tablets sufficient to cope with an emergency situation?

7. Will the Government make public any procedures it has in place to deal with any nuclear accident?

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

1. and 2. While emphasising that the possibility of a nuclear accident at Port Adelaide is remote in the extreme, I can inform the honourable member that the State Disaster Plan, a public document, provides procedures to mobilise and coordinate the State's emergency resources to deal with any major accident, regardless of the cause.

Arrangements for all accidents to visiting warships are also covered in the general emergency plans for harbour accidents which exist for every Australian port. These plans utilise the resources of the Port emergency services, including fire brigades, police and health agencies, along with State and Commonwealth support, as appropriate.

3. Protective equipment is available in the Public Health Branch of the South Australian Health Commission. The SAMFS procedures include all necessary precautions where there is the slightest possibility of a radiation hazard.

4. A monitoring program is laid down in a Commonwealth publication entitled 'Guidelines for Environmental Radiation Monitoring during visits be Nuclear Powered Warships to Australian Ports'.

5. The visits are a part of the benefits to Australia's overall foreign affairs and defence relationships with its allies.

6. The Public Health Service of the Health Commission has 12 000 potassium iodate tablets which could be used in the event of an emergency situation.

7. As stated previously, any accident involving nuclear materials would be handled in accordance with the State Disaster Plan, which is a public document. Approximately

2 000 copies of the plan have been issued to organisations or persons who may be involved in emergency operations.

GRAND PRIX

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. What is the name of the company that has won the contract to run the Australian Formula One Grand Prix?
2. Who are the principals of that company?
3. What are the terms of that contract with the Grand Prix Board and in particular—
   (a) What is the sum of money to be paid to the company?
   (b) What is the length of the contract?
4. On what date was that contract signed?

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

1. There was no company formed to run the Australian Formula One Grand Prix.
2. Not applicable.
3. Not applicable.
4. Not applicable.

PROFESSIONAL LOBBYISTS

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. Is there any Government policy on Ministers and departments dealing with professional lobbyists?
2. If so, what is it?

The Hon. C.J. SUMNER: No—it should not be necessary to hire lobbyists, as Government Ministers and departments in South Australia are extremely accessible.

MR R. THOMSON

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. On what date did Mr R. Thomson resign from the Public Service?
2. On what date did Mr R. Thomson resign from the selection committee for the Entertainment Centre?
3. *(a)* On what date was Crown Law advice sought about Mr Thomson and on what date was that advice received?
   (b) Was that advice provided in written form?
   (c) What was the nature of that advice?
4. Was that advice provided after independent Crown Law checking of Mr Thomson's new position?
5. Who were the members of the preliminary and final selection committees and on what dates were they appointed?

The Hon. C.J. SUMNER: As the reply is lengthy I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

1. 21 February 1986.
2. Mr Thomson's last meeting was 13 January 1986.
3. *(a)* Crown Law advice was sought on 29 January 1986 and received on 3 February 1986.
   (b) Yes.
   (c) The advice, *inter alia*, indicated that Mr Thomson was to be employed in a company in which the Hassell group had no direct or indirect interest and would not be under their direction and would not be under a duty to report to them, and that Mr Thomson would be under a strict legal duty not to discuss with any party any of the information which is not in the public domain which he had received while a member of the committee.
4. Yes.
5. Members of Stage I Selection Committee—
   Graham Inns, Chairman, from April 1985.
   Graham Thompson, Recreation and Sport.
   Russell Thomson, State Development.
   Basil Kidd, Treasury.
   Len Amadio/Chris Winzar, Arts, from 14 August 1985.
   Maurice Downer, consultant, from 2 July 1985.

   Members of the Stage II Selection Committee—
   Graham Inns, Chairman, from January 1986.
   Basil Kidd, Treasury, (resigned April 1986—replaced by John Hill).
   Russell Thomson, State Development (last meeting attended was 13 January).
   Robert Nichols, Housing and Construction.
   Lionel Bates, Executive Director, from January 1986.
   Maurice Downer, consultant, from 20 February 1986.
   Dick McKay, National Australia Bank.
   Robert Martin, Crown Law adviser, from 18 March 1986.
   Brenton Ellery, consultant; David Peterson, consultant, during selection period (May-July 1986).

ENTERTAINMENT CENTRE

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. Did the firm Kinhill Stearns Pty Ltd or any employee of that firm provide any advice or assistance to the selection committees for the Entertainment Centre during its deliberations?
2. If yes, what was the nature of the advice or assistance?

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

1. No.
2. Not applicable.

MR M. DOWNER

The Hon. R.I. LUCAS (on notice) asked the Attorney-General:

1. On what date did Mr M. Downer raise with the selection committee for the Entertainment Centre the fact of his involvement with the Jubilee Point Development and what were his reasons for doing so?
2. *(a)* On what date did the Government seek Crown Law advice and on what date was it received?
   (b) Was that advice provided in written form?
   (c) what was the nature of that advice?
3. Was that advice provided after independent Crown Law checking of Mr Downer's position?

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

1. At a meeting of the Adelaide Entertainment Centre committee on 18 January 1986. At that meeting the Chairman of the committee asked all committee members to declare outside interests.
2. *(a)* The Crown Solicitor's office was telephoned subsequent to that meeting and advice was given that, on the declarations given, no committee member had any conflict or potential conflict of interest with the terms of reference of the Committee.
   (b) No.
   (c) See *(a)*.
3. Not necessary in the circumstances.

EDUCATION DEPARTMENT

The Hon. R.I. LUCAS (on notice) asked the Minister of Tourism:

1. What is the estimated cost to the Education Department of repaying the 20 per cent loading on long service leave entitlements for certain ancillary staff?

2. Is the department contacting all eligible staff advising them of the department's mistake and its intention to make good on the correct payment?

The Hon. BARBARA WIESE: The replies are as follows:

1. The cost to the department of repaying the 20 per cent loading is $155 000. This cost relates to all long service leave taken by ancillary staff eligible for the loading from 1981 to 1986.

2. The department has examined all ancillary staff leave records to establish where any arrears were payable. All these arrears were paid on 16 October 1986.

EDUCATION BUDGET

The Hon. R.I. LUCAS (on notice) asked the Minister of Tourism:

1. What was the cost of the production and distribution of the leaflet outlining the State education budget?

2. What number were produced?

3. What has been the distribution list for the leaflet?

The Hon. BARBARA WIESE: The replies are as follows:

1. The cost of production and distribution of the education budget leaflet was $2 545.

2. Approximately 5 000 copies were produced.

3. These were distributed to all schools, school councils, kindergartens, child parent centres, the press, members of Parliament and education-oriented bodies like parent organisations.

EDUCATION EXHIBITION

The Hon. R.I. LUCAS (on notice) asked the Minister of Tourism:

1. Is the Education Department involved in an education exhibition in Singapore later this year?

2. If yes, what is the intended purpose and estimated total cost?

3. How many officers will need to travel to Singapore?

The Hon. BARBARA WIESE: The replies are as follows:

1. Yes. The First Asean Education and Training Exhibition will be held in Singapore from 3-6 December 1986.

2. South Australia has had expressions of interest from South-East Asia regarding the purchase of educational equipment and materials. The exhibition will enable the Education Department to display educational equipment and materials that have been developed and used in South Australian schools. The cost of the exhibition will be approximately $30 000.

3. Four.

PARLIAMENT HOUSE REPAINTING

The Hon. L.H. DAVIS (on notice) asked the Minister of Health:

1. How many persons will be employed in painting the passage walls in the basement of Parliament House?

2. What is the estimated cost of both materials and labour used?

3. *(a)* Did the Department of Housing and Construction seek advice on this painting job from the Heritage Unit of the Department of Environment and Planning?

(b) If so—

(i) Who sought the advice?

(ii) Who provided the advice?

(iii) On what date was the advice provided?

(iv) Was that advice in writing?

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

1. The painting of the lower ground corridors constitutes a portion of a total project incorporating external and internal painting at Parliament House. There will be a gang of 3 to 4 painters engaged on the overall project, and a number of these will be deployed on the corridors, depending on the progress of other parts of the work, and weather conditions which may affect the ability to undertake external painting.

2. The cost for the painting of the lower ground corridors is as follows:

	$
Labour	13 030
Materials and support contracts	2 300
Total	15 330

3. *(a)* Yes.

(b) Verbal advice was sought by an officer of the Department of Housing and Construction from an officer of State Heritage Branch on 20 May 1986 at Parliament House.

ENVIRONMENTAL IMPACT ASSESSMENTS

The Hon. M.J. ELLIOTT (on notice) asked the Minister of Health:

1. Was a committee established by the Minister for Environment and Planning in September 1984 to review the environmental impact assessment process in South Australia?

2. Was a final report submitted to the Minister in August 1986?

3. If yes, what has happened to it since then, and what is intended will happen?

4. Was there a request from the committee that it be released for public discussion?

5. If yes, why hasn't it been released for public discussion?

6. In the light of concern about the EIA process which has arisen in relation to Jubilee Point, will the Minister release the committee's report as a matter of urgency?

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

1. Yes.

2. Yes.

3. Consideration of recommendations by Government. Release of the report is expected after this consideration.

4. Yes.

5. See 3.

6. See 3.

TOOTH DECAY

The Hon. M.J. ELLIOTT (on notice) asked the Minister of Health:

1. Does the Minister recognise that the scientific journal 'Nature' is one of the most highly regarded scientific journals in the world and that its articles are rigorously referred?

2. Has the Minister seen a five page article in 'Nature' of 10 July 1986 by Mark Diesendorf titled 'The mystery of declining tooth decay'?

3. Will the Minister read this very significant paper and will he accept that:

(a) The prevalence of tooth decay in children living in unfluoridated Brisbane declined by approximately 50 per cent over the period 1954 to 1977?

(b) The use of fluoride tablets was not a major contributor to this decline?

(c) Substantial improvements in the teeth of school children in northern Sydney were reported by the Health Commission of New South Wales for the period 1961 (when 3.8 per cent had decay free teeth) to 1967 (when 20.2 per cent had decay free teeth)?

(d) Since Sydney was fluoridated in 1968 and fluoride toothpaste was introduced in about 1967, neither fluoridation nor fluoride toothpaste could have been responsible for this substantial improvement? (Reference: Lawson, J.S. et al (1978) *Medical Journal of Australia*, Vol. 1, pp124-125.)

(e) Large secular (i.e. temporal) declines in tooth decay have also been reported in unfluoridated parts of at least seven other developed countries?

4. If so, does the Minister also accept that the claim in the press release from the Dental Health Education and Research Foundation, University of Sydney, dated 15 December 1980 and entitled 'Fluoridation dramatically cuts tooth decay in Tamworth' was unsubstantiated because:

(a) The press release created the incorrect impression that fluoridation was responsible for a 95 per cent reduction in tooth decay in six year old children in Tamworth between 1963, the year of fluoridation, and 1979?

(b) The major part of this percentage reduction actually occurred over the period 1969 to 1979, i.e. after six year olds had already received fluoridated water from birth and that therefore the major part of this observed reduction could not have been the result of fluoridation?

5. *(a)* Is the Minister aware that based on the surveys of the School Dental Service, average tooth decay prevalence in 1984 in school children aged 6-13 years in Queensland (5 per cent fluoridated) was approximately the same as in South Australia (over 71 per cent fluoridated since 1971) and Western Australia (over 80 per cent fluoridated since 1968)?

(b) What conclusion does the Minister draw from this data?

6. Is the Minister aware that:

(a) Not one of the above points, which cast serious doubt on the alleged effectiveness of water fluoridation in reducing tooth decay, was mentioned in the 'Report of the working party on fluorides in the control of dental caries' of the National Health and Medical Research Council, dated November 1985?

(b) Not one of the studies conducted in Australia to prove or demonstrate the alleged enormous benefits of fluoridation in reducing tooth decay had an unfluoridated control or comparison population which was examined more than once?

(c) Hence the Australian studies did not allow for the decline in tooth decay which has been occurring in developed countries whether or not they have fluoridation?

(d) Hence the Australian studies do not necessarily support the hypothesis that fluoridation reduces tooth decay?

7. *(a)* In the light of this evidence, will the Minister review the practice of water fluoridation in South Australia?

(b) If not, will the Minister give his reasons?

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

1. I am familiar with the journal 'Nature' and understand that it is referred.

2. The article has been drawn to my attention.

3. *(a)* and *(b)* I am informed that substantial reductions in the dental caries rates of children did take place among Brisbane children between 1954 and 1977, with the bulk of the improvement occurring after 1961. The improvements were evident amongst children who took fluoride tablets and those who did not, although the children who took fluoride tablets had a lower prevalence. However, as substantially different examination criteria for the diagnosis of dental decay were used in the 1954 study, I am advised that the real improvement in dental health during that period would have been somewhat less than the 50 per cent mentioned.

3. *(c)* and *(d)* The authors of this report drew attention to the improvement in dental health prior to the fluoridation of Sydney's water supply and attributed this to the combined effects of professionally applied topical fluoride, fluoride tablets and health education. I am informed that this simple paper was not intended to be a detailed analysis of the dental health of Sydney children and the authors themselves emphasised its limitations by saying:

> These surveys do not represent a random selection of children within the community, and the summary data cannot be used for detailed studies.

3. *(e)* I am aware that improvements in dental health have occurred in many but not all developed countries.

4. *(a)* and *(b)* I cannot comment on the accuracy or otherwise of every press release made in relation to water fluoridation. However, I am able to provide relevant information from the South Australian experience. In 1969 and 1970, prior to the fluoridation of Adelaide's water supply, 12 year old South Australian children had an average of about 8.2 adult teeth with decay experience (the DMF index). While we do not have earlier figures for South Australian children, it is clear that, in the years immediately prior to the fluoridation of Adelaide's water supply in 1971, the decay rate of our children was still very high and equivalent to that present in the Eastern States in the 1950s and 1960s.

Following the fluoridation of Adelaide's water, the prevalence of dental caries began to fall. By 1978, 12 year old children had an average DMF of 3.8 teeth, a fall of about 50 per cent. For six year old children the improvement was even more dramatic, with the DMF falling from 1.5 teeth in 1969 to 0.3 teeth for Adelaide children in 1978. Major improvements have taken place in non-fluoridated areas also and these probably relate to the preventive and health educational activities of the dental profession, including the School Dental Service, and the widespread adoption of fluoride toothpaste during this period. However, despite these additional and costly preventive efforts concentrated in non-fluoridated areas, country children have significantly more dental caries than their city counterparts. For 12 year olds, the average number of teeth with decay experience is currently 23 per cent higher in non-fluoridated areas of the State. I hope Mr Elliott disseminates this reply as widely as he disseminated his questions and his furphy.

5. *(a)* and *(b)* No conclusion can be drawn about the effectiveness of water fluoridation from the information referred to by the honourable member. Factors which such comparisons ignore include:

- The use of fluoride tablets in Queensland

  When the water supply contains significantly less than the optimum amount of fluoride, the dental profession recommends the taking of fluoride tablets. A study conducted in the mid 1970s reported that 21 per cent of Brisbane children of primary school age took fluoride tablets on a regular basis (Community Dentistry and Oral Epidemiology 79.7; 42-50 1979). Fluoride tablets would be expected to reduce caries prevalence by about 40 per cent.

- The greater use of professionally applied topical fluoride by the Queensland School Dental Service

  In response to the low level of fluoride in Queensland's water supplies, it is normal dental practice to apply topical fluoride to the teeth more frequently. In 1983, the use of professionally applied topical fluoride solutions was 900 per cent greater in the Queensland School Dental Service than in the South Australian School Dental Service. Whilst the use of topical fluoride applications in the dental chair does reduce the prevalence of dental decay by 20-30 per cent, it is a relatively costly and time consuming measure. Not surprisingly, therefore, the average Queensland dental therapist treated 300 fewer patients per year in 1983 than the average dental therapist in the South Australian School Dental Service.

6. *(a)* I can only presume that the NH and MRC reviewed all the evidence on the effectiveness of water fluoridation, including that cited by the honourable member.

6. *(b) (c)* and *(d)* I am advised that the Australian studies were not designed to prove but to reflect the effectiveness of water fluoridation, as the worth of this public health measure has been established beyond doubt by overseas research.

7. *(a)* and *(b)* Water fluoridation is supported by the World Health Organisation, the Australian Medical Association and the Australian Dental Association and many equivalent authorities throughout the world. Furthermore, I am reassured by the recent restatement of support by the NH and MRC of Australia. However, the South Australian program of water fluoridation is continually under review by the Evaluation Unit of the South Australian Dental Service which has published papers on the subject as recently as December 1985.

HUMAN SERVICES STUDY

The Hon. J.C. IRWIN (on notice) asked the Minister of Tourism: Will the Minister provide an answer to the questions asked without notice on 20 August 1986, regarding a Melbourne firm being commissioned to conduct a human services study?

The Hon. BARBARA WIESE: The replies are as follows:

Point 1: The Human Resource Planning Study of Local Government in South Australia was commissioned by the Local Government Industry Training Committee Inc. and is funded by a grant from the Local Government Development Program administered by the Federal Office of Local Government.

Concerning the appointment of Nicholas Clarke and Associates, a tripartite committee was established to oversee the study comprising of representatives of the Local Government Association of South Australia, Australian Workers Union, Municipal Officers Association, Local Government ITC, Department of Employment and Industrial Relations and the Department of Local Government, Office of Employment and Training.

A consultant's brief for the study was prepared and consequently advertised. There were 23 applications from South Australia and interstate consultants. Each application was considered by the committee and judged according to the following criteria:

- Time frame
- Cost
- Reputation
- Understanding of project
- Local government experience
- Approach to study
- Support required
- Survey experience
- Credentials of team members

A short list of five consultants was prepared and each was interviewed by three members of the committee. The decision to appoint Nicholas Clarke and Associates was unanimous based on the following factors recorded in the minutes of the committee:

- More research time than South Australian consultants had proposed.
- Most extensive local government experience.
- Most extensive human resource experience.
- Thoroughly professional approach to the study.

The appointment was also made in accordance with the conditions applying to Local Government Development Program funding.

Point 2: This appointment was made due to the extensive Local Government background and experience of Nicholas Clarke and Associates. They were considered superior to any of the four other short listed South Australian consultants.

Point 3: There is no connection between the Human Resource Planning Study and the Human Services Task Force.

Point 4: The study was commissioned by the Local Government Industry Training Committee and consultants are to report to the committee by 30 November 1986.

Point 5: There are no plans to provide legislative backing for the Human Services Task Force at this stage.

ASER

The Hon. L.H. DAVIS (on notice) asked the Attorney-General: In view of mounting public concern over delays and mounting costs at the ASER site on North Terrace, will the Government, as a matter of urgency, provide information on the following—

1. The original budgeted cost in 1986 dollars of the completed ASER project and its constituent parts.

2. The current cost estimate in 1986 dollars of the completed ASER project and its constituent parts.

3. The estimated increase in cost to the South Australian Superannuation Fund Investment Trust resulting from any escalation in costs of this project.

The Hon. C.J. SUMNER: This question was answered during the Estimates Committee hearing. I refer the honourable member to the appropriate *Hansard*. I can only repeat what is there.

STATUTORY AUTHORITIES

The Hon. L.H. DAVIS (on notice) asked the Attorney-General: Will the Minister advise which statutory authorities required to report annually to a Minister or the Parliament have not yet presented annual reports for—

1. The 1983 calendar year or the 1983-84 financial year; and

2. The 1984 calendar year or the 1984-85 financial year?

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

1. Coast Protection Board.

2. Coast Protection Board; Teachers Registration Board; Builders Licensing Board.

ENFIELD GENERAL CEMETERY ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Enfield General Cemetery Act 1944. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

This Bill amends the Enfield General Cemetery Act to empower the Enfield General Cemetery Trust to acquire or establish and operate cemeteries in addition to the Enfield General Cemetery. The Enfield General Cemetery Trust has entered into an agreement, subject to the enactment of enabling legislation, whereby the trust will acquire the Cheltenham Cemetery from the City of Port Adelaide.

The Enfield General Cemetery Trust is endeavouring to establish a high level of expertise in cemetery and crematorium management and believes the opportunity to acquire and operate the Cheltenham Cemetery is consistent with and will enable it to further that objective while allowing the Cheltenham Cemetery to be redeveloped to meet the future needs of the community which it presently services.

I am assured by the trust that any redevelopment and reuse will be undertaken with empathy for families whose relatives are interred in the Cheltenham Cemetery.

The widening of the sphere of operations of the Enfield Cemetery Trust creates the opportunity in the future for the trust to be involved in the management and operation of other older metropolitan cemeteries, which because of their deterioration have become a cause of concern to local communities. The trust has already received approaches from other cemetery managements seeking to explore the possibility of the trust becoming involved in their operations. The Bill also makes a number of other amendments to the Act to repeal provisions which are now obsolete. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 provides for an amendment to the long title of the principal Act by adding that the intention of the Act is to establish or acquire cemeteries in areas other than the Enfield General Cemetery.

Clause 4 provides a consequential amendment to the arrangement of the Act by inserting a new heading to Part III of the principal Act.

Clauses 5 and 6 are amendments consequential on the additional power given to the Enfield General Cemetery Trust to establish, acquire or dispose of cemeteries.

Clause 7 provides for the repeal of the heading to Part III of the principal Act and the insertion of a new heading in line with the expanded scope of the Act.

Clause 8 firstly provides for the repeal of sections 20, 21, 22a and 23 of the principal Act. These provisions relate to the prior establishment, use, management and the funding of operations relating to the Enfield General Cemetery and areas adjacent to the cemetery. Secondly, the clause provides for the insertion of two new sections of the principal Act—sections 20 and 21.

Subsection (1) of section 20 provides for the continuation of the management of the Enfield General Cemetery by the Enfield General Cemetery Trust.

Subsection (2) empowers the trust (subject to the written approval of the Minister) to establish, acquire or dispose of any other cemetery.

Subsection (3) provides that the trust shall administer and maintain cemeteries as public cemeteries when such cemeteries are established or acquired by it pursuant to subsection (2).

Section 21 excludes the provisions of section 586 of the Local Government Act from applying to the Enfield General Cemetery or a cemetery established or acquired by the trust. The provisions so excluded relate to council control in relation to cemeteries.

Clauses 10, 11, 12, 13, 14, 15, 16 and 17 provide for amendments consequential on the expanded power of the trust to establish, acquire, or dispose of cemeteries other than the Enfield General Cemetery. They provide for powers, duties and responsibilities of the trust and the rights of persons or groups in relation to the Enfield General Cemetery to be expanded to apply to other cemeteries which may come under the management of the trust.

Clauses 18, 19 and 20 provide respectively for consequential amendments to sections 40, 41 and 42 of the principal Act. These sections relate respectively to the keeping of a plan for a cemetery, the registration of burials and the registration of cremations.

Clause 21 provides for an amendment to the power of the trust to make regulations consequent on the expanded power of the trust and the expanded scope of the principal Act.

Clause 22 provides a consequential amendment.

Clause 23 repeals the first, second and third schedules of the principal Act. These schedules concerned the acquisition of land, including land which was established as for the Enfield General Cemetery.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 4)

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Summary Offences Act 1953. Read a first time.

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

That this Bill be now read a second time.

During the last session of Parliament the Legislative Council passed an amendment to the Summary Offences Act which dealt with the rights of children upon arrest.

That amendment provided for the mandatory presence of a solicitor, relative, friend, or nominee of the Director-General of the Department of Community Welfare at any interrogation or investigation to which a minor is subjected whilst in custody. This mandatory requirement for the presence of an adult witness was in addition to the other rights including entitlement to make a phone call, and entitlement

to an interpreter already provided for by the Summary Offences Act.

Since the passage of that amendment by the Legislative Council potential practical problems in requiring the attendance of an adult witness on every occasion a child is arrested have been identified by the Government. The police currently operate under a general order which requires them, when practicable, to interview a child in the presence of the child's parent or guardian. The police have advised that the average attendance rate of parents at interviews is one in 10. Based on these figures it is anticipated therefore that the primary burden of providing an adult witness would fall on the Department of Community Welfare. This department would have difficulty in providing officers after hours and would not be able to adequately service the far northern areas of the State.

For these reasons this Bill to amend the Summary Offences Act differs from the previous Bill. This Bill overcomes problems identified with the earlier Bill in two ways.

First, the mandatory requirement that an adult be present at an interrogation or investigation has been limited to circumstances where a minor is arrested on suspicion of having committed a serious offence. It is only for these offences that a person can be detained after arrest for four hours (or up to eight hours if a magistrate permits) before being delivered into custody at a police station. It is considered prudent and proper to require that an adult be present when a child is detained in this way. In circumstances where a child is arrested for an offence which is not a serious offence the Bill places an onus on the member of the police force conducting the investigation to take reasonable steps to secure the attendance of an adult at any interrogation or investigation whether the child makes a request that such a person be present or not.

These provisions are stronger than those applying for adults in that the adult may request or may decline to request the presence of another person at an interrogation or investigation, whereas, in the case of a child, reasonable steps must be taken to secure the attendance of an adult where the suspected offence is not a serious offence, and the presence of an adult is mandatory in other cases.

The second way in which this Bill seeks to overcome difficulties associated with its predecessor is that the category of persons who can be called upon to be present with a child at an interrogation or investigation has been widened to include any other suitable adult representative who is not a police officer or an employee of the Police Department. This change should ease the burden on the Department for Community Welfare being called upon as the last resort, and will also make for the easier operation of the provisions in areas where there is no-one from a nominated category in close proximity.

The Bill makes another change of note; the definition of 'prescribed period' in section 78 has been altered to ensure delays occasioned in arranging for a solicitor or other person to be present are not taken into account in calculating the period of detention after arrest.

Finally, the Government is concerned at misinformed media comment on the changes to the Summary Offences Act and I take this opportunity to reiterate the effect of the changes. The changes do permit a child to be held for four hours after arrest (and for a further four hours if a magistrate permits) but only where the child is arrested on suspicion of having committed a serious offence. The only purpose for which a child can be so detained is for the purpose of investigating the suspected offence. The proposed provision ensures that a minor apprehended on suspicion of having committed a serious offence will not be subjected to any interrogation or investigation whilst in custody unless an adult of one of the specified class is present. It should be pointed out in this context that a person is 'in custody' from the time he is arrested by the arresting officer.

Where a child is arrested for an offence which is not a serious offence there is an onus on the police officer investigating the suspected offence to take reasonable steps to secure the presence of an adult of one of the specified classes at any interrogation or investigation to which the child is subjected whilst in custody. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 makes amendments to section 78 of the principal Act. These amendments are consequential to the amendments made by the Bill to section 79a of the principal Act.

Clause 4 makes amendments to section 79a of the principal Act—rights upon arrest. Subsection (1) is amended to provide that a relative or friend nominated by a minor under arrest must be an adult.

New subsection (1a) is inserted. The new subsection provides that where a minor has been apprehended on suspicion of having committed an offence and the minor does not nominate a solicitor, relative or friend to be present during the investigation or interrogation, or the attendance of a nominated person cannot be secured then, subject to new subsection (1b), no interrogation or investigation may proceed until the police officer in charge has secured the presence of—

(a) a person nominated by the Director-General of Community Welfare to represent the interests of childen subject to criminal investigation,

or

(b) where no such person is present, some other adult person who in the opinion of that officer is a suitable person to represent the interests of the minor.

New subsection (1b) provides that such an interrogation or investigation may proceed if the suspected offence is not punishable by imprisonment for two years or more and it is not reasonably practicable to secure the presence of a suitable person to represent the child's interests.

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

SELECT COMMITTEE ON DISPOSAL OF HUMAN REMAINS IN SOUTH AUSTRALIA

The PRESIDENT brought up the report of the Select Committee on Disposal of Human Remains in South Australia, together with minutes of proceedings and evidence.

Ordered that report be printed.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

Adjourned debate on second reading.

(Continued from 4 November. Page 1795.)

The Hon. K.T. GRIFFIN: This Bill is about power—union power. It gives to the unions quite extraordinary

power over the workplace and employees through its involvement in the South Australian Occupational Health and Safety Commission, the appointment of powerful safety representatives, appointment of health and safety committees, the requirement for employers to consult with registered associations and a variety of other areas where the scales are weighted very much in favour of the unions.

It will give to unions and members of unions the power to stop work, a power which we know from past experience will be abused. This Bill must be looked at in conjunction with the Government's Workers Rehabilitation and Compensation Bill which, again, gives a socialist Government and unions extraordinary power over the workplace.

This present Bill does not seek to build on the clearly improving occupational health, safety and welfare records of business in South Australia. It seeks to start afresh, with the ultimate threat of five years gaol for an employer or a director of a body corporate which is an employer where there is a serious breach of the legislation. It substitutes the bludgeon for persuasion and education.

We know that there are some businesses where the safety record is quite inadequate (but they are in the minority) and action may be required in those limited number of businesses for improvements to be made in safety and health in the workplace.

However, the Bill denies the good record of the majority of businesses in South Australia, among the top in Australia. Safety records in South Australia have been improving. I seek leave to have inserted in *Hansard* without my reading it a table essentially statistical in nature.

Leave granted.

INDUSTRIAL ACCIDENTS, SOUTH AUSTRALIA, PERSONS

Year	Fatal	Disability Permanent		Disability Temporary	Total Fatalities and Disabilities	Time Lost *(a)* (weeks)	Amount Paid *(b)* ($'000)
		Total	Partial				
		All Industries (c)					
1980-81	19	40	961	12 719	13 739	74 515.0	44 114.1
1981-82	20	56	1 148	12 376	13 600	78 377.0	53 376.4
1982-83	26	35	829	9 879	10 769	61 321.6	56 061.9
1983-84	14	36	758	9 491	10 299	61 359.3	64 696.5
1984-85	16	100	950	9 781	10 847	72 075.6	82 441.6
		Public Administration and Community Services Only					
1980-81	1	7	132	1 883	2 023	12 042.7	6 256.8
1981-82	—	9	166	1 802	1 977	13 832.6	7 519.3
1982-83	4	8	116	1 647	1 775	10 278.0	8 581.1
1983-84	—	8	125	1 778	1 911	12 923.2	13 091.2
1984-85	1	53	178	1 762	1 994	12 025.9	16 836.4

INDUSTRIAL DISEASES, SOUTH AUSTRALIA, PERSONS

		All Industries (c)					
1980-81	15	15	95	782	907	6 738.9	4 218.4
1981-82	12	20	107	718	857	6 918.1	4 511.6
1982-83	9	35	150	716	910	9 007.1	9 155.9
1983-84	7	39	158	758	962	11 479.3	11 312.0
1984-85	6	27	118	717	868	9 378.3	9 535.9
		Public Administration and Community Services Only					
1980-81	3	6	17	132	158	1 448.3	902.9
1981-82	2	8	15	145	170	1 491.5	949.9
1982-83	—	18	32	159	209	1 989.3	2 293.4
1983-84	1	21	31	188	241	3 848.0	3 589.6
1984-85	—	16	20	152	188	2 305.9	2 608.3

The Hon. K.T. GRIFFIN: That table shows that there has been a distinct improvement in the health and safety record of the business community. There seem to be much more dramatic increases in accidents in the area of public administration and community services.

This Bill is important and, fortunately, we do not have in this Council the procedures which the Government brutally imposed in the House of Assembly. We saw the ludicrous position where the debate in the Committee stages of the Bill did not get past clause 4 (which deals with definitions). Then, 1½ hours were taken formally moving and voting on eight pages of Government amendments which were introduced by the Government the night before the Committee stages and of which longer notice had been given, and on numerous amendments by the Opposition without any debate on those amendments and without any explanation of those amendments being allowed or given by the Government.

It is important at this point to put on record that the Opposition did not support every aspect of the Bill and was not provided with an opportunity to identify its attitude to certain clauses of the Bill and amendments in another place. At least one of the Australian Democrats has been peddling the story that the Opposition supports this Bill wholesale, with no amendments. That is quite false, and quite obviously it is mischievous. Perhaps it means that that particular Australian Democrat did not follow the debate in the other place. Quite obviously we have a substantial number of amendments. In fact, I will be putting on file well over 18 pages of amendments for consideration by this Council. In some respects those amendments were presented in the House of Assembly, but the Government's use of the guillotine in that place did not allow reasonable and responsible debate on those matters.

One can hardly say that the debacle in the House of Assembly was a responsible way to deal with this very important piece of legislation. Along with workers compensation it is the most important piece of legislation in this session affecting not only the interests of employees and employers but the wider community—

The Hon. T.G. Roberts: An elected Government with a mandate.

The Hon. K.T. GRIFFIN: Here we go again: the old hackneyed phrase of an elected Government having a mandate. Just because it puts something in its policy that does not mean that it has a mandate. It must run the gauntlet of public scrutiny in Parliament and in the community at large. Whether we talk about workers compensation where there was an agreement between the United Trades and Labor Council and certain employer groups (which the Government reneged on) and which then went to the election as a piece of controversial legislation or occupational health and safety legislation (which certainly in its terms was not clearly identified to the public before the election) we cannot say that the Government has a mandate for the enactment of this Bill verbatim as it has been introduced. It is quite draconian and those issues which are in effect bludgeons need to be addressed, just as the issue of workers compensation needs to be addressed by this Parliament.

The very fact that there was some reference to the legislation prior to the election does not mean that that is a mandate for automatic passing by Parliament of legislation in the form in which this Government has introduced it. In respect of occupational health and safety, the Government in the House of Assembly guillotined the Bill, but it did not have enough business to sit on the evenings of the Tuesday and Wednesday of the following week or for much longer than Question Time on the following Thursday.

In this Council there will be full consideration of all amendments and of every clause and, on past experience, we should make reasonable progress in having the matter adequately considered and issues explored. In passing, it is appropriate to note that with the sort of raw power which the Government demonstrated in the House of Assembly in guillotining this Bill there is a clear demonstration of the need for another House such as the Legislative Council, elected on a different electoral basis from that in the Lower House, to prevent an arrogant Government riding roughshod over the community. The sort of abuse of the parliamentary process which accompanied this Bill demonstrated by the Government in the House of Assembly cannot go unnoticed or unremarked.

The Liberal Party has a commitment to a safe working environment. At the last State election the policy which we released says, among other things:

> The Liberal Party recognises the importance of improved occupational health, safety and welfare practices in the workplace generally. The social and economic costs of accidents in the work force is unacceptably high.
>
> The Liberal Party is committed to:
>
> - the provision and maintenance of a safe working environment in all industries.
> - providing the best possible recuperative care to those persons who have suffered injury, illness or disease in the workplace.
> - rehabilitation of injured employees to enable the resumption of a full and active career where possible.
> - cooperation and consultation between employers, employees and Government by ongoing research into the identification and prevention of occupational disease. Some examples are tenosynovitis and other forms of repetition strain, heat stress, eye strain, mental stress and asbestosis.

The policy also dealt with issues including creation of a safe working environment and the obligations of both employers and employees. That policy was incorporated in detail in *Hansard* in the House of Assembly, and therefore I do not propose to incorporate it in full in this Council. Suffice it to say that the emphasis in the Liberal policy was on communication and persuasion rather than coercion initially.

This Bill is anti-business, anti-employment and, as I have already mentioned, is essentially about creating power for unions and their officers or, in other words, jobs for the boys. The Australian Small Business Association, in its review of the Bill, concluded:

> *(a)* That the proposed Bill has been conceived and drafted by a person or persons motivated by a hatred of employers and a desire to destroy free enterprise.
>
> *(b)* The proposed Bill in its hostility assumes all employers are inherently careless or deliberately neglectful in their responsibilities to worker safety.
>
> *(c)* The Bill does in fact usurp employer authority, and rather than being a piece of legislation for worker protection, it ensures a compulsory acceptance of union participation in management decisions . . .
>
> *(g)* Furthermore, the draft Bill is not what it appears to be—it is back door enforcement of union controlled participation in the day-to-day running of each and every business.

In a recent occupational health and safety planning course arranged by the United Trades and Labor Council, the conclusion of one of the persons who attended it included the following:

> The course has a distinct trade union bias presenting all employers as deceitful to employees and not at all concerned with the safety of employers.

From another person the conclusion drawn was:

> It was very much management versus the worker attitude with most sessions in the negative . . . The room was stuffy, the presentation monotonous and the negative attitude to anyone above shopfloor level depressing.

That attitude is demonstrated in this Bill. There is the old hackneyed 'worker'/'boss' attitude portrayed and it is all directed towards giving power to the worker. It ought to be a Bill dealing with occupational health and safety matters on an employer/employee basis.

We must remove from the Bill the concept of class distinction between so-called 'workers' and the 'bosses'. The Minister and the Government seems to wish to perpetuate the myths of a class distinction between those who are at the shopfloor level and those who may be in management. All are workers. The so-called 'bosses' not only put in their own time but frequently their own money and expertise and take the risks. The 'bosses' carry all of the responsibility for the operation of the business and without them there would be no employees and no jobs. The employees frequently can go home at 'knock-off time' and not worry about the job. The employer continues to worry about the workplace and the business generally frequently after hours and well after everybody else has gone home, and it is frequently so that employers work on weekends, travel interstate, and give up a tremendous amount of time and energy for the business, without the benefit of double or treble time. It is not a bed of roses. Most of them wish to deal fairly with all people. They are not rogues, sharks, vagabonds and persons desiring to grind the workers into the shop floor to get the last drop of blood out of them in developing their business.

So, the concept of 'workers'/'bosses' must be eliminated from this Bill and be replaced with employees and employers with the usual legal and practical connotations with which those words are associated. The reference to contractors and subcontractors must also be eliminated. It is wrong that a contractor should have responsibility for the employees of the subcontractor where the contractor has no control or authority over those employees, or that they should be regarded no differently in their relationship than that of employer and employee.

The Occupational Health and Safety Commission is the central body established by this Bill to be responsible for the management of the system, although it is curious that the Government seeks to remove some of its powers where there are disputes about health and safety issues and give them to the Industrial Commission.

Those changes were introduced by the Minister in the House of Assembly and were not subject to debate as the Bill was guillotined at the Committee and its remaining stages in that place. But this body, the Occupational Health and Safety Commission, is loaded in favour of a socialist government and unions through its membership and those who are represented on it. One is to be a full-time member appointed by the Government after consultation with employer associations and the United Trades and Labor Council. One is the Director of the Department of Labour, one is the Chairman of the Health Commission, one is to be appointed by the Minister with expertise in the field of occupational health, safety and welfare and three each by the employer associations and the UTLC. That gives seven by the Government and the UTLC and three by employers. It is grossly unbalanced, particularly when we consider that no more than 50 per cent of those in the work force in South Australia are members of trade unions. The Liberal Party wants to bring the number back to nine members, which redresses some of the imbalance but not absolutely, thereby eliminating the person who might have experience in the field of occupational health, safety and welfare and to allow the commission to engage a person with those qualifications either as an employee or as a consultant or consultants.

The full-time member should be appointed for a fixed term of five years and the part-time members for fixed terms of three years with the entitlement to stagger the appointments at the first time of appointment to enable progressive retirements and reappointments, as the case may require. It is wrong in principle to give any Government power to appoint for a period of up to a maximum period because that means that there can be short-term appointments where the short-term appointees may be very much more inclined to have a view sympathetic to the Government which appointed them in order to be reappointed. While a short fixed term of three years (or even five years for full-time members) is not necessarily giving the best security, nevertheless it does provide a better basis for security and independence rather than being beholden to Government though flexible periodic appointments.

The powers of the commission are wide and include the preparation of codes of practice in clause 14 (1) *(e)* to devise and promote courses of training and in 14 (1) *(k)*, to authorise entry to the workplace and require access to be granted to books, documents, records and to require any person to answer questions and develop codes of practice and delegate responsibilities. The commission is also required to report annually and must include in its annual report a report on the prosecutions brought under the legislation identifying persons who have been convicted of offences against the legislation.

Clause 14 of the Bill also identifies a variety of other functions and responsiblities that are within the power of the commission. The power to delegate must be limited so that it is not a power to delegate to anybody to whom the commission believes it may be appropriate to delegate. At present that power of delegation can be made to any trade union, employer organisation or the United Trades and Labor Council. It is inappropriate, where this body is to be given the responsibility for overseeing the proper implementation of occupation health, safety and welfare matters, for it to be partisan in any way or to appoint persons by way of delegation to act for it on what can only be perceived to be a partisan basis.

In presenting its annual report the Commission must not identify the names of persons who have been convicted of offences where a court may have ordered a suppression order because not to have regard to such a suppression order ignores the proper role and function of the courts and ignores the fact that a suppression order would have been made for a proper and reasonable purpose. If such an order has been made it is within the jurisdiction of the Government, through the Attorney-General, to oppose such a granting of a suppression order or to have it reviewed.

The powers of inspection provided by a member of the Occupational Health and Safety Commission or by an inspector must have proper regard for questions of, for example, legal professional privilege and secret and confidential client information, trade secrets or other material irrelevant to occupational health and safety issues. In one of the submissions made to me it has been drawn to my attention that where there are agencies such as security agencies a lot of strictly confidential material is kept for security purposes, for example, identification of secure locations within the community including homes, businesses or other premises with photos being retained or information about the practices of those whose businesses may be the subject of security arrangements by those operators.

There is no limit under the Bill to the sort of information which either the commission or the inspectors may seize after having had access to it. It would be quite wrong in my view to allow any body operating under this Act to have access to that sort of information without at least some right of appeal to a court against that vexatious, malicious or inappropriate demand for access to documents or papers and the seizure of such documents, papers or records. With legal professional privilege, some recent discussions have occurred at the Federal level between the Law Council of Australia and the Deputy Commissioner of Taxation to ensure that legal professional privilege and documents so privileged are protected but, notwithstanding that, that the Tax Commissioner can have access to that material if a court so orders when privilege is sought by a practitioner or client.

In this Bill there is no recognition that there is a right to maintain legal professional privilege and, even if documents and papers may have been obtained by a legal practitioner on behalf of a client for the purposes of legal proceedings which might involve an inspector or the commission, the Bill does not allow those to be withheld from the commission or an inspector under the wide powers granted in the legislation. I propose that there be a recognition of that question of legal professional privilege. The powers of inspection under clause 38 are wide: the powers of the commission to require disclosure of information to such a wide extent is in my view unnecessary.

A code of practice which is promulgated under clause 61 must be laid before the Parliament and there must be debate on it and they must be subject to disallowance as presently provided in the Bill. There is no such right of review by the Parliament. Yet, when codes of practice are promulgated by the Governor in Council, either at the instigation of the commission or after consultation with the commission, they will have the force of law. There will be penalties for breaches of the codes of practice, and persons in the position of employers may be brought to court for breaches of those codes. In those circumstances, because they have the force of law and have legal consequences, they must be subject to some form of parliamentary scrutiny. If not, the executive arm of government would reign supreme with consequent significant obligations (and perhaps unreasonable obligations) being imposed upon employers to the detriment of the civil liberties of those who may be prejudiced by those codes of practice.

Let me turn now to the question of health and safety representatives. In the Government's legislation, health and safety representatives exert and exercise most of the power. The Liberal Party believes that the core of the occupational health and safety system ought to be health and safety committees elected by all employees in a designated work area.

Under the Government's proposal there is to be an election of health and safety representatives, but to be a candidate for such election the person must be a member of a designated work group that the health and safety representative is to represent and that person must be a member of a trade union unless no member of a trade union is a candidate for election. Too bad about all the other employees who may not be members of trade unions, and too bad about the fact that in a business there may be only a handful of union members among a much larger number of non-union employees. The trade union members are to get priority.

'Worker' as defined in the Bill does not include a person employed in a managerial capacity unless the trade union at a particular workplace approves that person being a 'worker'. Where the employer is a body corporate, an officer of the body corporate—even though an employee—is not to be regarded as a 'worker' for the purposes of appointing health and safety representatives. Yet a secretary or manager or director have as much at stake in health and safety in the workplace as any other employee.

Health and safety representatives are to be elected by workers at a workplace in a designated work group which has been established by agreement between the employer and the unions operating in the workplace. This means that, if there are half a dozen different trade unions with members in a workplace, agreement will have to be reached with all of them about the description of designated work groups. This will be an impossible task and, if it cannot be agreed, it goes to the Industrial Commission rather than to the Occupational Health and Safety Commission for resolution. Conciliation may be used, but there are no protections as to what is said, as such conciliation process can be used in evidence in any formal hearing at a later stage.

In effect, this part of the Bill disfranchises managers, who appear to have no rights as employees under this Bill unless the relevant trade union so allows. It has been submitted by one of the groups which has an interest in this Bill that the provision (that safety representatives should be members of a union where a union is represented at a place of work) is contrary to the principles of equality, cooperation and consultation. It does reflect a distorted and naive view of industrial reality in our community and makes a mockery of any claim that these provisions have any relationship to employee participation or consultation. It has been argued that unions are able to provide support to health and safety representatives and that this is a sufficient ground for appointing union members if they exist.

That is an argument that can be put to employees by nominees for election when elections are held, and the employees can then assess the value of that argument, taking into account all the other relevant factors. The power to remove or dismiss health and safety representatives is limited but, in my view, proven incompetence and neglect of responsibility should be sufficient grounds for disqualification of a health and safety representative. Both employers and employees have an interest in the performance of safety representatives and both should be able to refer questions of incompetence, neglect and malice to the Occupational Health and Safety Commission for consideration and action.

Let me now turn to health and safety committees. These committees can be formed only where a health and safety representative or a prescribed number of workers at a workplace or a trade union request the establishment of one or more health and safety committees. That must be done within two months of the request. The composition of a health and safety committee is to be determined by agreement between the employer, the health and safety representative (who is most likely to be a union member under the Government's Bill) and any trade union with workers at the workplace. This means that the committees, again, are to be dominated by the trade union movement.

The functions of health and safety representatives and committees are set out in the Bill and are wide-ranging. A representative can inspect the whole or any part of the workplace and not just that part of the workplace for which he or she is the health and safety representative. The representative may accompany an inspector during an inspection of the workplace. This means that where there is a large business such as Mitsubishi or General Motors-Holdens, where there may be 40 or 50 health and safety representatives, all of those representatives are entitled to accompany the inspector in his or her inspection of the whole workplace. One can envisage a massive entourage trailing around the works with an inspector as of right. It is a ludicrous proposition to have a safety inspector acting as a pied piper accompanied by all of the health and safety representatives marching around the workplace. One could also imagine the total disruption which would occur if so many health and safety representatives were to leave their appointed tasks to accompany a health and safety inspector to any part of the workplace.

A health and safety representative, when making an inspection of the whole workplace, may be accompanied by such 'consultants' as the representative thinks fit. A 'consultant' is defined in clause 32 (5) of the Bill as:

> ... person who is, by reason of his or her experience or qualifications, suitably qualified to advise on issues relating to occupational health, safety or welfare.

One can imagine that in a situation where a representative wishes to inspect the workplace there will not be an opportunity to establish the credentials of a consultant because to do so would cause the employer to run the risk of industrial disruption occurring as a result of any challenge to the qualifications of a person to act as a consultant to a health and safety representative. It is quite possible that the health and safety representative, being a union member, may seek to involve representatives of the United Trades and Labour Council or of his or her own trade union as consultants and *de facto* use this power to stir up trouble in the workplace. The representative, with those consultants, may discuss any matter affecting health, safety and welfare with any worker at the workplace. Where presently under industrial law there are very strict limits on canvassing for members of unions during working hours and on the work floor, this Bill, in effect, allows open slather.

Curiously in all of this, the Bill does not impose any duty on a health and safety representative. Those health and safety representatives have very wide powers under clause 35 of the Bill which allows the representatives to issue a default notice alleging contravention of a provision of the Bill. That default notice may require the person to whom the notice is issued to remedy the contravention and may specify a day by which the matters referred to in the notice must be remedied.

The employer is to take all reasonable steps to remedy the alleged default by the day specified in the default notice. Where the health and safety representative is of the opinion that there is an immediate threat to the health or safety of

a worker, then the health and safety representative may direct that work cease until adequate measures are taken to protect the health and safety of the worker.

No-one denies the right of an employee to down tools if there is a dangerous situation in that person's work area. However, there can be no doubt at all that the health and safety representatives, being members of unions, and being individuals rather than members of a committee, have the potential for shutting down a business for industrial purposes and not for the purpose of the health and safety of the employees. The Liberal Party wants to introduce a provision into the Bill which will discourage the abuse of this power by health and safety representatives and committees so that they attract a penalty if they have abused the power granted to them.

There is a right to request the attendance of an inspector from the Department of Labour and, if that occurs, the default notice is suspended, but only a default notice which requires certain action. A notice to cease work is not capable of being suspended so it applies until the inspector attends at the workplace. One of the bodies which has made submissions on an earlier draft of the Bill stated:

> The role of the safety representative as enforcement officer is akin to that of the deputies in the wild west who were sworn in to form posses. These deputies were more like members of the lynch mob than they were like police constables. They were never known to do a good job, often killed the wrong men, broke as many laws as the men they pursued, and were quickly discarded as a legitimate form of law enforcement and community protection.
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> South Australia does not need wild west remedies to achieve improvement in occupational health and safety. What is required is a sound legislative base and an attitude of cooperation between employers and employees. That cooperation will not be achieved by the propagation in legislation of the naive and divisive 'them and us' attitudes of some unionists. Like the wild west deputies, the safety representatives performing an enforcement function under section 34 will have insufficient knowledge or understanding of either the proper use of enforcement powers or of the specific matters which would constitute a breach of the laws.

These representatives are to be given time off by the employer for training purposes but there is no limit on the amount of time which can be taken off for that purpose and it certainly does not appear to be within the authority of the employer to prevent a representative from being absent from work for that purpose or from going overboard in the application of his or her responsibilities in the workplace.

It has been suggested to me that not only does the representative have the right to attend training seminars, to take time off for the purpose of inspections and for other duties in the area of occupational health and safety, but that those same entitlements apply to deputies.

It is possible, of course, that in exercising the power to stop work a safety representative could place other employees at risk. Such representative could also cause extraordinary cost to employers by irresponsible use of the power. One example, contained in one of the many submissions I have received, has been of stopping the BHP blast furnace which would cost $250 000 to clear if it was allowed to cool down. One can envisage a whole range of other activities where that may be equally damaging without proper justification.

In relation to inspections, there is a wide power of entry and inspection available to a member of the Occupational Health and Safety Commission and to inspectors from the Department of Labour. Such persons may require a person to produce books, documents or records, take photographs, films or audio recordings, require persons to answer questions and seize and retain anything that affords evidence of an offence or in relation to which an offence is suspected of having been committed.

There is not the usual protection, as I have already indicated, that a person cannot be required to answer a question which might tend to incriminate; nor is there any protection of legal professional privilege so that, in effect, an inspector may walk into the office of a lawyer representing an employer, employee or other person who may have appropriate evidence and seize books and records notwithstanding that they are privileged.

It has been put to me that this power will also extend to the seizure of data in relation to workers compensation and other information relating to individual employee's workers compensation claims and records. If that is the case I would express some grave concern about it because I do not believe that that area is the responsibility of this commission.

An inspector may deliver an improvement notice or a prohibition notice. Those notices may require work to be done to make a workplace safe in the view of that inspector and the prohibition notice may order work to cease. There is a right of review by a review committee but there is no provision that that review committee may either suspend the operation of the improvement notice or prohibition notice or be required to deal as a matter of urgency with any request for a review.

It seems to me to be appropriate not only that there should be a statutory requirement for a committee of review to act as a matter of urgency where there has been a prohibition notice delivered by a safety inspector to an employer but also that the review committee have power to suspend the operation of such a prohibition notice. We all know the extent to which delays occur in the legal system, whether in the courts or the quasi judicial tribunals, and it is not inconceivable that, if a committee of review had no power to suspend the operation of a prohibition notice and there was a lengthy hearing, in fact, a business could be closed down for many weeks, if not months.

The effect would be to put that particular business out of operation without having due regard to the justice of the situation or the opportunity for an independent review of the decision of a safety inspector. What we have to ensure in the administration of this Bill is that there is justice and that there is an adequate right of review of decisions right through the system so that ultimately some independent body, such as the Industrial Court, is able to be the final arbiter of decisions taken on prohibition notices, improvement notices, default notices and a variety of other issues expressed in and covered by this Bill.

The curious aspect of clause 48 is that a person is entitled to appear personally or to be represented in proceedings before a review committee, but that right is to be subject to the regulations. Only the week before last we had another piece of legislation before us dealing with power for the Governor-in-Council to make regulations which would affect the defences that were to be available to a person subject to prosecution, and would deal with questions of onus of proof. It is surprising that in this Bill there is also power by regulation to remove particular rights, especially rights of persons appearing before a committee of review.

If there is not to be a right to appear personally, whether in the form of an employer or employee before a committee of review, it ought to be specified in the Bill and be the subject of debate in both Houses of Parliament and not the subject of a regulation that can be reviewed only by a House moving a disallowance motion and then only being successful if the numbers are in favour of such disallowance. What the Government is seeking to do by this provision is to reduce the basic rights of an individual to be represented in these circumstances by an Executive act which is subject,

as I have said, only to disallowance by Parliament and not be subject to debate within Parliament on the Bill itself.

The right of an appeal from a committee of review is limited to a question of law but, in my view, there ought to be a power of a right of appeal on other questions where there is evidence of a miscarriage of justice. They are related to factual situations. Review committees, particularly those comprised of persons who are not trained in adjudicating issues, other than the Chairperson, who is to be an Industrial Court judge or magistrate, must not be a kangaroo court and there must be appropriate mechanisms for ensuring that these people know that their decisions are always subject to review. That is how the legal hierarchy of judicial bodies operates. Decisions are made but there are rights of appeal and review that ensure that at all times there is not a miscarriage of justice either on the questions of law, which are provided for in the Bill, or on questions of fact.

It is frequently on questions of fact that miscarriages of justice occur. They occur in some tribunals where the rules of evidence are not to be complied with but where a whole range of extraneous material may be taken into consideration by the tribunal in making its decision. In my view it is very important to have not only a right of appeal from a committee of review on questions of law but also on questions of fact where there is evidence of a miscarriage of justice.

The other interesting aspect of the committee of review—and I will deal with it in greater detail in Committee—is that a committee of review is to be comprised of an Industrial Court judge or magistrate drawn from a panel which is established after consultation with the Minister.

I can appreciate that panels of employer representatives and employee representatives should be established after consultation with the relevant employer and employee organisations, but it is quite foreign to our system of justice to have any of our judges or magistrates accountable to a Minister of the Crown in this way. Certainly, I will be seeking to ensure that the Industrial Court judges and magistrates, when they constitute committees of review, are not in any way beholden to the Minister of the day and are not required to consult with the Minister to determine who is or who is not to be on a panel from which the committee of review is to be drawn.

I deal now with offences by bodies corporate. There is a provision in clause 60 that, where a body corporate is guilty of an offence, then every responsible officer of the body corporate is guilty of an offence, unless that person proves that he or she could not by the exercise of reasonable diligence have prevented the commission of that offence. So, it is guilt by default. Penalties imposed on officers of bodies corporate who commit an offence are quite strict. Those penalties can range from fines up to imprisonment for five years.

Not only is every body corporate liable but also one can have a number of persons involved in that body corporate being guilty with a reverse onus of proof being required to demonstrate a lack of guilt and very substantial penalties, as I say, exist in the Bill as it stands now—up to $100 000 maximum fine and five years imprisonment.

The Bill defines 'responsible officers' as those who are directors, a secretary or an executive officer, those who are concerned with the management of the body corporate, and those who are accustomed to giving the directions, perhaps a holding company. That really takes the question of liability much further than most of the legislation which is enacted in this State arena.

For a start, a secretary does not have any executive status within a body corporate: the directors do. An executive officer has executive status, but those who are concerned in the management of the body corporate can range from middle level to top level executives and others who may not have full responsibility for management decisions but may participate in the decision-making process.

What this definition seeks to do is to throw out a dragnet of immense proportions to ensure that not only is the body corporate guilty but also that many others are guilty by association. The penalties are draconian in this respect and the fact that each member is thus liable to the same penalty as the principal is extraordinarily harsh. There have to be some tough penalties, although I suggest and argue strongly that the penalties in this Bill are extraordinarily harsh.

The penalties are based on the wrong assumption that employers can be fined and coerced into being safety conscious. A workers compensation system that is responsive to safety initiatives and a sound approach based on education and consultation will do much more than the narrow concept of penalties and imprisonment as advanced by this Bill.

I want to deal with a few other matters, but not all of the matters that will be the subject of quite extensive debate in Committee. There is a variety of those matters in the Bill which need to be addressed. For example, there ought to be some exemptions (in respect of minimum standards) from the operation of the Equal Opportunity Act to overcome the difficulty that there are presently differential load limits applicable to males and females which would be unlawful under the Equal Opportunity Act. There has been extensive debate about this issue in the community. Presently, there is conflict between the load limits, for example, and other differential conditions which need to be addressed in the context of this legislation.

For example, there is also the question of visual display units, where there has been considerable debate about their effect on pregnant women and the threat to the unborn child. I know that there are discussions about time limits after which pregnant women should not be permitted to operate visual display units because of the potential harm to the mother and the unborn child. However, to impose such time limits equally on men and pregnant women and those who are not pregnant does create some concern in the community. This issue must be addressed in the context of this legislation. It may be that, without prejudicing the general concept of equality of opportunity, which I subscribe to wholeheartedly, there needs to be some differential working condition to recognise the sorts of matters to which I have referred.

Under the Bill, multilingual information is to be provided on health and safety matters. Under the Bill that is the responsibility of the employer, but really it ought to be the responsibility of the Occupational Health and Safety Commission, which has the resources and also the broader understanding of the issues to enable this to occur in a balanced and responsible way.

In clause (19), there is a requirement for certain prescribed businesses to have health and safety professionals on staff, as follows:

> (3) An employer shall so far as is reasonably practicable—
>
> *(e)* if the employer is an employer of a prescribed class—appoint, employ or engage people, who hold prescribed qualifications or possess prescribed experience in the field of occupational health and safety, to provide advice and assistance to the employer in relation to occupational health, safety and welfare.

All of the information that has come to me is that there is a dearth of these people in our community at present and that it is an area where professionalism is being developed. However, it will be quite a long time before there will be

an adequate number of these suitably qualified persons to be employed as paragraph *(e)* envisages. It also ignores the fact that it may be inappropriate in terms of the need of the workplace for such a person to be employed on a full-time basis and that it may be much more appropriate for businesses and employers to engage consultants who have expertise in occupational health and safety areas, so that highly developed professional advice can be given on a consultancy basis.

There is a lot of merit in that proposition. I do have concern about the paragraph to which I have referred. There is no indication as to what sort of businesses the Government is likely to prescribe with the consequent requirement for employment. It may be that it is just a convenient mechanism for the Government to provide employment for certain consultants or persons who would want to be consultants. Nor, might I say, is there any indication as to the qualifications that these people are to be required to have as employees under this paragraph.

Clause 57 allows unions to bring prosecutions. In my view that is quite wrong and it should not be tolerated. The proper body for bringing prosecutions is the Attorney-General or the Minister, or the Commission for that matter. That is where the responsibility should lie. Clause 57 also allows prosecutions to be brought within five years. It is my view that that period of time is much too long. Under the Justices Act, prosecutions may be brought at any time within six months after the date of the offence occurring. In other legislation that has been extended to 12 months, and in some cases to two years. There are circumstances, such as in company liquidations, where offences might not come to light for a longer period until both the liquidator and the Corporate Affairs Commission investigators have painstakingly been through all the evidence available to determine when prosecutions may be launched. However, they are exceptions rather than the rule.

It is my view that no person, whether an employer or an employee (because it applies equally to employees and employers), ought to have hanging over their head the prospect of a prosecution at any time within five years after such an occurrence. Of course, it might be that neither the employer nor the employee will know that an offence has been committed. If there is a potentially dangerous situation in the workplace, that will be known to at least one or more employee or the employer and it will be attended to at that time. It is not appropriate to bring penal sanctions against an employer in those circumstances.

There is a civil right which will continue under both workers compensation and presently at common law (although probably not at common law depending on what happens when the Government reintroduces the workers compensation legislation). It is quite iniquitous for anyone to be under the threat of potential litigation for breaches of the law, with potential imprisonment up to five years and potential fines up to $100 000 at any time up to five years of a particular set of circumstances arising. I will be seeking to amend that provision back to 12 months. It ought not to be tolerated by a Government which professes an interest in civil liberty principles. On that issue, I will develop the debate during the course of the Committee consideration of that clause.

The Bill includes a very wide definition of 'workplace' which extends to 'any place (including any aircraft, ship or vehicle) where a worker worked and includes any place where a worker goes while at work'. Of course, that presumes that an employer can control the activities and safety arrangements of others outside their control. However, that is not so. It has been drawn to my attention by transport companies, for example, that there are special problems where, for example, emergency repairs may have to be conducted on a vehicle on the roadside.

It makes nonsense if in fact 'workplace' is to be extended to include that site. One can think of a variety of circumstances in which that definition of workplace is inappropriate. Although the Bill is entitled 'Occupational, Health, Safety and Welfare' there is no definition of 'welfare' in the legislation and it is quite conceivable that some ludicrous proposals can be in force whereby employers are regarded as not having proper regard for employees who might unduly feel the cold. What does welfare include? Does it include staff amenities, social work or a whole range of issues which I suggest are inappropriate for this legislation. There is no definition of 'welfare' in the Bill.

The Bill also seeks to place an onus upon employers to have regard to the psychological needs of the employee. That is a very difficult concept. I understand that my colleague, the Hon. Dr Ritson, may expand upon the consequences of having regard to the psychological needs of employees. It is very difficult to say that an employer should have responsibility for things which might occur outside the workplace. It may be that the employee is late home from work on a number of occasions, having worked overtime. That may create problems in the home. Does the employer have responsibility for that matrimonial discord that may occur as a result of the pressures of work, whether through working late or just the ordinary pressures of work? Whilst an employer will ordinarily take such steps as may be reasonable to minimise stress in the workplace, it is not impossible to alleviate. Some employers work hard, regardless of what their employer urges them to do or not to do. They are, in fact, workaholics. In those circumstances the consequences of being a workaholic may be encompassed by the description of psychological needs. I do not believe it is appropriate for the employer to have responsibility for the psychological needs of the employee.

The reference to 'manufacturers warranties' in clause 24 has caused some concern, particularly to the farming community. That community has just been through a 10 year period that was allowed for the changeover of second-hand tractors for safety roll bars to be added to them. There was an initial period of eight years extended by the present Government by two years to enable proper compliance. This Bill seeks immediately to require the attachment of proper safety guards on machinery and there is in effect no allowance given for the time and cost that that may involve. I understand there has been some discussion with the Government about this and there may be some period of up to five years lead time for the implementation of this clause.

My proposal reflecting that moved in the House of Assembly, but which was not able to be debated because of the gag moved in that place, provides for a period of two years before that obligation on manufacturers and users of machinery is to be brought into operation. I am told that for many farmers the cost may be up to $10 000 to put appropriate guards on all machinery on each farming property and that the cost of putting the guards on a header is between $1 500 and $2 000. It is reasonable to give some lead time for that provision to be brought in. It is reasonable, too, in the context of machinery imported into Australia and also in the context of the standards required in other States, to endeavour to achieve some uniformity and make the task of manufacturers overseas that much easier without placing an unnecessarily high cost burden on the users of that machinery.

The definition of 'secondary injury' in the Bill is one that we will seek to have removed. Secondary injuries really are

injuries having greater application in the area of workers compensation in regard to compensation for such an injury and really have no place in the Occupational Health, Safety and Welfare Bill which seeks to deal with incidents in the workplace rather than what might occur away from the workplace and thus be included within that definition.

In respect of penalties, I have already mentioned that there is widespread concern about the size of penalties of up to $100 000 maximum fine for some offences and five years imprisonment. We will be moving for the reduction of those monetary penalties by half and the removal of the penalty of imprisonment. We believe that that is the appropriate way to go and that persuasion and education are the mechanisms by which better workplace safety, health and welfare can be achieved rather than using the bludgeon.

A whole range of other issues are covered in the Bill which are important and which I will address during the Committee stages. Suffice to say there are a number of areas of major concern to which I have already referred and which are on the record. There will be a significant number of amendments moved during the Committee stages and a number of contributions on each of those issues as the amendments and clauses are debated. I expect that, although the consideration of the Bill will be long in this Council, it will be a responsible consideration of the issues raised by the Bill, as is always done, and we are likely to make more constructive and responsible progress in consideration of the Bill, even though we may not agree on every issue, than has occurred in the other place by the imposition of a gag or guillotine which only aggravates tensions rather than dissipating them and certainly gives the impression that there is a decision on the Government side to try to force through the Bill without allowing a proper and reasonable time for debate on all the issues raised.

The Opposition supports the second reading of the Bill. We believe a need exists to effect changes in the workplace in respect of occupational health and safety issues. We support the second reading also because we believe that considerable and dramatic improvements can be made to it during the Committee stages and passing the second reading will enable us to get to that point. I put on the record our support for the second reading, subject to the issues to which I have already referred.

The Hon. R.J. RITSON: I, too, support the second reading, because a good deal is to be gained from a comprehensive review of safety in the workplace. It is a lengthy and complicated Bill but I shall not paint such a broad brush as did my colleague, the Hon. Mr Griffin. However, I want to take the opportunity to discuss several questions of principle that give rise to some concern. I want to talk about the question of the responsible exercise of power; I want to talk about the question of actual and potential Government hypocrisy in so far as the Government appears, at times, to excuse itself from the same standards of safety and responsibility that it requires of private industry; and I want to make some remarks about the principles and consequences of the tendency to shift matters—perhaps quite genuine matters of welfare—from the general community, the taxpayer at large, to industry, where such a shift in responsibility is not scientifically warranted.

To begin with, Madam, the question of the responsible exercise of power: there is no doubt that this Bill will give individual unions great power. The intention is said to be that the power is there for the enforcement of industrial safety. If that is so, and if it is used in that way, then we can look forward to an improvement in industrial relations, an improvement in productivity, and an improvement generally in our complex society. If it is not used in that way but is used to further the dialectic of class struggle, then we will be the loser. I am not a basher of unions and, as a Liberal democrat, I understand that the freedom of association, the freedom to form unions is an essential ingredient of democracy. I further understand that that freedom is a very hollow freedom indeed if it does not include the freedom to withdraw one's labour. I do not think that one can stand here and say that unions must not have these rights. One can stand here and say that they must use them responsibly.

I was disturbed to hear the Hon. Mr Griffin describe the impression gained at a recent seminar that maybe some people in the union movement see these powers as being there to damage the boss. When Karl Marx retreated to a backroom in the British Museum and wrote down his ideas on communism, he was reacting to the very real socio-economic problems of the Industrial Revolution, but the Industrial Revolution is over and Australia is entering an era where confrontation and class struggle is not only of no further use to our society and to our industry, but is positively destructive. I hope that the vast majority of unionists understand that and understand perhaps the sacred nature of the charge that will be given to them by this Bill so that, if the handful of ideologues who have gained power in certain crucial unions abuse these powers with the intention of furthering class conflict or damaging capitalist industry, they will get a very clear message from their rank and file members that that is not what the powers are for. The powers are there so that we can work for our country, shoulder to shoulder, side by side, in a cooperative way. That is the challenge that the union movement has, and the question is whether or not they will use those powers responsibly.

Madam, I want to address now the question of the Government's responsibility to obey the spirit of its own stated intentions. The Bill purports to bind the Crown. When one talks to legal advisers about what this means in regard to the penal provisions of this Bill, one finds that it means very little. For a start, if prosecution is to proceed, it is very hard to prosecute the Crown. The Crown does not very often prosecute itself. If it could, and the Crown were fined, it would pay the fine to itself. If the Minister were personally responsible and were fined, it is always Government policy to give Ministers support in facing the legal consequences of the exercise of their duties, so the Government would pay the fine to the Government.

If a worker, injured as a result of an unsafe Government decision, sought tortious remedies—damages for loss of income due to injuries—from the Crown, he may succeed unless, of course (as the shadow Attorney Trevor Griffin just said), the Government's proposed workers compensation scheme should pass in something like its present form, in which case that right to sue for that sort of damage would not exist. So, although we see in this Bill that this Act binds the Crown, when you think about it, it is a fairly hollow line in the legislation, if the Crown wishes to go its own way and cut its own costs anyway.

I see some discrepancies between what the Minister has said and what the Crown is actually doing, and I intend to give some detailed examples in a moment. What the Minister has said makes very fine language. Some weeks ago I was sitting in my office in the dungeon basement of this building and heard the Hon. Mr Blevins addressing a group of the faithful assembled outside the House. He was using a very powerful loudhailer and he said a number of things about the evils of employers who cut costs rather than institute full safety measures—employers who put money before safety. I was very impressed with the sincerity of

those remarks, but when we come to look at some examples of the Government's attitude to safety, I think we must be anxious.

The first example I want to take is the question of the Rescue 1 helicopter. I will need to make some technical explanation here at some length, but I hope members will bear with me. This aircraft was designed originally as a scout helicopter for use in the Vietnam war. It did not in fact get the Army contract—the Hughes Corporation helicopter, I believe, got that—so it was marketed in the civilian aviation field as a general aerial transport aircraft—a passenger aircraft, an executive aircraft. It was never designed as a rescue aircraft. It was never leased by the South Australian Government as a rescue aircraft. I believe that it is perfectly safe and comfortable when used in the role for which it is designed, but because it was there when certain emergencies arose, it was called to help. Over the years it has become very clear that it is not suitable, but more recently the police have become very concerned because they believe they are put in danger by the combination of the design limitations of the aircraft together with the humanitarian circumstances under which they are asked to assist.

Some of the problems with the aircraft involve air medical transport. The cabin space of the aircraft is very limited and inhibits the types of treatments which doctors can carry out. The size of the doors creates great trouble when babies are urgently airlifted in humid cribs. The total power lifting capacity of the aircraft is such that according to the Police Association, on a training exercise, it was unable to lift two people out of the water on the same static line.

That training exercise occurred on a fine day. In a submission to the Minister the police said that they believed the Minister was ignoring expert advice, that there may be an accident or fatality, and that the Government would be in an invidious position if that occurred. The particular problem for policemen carrying out rescues is that in the first place very few victims are able to take the strop that is let down from the aircraft without assistance. They may be frail or injured but, even if not, people not experienced in coping with the great down draught of the rotary wing and people not able to cope with the stinging salt water spray that is whipped up by the rotary wing cannot, of their own resources, take the line. Therefore a policeman has to be let down to assist them. Then, because of the limited lifting capabilities of this aircraft, the policeman has to be left there.

Indeed, in the police documentation of this problem an incident was reported where a policeman had to be left behind on a disabled yacht while the victims were rescued. The matter was further canvassed by Sergeant Trevor Hartman, Senior Fixed Wing Aircraft Pilot, Police Air Wing, and before anyone in the Government rushes off to punish him for talking to me, I indicate that he has not talked to me and I have never met him. He was awarded a study tour to investigate police search and rescue operations and he produced a study paper. I was privileged to be able to look at that study paper—not that he gave it to me; he did not, and I hope he is not punished. In that study paper he indicated that he visited 13 countries and spoke to police forces all over the world.

When he discussed the question of using the Bell 206 Long Ranger for search and rescue he could find no-one overseas who used it. Their reactions were either a mixture of derisive laughter or sad shaking of the head, together with the comment, 'the safety margin is just not there'. Both from the air-medical evacuation point of view and from the viewpoint of the people who use the aircraft in emergencies, it is considered inadequate and unsafe for the sorts of circumstances in which it is being asked, sometimes, to operate; although it is not considered unsafe in terms of its original design as an executive people transporter.

I have discussed this question with a very experienced helicopter operator, Mr Malcolm Smith, who manages Pacific Helicopters Limited, which operates some 24 or more helicopters in the South Pacific, Vanuatu, the Solomons, I believe, and Papua New Guinea, and he confirmed the unsuitability of this aircraft. Incidentally, he has 11 000 flying hours and a Distinguished Flying Cross. He gained a large amount of his flying time flying rotary winged aircraft in Vietnam, so he knows what he is talking about. He further advised me that the aircraft is particularly sensitive to changes in centre of gravity, so that when people are winched up outboard at the side of the aircraft it makes it rather difficult to fly and makes great demands on the pilot.

Furthermore, when the distribution of loads are changed, as they are when stretcher patients are taken on board, it is sometimes necessary to leave other crew members behind on the ground in order to get the right balance and load for the flight back to the hospital. What has the Government's response been to this? First, the Minister (Hon. Dr Hopgood) is either being protected from understanding this by his advisers or he does not care—and I do not know which. Perhaps the reason is that the aircraft does not have leaves and his interest in the various portfolio areas of responsibility seems to be confined to things that are green and have foliage. He should realise that he has had expert advice, which he has rejected, interestingly on the basis of cost, and something very funny occurred here in relation to the advisory committee.

In spite of the fact that his colleague, the Hon. Frank Blevins, is outside Parliament House with a loudhailer decrying employers who put cost before safety, the Hon. Dr Hopgood put cost before safety in this case; of course, he need not have if the matter had been canvassed widely. However, what occurred was that a little committee was formed and it unanimously agreed that the existing aircraft was not appropriate for the job. It then made one recommendation—for the lease of a Bell 222 from a South Australian aviation firm, which was the aviation firm with the present contract. This recommendation was very expensive. The committee contained a representative from that aviation firm which already had the existing contract, and no other aviation firm was canvassed.

Indeed, there are a number of other options, one of which I have here—and I do not want to appear to be commercially pushing the barrow of one firm—with an accurate costing from a particular aviation firm for providing the South Australian Government with a modern aircraft which is some 40 per cent larger in cabin volume, some 20 per cent greater in speed, is more stable as far as its centre of gravity is concerned, has wider doors, a lower maintenance schedule, and that comes out at a figure lower than the Government is presently paying. I do not know whether the Hon. Dr Hopgood knows about that. The reason why I am not detailing the commercial 'brand' is that there are another two or three helicopters made in different countries of the world with similar advantages, and I do not want to appear to be an agent of one particular company.

All I am saying is that, in the first place, the Government has run to cover on this—it has ignored expert advice; secondly, it has put cost before safety; and, thirdly, it did not have to, if it had encouraged aviation firms, other than the firm with the present contract, to sit on that committee and canvass a wider series of options. This matter relates to the Bill. Is the Government going to lay down one set

of standards for private industry and then, in spite of the fact that the Act binds the Crown, simply go on trading on people's humanity knowing that each time there is an emergency they will risk themselves in an aircraft that was never designed for the tasks it is being asked to do? If it wants to go on trading on the humanitarianism of the emergency services it can, because, as I said, people do not prosecute the Crown and, if the Crown is fined, it pays the fine to itself; and that is the beginning and end of it.

Another area of concern to me is an area in which the Government may seek to excuse itself from meeting proper safety standards. That is in the area of the safety of one section of Government divers, that is, the Fisheries Department's scientific divers. The Council will be aware that several years ago I took up the question of the treatment of injured divers because we did not have proper recompression facilities in South Australia. We now do, and we have a centre of excellence run by a real expert. The Director of Hyperbaric Medicine in this State is not only a medical practitioner but also is a physicist. He has largely completed a Ph.D. in biomedical engineering and is an extremely well trained diver. He has done saturation helium oxygen dives to 1 000 feet in the North Sea; he has done deep water mine recovery in the Royal Navy and recently he was appointed consultant to the Persian Gulf oil rigs in Oman, amongst other things, so he really does know. I sought advice from him.

There is no doubt that the dive profiles which the Minister of Fisheries allows to occur are dangerous. Those divers have been to 210 feet on compressed air. They dive in remote areas without chamber support. I am sure they believe that, if the proper codes of practice were applied to them, the Government would scrap the research rather than pay the proper costs of the safety back-up required.

The real conflict in this area is the conflict between two sets of standards. One is the national standard 2299. I am interested particularly in the depth time limitations and chamber support. There is another standard, the scientific code of practice, which is based on some of the principles of 2299. In answer to earlier questions in this Council, the Hon. Mr Blevins said that they obeyed those rules when manpower permitted. He should have said 'person power', Madam President. Of course, the implication is of cost cutting.

The question of the size of the dive team relates to manpower. If one observes 2299, one should have a diver, a standby diver who has not dived that day, an attendant and a diving supervisor. There is every evidence that the Government permits officers of that department to dive with less than the full dive team. The Government or that particular Minister (Hon. M.K. Mayes)—whether he understands or not, I do not know—accepts, as does Mr Blevins, that this scientific code of practice is all right. When I sought advice from Dr Gorman, the expert whose background I just gave the Council, he said, 'It's not all right; it's damned dangerous.' In fact, he used ruder words than that but I will not use the privilege of Parliament to go into florid language.

It is my belief that the Fisheries Department is hoping to have the scientific code of practice written into the regulations under this legislation to avoid the cost of difficulties of complying with 2299. Of course, the Bill as it is before us does provide that, where the Minister promulgates a code of practice, it need not be the same as a national code.

If the Government is serious about safety, there is only one code and that is 2299. There will be some circumstances, particularly with the question of chamber support, where one cannot get a transportable chamber on site or where a depth time limitation may have to be exceeded, where the sheer importance or urgency of the dive indicates that it is reasonable for people to accept voluntarily a particular risk of their occupation. But that is not to be achieved by watering down the standards and putting them in the legislation to save the Government the cost of providing chamber support for those divers.

Those particular divers who have used the dangerous—I make no bones about it, because I have taken advice—scientific code of practice are the only group of Government divers who have produced serious life threatening bends. One man almost lost his life. His life was saved by the new facilities at Royal Adelaide Hospital. He would be well advised to sue the Government before the right to sue disappears with the new workers compensation legislation, if it passes in that form.

So, whilst private industry will have to be subjected under this Bill to fairly rigorous regulation and punitive legislation, it does behove the Government to look to its own house and put it in order. I do not want to hear any more rubbish from Mr Blevins about the scientific code of practice or any more mumblings from Mr Mayes, who does not understand, muttering, 'Well, yes, perhaps there was an error of judgment' when the fisheries diver got the life threatening bends. It was not like that at all. The Minister does not even have to go overseas to prove it. Those Ministers, if they are going to promulgate a set of regulations, must not listen simply to recirculated inbred advice among one group of officials in their departments.

They have merely to go down North Terrace to the Hyperbaric Oxygen Unit and see the world expert and ask him his advice on what those regulations should be. If the Minister does not do that and if the Minister brings in regulations which are less safe, and if he is too lazy to walk down North Terrace to speak to the Director of the Hyperbaric Unit, then truly he would be a shameful person.

It is a pity that I have had to go through all of that, because what I wanted to do was seek a parliamentary assurance from Mr Blevins that he will be introducing 2299 rather than the scientific code of practice in regard to Government divers, perhaps with the power of exemption from some provisions in cases of urgency. In fact, I have drafted a question on this matter and discussed with my colleague in another place, the member for Mitcham, plans to have him ask Mr Blevins so that we can be reassured that he will not be bringing in the lesser set of safety regulations. Of course, the Bill was guillotined at clause 4 and we lost that opportunity on that shameful day where, to the undying shame of the parliamentary Labor Party, Labor members in another place demonstrated their sheer contempt for the parliamentary process.

We were not able to get that assurance and no-one here can give it to me on behalf of the Minister because I am sure that no-one on the Government side understands the technicalities of the issue anyway. All that is left is the political process. If the Government does not come to the party by promulgating the national standard and not a less stringent standard than the national standard in regard to diver safety, we will be waiting for the next and the next badly pressure injured diver and, hopefully, in the end the political process will win out.

In the remaining few minutes I will talk a little about the question of psychological safety. At the outset, because of my medical training I am extremely sympathetic to the processes of psychosomatic illness and neurosis and the processes of psychiatric illness. They are genuine—not malingering—illnesses and they can be very disabling. In some cases they can be contributed to by work factors. However,

I think it is a very sad thing if we develop an expectation through the sorts of words we use in legislation that any such illness appearing in a person who has work stress is caused by the work and the cost of the illness should therefore not be borne by the taxpayer through Medicare or the pension system but should be added on to the cost of production in Australian industry.

I say to the unions: if they continue to try to shift illnesses and disabilities that are really due to something else and should be a charge against the taxpayer on the whole on to the cost of manufacturing in Australia, given the difficulties that we have in trading in the world today, that will mean the continued loss of jobs as production costs are further encumbered with responsibilities that are not those of industry but are really the responsibility of the community as a whole.

In the case of stress, first, there is the sort of stress that we all have. It is not possible to go to work without stress. People talk about teacher stress, doctor stress, nurse stress, stress of police officers and occasionally, when we sit late, politician stress. Everyone has stress. There is only one stress free occupation, and that is being a baby at your mother's breast—after that life gets harder. Thus, the mere existence of stress should not become something that we try to eliminate, compensate for or charge industry with.

Secondly, when actual pathological and disabling psychological results occur there may be a parallel association with work but not a causal association. It has been said that large numbers of people who are unhappy are unhappy because they are married and that there are large numbers of people who are unhappy because they are not married. Those who do not relate their unhappiness to that factor relate it to an unhappy childhood. A number of depressive traits may indeed be inherited. When inherent stress or stress caused by something else and not the workplace arises, it is very common (as the Hon. Mr Griffin said in his speech) for people to bury themselves in their work as a coping mechanism and take on more and more work to deny themselves the feelings they have which are oppressing them and threatening their health. When it finally cracks, the truth of the matter is that it was not caused by work but by something else.

There are two most undesirable consequences if we allow work to be attributed as the cause. First, I suppose people will seize upon that: it is nice and comfortable to feel that it is your job instead of your marriage that is the problem, particularly if it becomes compensable. That will obstruct the proper treatment and the help of these people because it will not be possible to wean them from the idea of a work caused problem back to the idea of a more fundamental problem that they have been trying not to look at. As I said, the other undesirable consequence is the shifting of very real illnesses from being the responsibility of the community as a whole through other welfare avenues to being fictionalised as the responsibility of industry with consequential damage to Australian workers' jobs.

There are many other matters that will be dealt with in Committee. It is a Committee Bill. I am sure that the Attorney-General will be more responsible than his colleague in another place and will not try using the guillotine here, that he will cooperate and will work methodically through the clauses because we do support the second reading in principle and we do suport the principle of improving industrial safety, health and welfare. I commend the second reading of the Bill to the Council in expectation that members on both sides will move a number of amendments with the intention of improving the Bill.

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

[Sitting suspended from 5.58 to 7.45 p.m.]

DAIRY INDUSTRY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 5 November. Page 1851.)

The Hon. PETER DUNN: Reluctantly I support the Bill. It has been introduced for all the wrong reasons. In his opening remarks, the Minister stated:

> The Australian dairy industry has experienced two years of declining returns, due to overproduction and depressed export prices.

This Bill in effect attempts to regulate the number of dairies in the State in order to control the overproduction and depressed export prices. As a primary producer I believe he is romancing as are the people advising him. If he restricts the number of new licences, the people with the old licences will increase their production—there is nothing more certain than that. Even though they may not be able to purchase additional areas of land, they will increase production improving the quality of their herd. Their gene pool will improve; they will improve their stock by breeding and thus increase their production, anyway. I do not believe that by restricting the number of new dairies the effect will be what the Minister is seeking. In fact, it will probably be counter-productive because it will restrict younger people from coming into the industry.

The rural industry today has many old people in it. The average age of farmers in South Australia is in excess of 50 and that is a sad indictment of an industry that virtually keeps the country fed and running and introduces export income. This Bill will restrict young people from getting into the industry. It does have some other factors that I do not like and it is virtually giving a licence to print money. We have seen in the past what happens when we license an industry. We know what has happened with the egg industry quotas: an egg producer's hens are worth $20 to $23 per hen. If there were no restrictions the hens would not be worth that amount. We have seen what happened with the abalone industry which was licensed for a different reason, namely to protect the resource. The effect of putting a licence on the number of people who can fish abalone is that the licence itself—the piece of paper that says one can fish abalone—is worth in excess of $270 000.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: I am demonstrating what happens when we license industries such as this.

The Hon. J.R. Cornwall: So you'll be consistent when it comes to eggs.

The Hon. PETER DUNN: We will argue that when we get to it. The same situtation applies with another fishing industry, namely, the prawn industry. I am not sure what a licence to fish prawns is worth, but it is an enormous sum of money. We are saying to these people that they can have a licence to produce milk and the licence itself becomes of value.

The Bill specifically allows trading in these licences. In his second reading explanation, the Minister also stated:

> The restrictions will not apply to renewals of existing licences, the transfer of licences following change of ownership or to a person transferring his licence to a new dairy farm.

They will be transferable from one person to another and become negotiable. That means that when we want to change this Bill in some way or knock it out, we will finish up with

a very upset industry. I do not think that the Bill will have the desired effect. The industry should not explore options within itself as to how it controls production, but to establish a closed shop as in this Bill is not the track we ought to be going down in an endeavour to control milk production. It will advantage some farmers, particularly those in the South-East (of which there are about 240 or a few more) and they are having difficulties owing to isolation. This Bill will give them some chance of competing on the milk markets in this State.

Industry has indicated its agreement to this Bill and it is difficult for me not to agree with it. It agrees and has done for some time. When the previous Minister introduced this Bill on the first occasion we indicated some problems with it and the Minister did not continue with it. In fact, it fell off the Notice Paper and has been reintroduced with precisely the same second reading explanation as the first time. The Bill has been resurrected in its old form, which indicates that the dairy industry did want some restrictions, and this will give it money in the case of the licences themselves.

I have some other worries about this Bill giving the Minister *carte blanche* in determining who will or will not be a producer. This Bill gives him exactly that opportunity. He will determine who can and who cannot make money out of milk. I have drafted some amendments to set up an advisory committee from which the Minister will take advice in determining who should or should not have a licence to produce milk in this State.

I think the Minister should take advice from a committee. I have filed those amendments and I presume that the Minister has them. I hope for a response from him in the second reading stage. I might point out that the Minister of Agriculture in another place indicated that he agreed there should be amendments and he was happy that they should go ahead. When referring to some amendments proposed by the shadow Minister of Agriculture in the other House, he said:

> However, certainly in principle I do not feel uncomfortable about the matter going to the other place and being returned to this place with certain amendments which we can then perhaps adopt.

So, he did agree in effect to those amendments. We have drafted them and I hope he will accept them in the good faith in which they have been put forward. It is quite easy to influence the Minister through a small group or an individual to have a licence granted, and by having an advisory committee at some distance from the Minister, that effect would be lessened.

My second amendment deals with inserting a sunset clause. The reason it has been introduced and the reason that we are accepting it is primarily in the interim after the Federal Minister Kerin introduces his plan to cure over-production, there may need to be some controls. If we do not include a sunset clause in this Bill, we will find that it will continue and when the Kerin plan comes into effect, I have no doubt that the producers will want the protection that has been offered by this Bill. So, by introducing a sunset clause, I believe it will come before the Parliament again and be discussed. In the meantime, the Kerin plan may be introduced and, if that is the case, it would be at that stage that we could fall into line with that plan if we deem it necessary to do so. Madam President, it is with those remarks and those amendments on file that I support the Bill.

The Hon. J.R. CORNWALL (Minister of Health): Ms President, I have not had the opportunity to study *Hansard* like my learned friend the Hon. Mr Dunn, who says that in another place the Minister of Agriculture supported the amendments. I would have to say that it seems amazing to me in the circumstances that the amendments therefore were not passed.

The Hon. M.B. Cameron: No, they did not have time to get them in.

The Hon. J.R. CORNWALL: Oh! What happened, and the reality now emerges since I have done a little probing, is that there were no amendments to consider. The idea of an advisory committee and the possibility of sunset legislation were canvassed in the other place but no amendments were ever put on file. Since that time, because we are sensitively in touch with the rural electorate, we have talked to people like Lance Clements from the South-East Dairymen's Association (my old friends), and David Higbed from the South Australian Dairymen's Association. These two people between them, with their organisations, represent something in excess of 90 per cent of all the dairy farmers in South Australia.

It is a pretty big constituency, I would have thought, for a conservative Party who likes to look after its rural constituents. The unanimous advice from those two organisations is they do not want an advisory committee and they certainly do not want a sunset clause. It is not too difficult in those circumstances for the Government to be able to accede to their requests. What they do want and want very badly are the things proposed in this particular Bill and the one that accompanies it, which is literally its travelling companion, the Metropolitan Milk Supply Act Amendment Bill. They are both concerned about the viability of the dairy industry.

Those Bills are a direct result of the representations that have been made to the Government by the SEDA and the SADA. I find it extraordinary in the circumstances that the Opposition cannot on this occasion say, 'Yes, they are two constructive, albeit simple, but important pieces of legislation and we support them.' It has to nitpick through the things. It goes and talks to the UF&S which represents about 6 per cent to 8 per cent of all the dairy farmers in this State, and puts up these amendments, which do very little. They do not add to or take away from the legislation to any significant degree. The important thing is that the SADA and the SEDA do not want them and, therefore, I indicate on behalf of the Government that we do not intend to accept them.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Minister may direct that no further dairy farm licences be issued in certain circumstances.'

The Hon. PETER DUNN: I move:

> Page 1, line 18—Leave out 'section is' and insert 'sections are'.
> Page 1, line 19—After 'Where the Minister' insert ', after consulting with the Dairy Industry Advisory Committee,'.
> Page 2, line 7—After 'The Minister may' insert ', after consulting with the Dairy Industry Advisory Committee,'.

Unlike what the Minister said, this is fairly reasonable. Let me read what is in the Bill.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: I do not think they understand what the Bill does. It states:

> Where the Minister is of the opinion that the establishment of a further dairy farm would result in lower returns to dairy farmers thus rendering dairy farming uneconomic—

Who is making the decision? The Bill provides:

> The Minister may direct that no further licence be issued for dairy farms.

Who is making that decision? The Minister. My amendment will establish an advisory committee. As we all know, the Minister has no backing. He has advisers, but they all come from one source.

The Hon. J.R. Cornwall: This is the advantage of spending such a long time in Opposition, never having any experience in Government! You don't know how it works.

The Hon. PETER DUNN: Minister, you are such an expert on everything!

The Hon. J.R. Cornwall: No.

The Hon. PETER DUNN: You just said so. You indicated that we knew nothing and you knew it all. Unfortunately, Minister, you cannot see the trees for the woods. I would have thought that my amendment would be accepted for the simple reason that it will provide the Minister with some advice; the committee will contain people from the South-East. If the Minister looks at how we plan to set up that advisory committee, he will see that it contains members from around the State who will advise him and understand whether the industry is economic or uneconomic in any area and whether or not there is a case for further dairies to be put into an area. I would have thought that that was straightforward. Advisory committees are set up in other legislation to advise the Minister, but it has not occurred in this Bill. Under this Bill the Minister has unfettered power. The Minister can determine someone's ability to survive at the stroke of a pen, and I do not think that is at all reasonable under the circumstances. I cannot see why this Minister cannot accept that an advisory committee would not be of some assistance to him. He only has to refer a problem to the committee which may only have to meet once or twice a year.

The Hon. J.C. Burdett interjecting:

The Hon. PETER DUNN: That is right, the Minister does not have to accept their advice. I would have thought that an advisory committee would be a sensible way of determining matters. Not only that, these people could then go back and sell an idea to their dairymen whereas, presently, the Minister will finish up, probably like he is now, out on a limb having very little support from the industry that he is there to defend.

The Hon. J.R. CORNWALL: Ms Chair, the Hon. Mr Dunn does not understand how Government works. I made that remark by way of interjection. The Hon. Mr Burdett is chuckling into his chin over there. He had a little bit of experience in the Tonkin interregnum, but the Hon. Peter Dunn has had none. All things being equal, given his age and antecedents, it is unlikely that he ever will. The fact of the matter is that the power of the Minister to do this and that should not and cannot be taken literally. It is a nonsense to suggest that the Minister of the day would personally take these decisions. It is a regrettable tendency that has been shown by this Opposition and, I think in some ways, a reprehensible tendency, to try and personalise everything; that the Minister will do so and so, presumably in this case Kim Mayes. The Minister has put up this Bill, in that particular case Cornwall, if the poison is running strongly enough.

Of course, the reality is that the Minister, as referred to in any Bill, is the Minister of the day—but it will not always be 'he'. There are some emerging signs that it might even be 'she' on numerous occasions in the future. It really is silly, and does the honourable member no good to personalise it.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: The way the Government works is that clearly a busy Minister doesn't sit at his desk and say, 'What is this application we have from John Smith of Bordertown who wants to declare his property to be a dairy farm? He has never been in dairying before.' He is somewhere north of Bordertown and is getting back into the marginal country and, for some reason which is unclear to all of us, he wants to get into dairying. The Hon. Mr Dunn is making a farce of this. He is suggesting that the Minister of the day having very little else to do presumably and having worked a 12 or 13 hour day will sit pondering at the desk surrounded by personal staff late at night deciding whether John Smith ought to be allowed to enter the dairy industry. That is patently stupid.

Of course, what the Minister does is seek advice from his professional officers and, where it is appropriate, have those people seek advice from the area to decide what the economic circumstances are, and then on the balance of the evidence that is presented to be given a recommendation which he can acccept or reject. If the Hon. Mr Dunn and his colleagues were serious about this matter they could well put up an amendment to delete 'the Minister' and replace it with 'the Director-General'. There may well be some virtue in that, if they think that Labor Governments of the 1980s will be subject to corruption like the Conservative Governments of 80 years ago and that individual landowners would be able to bring pressure to bear on the Minister of the day to get into cronyism and to take decisions that might be inappropriate as occurred under previous Conservative Administrations, then the protection clearly lies in giving the power to the Director-General.

However, the business of setting up an advisory committee which ostensibly would consider every application and would recommend to the Minister who, incidentally, has complete power under these amendments to reject any advice that he or she may receive, then that advisory committee becomes a bit of a joke anyway. Presumably it has expenses paid to meet in downtown Adelaide, to stay in an expensive hotel somewhere and to live high on the hog. It just does not make any sense. Presumably the number of applications that it would have to hear would be very small anyway, given that the patterns of agriculture and farming in South Australia are now well established.

The colony has been established for 150 years, as I am sure most members are aware. It would be quite unlikely and unusual that one would suddenly be getting applications to get into dairying from the marginal areas. There would only be a limited number of farms involved the owners of which may wish to change their pursuits in well established areas. In those circumstances it would be a very simple matter for the Minister to seek advice, to be given recommendations and, at the end of the day (the way the system works) the Minister, while he would have some discretion, would be taking the advice of professionals anyway.

Concerning the way the amendment is phrased, at the end of the day the Minister would be taking the advice of the professionals and some strange body called the Dairy Industry Advisory Committee. I point out again that the South-East Dairymen's Association does not want it; the South Australian Dairymen's Association does not want it; Lance Clements on behalf of his membership does not want it; and David Higbed on behalf of his membership does not want it. Those two organisations represent in excess of 90 per cent of dairy farmers in this State and in terms of taking advice, if one is serious about taking advice, what the Minister and the Government is electing to do in this matter is to take the advice of two people who between them represent the overwhelming majority of dairy farmers in this State. I reiterate what I said earlier: on the basis of logic and of taking advice—that is what we are doing—from the people who represent 92 per cent of all dairy farmers in this State, we reject the amendment.

The Hon. M.B. CAMERON: I do not wish to hold up the Committee unduly, but I do wish to congratulate the Hon. Mr Dunn on moving amendments that bring the

farming community into some contact with the Bill, a Bill about which I have grave doubts. If we are to have the legislation, there ought to be some farmer contact in it. The Minister demonstrated a lack of knowledge of the way that the farming community varies its operations these days and, just because there happens to be established areas of dairying, it does not mean that that is how it will be forever. These days large areas are set up in unusual places because of irrigation techniques that have changed dramatically. I do not think he quite understands the way that the farming community these days is being forced more and more to vary its operations.

I am not impressed by the rejection of this proposal by the organisation concerned. It is important that, as members of Parliament, we watch carefully so that the constituent people who will be affected have a say in such matters. This is a sensible amendment.

There is not a member here who does not realise that the Minister would seek advice, but at the end of the day he makes a decision. The Minister is responsible for decisions in the same way as the Minister of Health is responsible for matters that occur in his portfolio. There is no way that he can avoid that responsibility any more than can the Minister of Agriculture.

The Hon. J.R. Cornwall: Even under autonomous hospitals—

The Hon. M.B. CAMERON: The way you operate them you make sure you are responsible. I will not go into that at this stage, but I will go into it later. You grab control at every possible opportunity—

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: I do not know. It is a matter of how you spoke to him, I guess. If you performed in your usual manner I would think he would be a very angry man.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: I would love to have a tape recording of the conversation between you and him when you rang him on Saturday, and I am sure you did.

The CHAIRPERSON: Order! Perhaps we could return to clause 4.

The Hon. M.B. CAMERON: This is a sensible amendment to a regulatory Bill. I have grave doubts about a regulatory Bill coming in at this stage when we have been faced with cries for deregulation by the Government. However, the Government has decided to bring in this regulatory Bill and, for that reason, we have to be very careful that it is handled sensitively. We must ensure that the Minister does consult with people other than public servants. That is terribly important and, for that reason, I have strong support for the amendment.

The Hon. M.J. ELLIOTT: First, I comment to the Opposition (and the comment applies equally to the Government) that when looking for my support the least they can do is give me reasonable warning. Unfortunately, I did not see the amendments until some hours before the break. I was unable personally to catch up with Mr Higbed, although I have had a written message from him indicating that he is happy with the Bill generally and wants to proceed with as much haste as possible.

I did catch up with the UF&S and what is proposed does comply with its policy. The point that the Minister has made is valid, that most dairy farmers are represented by the South Australian Dairy Farmers Association. Nevertheless, on this occasion I indicate that, unless the Minister takes some action so that we do not proceed to the third reading, I see these amendments as being consistent with the sorts of amendments that I have been moving this year in cases where I have believed that advisory committees must exist and where, as much as possible, they must be representative of the industry.

It is the sort of thing that I tried to incorporate in the Potato Board before it got well and truly fixed. It is the sort of thing I have moved in a couple of other places as well. Indeed, I see these amendments being consistent with the sort of things of which I have been supportive. I am not convinced that Ministers always get good advice and I can point to instances this year where plainly Ministers have received bad advice, and in industries I know a lot about, for example, those relating to the Riverland. The Minister of Agriculture had bad advice on several occasions and has been proven to be wrong.

That is why, as much as possible, I want to see advisory committees that he would have some obligation to talk to at least occasionally on matters of importance. I would have liked the chance to speak to the South Australian Dairy Farmers Association. I indicate to the Liberals that, if they do not give me more warning about amendments in the future, it will be very hard for me to support them, unless they are obviously amendments of great merit. I will be supporting the amendment at this stage although I would have preferred to confer with the SADFA.

The Committee divided on the amendments:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn (teller), M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Pair—Aye—The Hon. C.M. Hill. No—The Hon. B.A. Chatterton.

Majority of 3 for the Ayes.

Amendments thus carried.

The Hon. PETER DUNN: I move:

Page 2, after line 7—Insert new subsection and section as follows:

(4) No direction shall be made under subsection (1) on or after 30 June 1988 and all directions made under that subsection shall expire on that date.

8b. (1) There shall be a committee entitled the 'Dairy Industry Advisory Committee'.

(2) The committee shall consist of four members appointed by the Minister of whom—

(a) at least one must be a member of the South Australian Dairy Farmers Association Incorporated;

(b) at least one must be a member of the South Eastern Dairymen's Association of South Australia Incorporated;

(c) at least one must be a member of the United Farmers and Stockowners of South Australia Incorporated.

(3) A member of the committee shall be appointed for a term of office, not exceeding two years, specified in the instrument of appointment.

(4) The terms and conditions of appointment of the members will be as determined by the Minister.

(5) The Minister shall appoint one of the members to preside at meetings of the committee.

(6) The committee shall advise the Minister in relation to any direction proposed to be made by the Minister under section 8a of this Act or section 32 of the Metropolitan Milk Supply Act 1946.

This consequential amendment sets out the format of the advisory committee.

Amendment carried; clause as amended passed.

Title passed.

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

That this Bill be now read a third time.

In so doing, very briefly, I express my disappointment that the representations of 92 per cent of the dairy farmers in this State have not been listened to either by the Opposition

or by the Hon. Mr Elliott who, on his own admission, has not had a chance to consult with those constituents. Nevertheless, for reasons known only to himself the Hon. Mr Elliott voted to oppose what has been requested by 92 per cent of dairy farmers in this State.

Bill read a third time and passed.

METROPOLITAN MILK SUPPLY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1852.)

The Hon. PETER DUNN: This Bill is similar to the previous Bill. It deals with those people who supply milk to the metropolis of Adelaide. There is no point in going over the arguments again, except to say that there is an addition to this Bill: that is, the penalties for those people licensed to distribute milk have been increased. We agree quite wholeheartedly with what the Government has done. I indicate that there are amendments, but they do not appear to be on file (they were to be distributed at about 3 o'clock this afternoon).

The Hon. J.R. Cornwall: Do they set up an advisory committee?

The Hon. PETER DUNN: It is exactly the same. And one amendment provides for a sunset clause, as well.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: Thank you, Minister. During his second reading explanation the Minister gave us a lesson on ministerial responsibility and how it should operate, and then he went on to say that the advisory committee will probably meet infrequently because there will not be many exchanges of licences. The alternative is to take advice from officers within the department itself. I am sure that that is not terribly clever. I indicate that the Opposition supports the Bill with the indicated amendments which provide for the advisory committee to the Minister and a sunset clause, which means fundamentally that the legislation will come back to this Parliament and will be reviewed on 30 June 1988.

I hope and believe that the Kerin plan will coordinate milk production in Australia, because we cannot export in competition with the European Economic Community and other countries such as New Zealand. I believe that such a plan is necessary. When we report back to the Government in June 1988, that will be an opportunity for the plan to be considered. With those comments, I support the Bill.

The Hon. J.R. CORNWALL (Minister of Health): It is very hard to consider amendments that are not before us, but I understand their general thrust: they have the same lack of intellectual force as the amendments put forward in connection with the previous Bill. Apparently, the Hon. Mr Dunn wants some members of the advisory committee to gather somewhere at some particular time (presumably in Adelaide), have their expenses paid along with their air fares, transport costs and whatever and be accommodated at one of the better hotels. As my late and great colleague Jim Dunford always used to do when he wanted to know the best wine, he looked at the wine list and chose the most expensive. It was a pretty good rule of thumb and he drank a lot of good wine doing it that way. I suppose that is what will happen with the proposed advisory committee. It will not cost the Government or the taxpayer at large; however, the industry itself will be penalised by having to support this quite unnecessary advisory committee. However, as I said, without actually having the amendments before us, it is a little difficult to consider them.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

New clause 2b—'Interpretation.'

The Hon. PETER DUNN: I move:

Page 1, after line 14—Insert new clause as follows:

2b. Section 3 of the principal Act is amended by inserting in subsection (1) after the definition of 'dairy farm' the following definition:

'Dairy Industry Advisory Committee' means the Dairy Industry Advisory Committee established under the Dairy Industry Act 1928:

I take exception to the Minister's implying that people come up here and live off the Government and swan around in high class hotels.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: The Minister implied that they come up here and live in the best hotels.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: I seek your protection, Madam Chair.

The CHAIRPERSON: Order!

The Hon. PETER DUNN: The Minister is an inveterate yapper. I had a dog that was quieter than he. The Minister is uncontrollable. I object to his saying that these people swan around Adelaide staying in the best hotels and drinking the best wines. Those people are leaving their businesses to come here and offer the Minister some advice.

The Hon. J.R. CORNWALL: I have to defend my honour. I did not say that these members of the advisory committee, who will be swanning around Adelaide, staying in expensive hotels and living high on the hog possibly, would be a charge against the Government or the taxpayer but rather against the industry. I do not believe that the dairy farmers of this State will thank Mr Dunn for this amendment. I have spoken to people who represent 92 per cent of the industry and they did not want his amendments. They are being foisted upon them, with a little help in the most sanctimonious and parsimonious way from Mr Elliott, who normally knows a darn sight better. I can understand Mr Dunn, who does not have a cow on his property. He thinks that milk comes in cartons, but purports to speak for the dairy industry. I have seen the back end of more cows than Mr Dunn would ever be able to count, after 10 years in rural practice. When it comes to the dairy industry, I know a good deal about it.

As for the remarks about Jack Russell terriers, we ought not to let this debate descend to those levels—it makes me sensitive. When I picked up the first edition of a newspaper recently and saw a banner headline, 'Killer dog', I thought that the Opposition had libelled me. We really should not descend to those levels of debate. I do not believe that the industry would thank the Hon. Mr Dunn. Be it on his head, because he thinks he is sensitively in touch with the dairy industry.

The Hon. M.J. ELLIOTT: The Minister seems to imply the end of civilisation as we know it over these amendments. If these amendments are so shockingly terrible I have made the offer to discuss it tomorrow. We have a lot of business and it would be nice to do it tonight. If amendments come in this late again I will not consider them—I have made that clear.

The Hon. K.T. Griffin: You're being derelict in your duty to your constituents.

The Hon. M.J. ELLIOTT: Members who fail to show amendments in time are being derelict.

The CHAIRPERSON: Order!

The Hon. M.J. ELLIOTT: Nevertheless, the Minister—

The Hon. J.R. Cornwall: You were briefed by the Minister this afternoon.

The CHAIRPERSON: Order!

The Hon. M.J. ELLIOTT: Do you want to check that? I was not. The Minister responsible is being sanctimonious and any other terms he cares to use. I am supporting the Bill. I am aware that the SADFA is strongly supporting the Bill. I have not had a chance to discuss the amendment with it and have to rely on my own knowledge, which goes far beyond the back end of cows. I support the amendment.

New clause inserted.

Clause 3 passed.

Clause 4—'Refusal of licences.'

The Hon. PETER DUNN: I move:

Page 1—

Line 23—After 'Where the Minister' insert ', after consulting with the Dairy Industry Advisory Committee,'.

Line 29—After 'the Minister may' insert ', after consulting with the Dairy Industry Advisory Committee'.

After line 31—Insert new subsection as follows:

(3e) No direction shall be made under subsection (3a) on or after 30 June 1988, and all directions made under that subsection shall expire on that date.

Amendments carried; clause as amended passed.

Remaining clauses (5 to 7) and title passed.

Bill read a third time and passed.

EGG CONTROL AUTHORITY BILL

Adjourned debate on second reading.

(Continued from 6 November. Page 1914.)

The Hon. J.C. IRWIN: I can say the same as was said in the other place on this Bill, namely, that there is some impeccable timing in bringing in this Bill following two other Bills that have screwed down an industry whilst this one is going to supposedly free up an industry. The Opposition does not support the Bill as it stands. However, the Opposition and the industry can and do agree with a number of measures contained in the Bill. We believe that these objectives will not be best reached through the framework of this Bill. It is therefore our intention to draft a new Bill, after extensive consultation (and I emphasise the words 'extensive consultation') rather than seeking to heavily amend this attempt at so-called deregulation. If this Bill is successful it will not deregulate the egg industry in South Australia—it will at best partially deregulate it. It would be in the interests of the Minister and also the Minister taking the Bill in this Chamber as well as the Government to listen to and read the contributions from the Opposition, the industry and the Democrats, withdraw the Bill and redraft it, taking into consideration what has been said loudly and clearly. It is not good enough for a Government to expect the Opposition and the industry to do its homework, including consultation, for it.

The Minister's emotive and unsubstantiated claims on 3 September 1986, when making the first announcement about the egg industry, make me, the Opposition and the industry very suspicious about what is the real intention behind the Government's action. The Minister in the other place said:

> The reduced cost of the new authority and the deregulation of pricing could cut 20c a dozen from the price of eggs.

Madam President, we are talking about an industry and we are making decisions about an industry with a private investment of $95 million, employing directly and indirectly about 2 500 people, and generating annual sales of $24 million. To make matters worse, the Minister in the other place is silly enough to again go public in this week's *Sunday Mail*, not only repeating his unsubstantiated claims, but heaping further scorn on producers. He uses well worn, emotive headlines such as, '$1 million more for eggs' and 'Let there be no doubt about it: our consumers are being ripped off.' Not only is he in conflict with the Egg Board, which is his responsibility, but he is in open conflict with all primary producers in South Australia.

For many reasons, I do not take this exercise lightly, nor do I treat lightly a small section of primary industry being used as a political football, even if that sector—the egg industry—does have some protection of its cost of production base. Will this Bill, if successful, really guarantee the delivery of cheaper, healthier eggs to consumers as promised, or is the real intention of this Bill a sleazy, cheap, point scoring exercise dreamt up by the backroom boys and girls of the ALP to test the Opposition at the expense of 400-odd egg producers in South Australia and—I must add strongly—the consumers of South Australia as well?

Can the Premier not give his back bench in the Assembly something better to do than resort to this sort of exercise led by a Minister who clearly does not know what he is talking about—in agriculture or indeed anything else? This exercise, if nothing else, shows this as clear as day to me and others. What about getting back bench members to put their small collective minds to thinking and doing something about the unemployment in this State, the worst in Australia, especially the unemployment of the young, again the worst in Australia, where 27 per cent plus cannot get a job? What about doing something about the health problems, mounting every day in this State, and what about putting money towards resources for the Police Force so that it can do something about the mounting crime in this State and the carnage on the roads every day? The egg industry takes nothing from the Government. It is quite the reverse. If the Minister cannot do better than that, then he—

The Hon. J.R. Cornwall: The highest price per dozen in the country.

The Hon. J.C. IRWIN: We will come to that. If the Ministry cannot do better than it did with the bottle legislation, God help us with any other area it attempts to meddle with such as this one. Let me hit the notion of deregulation and freeing up markets front on.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. IRWIN: Just listen to me for a moment. This is not some new-founded policy of the Liberal Party; we have always had that philosophic base. I admit that we in the Liberal Party have strayed from that base, but I am delighted that we are now returning to it, even if slowly. Some of us more than others want to achieve free markets, and some also want to achieve it more quickly. As with tariff reduction, it is dangerous to achieve it in one fell swoop. We in the Liberal Party have to balance deregulation with a policy of orderly marketing, and I emphasise, for the benefit of the producers and the consumers, we see the egg industry in Australia and South Australia as maybe having a need for some sort of orderly marketing. I put it to the Council as strongly and as clearly as I can that, in an ideal world, everything should be deregulated. However, we have just spent time on two Bills regulating the dairy industry. So, what is the Minister talking about? What about bringing down tariff protection? Members of the Australian Labor Party would honestly not have a bar of that policy. Its philosophy and long-term aim of Fabian socialism or any other ism is for the State to own, regulate and direct everything.

The Hon. J.R. Cornwall: What about the Potato Board?

The Hon. J.C. IRWIN: I will come to that. The unthinking people are allowing the Government to achieve socialism. They are also waking up to what the Government is doing. That is why this Bill stands out as being aimed at cutting down the producer with no guarantee of delivering the emotive selling point of 20c per dozen cheaper eggs. It also gives the Minister a convenient vehicle to enable him to wiggle his finger and abuse the Opposition across the Chamber, quoting to us previous speeches made by the Hon. Martin Cameron and others, who have pointed to a need for the review of statutory marketing authorities. I state here and now that I believe in deregulation and freer markets, but not, as I said before, achieved in one fell swoop, picking off one industry in isolation.

I have long had regard for the once upon a time old style Labor Party policies, thrashed out as they used to be by the Party and the Party structure, the stated policies supported at election time. Even if they are greatly opposed to what I think, they are at least reflecting the position of a great many decent Australians.

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. IRWIN: Was this an election policy of yours to deregulate the egg industry? Is deregulation of all statutory authorities—not just rural ones—an ALP platform? It is news to me if it is. Is privatisation now well and truly on the Labor Party agenda, because it was not at the last election. The Labor Party opposed it bitterly on every point it possibly could. I do not like to see these policies thrashed out by the old style Labor Party overthrown by a pragmatic parliamentary Party which loses touch with its philosophic base. The Government creates economic chaos and uses that excuse to change direction. A case in point is the nonsense the Labor Party has put forward in this State and Australia on uranium, as one example. I will not take the time of the Chamber in going any further into that, except—

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. IRWIN: I am certainly not New Right. I have been Right for about 30 years.

The Hon. J.R. Cornwall: Are you a McLachlan man?

The Hon. J.C. IRWIN: He is a very old friend of mine. I will also cite the Government's hypocritical stance on the Housing Trust and privatisation at election time and the positive action in the 11 months since the election brought about by economic necessity. In one day in the Assembly there were two Bills screwing down the dairy industry and now we have this one which takes away regulations. The Government does not know where it stands. It does not know what it wants and it expects us and the South Australian public to support it.

Our shadow Minister of Agriculture (Mr Gunn) put down our position clearly in the Assembly, and I will duplicate some of that in this Chamber tonight and add some significant areas because additional information is now available. Other Opposition speakers and the Democrats will add what they want to say. If the parliamentary system is to work, this Council will review the Bill before us sent from the House of Assembly and decide, on the lengthy evidence presented, just what should be done for the benefit of producers and consumers. I will make clear the defects in the Bill and in the Minister's thinking. I will also make clear how hard it will be to amend this Bill. I will indicate additional information to that given by Mr Gunn regarding points of agreement between the Opposition and the industry, so that the Minister and his advisers can reconsider their position with a view to achieving what some of the intentions set out in this Bill wanted to achieve.

That is, of course, if the Government is fair dinkum and not just playing games with the rural industry. I start by going through the Minister's second reading explanation, which was duplicated in this Council—an explanation already branded in the House of Assembly by the shadow Minister as 'a second reading explanation which has made such an outrageous and inaccurate attack on the credibility of producers'. The reply of the Minister to an interjection about who wrote the second reading explanation was, 'I wrote the speech'. In other words, this second reading explanation was not the work of a departmental officer; it was not the work of any agency of the Government; it was and is the opinion of the Minister with perhaps the previous Minister of Agriculture being involved. It has to be, I put to the Council, taken as read.

It is interesting to note the statement by the previous Minister (Hon. Frank Blevins) when talking to the citrus industry at Waikerie when he was Minister of Agriculture. He said:

> However, I believe that Governments have a role in putting a stop to possible collusive practices of any group of business organisations.

The Hon. J.R. Cornwall: Hear, hear!

The Hon. J.C. IRWIN: That was an interesting statement by a senior Government Minister, and from his 'Hear, hear!' the Minister of Health obviously supports it. It is interesting also that business collusion is always mentioned but union collusion is somehow a very different matter. What should concern us is that a statement by a Minister is true and accurate. It is my judgment that it is not. I ask members on either side of the Chamber to make their own judgment.

To try to understand the Bill and the intentions behind it and contained in it, we must first examine a number of factors. The Government makes great play about consultation. Perhaps consultation only applies to the union movement, between the union movement and the Government. Anyone could be excused for thinking that. There is plenty of evidence to support the notion that this Government only consults with those who will give it the answer it wants to hear.

The Minister of Agriculture continually refers to 'repeated consultation' with the UF&S. In reality, the Minister met with the chairman of the poultry section in June 1986, at which time he stated that the report of the inquiry into the Egg Board had not been submitted to him as yet. The next meeting was on 7 October when the Minister undertook to provide the industry with a copy of the legislation by 5 p.m. on the Friday, and sought to consider any amendments the industry may have, provided the comments were submitted by 17 October. This was four working days, taking into account the Labour Day long weekend, for the 'consultation'—hardly sufficient time for a far flung industry, such as the rural industry, to get together and properly consider a draft Bill of some significance.

Previously a meeting had been held with the former Minister (Hon. Frank Blevins) in mid 1985 which was just after the announcement of the inquiry wherein he stated that his personal opinion was that the egg industry should be totally deregulated. However, he had been convinced by his department that quotas should remain. The Minister continually refers to the inquiry set up by the Hon. Frank Blevins. Correspondence from Minister Blevins states categorically that it was to be a public inquiry. If this was the case then why has Minister Mayes decided to keep these findings secret. In the House of Assembly the Minister said:

> The information supplied to the Minister and the Government was confidential as in a select committee. It is not to be released.

That is contrary to the categoric statements made when setting up the inquiry, that it was to be a public inquiry.

This report is critical to the Bill before us now. It is critical to our understanding of it and the intentions in it. The Minister says:

> This legislation is aimed at lifting artificial price fixing, regulated marketing and unnecessary imposts being placed on consumers.

We do not have much problem in addressing ourselves to artificial price fixing or regulated marketing. However, what exactly are the unnecessary imposts being placed on the consumers? The Minister says nothing about the unnecessary imposts being placed on the producers—as much a contributing factor to the cost of the production of an egg as anything else. Submissions surely indicated what these imposts are. Frequently the comment is made to me that if this Government and the Government of similar colour in Canberra will deregulate the labour market and a few other regulated cost areas, rural industry will not only be better off but it would be delighted to deregulate itself.

Tariff protection for secondary industry in Australia costs each of Australia's 170 000 farms $7 000 net each year of operation. 'Net' means after accounting for any subsidy to Australian primary production. These figures were arrived at by the Prime Minister, the Treasury, and the National Farmers Federation early last year. The Minister continues:

> These unsavoury activities have become accepted.

Does he mean the unsavoury activities of compulsory unionism, four weeks annual leave, long service leave or 17½ per cent wage holiday loading? Is it advertising? Advertising plays as much a part of the product promotion for the egg industry as for any other industry. The Teachers Union and the Public Service Association do plenty of advertising, and they do not even have a product to sell the public. In advertising generally the producer and the consumer pay for it eventually. I bet the Minister will not go outside this House and repeat the slur on the industry with accusations of unsavoury tactics. The Minister continues:

> Let there be no doubt about it. The majority of efficient producers are in favour of deregulation.

If the weight of the submissions tells the Minister that this is so, then I and others on this side of the Chamber would like to be reassured by reading the report; then we would most likely support it. When I ask, 'Are they in favour of deregulation?' no one can tell me. Indeed, nor can they tell me how the position was determined. Most producers, including the large ones, would sign affidavits, I understand, disputing this and other allegations mentioned previously by the Minister.

The Minister refers to discussions he held with large producers. Mr Michael Bressington is the largest producer in the State and he has canvassed eight other producers who would be considered to be the largest in the State. All have said quite categorically that no such discussions have taken place. Indeed, one of the large producers stated that despite many attempts to see the Minister personally no such meeting was forthcoming. So much for consultation! The Minister and the Government have blown it. If they really want to deregulate, why do they not do it properly? Then they might have had some support.

Confrontation and dishonesty are not ways of achieving anything. I have heard Minister Mayes saying that to us. Indeed, in this Council Minister Cornwall also says that confrontation and dishonesty are not the way to go about achieving anything. Minister Mayes continues:

> But many are afraid to speak out because they fear a reaction, whether perceived or real, from the Egg Board.

How can the Egg Board—

The Hon. J.R. Cornwall interjecting:

The Hon. J.C. IRWIN: You tell me. You are going to answer this. You have all the answers. How can the Egg Board react against them? Perhaps the Minister, representing Minister Mayes, will tell us how the Egg Board can react against them. I put it to members that Minister Mayes is more gullible to the perception rather than the reality. If these submissions are in the report, why cannot we see them? Or is this now confidential for those reasons? Minister Mayes continues;

> I make this statement on the basis of discussions I have held with individual producers.

This is one of the oldest tricks in the book. The Government should not tell us that this whole Bill is based on concerns of some anonymous producer or producers. I am not aware of any approaches having been made to members of the Opposition about what the Minister has said—not one. Again, I refer to what the Minister said in another place in his second reading speech:

> Some of these allegations include warnings that outspoken producers would have their hen quotas either reduced or taken away. This is an intolerable position.

How and under what power can the Egg Board move in that direction on the sole grounds of outspokenness? Why would outspoken producers not also be outspoken to the Opposition? After all, this Bill was first flagged to the industry and the Opposition on 3 September, which is more than two months ago. I repeat: if it is to be fair, reasonable and effective, the Opposition must know all the aspects.

The Hon. C.J. Sumner: The high price of eggs.

The Hon. J.C. IRWIN: I will come to that. The shadow Minister and others—

The Hon. C.J. Sumner interjecting:

The Hon. J.C. IRWIN: I will come to a comparison. The shadow Minister and other members of the Opposition have consulted widely in order to understand the whole egg industry. Finally, on this subject of the report, or lack of it, the Minister states:

> In view of these alleged activities, I call on the Opposition and members of the Australian Democrats to carefully consider the Government Bill and give it their support.

I guess that the Democrats will speak for themselves but the Opposition, as I have indicated, has considered the Bill carefully and the Council already knows the result of that consideration. Is the Government trying to tell us that in view of the statements I have just quoted from the Minister—unsupported by any evidence—we should agree with this Bill, because the Minister in concluding his diatribe states:

> To do otherwise would be to endorse an unacceptable situation and uphold the strong arm tactics being used to placate the feelings of a few influential egg producers.

The Minister gives us no evidence to substantiate that incredible claim. How can we be expected to go along with it? One does not need a Bill to deregulate, so-called, the industry in order to get rid of a few influential egg producers who do not happen to fit into the Minister's socialist model.

Debate in another place involved discussing fluctuations in egg prices. Let me make it clear that so far as the farmgate price is concerned, there are two factors to understand. First, any licensed producer can sell to any retailer at any price, no matter what the farmgate price is. I do not know whether the Minister understands that. Further, there are three grading floors and 175 producer agents, all of whom compete with each other. It could be argued that the retailers are holding up the price rather than anything done by the board.

If that is so, then creating a market in which there is neither grading nor control over supply may not have the expected effect. I say again that one reason the Government

should reconsider this matter is that any licensed producer can sell to any retailer at any price, no matter what the farmgate price is. Secondly, the farmgate price is now set at $1.24 a dozen. It has been thus for 18 months.

The Hon. Peter Dunn: Hear that, Minister?

The Hon. J.C. IRWIN: They do not hear that: they hear only what they want to hear. That is, given a CPI inflation rate of 12 per cent over that period. I have to ask the Council and the Minister: who is bleeding most—the consumer or the producer? Add to that the fact that the farmgate price in September 1984 was $1.61. The farmgate price has dropped in two years by 37c a dozen. The mean retail price in September 1984 was $1.82. The mean retail price in September 1986—two years later—is $2.03, an increase of 21c.

This most certainly does not indicate that the producer is totally at fault. I remind the Council that South Australia used to set retail prices. When this was abolished in 1985, what happened to the price of eggs? The price increased.

New South Wales has pockets of producers going broke. Following a recent court case what is happening now—the price of farmgate eggs in New South Wales is rising. I refer to the experience in New Zealand following deregulation where there has been utter confusion and price rises. In 1979 the Egg Industry Stabilisation Act was surely introduced to ensure all-year-round supply of eggs as well as controlling production.

Perhaps it would be well for the Minister of Agriculture to go back to university and re-do his course in statistics that he tries to lecture us about so that he can understand as much about reality as a handful of farmers can. Better still, he should go back to the Murray-Mallee where he did some farming and get some experience in the real world that he is supposed to be representing. My figures come from the Minister's own contribution, albeit about a month late, to the Estimates Committee.

If one looks at the position of eggs in comparison with other staple food products on an Australia-wide basis, forgetting for a moment the difference in egg prices between States—and I will come back to that—the position is clear. Taking a 1969 base of 100 points, in 1986 bread moved to 590 points, beef moved to 860 points, milk moved to 550 points, but eggs sit at 250 points, yet the CPI figure is on 450 points.

If nothing else, these figures show a decline in egg prices in comparison with the other prices given and they sit at about half the CPI figure. Since the Potato Board was disbanded earlier this year a number of comments are worth reporting in relation to this Bill. I refer to the difficulty I had in getting figures for other years for comparative purposes, and so I cannot tell the Council in any depth the May to November 1986 figures and how they stand up to the production and sale figures of other years.

Also, I must acknowledge the wide range and variability of weather conditions that affect the availability and sale of potatoes. What has happened since potato deregulation? Certainly, housewives tell me and all members in this Council know, if they are honest, that potato prices have increased. Housewives also tell me of another factor: quality has declined. In the six grades of potatoes available for my perusal, washed whites have gone down by 6c/kg since May this year; washed reds have increased by 13c/kg; special washed whites have decreased by 3c/kg; special washed reds have increased by 2c/kg in that period, but are now not available on the market; new and No. 1 potatoes have gone up 55c/kg in the period to November this year and SO grades have increased by 44c/kg. Suddenly the Government benches are empty; indeed, that is nice to see. Perhaps I should call for a quorum.

Based on the little evidence that I have (and I only obtained it tonight in order to give comparisons) for the June quarter for the years 1984-86, it shows that in 1984 the average price of potatoes was 68c/kg. In 1985 the price was 64c/kg and in 1986 the average price of potatoes had increased to 83c/kg.

Some mention was made in another place of the Fels report, which may be mentioned by other members in this Council during the debate. The Fels report was made by the Victorian Prices Commissioner into Victorian egg prices. It is ignorant for us here to attempt to make a comparison of egg prices between States without looking at the total industry and analysing the various powers of the other States and their boards and how they use those powers, without our taking into consideration factors such as feed prices when vast amounts of weather damaged wheat were available at low cost to New South Wales egg producers and perhaps not to the rest of Australia at the same time. To my knowledge, the Minister has not used any of this knowledge, if it was available to him (as it should have been). He is the Minister and he is meant to have his finger on the pulse of what is happening in his portfolio. If the information was available to him, it has been conveniently left out.

The Minister may not have had access to a report in my possession published on 20 October this year and containing comments and criticisms on the method and analysis of the Fels report. The document was prepared by Dr Neville Norman of the Department of Economics, University of Melbourne. I will quote some passages from Dr Norman's document so that members will hopefully understand what he is getting at. The document states:

> I have been asked for my independent opinion on methods and procedures contained in the abovementioned report, from the standpoint of an academic economist. In doing so, I contend no specific knowledge of the technology or production and marketing aspects of the industry, other than through general knowledge and observation from occasional visits to egg farms. Nor do I comment on many aspects of the Commissioner's report which are beyond my competence; in fact, I have accepted much of the data to highlight the force of the amendments I do propose thereto.
>
> In overview, I find that an extremely significant omission from the estimate of efficient-farm costs is the interest opportunity cost of base capital, the inclusion of which upsets the entire thrust of the conclusions. Moreover, some of the procedures adopted are, in my opinion, inadequately explained or rationalised, whence they may or may not be justified; interstate price comparisons with New South Wales alone may not be valid or without danger; and some of the theoretical inferences about Egg Board pricing seem perverse in implication.

Later in the document Dr Norman says, under the heading 'Pricing and the board':

> The Commissioner likens the Victorian board to a 'monopoly'. However, in economic theory, predictions of monopoly-like pricing depend sensitively on goals and demand characteristics *inter alia*. There is no statement of the pricing goals of the board, save for inferences of using quota in place of price reductions. If, however, the board worked generally to a revenue-maximising goal, price would be demonstrably lower (to make marginal revenue zero) than if it more nearly sought to maximise profits.
>
> On the other hand, if profit-maximisation jointly on behalf of the producers were involved, then by inference the board has failed to exploit this option. This can be concluded by using simple micro-economic inference from the Commissioner's observation of demand inelasticity . . . it is stated in the present tense that 'the demand for eggs is relatively inelastic, i.e. the quantity purchased is not greatly influenced by their price . . .' But this implies negative marginal revenue, in economic theory, suggesting a substantial unexploited price uplift until marginal revenue becomes so positive that it equates with positive marginal costs.

Dr Norman then goes on to give some proof of reference and then states:

> Thus prices may be well short of the monopoly pricing inferred, accepting only the Commissioner's own observations on demand elasticity in the neighbourhood of present prices.

In conclusion, Dr Norman says:

> In my opinion, there are in the report concerned herein significant defects in method and failures to rationalise procedures that, unless corrected or satisfactorily explained, strike deeply and critically at the heart of its findings. Of these, the greatest omission is that of interest opportunity costs on involved capital from which the product originates. It is almost correct to say that the model used in the report to construct 'excess profits' pretends that the $0.7 million of assets are a 'free gift' handed to the farmer without direct or notional interest expense. There are several ways to build this in; the report effectively ignores capital financing costs altogether. In my preferred method explained above, the finding of excess prices falls to the ground, once the correction is genuinely made.
>
> The balance of this report raises questions on comparisons geographically in the absence of rationale for the standard adopted and on inferences from demand elasticity that may point similarly. These pale by comparison with the point made above. In my opnion, the deficiencies should be corrected as a basis for any determinate Government action.

It is obvious from this analysis and the comments and criticisms from Dr Norman that to base any conclusions on interstate comparisons without a total analysis is fraught with danger.

Mr Fels and Dr Norman argue about what is a fair and reasonable farmgate price to cover costs and give a return to the producer. Up to a point, that argument is academic to our discussions on this Bill tonight because the reality is that there is a 30c per dozen differential between South Australia and Victoria. Whether that difference is brought about because the South Australian farmgate price is too high (and I remind members that it is set by the Department of Agriculture) or Victoria's is too low does not alter the reality of the difference. Following the Norman argument one would expect that Victoria would have to lift its farmgate price and that there would be some demand from producers to do that. However certain that may be, in reality it has not yet happened.

If farmgate prices are to remain in South Australia, the Opposition believes that the figures should be re-examined. The Government's proposal contained in this Bill would do away with any sort of floor price. As I have said, we support that, but only if the pulping operation (and that is important to this argument) stays with the board for the time being. I will come back to that difference in a moment. Moreover, no conclusions should be drawn with any authority by the Minister, the member for Florey or anyone else. Dr Norman points out quite strongly that, for instance, the price of 93c per dozen set in Victoria as a base price or farmgate price does not stand up because of one base reason: the omission from the Victorian calculation of interest opportunity—the cost of base capital—the inclusion of which would upset the entire thrust of the conclusion.

With all that said, the Minister in his contribution to discussion on the Bill could not give any calculation as to the effect that this Bill will have on the price of eggs in South Australia. In case anyone is wondering, I understand that there is nothing to stop eggs or pulp coming freely from Victoria now as a result of section 92. Section 92 certainly cannot stop them. However, whole eggs must be regraded under the existing legislation.

Victoria has similar conditions, I understand, and it is a rather strange duplication of inspectors and grading when two States cannot interchange eggs without them having to be regraded. My information has it that eggs could be freighted from Melbourne to Adelaide and rehandled at a cost of approximately 17c a dozen at the most. Mr Mayes could effect a saving of 13c a dozen right now if he let that happen or encouraged it to happen. The Minister stated on 3 September that the cost saving factor would be 20c. I have quoted from articles about that. From the first time he made that accusation of 20c he backed away from it under pressure to justify it.

I noticed last Sunday in the *Sunday Mail* he is now coming back and regurgitating it. The Minister cannot tell us how much egg prices will fall in South Australia or whether there will be a flood of eggs from Victoria, New South Wales or anywhere else into Adelaide. He cannot tell us what quality, health or egg size controls will be used to give South Australian consumers the same quality they get now and are accustomed to. We are not being told about any deficiencies under the Food Act 1985 or the Packages Act 1976 except that new regulations are being developed.

Why were not these developments done before a Bill like this is brought into the Parliament and why do we have to wait until later to see what regulations will be brought in under these Acts to control certain aspects? In reality the Minister should, at the next Agricultural Council meeting of all State and Commonwealth Ministers of Agriculture, persuade all other States to deregulate over the whole of Australia, so that it can be done together rather than South Australia in isolation. After all, we in South Australia are surrounded by Labor States—Victoria, New South Wales and Western Australia. It should not be too hard for the Minister to convince his colleagues to deregulate together. He should come back to us in the South Australian Parliament with a coordinated plan to do that, or is there some sort of deal with Mr Unsworth or Mr Cain to wipe out the South Australian producers?

The new Egg Control Authority provides for the continuation of production control. Hen quotas will remain. It is the intention of the legislation for the industry to regulate egg supplies. This Bill gives much more authority than previously. What is to stop a hostile Minister, the board or both manipulating hen quotas to force egg prices up or down? Hen levies will remain in this Bill. Let us not be misled into believing that the cost will be much lower, if lower at all. The levies will still have to support a board arrangement costing, in the Minister's words, about $200 000 and advertising, and so on, of about $800 000. If the aim of the quota system is to control the number of eggs coming on to the market, it is an unresponsive tool in connection with market forces. It will be difficult for the much reduced staff to properly assess the market needs once the authority ceases to have any direct involvement in the market process.

If the consumers really wanted to go back to full deregulation they will have to put up with all sorts of irregularities. If consumers want that, I am one who may be able to help them achieve it. The general area of policing the quota as proposed in the legislation is unsatisfactory. We in the Opposition will dispute the $200 000 cost that the Minister puts on the new board arrangements, because again no supporting evidence has been given by the Minister to us. We tend to think that this figure has, as usual, been plucked out of thin air. The inspection area alone is a grey one, as is health, food and packaging, not to mention hen counting and inspection. Egg floor inspections are done by full-time inspectors who are in attendance all day, and a DPI inspector does spot checks. The Minister must do something about this duplication and utter waste of time and energy. This is happening under the old Act: it is not clear what happens under this Bill. The Minister, rather than a licensing committee, can appoint inspectors to enter and inspect any premises or vehicle being used for or in connection with the keeping of hens for the production of eggs. The powers

of inquiry and search are far wider and the penalties for non-cooperation are far heavier.

Under the Egg Industry Stabilisation Act, where part of the premises are used for residential purposes, the inspector is not allowed, without the occupier's permission, to enter or search those premises. Homes no longer have that protection under this Bill. Under clause 20 an inspector is not personally liable and this is a very wide immunity. Reference is made to the size of the board, yet it must be remembered that it was this Labor Government that initially appointed a consumer representative, thus increasing the size of the board. It is like a yo-yo. That representative took a pragmatic view. The board member wrote to the Minister and that letter was quoted in another place by Mr Gunn in support of the old board and its direction. The Minister then sought to have an additional representative to ensure that the power of the board rested with the non-producers. So, having increased the old board, the Minister now argues to decrease it.

We are concerned about the rather novel inclusion regarding the non-payment of a levy by producers. I do not say 'novel' in any lighthearted fashion at all. It is fine for the Minister to say that he is confident that the voluntary hen levy collection system will work, but I remind members that the non-payment of the levy by just one producer can trigger a termination of the Act. I guess that that is exactly what the Minister wants to happen. With all the hostile producers that the Minister says are about—and I have quoted him referring to such—this most surely will not take long to happen. I should perhaps compliment the Minister on his novel twist, but the issue is far too serious to be playing games. With the sort of attitude the Minister has displayed, it is far too easy for him to wrap up this industry. I suggest he would get enormous support from this side of the Chamber and from all producers he purports to represent if he takes this novel idea one step further: if one person fails to pay compulsory union fees he should deregulate the union. Fair is fair—you do it and we will do it.

Mr Mayes states, 'Arrangements have been made for the relocation of the Egg Board employees in the Public Service.' It is nice to see that the Minister has consulted the Public Service—an area that at least he should know something about. What a pity he has not been able to consult properly with the very people who in this case market the product which give those people a job. Moreoever, the Minister does not seem to be able to make the same sort of arrangements with respect to Samcor—another very important primary industry. We have to ask, 'Why not?' Indeed, members in the other place asked, 'Why not?' and still do not have an answer. The Minister must explain what is involved when he says, in referring to the sale of assets, 'Funds remaining after the costs associated with the redeployment of board staff.' What are those costs? They have not been quantified or qualified by the Minister. One can accept that there are staff entitlements that are portable, have been earned and allowed for anyway in the books of the board such as long service leave, superannuation, and so on, but are there other costs? If so, what are they?

I point now to a statement made by the Minister when wrapping up the debate in the House of Assembly. If any honourable member needs further evidence of how sloppy and misleading this Minister can be, it is this:

> Recently, the Egg Board dispatched an employee, or perhaps one of its board members, to New Zealand to see what happened there in regard to deregulation. The board has not officially advised me as Minister of this venture.

If the Minister had bothered to check his facts before that indignant outburst, he would have found out that the person referred to is the Executive Officer of the Australian Egg Marketing Council, which is located in Sydney. He is not an employee or a member of the South Australian Egg Board and has no responsibility whatever to tell the South Australian Minister that he is in New Zealand. The report, which I have seen, in no way reflects the situation in New Zealand as reported by the Minister.

It is obvious that there are many inaccuracies in the Minister's speeches, and this particular one, including an innuendo of standover tactics by the board and the industry. How diabolical then that the Minister has recently directed the Chairman of the Egg Board to advise members, in particular grower members, that they are not allowed to sit with the Opposition when any proposed legislation is being debated in the Parliament. It is atrocious for a Minister to try to direct—and the minutes are well recorded of that direction—the Chairman of the Egg Board. I certainly will not be directed by the Minister if I want to speak to members of the Egg Board. I will speak to them in this House, in the gallery, over a cup of coffee or anywhere in this State that I damn well like, and I am certain that those people who want to speak to me will not be intimidated by a Minister directing them not to speak to us. What sort of consultation is that? It is another example of one sided consultation, where the Minister does nothing but when the Opposition tries to do something, it has that sort of direction put at it.

I turn now to the assets of the board. What right does a Government—any Government, whether it is my persuasion or yours—have to dispose of assets which do not belong to the Government? They belong to the growers, and I highlight that for the Minister. The assets of the board belong to the growers. One of my colleagues in this Chamber will put this point in much more depth. It is sufficient for me to say, however, that one legal opinion has it that there is a strong argument that, in the event of the repeal of the Marketing of Eggs Act, the producers of eggs in South Australia as a class would have a strong claim to the assets of the board. I urge the Government and the Minister perhaps to do something properly in this matter and to seek Crown Law advice and inform the Council accordingly. If the Minister had done his homework in this area, he certainly has not indicated anything one way or another in the speeches or utterances he has made.

Finally, when discussing matters arising out of the Minister's speech, we have to look at and consider the position of egg pulping. In my opinion and that of the industry, this is a vital cog in the argument. This is a very complex and most important area. It is very complex to me because I am not an egg producer and I have been battling to come to grips with every facet of this industry, but I say it is a complex area. The pulping plant was transferred from private industry ownership some years ago (it was owned by Red Comb) to the board. The pulping plant takes the excess eggs and disposes of them to end users here in South Australia, Australia and overseas. One particular company in Adelaide takes approximately half the pulp and there are, I think, 140 customers.

In 1984-85 the local sales of egg pulp was $1.8 million. The board has an agreement with other boards and New South Wales to make arrangements for overseas sales of egg pulp. The return of pulp was equalised in the return to producers as part of the $1.24 per dozen farmgate price. The board has facilities to store the egg pulp in various stages from frozen to chilled, etc. I state that the UF&S representing as it does the great bulk of producers wants the pulping plant to stay with the board. The UF&S has signalled to us that, subject to egg producers through the board having control of the pulping plant, the industry

would then be willing to relinquish the ability of the board to set either wholesale or farmgate prices of shell eggs.

As I have stated previously, the largest user of egg pulp products in this State takes half of that product. There is a great responsibility, therefore, for us to ensure that if the pulping plant stays for the time being with the board, it must at all times make maximum use of efficiency. There is no room to pass on unnecessary costs to the big buyer or any other buyer, because those costs, if they are inefficient at the pulping plant, are then passed right through the chain to the end users and to the consumer in a different form from a fresh egg. The industry acknowledges this fact and has indicated areas where efficiencies can be effected and indeed must be effected. If the pulp plant goes public (privatised), they are concerned that pulping could be used to manipulate the fresh egg market and could leave some growers out in the cold. With the board running the pulp plant, this manipulation should not occur, nor should it be allowed to occur.

This brings me to the point where I can summarise the Minister's announced objectives set out in this Bill and the Opposition's position. First, the pricing of eggs is to be deregulated. We agree with this, but only if the pulping plant stays with the board. However, it is considered that the current stockpile levels of the pulping plant are too high and can get too high. These should be reduced, thus achieving a significant reduction in labour costs and storage costs. Secondly, quotas on production should be retained. We agree for the time. The Minister stated a five year down the track time. Our consultation has not finalised our position on this as yet. Thirdly, the new authority will determine and release hen quotas. We support this. Again, our consultation has not determined a final position. It is contingent on quotas and production. Fourthly, the South Australian Egg Board will be disbanded and all the assets will be sold. We do not agree with this, especially that all assets should be sold.

Fifthly, the Egg Control Authority will employ a staff of four. We do not agree with this, although we have said that—and the industry supports us—the present board should be reduced by at least two persons, with a part-time Chairman. Employees should be employed under commercial conditions and not subject to Public Service Association restrictions. Further, UF&S has signalled that these representatives of the board should also comprise the licensing committee, which will result in reduced costs of administration. Sixthly, the sale of assets will raise approximately $1.5 million. We have said that this is contentious, not necessarily the amount of $1.5 million, but the lawful ability to sell the assets. Even the $1.5 million, I might add, is questionable and no approximate sale returns or costings have been presented. Seventhly, the funds as generated by the sale are to be used to redeploy staff. We await the Minister's advice on this. What are these costs over and above what should be put aside for portability of entitlement?

Eighthly, the funds will be used to support egg industry projects approved by the Minister and could include sales promotion. Under our arrangements, it would be considered that egg industry projects and sales promotion should be addressed by the board after consultation with the industry. For instance, generic advertising may be accepted as more cost effective than individual producer advertising.

Ninthly, the board acts as an agent for the collection of the Commonwealth hen levy under the Poultry Industry Levy Act and under other Acts. The levy will be continued, but under another name with respect to the Rural Industries Research Act 1985, from 1 July 1987. The new Egg Control Authority Act does not specifically recognise that the authority will be asked to continue the functions of its predecessor either by collecting the levy or receiving funds under the Poultry Industry Assistance Act or its successor. Through the collection of the levy imposed on its members under this Bill, on a voluntary basis, the industry has received benefits from the Commonwealth for research and other matters.

The Minister should explain who will collect levies and how will they will be collected. The loss of control by the industry is so significant under this Bill that the Minister will be able to repeal the Act if just one producer fails to pay that voluntary levy. Further, the industry is signalling three other areas that are proposals for consideration. The first proposal concerns unlicensed hens. The industry would agree to a change in the legislation whereby a person wishing to keep hens without licence could keep 50 hens (the present limit is 20 hens). We agree that this is a sensible arrangement. It would more than double the old arrangement.

The tenth proposal concerns computerisation. Although this is a matter for a board to organise and finance, the industry would support a greater use of computerisation in respect of its management. I understand that the board already has some quite extensive computerisation in its management.

The eleventh proposal concerns carton packaging. The board is removing itself from participation in carton purchasing. Under any amended arrangements, the board should have no involvement in carton purchase or storage.

In conclusion, I restate what I said at the outset, that we oppose this Bill. It contains many unanswered questions. I hope that the Minister representing the Minister of Agriculture will address them. There are many unsubstantiated claims. I hope that supportive statistical evidence can be produced. If satisfactory answers are not forthcoming I have to conclude that this Bill has nothing to do with the genuine effort to rationalise the egg industry for the benefit of the producers and the consumers. In view of the Minister of Agriculture's statements, it will be seen and is being seen as simply a producer bashing exercise.

The Opposition will not resort to using the sort of language used by the Minister in attacking every section of the egg industry. I hope that I have indicated to the Council the areas where we agree and the areas where we do not agree. I have indicated in great depth—probably too great a depth—the reasons why this Bill will not stand up to massive amendment. If the Minister will not bring in another better Bill, we will. The Government has already indicated how far it is prepared to go in deregulating in relation to the Bill before us now. We urge members of the Council not to support the Bill.

The Hon. M.J. ELLIOTT: I do not support the second reading of the Bill. In fact, I think it is only the third occasion this year on which I have done that. This Bill clearly demonstrates how far out of touch with reality the Minister and his department are. I cannot see the consistency or sanity of a Government which has deregulated the potato industry, which wishes to deregulate the egg industry yet, at the same time, is increasing the regulation of the dairy industry.

Many points have already been covered by the Hon. Mr Irwin, but I will quickly cover matters that I believe are important. First, looking at the history of the matter, this Bill is a carryover from the Hon. Frank Blevins. We have had a few carryovers—perhaps we should call them 'hangovers'—from the Hon. Frank Blevins. On 3 April 1985 he wrote to the UF&S and other interested organisations advis-

ing them of his decision to hold a public inquiry. At a subsequent meeting on 28 August, the Minister said he was considering three options: first, retaining the current marketing system with minor amendments to egg industry legislation; secondly, total deregulation of the industry; and thirdly, retaining hen quotas but providing for greater competition in the market place, and an effective means of achieving this would be by removing all marketing controls other than those necessary to maintain grading standards. The Egg Board would no longer be involved in egg pricing and marketing and could be reduced in size or be replaced by another body. At that stage the then Minister said his preferred option was the third option.

A public producer meeting was held on 24 September 1985, and this meeting considered the three options. It was agreed that there would be further consultation. On 21 October 1985 the Minister responded to the proposal. In respect of this package, he advised:

> When I have considered this information I will be in a better position to determine the most appropriate consultative process.

I am afraid that the consultative processes rather fell in a hole about there. The next we heard about things was early this year. About the same time Eastern Standard Time came up, and I think Cabinet was having a funny time at that stage. I believe that the Egg Board has been making an honest attempt to do what it can to lower egg prices. The South Australian Egg Board no longer fixes minimum wholesale prices of eggs. The market forces establish the retail price of eggs. The South Australian Egg Board has never had any control over retail prices. Egg producers are at liberty to sell their eggs subject to the board's charges being paid at market force prices.

The board fixes minimum producer prices at the grading floor, but the grading charge is variable and fixed by the agent. That is the only involvement with pricing that the board has. Its proposals are that greater emphasis be placed on more efficiently executed national promotion and marketing, currently being established under the umbrella of the Australian Egg Marketing Council. The Egg Board already intends to relocate within its current property so that surplus office space can be leased out. It is already considering a reduction in the number of board members. Staff levels are to be reduced, and that is under consideration. There is a great emphasis in accountancy and unit performance in the board's activities, and this is also under consideration. A number of steps have been taken and a number are under consideration. The Minister has gone off half-cocked in the middle of a process which, I believe, is helping to keep down prices.

As the Hon. Mr Irwin said, eggs are a remarkably cheap commodity. They are one of the cheapest foods for food value that one can get. In terms of inflation, the price has fallen well below inflation. When the Potato Marketing Act was being considered, some growers contacted me and told me that they supported the board's abolition.

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order!

The Hon. M.J. ELLIOTT: At least in relation to the Potato Marketing Act some growers contacted me, although they were in an overwhelming minority. I have not received one letter, phone call or contact from any grower or any other individual in South Australia supporting the abolition of the board—not one. That is absolutely unprecedented. From where the Minister is getting his support I do not know, because only the Minister of Agriculture and now the Minister in this Council have made any noise about the abolition of the Egg Board.

Members interjecting:

The Hon. M.J. ELLIOTT: It is quite amusing that a representative of the Housewives Association who is on the board and knows how the board functions wrote to me saying that the board should not be abolished. Obviously, that sort of person would have the interest of consumers very much at heart. As the Hon. Mr Irwin also points out, the Minister in another place has misled the Parliament. The Minister stated:

> The board has powers to control egg marketing, set egg prices...

There is no control over marketing. There is no set wholesale or retail price. In fact, eggs can be bought for $1.50 a dozen ungraded in this State. That is one example of the Minister's misleading the Parliament. The Minister also stated:

> This will mean that egg marketing will be deregulated and egg producers and packers will be free to market their eggs where they wish and set their own prices.

This is already being done and is working. That is the second time that the Minister has misled the Parliament. In his second reading explanation the Minister went on to state:

> Over a period of five years, it is expected that hen quotas would be lifted to allow a fully free market situation to apply.

I will address that matter later: the Minister shows his gross ignorance of how marketing works. The Minister states:

> The assets of the South Australian Egg Board will be sold and the funds remaining after meeting the costs associated with the redeployment of board staff will be lodged in an Egg Industry Fund.

As the Hon. Mr Irwin pointed out, those assets are clearly grower assets. I believe that, through the purchase of hen quotas, growers have bought shares to some extent in the board and have contributed towards those assets in much the same way as potato growers contributed to the assets of which they also lost control. The Minister further stated:

> Funds to meet the costs of the authority will be provided by egg producers by means of a voluntary levy on egg quotas. If at any time producers indicate by non-payment of levies that they no longer require the protection of hen quotas, the Minister has the power to terminate the Act.

That is like giving people the option of whether or not they want to pay income tax. I can state clearly that there will be growers who will not pay it, and the Minister has the trigger to do exactly what he intended all along—to abolish quotas immediately. The Minister talks about five years hence, but he is asking for the power in this Bill to do it tomorrow, and I have no doubt at all that this is exactly what he will do if he is given the chance. The Minister stated:

> The Bill will also reduce current Egg Board administration and promotional costs . . . and it is expected that producers will benefit from reduced hen levies and consumers will pay less for their eggs.

He says 'it is expected', and 'consumers will pay less'; in fact, consumers will pay prices that are set by wholesalers and supermarkets. That is another issue that I will be addressing in greater depth later. The Minister said that the majority of efficient producers are in favour of deregulation. That, indeed, is the greatest lie of them all: 'the majority of efficient producers'. Not one producer has come to me, knowing the position that I was taking, saying that I was making a mistake—not one.

It might be argued that, at a public meeting I attended, producers might have felt bullied and would not put up their hands. Not one put up his hand in support of the abolition of the board from approximately 400 producers at the meeting, but certainly in private I would think that some of them who could see that they could gain some advantage would come to see me.

Not one single grower sees any advantage and I do not believe that it was a matter of greed, but rather of self preservation. I think that perhaps I should look at the much vaunted lower prices in other places. I would have thought that a Minister of Health would understand that statistics in epidemiology can be interpreted in all sorts of ways. I would argue that statistics relating to egg prices also can be interpreted in all sorts of ways unless one is willing to go back and look at other things which are occurring (it is not just a matter of whether or not there is an Egg Board) which may be causing lower prices. There could be all sorts of extraneous factors like variation in feed prices, but let us address the circumstances in two States about which I know something. In New South Wales some producers had been breaking the law, and they have been operating outside the Egg Board structure. As a result, a price war ensued. In that price war a large number of growers have gone to the wall.

The Hon. J.R. Cornwall: That is called private enterprise.

The Hon. M.J. ELLIOTT: That is indeed called private enterprise. It is also called *laissez faire*, but I am afraid that I am not a supporter of *laissez faire* private enterprise. I would not have believed that the Labor Party would be so supportive of the *laissez faire* anything goes free enterprise, but in fact it is. It really does not seem to understand what is likely to happen as a result of that. The egg prices in New South Wales in fact have been artificially low. Those prices could not have been sustained in the long run.

Members interjecting:

The Hon. M.J. ELLIOTT: Mr Acting President, I ask that the level of conversation across the floor be reduced.

Members interjecting:

The ACTING PRESIDENT (Hon. G.L. Bruce): Order!

The Hon. M.J. ELLIOTT: Perhaps we could look also at the situation in Victoria. I will read briefly from a document which discusses what has occurred there and which states:

> The recent Victorian egg price drop occurred against the following background:
> * low prices in New South Wales—

to which I have alluded already—

> * a report by the Victorian Prices Commissioner
> * a general climate of their Government's need for accountability.

> Concerning the first point the reasons for New South Wales current low prices are well known to us. Their drop occurred in the face of extreme problems with recalcitrant producers and had the support of producers generally.
>
> The New South Wales Corporation was successful in their court action. It can be anticipated prices will rise to their normal levels in due course. Indeed, New South Wales prices were increased last week.

I think that this document is a few weeks old. The report continues:

> Information supplied at an Australian Council of Egg Producers meeting by Mr Nevin Holland, Chairman of the LGPA Poultry Section, indicated that Mr Ken Baxter, Manager of the New South Wales Egg Corporation, had guaranteed a return on capital of 15 per cent per annum. For this to be achieved latest cost of production figures indicate that prices will have to lift dramatically in the final six months of the financial year.
>
> The point is their drop was not related to costs of producing eggs but was for other specific objectives.
>
> Concerning the Victorian Prices Commissioner's report, it is a somewhat convoluted document and predicated in many instances on questionable assumptions. The Prices Commissioner came to the conclusion prices were too high after examining costs on a 20 000 bird controlled environment farm, New South Wales egg prices and quota prices. In each case his assessment was unrealistic.
>
> The major flaws in this approach to a 20 000 bird controlled environment farm are as follows.
>
> He has suggested the return on capital to a farmer investing in a new farm should be 4.5 per cent. This is obviously nonsense and no sensible person would invest at this rate of return—bank prime rates alone are in excess of 19 per cent.
>
> He has suggested an extremely high productivity rate on the farm—not a rate based on actual farm performance but one based on the top entries in the Victorian random sample tests. Random sample tests are based on sample sizes of approximately 100 birds and have always produced very high production rates due to, among other reasons, the small sample sizes and level of attention given to the birds.
>
> On the basis of current New South Wales prices he argues Victorian prices are excessive. The reality is that prior to May the prices were similar. New South Wales prices dropped for the reasons known to us mentioned earlier and were not related to production costs.
>
> In fact, prices have risen since his report. The commissioner argues quotas have a value and therefore it follows there must be excessive profitability. He implies if profits were not excessive there would be no quota values. A remarkable argument and quite specious.
>
> The reality is that in the commercial world any business, be it a controlled or non-controlled industry, will attract goodwill if it is profitable. Without profits there can be no business.
>
> Concerning the third point—the Victorian Government's need for accountability—it can be seen there are some major differences between the South Australian and Victorian situations. We do not have a producer chaired dominated board. Unlike Victoria, we do not have an official board grading floor nor does the board set wholesale prices, retail prices, selling commission, grading charges or cartage. It is a free market forces situation from the time the product leaves the farm gate and in all aspects.

I believe it would be highly sensible for us, particularly in the light of the report that has come from New Zealand, to wait another two years to see what happens in New Zealand as a result of deregulation there. Certainly, in the short term there has been an increase in prices. Grade 6 eggs were selling at $1.96, but a 10 per cent tax has been applied and it would be realistic to say that at the time of deregulation, 1 April, the price was $2.16. Since 1 April prices have increased, and by 17 October the price in Auckland had increased by 1c; the price in Wellington had increased by 11 cents; and the price in Christchurch had increased by 31 cents. In fact, deregulation did not reduce prices: the reverse occurred.

It is true to say that there have been arrangements between producers that might be challenged in the courts, but nevertheless I believe that we should sit back to see what happens in New Zealand before rushing headlong into what I believe would be a disaster for the egg producers in this State. I can best illustrate how a disaster might occur by referring to other industries, and I see close parallels between what is happening with orange producers now and what is likely to happen with egg producers in a deregulated situation.

A floor price in the orange industry is effectively maintained due to juicing. Surplus oranges or low quality organges are used for juicing. That is a very close parallel with what happens in the egg industry, where the surplus finds its way to pulp. When the Brazilian concentrate was coming into Australia (in fact, being dumped) the price of juice crashed, but as a direct consequence the price of whole oranges dropped as well. In fact, producers were obtaining $89 a tonne, and at times less, for oranges that were of a quality that could have been sold in a supermarket. I would guarantee that if we went into a supermarket and bought a whole orange, we would find that it was no cheaper. If the producer is being paid less, who on earth is getting the money? It is being picked up by the middle men, the retailers.

If the pulping plant disappears or is taken from the control of the growers, that will take the floor out of the price of eggs. It will cause considerable problems in the industry and in fact the growers will receive a much lower return for their eggs. There is no doubt about that at all. If we are silly enough to think that eggs in the shops will be cheaper because the producer is getting less, we are just that—silly. Oranges in the shops have not been cheaper because growers received $89 a tonne rather than twice the price they should

have been receiving. The market is quite plainly manipulated by the monopolies at the retail and middle levels. I have been very close to the grape industry over the past couple of years, and people in that industry would dearly love to have an orderly marketing arrangement.

They would give their eyeteeth for it. When they find themselves in a totally free market situation, the growers will be at the whim of the monopolies occurring at higher levels. I will illustrate what is happening in that industry because it is a close parallel with the egg industry. In the grape industry we find that the large wholesalers who in many cases own large retail chains go to the wineries and tell them the price at which they will sell their wine. It is not a matter of the wineries saying that they want a particular price for their wine; they are told the price at which they will produce it. The wineries then go to the growers and tell them exactly how much they will pay for the grapes. It is certainly a buyer's market, particularly when there is a surplus situation. Everyone is afraid that they will be caught with a surplus. So in South Australia, theoretically, we have a set price for grapes, but there are all sorts of ways of getting around it. One way of getting around it is that a price is paid for the grapes and then you find that $50 a tonne for freight is charged—an absolutely outrageous charge.

In the egg industry, if the pulping plant is taken out of the hands of the growers' the growers returns will crash and many growers will go out of business. Of greater concern than that is that it is likely that we are handing over the egg industry to a monopoly. The chicken industry is ideal for being set up in a feed lot arrangement. We already have the meat chicken industry dominated by about two companies.

The Hon. J.C. Irwin: Who are they?

The Hon. M.J. ELLIOTT: I cannot think of their names. I think Inghams is one but I cannot think of the other one. As I have said, two companies dominate the meat chicken industry. In fact, I think one company pretty well dominates the supply of chickens used as layers. That company is absolutely dying for this legislation to go through because its type of operation can be easily used also for the production of eggs. The general style of operation is not dissimilar. Certainly, that company works with chickens: it will use similar feed, veterinary techniques and so on, so it will be most suitable for it. All the State Government will do in the long run is to have these companies come in, they will start buying up the quotas and I have no doubt that there will be a price war. It is most likely that it will involve large interstate companies. The price war will continue until most of the small growers have been forced out.

If we find that we have a monopoly situation, we will have growers who cannot be pushed around by the retailers and they will jack up their prices sky high. At that point we will be paying an unprecedented high price for eggs. So, if this legislation is successful, I have no doubt at all that a couple of years down the line instead of having a large number of independent producers who make a reasonable living we will have a near monopoly situation with many people thrown out of work. In fact, it is even possible that the eggs will be simply brought in from interstate once the monopoly situation is created.

Nothing will be gained for South Australia whatsoever. We will not have cheap eggs. In fact, the sorts of figures that the Minister has come up with so far are absolutely lamentable. I would expect far better to come from a Government department. I believe that the board has changes in hand and the growers are prepared to accept more. Towards the end of his speech the Hon. Mr Irwin alluded to a number of changes which could be made and which the growers find quite acceptable. I think that those changes would be to the benefit of the consumer. Instead of being so high-handed and not consulting with the industry, the Government should go back and talk. I think that South Australia as a whole would gain from that. I signal again that I will not support the second reading of the Bill.

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

CROWN LANDS ACT AMENDMENT 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.

It is designed to allow any new land parcels created by the division of Crown lands or land held under Crown tenures to be numbered as allotments in particular survey plans in a similar manner to divisions of freehold land. The Lands Department is implementing measures to simplify and unify certain survey plan procedures which are at present dealt with by different means in the Survey Division and the Registration Division.

The Crown Lands Act provides that town lands be described as allotments in townships and that other lands, mainly in rural areas, be numbered as sections. The removal of these limiting provisions will lead to a greater efficiency and uniformity in the sequencing of land parcel mutations and related survey records. It will also present a unified approach to land subdivision to the benefit of both the Government and the general public. The present Bill will enable varying procedures for land division within the Department to be brought more closely into line with each other.

Clause 1 is formal. Clause 2 removes the requirement for land in Government towns to be described as allotments and other land to be described as sections.

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

IRRIGATION ACT AMENDMENT BILL (No. 2)

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.

It is designed to place the responsibility for the legal boundaries of leases issued under the Act within the source document which is the relevant survey plan. It will remove the necessity to maintain plans of irrigation areas signed by the Surveyor-General which are in fact the public map of the irrigation areas. This amendment, in conjunction with the proposed amendment to the Local Government Act, will allow the update of the public map system to be terminated, particularly those in irrigation areas. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 repeals the requirement that the Surveyor-General shall keep a plan signed by him showing the subdivision of land in irrigation areas which are in

fact the public maps of the areas. Clauses 3 and 4 amend the second and third schedules to describe the land contained in leases by reference to the relevant survey plan rather than the plan lodged in the Department of Lands (public map).

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

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.

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

Leave granted.

Explanation of Bill

This Bill is designed to change the way in which some public roads may be created. It provides that those roads which were previously created by delineation on the public map will now be created either by the transfer of the relevant land in the case of freehold land or the surrender of land to the Crown in the case of Crown leasehold land for use as a public street or road. It also provides that Crown lands which were formerly delineated as road on the public map but which will in future be dedicated as road by notice in the *Gazette* will be defined as public road or street for the purposes of the Local Government Act.

In introducing the Bill, the Government is providing an alternative method of creating roads which will relieve the public map of its legislative responsibility for this function and place the action with the appropriate source action and document. Together with minor amendments to the Irrigation Act and the schedules to the Discharged Soldiers Settlement Act, the Bill will enable the continuing update of the public map system to be terminated. The public map is confined to depicting lands and tenures of the Crown, and the Department of Lands is now reworking the former valuation map series into a single all purpose system which is known as the land tenure map series. This new series encompasses all the information shown on the public map together with tenure details of freehold land and information required by the Valuer-General. The series will serve all the needs of the department, other Government departments and the public at large for land tenure information and is available for public search. The land tenure map program is about 60 per cent complete and is scheduled for completion in 1988.

However, the accumulating cost savings and benefits promised by this program cannot be fully realised until amendments to the appropriate legislation are made to permit the termination of public map activity. These savings and benefits will accrue by eliminating significant duplication in updating two map series and by providing a series of maps free of legal constraint which will lend itself more easily to a more fully integrated and automated land information system. The present Bill will provide the major thrust in achieving the proper benefits from the land tenure map series.

The Department of Local Government has been consulted when necessary in formulating the proposal and has raised no objection to the amendment. Although other amendments to the Act are in train, they will not be ready for some time and the immediate benefit to be gained from the present amendment will far outweigh anything which may be gained by delaying it until the other amendments are ready for consideration.

Clause 1 is formal. Clause 2, first, adds to the definition of public road or street, any land dedicated as road by notice in the *Government Gazette*, and, secondly, defines as public road or street any land transferred or surrended to the Crown for that purpose.

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

CONSTITUTION ACT AMENDMENT BILL (No. 3)

Consideration in Committee of the House of Assembly's disagreement to the Legislative Council's amendment.

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

That the Council do not insist on its amendment.

Honourable members will recall that this Bill was designed to introduce greater flexibility into the appointment of acting Ministers and in effect provided that there should be a provision for the appointment of standing acting Ministers, in other words, acting Ministers who would be able to act in any circumstances in which a Minister was unable to perform his official duties.

Section 67, which currently provides for acting Ministers, is already a unique provision in Australian law. There are provisions in the statute law of Tasmania and Queensland which cater for the special position of the Attorney-General and provide that, where the Attorney-General is absent from the State, an Acting Attorney-General must be appointed because of the statutory and common law functions that the Attorney-General has. Apart from the position of the Attorney-General, there is nothing in legislation in the Federal Constitution which provides for the appointment of acting Ministers, as does the present section 67 of the South Australian Constitution Act.

As I indicated before, section 67 at present does not permit the Government of the day to act quickly or with the flexibility that is necessary in modern circumstances. It requires a large degree of unnecessary paperwork and involves a number of time consuming steps in getting acting Ministers appointed.

An honourable member interjecting:

The Hon. C.J. SUMNER: The honourable member says 'Rubbish!'. The fact is that it does. I do not know what he was doing in Government when he was there for three years. Anyone who has been in Government knows that it involves a number of time consuming steps and unnecessary paperwork. The fact is that the present Bill provides for a certainty in that those Ministers who are to act for Ministers will have to have those acting appointments gazetted so that people will know who are the Ministers acting in those capacities and, where the standing acting Ministers are not able to act, then others would be appointed and their appointments would be gazetted. So, the public would at all times know who the responsible Minister was and who the acting Minister was.

It is interesting, indeed, to contrast the situation at present with respect to our appointment of acting Ministers with that of the Commonwealth. In that jurisdiction there is no constitutional or statutory warrant for the appointment of acting Ministers—none whatsoever. It is done by an administrative act of the Prime Minister alone. That is by letter to the intended appointee. There is often no specification

of the precise duration of an acting appointment. The formula used is frequently to the effect that the Minister is to act until the unavailable Minister resumes duties. In this process, Cabinet, the Governor-General and Executive Council are not involved at any stage, nor is publicity given to the acting appointment. It is not gazetted.

It appears that this type of purely administrative procedure is the norm in the United Kingdom and some other Australian States. Certainly, there is no statutory provision like section 67 whose strictures are to be followed in the Commonwealth, in the other Australian States except with respect to the Attorney-General in New South Wales and in Tasmania, and in no less an authority than the Mother of Parliaments, the United Kingdom practices.

The Commonwealth and United Kingdom practices are based on conventional usages. They are consistent with the fundamental constitutional convention of individual and collective ministerial responsibility. As May's *Parliamentary Practice* describes it, admittedly in a narrower context, (and this is the 19th edition at page 374):

> The constitutional practice which permits Ministers to act for each other.

That is in respect of acting in the Parliament, but I believe that the principle is equally applicable in the Westminster context. So I do not believe that the original amending Bill compromised precision, accountability, responsibility or publicity but it did enable a greater degree of flexibility and responsiveness for the Government in modern contemporary circumstances.

The fact that the Government's amendments did provide for publicity and accountability was quite clear. Neither the Westminster Parliament nor our Commonwealth Parliament seems to have any difficulties on this score, even with the much more informal procedures that exist in those areas. So, I really think, as I said before, that the arguments against this Bill are of no substance. They have confused the question of accountability and responsibility. They have ignored the fact that the Government is collectively responsible for actions, and that is clearly recognised by the Commonwealth Government and the United Kingdom Government practice, where acting Ministers are appointed apparently administratively without the involvement of even the Governor in Executive Council.

That is because in those jurisdictions they recognise the fact that the Government itself is collectively responsible for the actions of its Ministers, and the Government cannot get away from that responsibility just because an action has been taken by a person who is acting in the capacity of another Minister.

So, Madam Chair, the Bill was introduced to provide some streamlining to Government activity to reduce some paperwork, but it seems that members opposite previously were not in favour of it. All I can ask is that they consider the additional material that I have put to them this evening. In particular what they have persistently argued is not the practice, namely that there ought to be gazettal, and formal appointments with specified time limits by way of date. That is not the practice in the other Parliaments that have a similar system—in Westminster, the Australian Commonwealth Parliament or the other States of Australia. I therefore think that in this State, the flexibility which exists in all those jurisdictions, apparently without any problems or any abuse of constitutional principle, ought to be followed in this case.

The Hon. K.T. GRIFFIN: The fact that section 67 appears to be unique in Australia and does not have a comparable provision in the United Kingdom Parliament is not in itself an argument for dispensing with section 67 or at least making substantial changes to it. It has been in existence in South Australia for many years and it is part of our constitutional practice. I do not believe that the fact that the United Kingdom does not have a specific legislative provision dealing with the appointment of acting Ministers is relevant to the Attorney-General's argument. We all know that the United Kingdom does not have a written constitution and that, over the centuries, conventions and practices have developed and have been implemented in that country.

The fact that there is no precedent in the Commonwealth Parliament again is not an argument for making a substantial change to the South Australian provision. I think the Attorney-General will acknowledge that many things are done differently at the Commonwealth level in respect of the Executive Council and appointment of Ministers and the way that Ministers act, partly because of the fact of the Commonwealth's establishment at the beginning of the century rather than in the mid-nineteenth century, and also the sheer size of the administration of the Federation and the Government at Federal level.

As I understand it, the Executive Council, for instance, is not always chaired by the Governor-General. There are a whole range of practices which we do not subscribe to in this State, and I see no reason for us to adopt them merely for the sake of some vague principle of uniformity with the Commonwealth.

The Hon. C.J. Sumner: Efficiency.

The Hon. K.T. GRIFFIN: The Attorney-General says 'efficiency'. We have said that the Opposition is prepared to support some changes to constitutional practice to facilitate the appointment of acting Ministers, but we are not prepared to go so far as to give the Government power to appoint an acting Minister with no specified period in the notice of appointment or no specific terminating date in that appointment. It is true to say that in the broad form in which the Attorney-General is proposing the Bill, there has to be notice of appointment in the *Gazette*, but that is only notice of the first appointment. It is not notice of those occasions when the acting Minister is in fact acting as Minister for another.

While it is true to say that Governments stand or fall on some principle of corporate responsibility, the Attorney-General must surely acknowledge that the acts of individual Ministers do come under public scrutiny, and it is important from the point of view of public scrutiny to be able to identify which Minister has done what act or deed; and while, as I say, there is some broad principle of corporate and collective responsibility, that does not mean that there cannot be scrutiny or criticism of a Minister or acting Minister in relation to some action taken or not taken.

The Attorney-General refers to the Tasmanian Constitution (Ministers of the Crown) Act in respect of the appointment of an acting Attorney-General. I draw the Attorney-General's attention to the provision in that Act where the Governor may appoint another Minister of the Crown to be acting Attorney-General for a specified period or until a specified event happens. We support that in respect of the appointment of acting Ministers in so far as the Bill is concerned but we are not prepared to allow the wider continuing appointments as acting Ministers to be made which, of course, is not part of the Tasmanian Constitution (Ministers of the Crown) Act. In respect of the Queensland legislation, to which the Attorney refers as a precedent—

The Hon. C.J. Sumner: That is only the Attorney-General.

The Hon. K.T. GRIFFIN: You used them as a precedent.

The Hon. C.J. Sumner: Only to point out that the other States do not have it except for the Attorney-General. That is the point.

The Hon. K.T. GRIFFIN: Even with the Attorney-General—

The Hon. C.J. Sumner: That is twisting the argument.

The Hon. K.T. GRIFFIN: Even with the Attorney-General, in Tasmania there is a reference to appointment as an acting Attorney-General for a specified period or until the happening of a specified event: but, again, the very fact that it is not in existence in other States is not, I would submit to the Committee, a sufficient reason for saying that South Australia ought to go the way of every other State. There is a provision in our Constitution Act; we have operated with it reasonably successfully, and we are prepared to accommodate some changes to it to reduce the administrative requirements, but I believe, and the Liberal Party believes, that there is still some value in being able to identify who is the acting Minister on a particular occasion and not to allow acting appointments at large. So, the Opposition does not accept the view of the House of Assembly, and I indicate that we will insist on our amendment.

The Hon. I. GILFILLAN: I indicate that the Democrats support the attitude expressed by the Hon. Trevor Griffin. I want to express my appreciation to the Attorney for sending me a letter explaining in more detail the case that has now been canvassed pretty thoroughly by both the Hon. Mr Sumner and the Hon. Mr Griffin. But, notwithstanding that, I believe that the preferred argument is that put forward by the Hon. Trevor Griffin. The Democrats intend to side with the Opposition in not accepting the House of Assembly's request, and I indicate that we maintain our support for our original position.

The Hon. J.C. BURDETT: I ask the Council to insist on its amendment. I put the point previously that we are quite prepared to allow some sort of streamlining. It should not be necessary—and I believe it is acceptable—to not have a commission in every case, and there is no proclamation in every case. There can be a mere gazettal notice of a Minister acting in a position, but, as the Hon. Trevor Griffin pointed out, there is no notification when the Minister is acting. The point which I made in debate previously and which I make again is that under the Bill, technically, it would be possible for every Minister to appoint every other Minister as acting for him.

The Hon. C.J. Sumner: It is not the Minister; it is the Governor.

The Hon. J.C. BURDETT: It would be possible for the Governor to appoint every other Minister (other than the Minister concerned) as acting Minister. All the other 12 Ministers could be acting Premier, acting Attorney-General or acting Treasurer. It is a quite ludicrous situation. The point put by the Hon. Trevor Griffin is valid: that it is necessary to know, when the Minister is away, sick or whatever, who is acting for him. Presently, in South Australia we have a simple procedure, and it is possible to know that. If the Attorney-General is away then it is known who is acting Attorney-General and who is responsible. There is something more than just corporate responsibility: there is personal responsibility. It is important to know who the Minister or acting Minister is and who is responsible at the time. For those reasons I ask the Council to insist on its amendment.

Motion negatived.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1845.)

The Hon. C.J. SUMNER (Attorney-General): The only substantive point raised by the Hon. Mr Griffin was whether an interpreter was to be permitted for a person giving evidence on the decision of the individual person or whether it was within the control of the court. The answer is that the amending Bill, for the first time in the history of this State, gives by statute—by law—an entitlement to a witness to be assisted by an interpreter: where the native language of a witness is not English and the witness is not reasonably fluent in English, that witness is entitled to give the evidence through an interpreter.

A similar provision exists with respect to written depositions. The honourable member's query was that it is not clear that it is the court which decides whether an interpreter is required. My response is that it is clear: the court makes that decision. The court has control of the proceedings and makes the decision as to what a witness can or cannot do.

Presumably, if that decision is wrongly made by the court, if the point is taken by the witness or a party who has called the witness objects to the decision of the court, that could be the subject of appeal if the court makes the wrong decision. I believe that it is the court that makes that decision. Any other approach would be impracticable in that at some point in time someone has to make an assessment about whether the individual witness fits the criteria; that is, has a native language that is not English and is not reasonably fluent in English.

That can only be a decision of the court which would be subject to appeal if there were circumstances that subsequently led to a party feeling that the court had made a wrong decision on this point and that that wrong decision had in some way affected the result. As I think the matter is clear, I hope that answers the honourable member's question.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Is any delay envisaged in proclaiming the legislation to come into effect? If there is, what is that delay likely to be and what are the reasons for the delay?

The Hon. C.J. SUMNER: I cannot see any reason why there should be any undue delay in the proclamation of the Bill, unless the honourable member knows something that I do not know. I anticipate that it will be proclaimed as soon as we are able to notify people—primarily the courts.

The Hon. K.T. GRIFFIN: I only raise this matter because it is one of those Bills where I was somewhat surprised to see a clause similar to clause 2, where there had to be a proclamation to bring the legislation into effect. If there is no reason for delay, that satisfies the position as I see it. I thought that perhaps there was some difficulty in getting enough interpreters but, if that is not a problem, I will leave it at that.

Clause passed.

Clause 3—'Entitlement of a witness to be assisted by an interpreter.'

The Hon. K.T. GRIFFIN: It is a while since I last looked in detail at the Evidence Act. Is it envisaged that this new section will apply to tribunals as well as to established courts?

The Hon. C.J. SUMNER: The Evidence Act defines 'court' to include:

> . . . a tribunal, authority or person invested by law with judicial or quasi-judicial powers, or with authority to make any inquiry or to receive evidence.

'Legal proceeding' or 'proceeding' is defined to include:

. . . any action, trial, inquiry, cause or matter, whether civil or criminal, in which evidence is or may be given and includes an arbitration.

The term used in the Bill is 'any proceedings', so I would have thought that, although the Bill does not refer specifically to a 'court', we are talking about evidence at large without any restriction on what it is and we are talking about proceedings, which again would probably be read as similar to any proceeding as defined in the Evidence Act and would certainly include proceedings in a court as defined in the Evidence Act.

The Hon. K.T. GRIFFIN: I raise that matter, because the Bill which follows relating to interpreters for police questioning seems to be limited to one area. I was anxious to know whether this provision relating to evidence was to extend beyond the established courts. I suppose that the other difficulty is that many tribunals, such as the Equal Opportunity Tribunal and the Commercial Tribunal, are not bound by the laws of evidence. I am not sure that that makes very much difference, but it is a relevant matter to consider and it may be appropriate for the Attorney-General to give some further consideration to it before the Bill passes the Parliament.

The Hon. C.J. SUMNER: I do not believe that there is a difficulty but, in the light of the honourable member's comments, I will examine the matter.

Clause passed.

Title passed.

Bill read a third time and passed.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 5 November. Page 1846.)

The Hon. C.J. SUMNER (Attorney-General): In concluding the second reading debate on this Bill, I will give attention to a number of questions raised by the Hon. Mr Griffin. First, he asked what happens to a statement if the police proceed to question a person even though an interpreter should be present when that questioning proceeds. The answer is that the admissibility of the statement will be determined according to the common law; whether a judge holds the confession inadmissible will depend on whether he considers that in the whole circumstances its admission would be unfair to the accused. That is a general discretion that a judge has with respect to the admission of evidence.

The honourable member asserted that the Bill provides that a person who says that he is not fluent in English can delay further questioning. The question is whether the police can make a judgment as to whether the person is fluent. The test of reasonable fluency is an objective one which the police officer must make. If the police officer is wrong, whether the statement is admissible will be determined by the common law rule already referred to. The police officer who has behaved reasonably in all the circumstances is not liable to disciplinary action. In other words, if the police officer makes an incorrect assessment about the capacity of the person to make the statement or the need for an interpreter to be provided, that evidence could clearly be excluded by the judge but the judge would have to decide what the evidence was and whether it was appropriate in terms of fairness to the accused to exclude the evidence if those circumstances should occur.

The third point that the honourable member raised is whether the police may continue questioning provided the statement given may not be used in evidence against the person. The Bill is designed specifically to deal with the problems that people of non-English speaking backgrounds face when they are involved in police investigations. People who come from countries where very different criminal procedures apply may be unaware of their rights and what is expected of them. Use of language other than that in which people are fluent creates a risk of misunderstanding and puts the suspect in a position to which a person who is fluent in English is not subjected, and that is unfair to the suspect. Accordingly, I do not believe that the question raised by the honourable member should be answered by permitting the questioning to proceed where there is an obvious need, in the terms of this Act, for an interpreter to be present.

The honourable member also indicates that the Bill is limited only to police officers. He has placed an amendment on file to extend it to all investigating officers. This Bill amends the Summary Offences Act, which includes police powers of investigation. Although the Summary Offences Act can apply to all offences that are being investigated by the police, it does not lay down the law with respect to investigation by other than police officers. Therefore, the question is whether it is appropriate to include other investigating officers in the amendments, given that the Summary Offences Act deals with police powers of investigation.

I would not argue about the merit of extending the right to other investigating officers. The only query is whether it ought to be in this legislation. If it is not to be in this legislation, the question is whether it is then necessary to provide in some other appropriate piece of legislation a general clause of this type or whether one has to insert, in each case where powers of investigation and questioning are given to officers, specific rights to those questioned to have an interpreter. That also may be a somewhat cumbersome exercise if one has to go through every Act of Parliament and insert a clause dealing with the right to have an interpreter. Presumably it would include such things as fisheries, Road Traffic Act offences relating to weights of motor vehicles (which are not always dealt with by the police), tow trucks, consumer affairs matters, some corporate affairs matters and national parks and wildlife matters. So that matter will need to be addressed in the Committee stage when the honourable member moves his amendment. I have no argument with the principle addressed by the honourable member in his foreshadowed amendment.

The only other point was raised by the Hon. Mr Gilfillan. He said that there should be an obligation on the police to inform the person being questioned of their right to have an interpreter present. When I first saw that I thought that it was completely impractical because, as I think the honourable member enunciated in his second reading speech, he was almost suggesting that before anyone was questioned they were to be advised of their right to have an interpreter present. If that were the case, I imagine that it could lead to some fairly bizarre impractical situations. I notice that the amendment placed on file by the honourable member limits the notification that a person has a right to have an interpreter to situations where it appears to the police that the person may be entitled to be assisted by an interpreter. As that is a somewhat more sensible and practical amendment than the one foreshadowed by the honourable member in his second reading speech (because it limits quite properly the circumstances in which that advice should be given to a suspect), it is a matter that I am prepared to consider in the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: This clause provides for the Act to come into operation on a day to be fixed by proclamation. Is there any proposal to delay the implementation of this piece of legislation and, if so, what is the reason for that proposed delay?

The Hon. C.J. SUMNER: I do not anticipate any delay. There may be some short time to notify those concerned of the new Act and to ensure, if the honourable member's amendment is passed to expand it to all investigation officers, that the relevant departments are notified.

Clause passed.

Clause 3—'Right to an interpreter.'

The Hon. K.T. GRIFFIN: What is the anticipated availability of interpreters across South Australia? I raised in the second reading debate the potential problem of a statutory right as specified in the Bill being implemented without causing unnecessary problems both for accused persons and for investigating officers. Can the Attorney-General give any indication of the extent to which interpreters are to be available in remote parts of South Australia or even in provincial centres?

The Hon. C.J. SUMNER: Arrangements are presently in place whereby the Ethnic Affairs Commission provides an independent interpreter for police interrogations. That is as a result of initiatives taken by the Government to remove the provision of interpreters from the police themselves to an independent authority. It was considered appropriate in terms of the rights of suspects that the interpreting should be done by someone who was independent of the police.

That was implemented as a direct Government policy, and the interpreters are now provided by the Ethnic Affairs Commission; they are either on the staff of the commission, or are contract interpreters who are approved and vetted by the police, in the sense that the police obviously do not want interpreters who may be influenced against them, for that matter. They were concerned to ensure that the interpreters were people of good character and that they have been checked by the contract panel, which operates throughout the State. I understand that there would be people on the panel in most major country areas.

I do not anticipate a problem with respect to the police, as there ought to be an interpreter available where a suspect is not reasonably fluent in English. The only problem one might foresee is what additional requirements this might place on the resources of the Ethnic Affairs Commission for offences that are investigated not by the police but by other officers.

It may be that some additional resources will be imposed on the commission, but I would have expected, in any event, that those investigating officers who were now interrogating people who were not reasonably fluent in English would get an interpreter. So, while this will certainly clarify their obligations, I do not anticipate that there will be a major problem. I am foreshadowing now that I will not oppose the honourable member's amendment.

If I foresee a major problem, I may need to reconsider it when the matter is in the House of Assembly. However, I do not have any argument in principle with the honourable member's proposition that it ought to extend to investigation officers, and I do not anticipate any major resource problems. I certainly do not anticipate major resource problems as far as the police are concerned, as that has already been addressed in the Ethnic Affairs Commission supplying interpreters for police interrogations already.

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

Pages 1 and 2—Leave out all words after 'section 74' in line 16.

The amendment is to allow a subsequent clause to be added to the Bill dealing with the right to an interpreter where not only police but also other investigating officers are questioning a person whose native language is not English, and where the person is not reasonably fluent in English. It seems to me that if it is to apply to police questioning then, equally, it ought to apply to Corporate Affairs Commission investigators, fisheries inspectors, tow truck inspectors, National Parks and Wildlife inspectors and a whole range of other inspectors under a mass of legislation giving, in many respects, wider powers than the police have in terms of questioning, power to stop vehicles, and entry to and search of premises.

I am pleased that the Attorney-General says that he has no objection to the principle. The difficulty is where this general principle should reside. I am moving it in respect of the Summary Offences Act only because that seems to be an appropriate place to deal with it. I know that the focus of the Summary Offences Act in relation to powers of police is on the police, but I think it would be unduly cumbersome to have this clause included in possibly a hundred or so pieces of legislation, each dealing with the powers of inspectors.

It may be desirable, because the inspectors would then have before them in their own piece of legislation the limitations on their powers but, on the other hand, I think it would be a fairly mammoth legislative task to include it individually in that mass of legislation. If there is discovered to be an alternative and simpler way of doing this, whilst bringing it more readily to the attention of those exercising these powers of questioning, then I am prepared to accommodate some different mechanism. But, for the moment, I think that this is probably the best that is available so far. Accordingly, I have moved the amendment in anticipation that, if it is carried, I will subsequently move for the insertion of a new clause.

The Hon. I. GILFILLAN: I certainly sympathise with the intention of the amendment as I see the replacement clause spelled out in the amendment on file. I have listened with rapt attention to the Attorney-General's assessment of how he sees its application and what in his opinion is the most appropriate way for it to be accepted into legislation, if indeed that is what he feels can be done. I do not see it in conflict with the amendment which I have on file, although that may be just my lack of understanding of what will be the consequences. Can I speak to my amendment?

The CHAIRPERSON: Your amendment is to the words on page 2. I would have to put the question 'That the words proposed to be struck out stand part of the Bill, as far down as the word "offence." If that were lost—in other words they are struck out—then we would have to logically strike out the words in new subsection (2), and the honourable member would then not be able to put his amendment because there would be nothing left to amend. However, if that occurs, the Hon. Mr Griffin would then move to insert a new clause 4, and it would be possible for the honourable member to move an amendment to the new clause 4, if desired.

The Hon. I. GILFILLAN: Thank you very much. I would like to hear a comment from the Attorney-General as to whether he feels there will be difficulties in supporting both the amendment of the Hon. Trevor Griffin and mine. I am unclear, having listened to what he had to say, whether he was expressing a sympathy with the intention of the Hon. Mr Griffin's amendment or an intention to accept it as an amendment, and I ask him to clear that up for me before I continue my comments.

The Hon. C.J. SUMNER: I thought I made clear that I was happy to accept the amendment subject to there not being any major problems with resources which I do not anticipate at the present time but which I can assess in any event before the matter is dealt with by the House of Assembly. So, if the Hon. Mr Griffin's amendment is inserted in the Bill and the Hon. Mr Gilfillan can appropriately amend his amendment to enable it to fit in with the amendment of the Hon. Mr Griffin, I will accept both amendments.

The Hon. I. GILFILLAN: Is the Attorney-General signalling to me that the wording in my amendment needs to be adjusted so that it covers not only the police officer but also the investigating officer?

The Hon. C.J. SUMNER: Yes.

The Hon. I. GILFILLAN: In that case, I will comment on my amendment after we have gone farther down the procedural track.

Amendment carried; clause as amended passed.

New clause 4—'Right to an interpreter.'

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

Page 1, after line 16—Insert new clause as follows:

4. The following heading and section are inserted after section 83 of the principal Act:

83a. *Right to an Interpreter.*

(1) Where—

(a) a person whose native language is not English is suspected of having committed an offence;

and

(b) the person is not reasonably fluent in English, the person is entitled to be assisted by an interpreter during any questioning conducted by an investigating officer in the course of an investigation of the suspected offence.

(2) If such a person requests the assistance of an interpreter, an investigating officer shall not proceed with any questioning, or further questioning, until an interpreter is present.

(3) In this section—

'investigating officer' means—

(a) a member of the police force;

(b) a person authorised by or under an Act to investigate the suspected offence.

I have already indicated the reason for the amendment.

The Hon. I. GILFILLAN: I move:

That the new clause be amended as follows—

After new subsection (1) insert the following new subsection:

(1a) Where it appears that a person may be entitled to be assisted by an intrepreter under subsection (1), an investigating officer shall not proceed with any questioning, or further questioning, until the person has been informed of the right to an interpreter that exists under subsection (1).

In new subsection (2) leave out 'such a person' and insert 'a person who is entitled to be assisted by an interpreter under subsection (1)'.

I do not intend to speak at length because I canvassed this matter earlier in my remarks. The Attorney-General is excused for not understanding my comments. He indicated that in my second reading contribution I implied that all people would be entitled to this precaution. It was not my intention to give that implication. I said:

I consider that the possible hesitancies or difficulties that could occur in questioning by the police—

and I commented on the Hon. Trevor Griffin's remarks—

and these other rather bizarre cases of people who may be questioning or apprehending people for various offences or situations in which they may find themselves in no way provide an excuse for not ensuring that people in our community who are not fluent in English are given of the best we can offer them to get fair and just treatment.

Therefore, I consider that I made an attempt to make it plain that the amendment was intended for those who were not fluent in English. Apart from that, I do not need to argue it further, and I am glad for the opportunity to move this amendment.

Amendment carried; new clause as amended inserted.

Title passed.

Bill read a third time and passed.

OMBUDSMAN ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October. Page 1588.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill, which is designed to overcome a difficulty in interpretation drawn to the attention of the Government by the Ombudsman. The Ombudsman has drawn attention to the fact that he does not have authority to deal with administrative acts drawn to his attention in the areas of public hospitals, health centres and other statutory bodies that are being created by proclamation or other statutory instrument. Essentially, the Bill amends the definition of 'authority' which presently is:

. . . a body whether corporate or unincorporate created by an Act, in respect of which the Governor or a Minister of the Crown has the right to appoint the person or some or all of the persons constituting that body and includes the Council of The University of Adelaide but does not include such a body that is for the time being declared by proclamation to be a body to which this Act does not apply.

It is clear that the authority which comes under the jurisdiction of the Ombudsman is only a body created by an Act and not an authority created under an Act. Public hospitals, health centres and other incorporated health units are not established by the South Australian Health Commission Act but are created by instrument under that Act and, accordingly, are not presently within the jurisdiction of the Ombudsman and they ought to be, although I suspect that, if they are, there will be fairly extensive complaints to the Ombudsman and he may well need some more resources to be able to deal with the complaints about administrative acts occurring within those incorporated health units.

I had given some consideration to the possibility of moving an amendment to ensure that the definition of 'authority' extended to all bodies created under an Act except those declared by proclamation not to be an authority for the purposes of the Ombudsman Act. The difficulty with that is that there are many statutory bodies which are not governmental in nature but which are in some cases companies and in some cases bodies corporate established by Statute for particular purposes. The Anglican Church Property Trust and the Uniting Church Property Trust come to mind.

There are a variety of other bodies incorporated by Act of Parliament where it is inappropriate for the Ombudsman to exercise authority. On the other hand, it seems to me that any Government could not be compelled to bring in under the jurisdiction of the Ombudsman those bodies that properly should be subject to the scrutiny of the Ombudsman and the Bill in the form in which it comes before us would really give a Government a comfortable ride in terms of what should be subject to the jurisdiction of the Ombudsman.

On balance, I think it inappropriate to move the sort of amendment to which I have referred because of the myriad of bodies corporate to which it is inappropriate that the Ombudsman Act applies. However, I would like the Attorney to indicate the bodies which the Government has in mind proclaiming as being authorities created under an Act of Parliament for the purpose of the Ombudsman Act. I presume he can give a commitment that all the incorporated health units under the South Australian Health Commission Act will be so proclaimed, but I think it is important to

have that on the record. If the Attorney could indicate the other bodies that are also intended at present to be included by proclamation, that would help with the comprehension of this piece of legislation.

The other amendments proposed in the schedule to the Bill relate essentially to Statute revision amendments prior to the Act being consolidated and printed in that form after a number of amendments have been made to it over the past few years.

I have looked at the schedule of amendments. Basically, I see no difficulty with them. I gained the impression from my scrutiny that it is just an updating of the terminology used and the drafting. However, with the definition in the schedule of 'administrative acts' reference is made to an act done in the discharge of a judicial authority or related to the execution of judicial process which is not to be regarded as an administrative act. It seems that that does not deal with the decision of bodies such as the Commercial Tribunal or other quasi-judicial bodies. Could the Attorney-General address the question as to whether there is some reason for the quasi-judicial authorities not being included?

Apart from that, as I have indicated, I think that the other amendments are in accord with the general principle of Statute revision which is that there are no matters of substance amended by such proposals. Having endeavoured to scrutinise carefully the schedule, it seems that it meets the necessary criterion and, for that reason, I support the second reading of the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. C.J. SUMNER: The Ombudsman requested this amendment because he accepted that he did not have jurisdiction over the administrative acts of bodies incorporated under the South Australian Health Commission Act 1976. He believed that the situation thus created was anomalous in that he did have jurisdiction over the administrative acts of the South Australian Health Commission and any persons engaged in the work of the commission. However, most if not all bodies incorporated pursuant to the South Australian Health Commission Act employ their own administrative staff. The administrative acts of those persons are the administrative acts of the body concerned and not of the South Australian Health Commission. That was the major concern of the Ombudsman and the reason for this amendment.

Further, there are other statutory or public bodies or classes of body which are created neither by Statute, regulation nor proclamation, such as the North Haven Trust, which derives its existence from an indenture which was later ratified by Statute. By seeking the amendment in the form discussed in the Bill, namely, by providing that body or class of bodies can be expressly brought within the jurisdiction of the Ombudsman by appropriate statutory instrument, any body that is truly in the nature of a statutory authority may be brought within the Ombudsman's jurisdiction by convenient and effective process, namely, by proclamation.

The reason a statutory instrument is considered to be the most appropriate method is that there is a need to have control over bodies or classes of bodies that should be brought within the jurisdiction of the Ombudsman so that he is not accidentally given jurisdiction over bodies that are not truly of a type that should be subject of investigation. At this point in time, the intention is to cover the administrative units, that is, hospitals and other such units which are incorporated under the South Australian Health Commission Act which are currently not covered.

The Hon. K.T. Griffin: And no others at this stage?

The Hon. C.J. SUMNER: There is no intention at this stage to include any others, but the Bill is drawn in such a way that others could be included if it was felt they ought to be properly brought within the jurisdiction of the Ombudsman.

Clause passed.

Clause 4 passed.

Schedule.

The Hon. K.T. GRIFFIN: During the second reading debate I raised a question about the definition of 'administrative act', and I asked whether the reference to 'judicial authority' was sufficient to encompass quasi-judicial authority.

The Hon. C.J. SUMNER: The amendments in the schedule do not change the Act: they are part of the Statute revision process in which the Commissioner for Statute Revision, who is also the Parliamentary Counsel, is involved. My quick reading of the definition of 'administrative act' indicates that it simplifies the new definition. It does not change in substance in any way the definition of 'administrative act' in the 1972 principal Act. That definition also excludes from the definition of 'administrative act' any decision made by a person while discharging responsibilities of a judicial nature. That is picked up in the new, revamped definition. However, it is not intended to change the existing law.

The Hon. K.T. GRIFFIN: I understand that, but I believe there is a difference between the way in which the original Act was drafted and the way in which this provision has been picked up in the redraft of the definition of 'administrative act'. In the principal Act there is reference to the discharge of responsibilities of a judicial nature, and it seems to me that that can encompass quasi-judicial matters, such as decisions of the Commercial Tribunal in particular, whereas the definition of 'administrative act' does not include an act performed in the discharge of a judicial authority. I might be splitting hairs, but it seems to me that there is a subtle difference between the two.

The Hon. C.J. SUMNER: The honourable member has made his point. Parliamentary Counsel does not feel that there is a problem. I suppose that I will have to make a decision between the honourable member and Parliamentary Counsel. It is a very difficult matter. As the honourable member does not have an amendment on file and given the lateness of the hour, I think I will just have to take my chances with Parliamentary Counsel.

The Hon. K.T. GRIFFIN: I have made the point. I do not have an amendment on file. The Attorney may care to give it further consideration now that I have raised the matter. I have drawn attention to it not to hold up the Committee. There is one further matter to which I draw attention. I refer to section 10 (4) of the schedule on page 4, which merely revamps the present provisions of the principal Act. The schedule is not intended to amend matters of substance. I draw attention to the fact that there is now a Parliament in the Northern Territory and a Legislative Assembly in the ACT. It would seem appropriate at some time that the Attorney-General should introduce an amending Bill to bring paragraph *(g)* up to date to refer to the Territories as well as to the Parliament of the Commonwealth or any State.

I also draw attention to the fact that in paragraph *(h)* there is reference to the office of the Ombudsman becoming vacant if the Ombudsman becomes 'in the opinion of the Governor incapable of performing official functions and

duties by reason of physical or mental illness'. The modern drafting of that has been expanded to include incapacity as a result of disability. Again, I am not making a big point about it. I just draw attention to the fact that, while that reflects the provision in the principal Act, it is no longer in the form which is presently used and which takes into account incapacity as a result of physical disability.

The Hon. C.J. SUMNER: I will consider those points before the Bill goes to another place.

Schedule passed.

Title passed.

Bill read a third time and passed.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1841.)

The Hon. J.C. BURDETT: I support the second reading of this Bill, which does four substantial things. First, it removes section 2 *(a)* of the principal Act which provides that credit providers whose principal business is not the selling of second-hand vehicles and who sell repossessed vehicles or those returned under contract should be exempt from the licensing provisions of the principal Act. The Minister stated in his second reading explanation that conditional exemptions would be provided by regulation under the existing regulation making powers. He claimed that this was necessary because the present Act permitted credit providers whose financial business may be unconnected with the motor vehicle sales industry to deal in second-hand vehicles as a significant side line. He said that consideration was also being given to requiring that credit providers who conduct their own auctions give written notice making clear that they are not offering consumers the statutory warranties given by dealers under the Act.

In regard to this matter, the credit provider's right to an exemption is taken away as a statutory exemption and the credit provider, under the Bill as it stands, must rely on the Government exempting it by regulation, which it may or may not do. One could accept, I expect, the Attorney's undertaking that it would be exempted, but subject to conditions. If the regulation which provides the exemption is unsatisfactory, the only power which either House of Parliament has is to disallow the regulation. Members know that neither House of Parliament has the power to amend the regulation. The only control that Parliament has over it is to disallow it.

I commented, during the last week that Parliament sat, on this disability. It is unsatisfactory that the credit provider has to rely on the Government for an exemption to bring in a regulation because, if the regulation is not satisfactory, it is not really competent in practical terms for either House of Parliament to disallow it, because some exemption is better than none. The Parliament cannot amend or improve the exemption given and could only disallow it. Of course it will not do that, because some exemption is better than none. I suggest that the credit provider is totally in the hands of the Government and not the Parliament in this situation, and the procedure should be reversed. The exemption should remain in the Act, as it is now, with a power to impose conditions as to the exemption by way of regulation. We should have a situation where an exemption is guaranteed in the Act, but the Government may impose conditions by way of regulation, and then unsatisfactory conditions could be struck down by either House of Parliament.

In the second reading explanation the Attorney said that at the present time credit providers whose business was unconnected with the sale of second-hand motor vehicles could in effect operate as unlicensed second-hand motor vehicle dealers. I tried to find evidence of that and could not. There is no suggestion that I can find that this in fact has happened.

I have contacted, among others, the Motor Traders Association, and I must say that that association is quite happy with the Bill but acknowledges that there is no evidence that credit providers are using any loophole that may exist to operate, in effect, as unlicensed second-hand motor vehicle dealers. The second thing that the Bill does is provide for a more flexible licensing system. For example, unless each member of a partnership—say, a husband and wife partnership—can comply with all the criteria, including experience, the licence at the present time cannot be granted.

Clause 6 of the Bill provides that in such a case a licence can be granted on condition that the unqualified person will not carry on business as a dealer except in partnership with another licensed dealer approved by the tribunal. This is a measure of flexibility. It improves the Act as it stands and I certainly support that part of the Bill. The third substantive thing that the Bill does is provide for the tribunal to impose conditions on licences. I am not happy with that because, as the Bill now stands, the tribunal could impose any condition at all. Whatever one's imagination is, as wide as one likes, the tribunal could impose such conditions, and that, in my view, is too wide and too sweeping. I believe that the kind of condition which the tribunal may impose should be prescribed by regulation, and the tribunal then in its discretion could either impose or not impose such conditions. But, it should not be able to impose any condition at all. The tribunal is, after all, a quasi-judicial body. It should not be able to have such a sweeping power. The kinds of conditions ought to be specified.

The fourth substantial thing that the Bill does is provide that fines recovered as a result of disciplinary proceedings are to be paid into the compensation fund, and that is entirely satisfactory and ought to be supported. I wish to comment briefly on the schedule, which is quite substantial, taking up 2½ pages, and which provides a series of amendments to the principal Act that are mainly amendments in style. This has been referred to earlier this evening in regard to another Bill. They do not actually change the law: they are part of the statute revision procedure, as the Attorney-General mentioned earlier.

In regard to this Bill—and it is not the first of these, but it is among the first—a large part of the reason for the amendments by way of schedule to change the style is to remove sexist language. It is not the only thing that is done; there are other things in other ways. The Act will be brought into accordance with current drafting practices, but a very large part of the schedule is comprised of removing sexist language. I thoroughly support that.

As I say, it is not the first time that we have had such a Bill in the Council. I remember the Land Tax Act Amendment Bill, which did the same thing. This does it very comprehensively. I try fairly hard to desist from sexist language when I am speaking. Sometimes I forget, and I hope that I may be pardoned when I forget. Another point I find, particularly when speaking off the cuff, is that I often end up with very clumsy sentences full of 'his or hers', 'he or she' and that sort of thing. I commend the Parliamentary Counsel on this very careful consideration in the schedule to this Bill, where a great deal of that is taken away and we end up with sentences which are quite unexceptionable, reasonable, easy to read and unobtrusive.

There are some evidences of what I have said concerning the 'he or she' in the schedule. For instance, in relation to section 26 (1) it says 'After "he" insert "or she" '. Further down, in relation to section 34 (2) it says 'After "he" insert "or she" ', and sometimes that is unavoidable. Generally speaking, the changes have been made very unobtrusively. At page 8 in the schedule, in relation to section 38, it states 'Delete "cause his officers to investigate and report upon" and substitute "have an investigation made and report prepared on" ', which is very much easier to take and very much less obtrusive.

I refer also to section 42, in relation to which it says 'Delete "he" and substitute "the licensee" '. In regard to section 45 (1) *(b)*, it states 'Delete "he is convicted" and substitute "a conviction is recorded" '. In relation to section 47 (3) it states 'Delete "that he has consented" and substitute "the Minister's consent" '. I very much commend the Parliamentary Counsel on this sensitive revision to the principal Act without changing the substantive law in a way that not only removes objectionable language but also makes it very easy to read and will make the Act as amended easy to read. For these reasons, I support the second reading of the Bill, but will address in the Committee stages the matters which I have raised in regard to the exemption provision and the power to impose conditions on licences.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 November. Page 1851.)

The Hon. C.J. SUMNER (Attorney-General): In reply to the second reading debate, I make the following responses to the Hon. Mr Griffin. First, regarding the introduction of the Bill, it is anticipated that the Bill will be brought into operation during the first half of 1987. This will allow time for the making of regulations and for appropriate notice to be given to those in the industry.

In respect of clause 3, the honourable member has suggested that it may be appropriate to extend the definition of 'bank' to include 'other financial institutions as shall be prescribed'. In relation to agents' trust accounts, this has been provided for in proposed section 63, which provides that an agent may deposit money in an account of a prescribed financial institution in respect of which interest at or above the prescribed rate is paid.

In respect of clause 4, the Hon. Mr Griffin has expressed concern that the Commercial Tribunal may not be able to react speedily to a request for an extension of time for the replacement of a manager. Subsection (3) of new section 38a provides that a manager must be replaced within one month or such longer period as may be allowed by the tribunal. In ordinary circumstances, a one month period should be sufficient to obtain the services of another manager. However, there may be cases where, due to unforeseen circumstances, an agent has not been able to replace a manager and where an application to the Commercial Tribunal for an extension of time has been delayed. In those cases it should not be difficult to convene the tribunal to grant an application for an extension of time. Regulations could provide that this be done by the Chairman sitting alone. It should be impressed on agents that where difficulty is anticipated in replacing a manager application to the Commercial Tribunal should be made as soon as possible. In any event, I would indicate that clause 4 does not change the substantive law in respect of the replacement of a manager and, therefore, the point made by the honourable member on this topic apply to the existing Act, which was passed in 1985. So the point was not considered worthy of discussion in 1985, and I do not believe that the issue raised is now valid.

With respect to clause 5, an agent is always under a duty to account to the principal. Under proposed section 67, an agent must keep detailed records and must make a receipt available to the person making payment. If the agent does not account the person may apply to the Commissioner of Consumer Affairs to appoint an examiner, pursuant to section 69, to examine the accounts and records of the agent.

In respect of clause 6, the first point relates to section 64 (and this is one of the points made by the honourable member after representations from the real estate industry). The proposal that a mechanism be provided for an agent to divest himself or herself of moneys which may be in dispute was not raised in earlier discussion with the industry. However, the law already provides a remedy. If such a provision is to be included, further discussion should be held with appropriate industry groups. The proposed amendment should be circulated, but it would not be appropriate for this Bill to be delayed while those discussions take place—unless it is possible to resolve the matters quickly.

With respect to the second point, under clause 6, I am advised that the proposed section 64 will not allow the agent to invest a deposit in either the agent's name or the joint names of the vendor and purchaser to collect interest for the benefit of the parties. Any interest will accrue to the benefit of the fund.

In relation to new section 66, it was suggested that the conditions under which the commercial tribunal can appoint an administrator of a trust account be made more stringent. It was suggested that the grounds for appointment of an administrator should include that the agent cannot be located at his/her registered address; that he/she has not complied with any provision of the Act; or his/her licence has been cancelled, suspended or has expired. These situations have already been provided for. New section 66 (1) *(h)* includes a ground that an agent cannot be found. New section 66 (1) *(f)* states that a person may be appointed to administer the agent's trust account if the agent has contravened or failed to comply with the Act. New section 66 (1) *(g)* states that a further ground is that the agent is not licensed as required by law. This would include the cancellation, suspension or expiration of the licence.

Finally, with respect to new section 67, this provision can be amended to encompass computer recorded trust account records if it is considered that the present provision is not adequate. However, Parliamentary Counsel advises that the use of the word 'records' should include computer recorded accounts.

The next point relates to new section 75. This proposal is more properly left to the regulations where any disbursements out of the fund can be spelt out more specifically. With early drafts of the Bill it was found that the incorporation of a general provision might either do injustice to the Real Estate Institute by making the provision too narrow or, alternatively, allow almost anything to be done with the money. It has also been suggested that other industry bodies may have legitimate objects which should be furthered without a specific reference in the Bill.

The objection to clause 9 arises from fears that injustice will occur in cases where no date is fixed for settlement.

The example given is a conditional contract where settlement is to take place one month after the conditional sale. As was proposed by the honourable member, this means there was no fixed date for settlement. However, on the legal principle that whatever can be made certain is certain it would appear that a settlement date is fixed. In such a case section 88 (5) *(b)* would apply and the cooling-off period would be two clear days after service of a section 90 statement. If section 90 statements are not delivered, it is proper that the cooling-off period should extend up to the settlement date. There is no injustice in such a procedure.

With respect to clause 10, as was indicated earlier, this Bill will not commence operation until the first half of 1987 and this should provide adequate time for implementation. The information required under section 90 relates to prescribed information as to insurance under Division III of Part III C of the Builders Licensing Act 1967. The prescribed information will require notice whether a policy of building indemnity insurance is in force. Division III of Part III C of the Builders Licensing Act 1986 applies only to domestic building work. The same information therefore is not required under section 91, which relates to the sale of small business.

In respect of clause 12, section 91 (6) states that small business means any business sold for a total consideration of less than $70 000 or such other amount as may be prescribed. Under the land agents, brokers and valuers regulations 1986, which came into operation on 10 November 1986, the prescribed amount is now $150 000. In the course of discussions with industry representatives, it was proposed that a 25 per cent maximum deposit was excessive, given the raising of the prescribed amount. The proposed amendment would place a lower limit of $2 000 on every sale. In some circumstances this would mean the deposit could be significantly higher than 10 per cent. The problem has arisen in the industry in relation to purchasers' attempting to avoid their obligations; then the law provides a remedy. If the remedy is thought to be unsuitable, then further discussions should be held with the industry and other interested parties. It is unlikely that the problem will be solved simply by setting a proposed minimum deposit.

With respect to the transitional provision, there will be adequate time before the commencement of the Act for agents to be educated about the new provisions and to make proper arrangements. However, there may be cases where the withdrawal of such funds may lead to a reduction of the principal and either a suitable exemption may have to be created by regulation or specified provisions of the legislation may have to be suspended for some time. I trust that that answers the queries raised by the honourable member and will enable him to give attention to those matters and, in particular, any amendment he may wish to move.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: I appreciate the responses that the Attorney has made in his second reading reply. I do need some time to consider those responses. There is not much point proceeding to give instructions for amendments and having them drawn up if there is to be some acceptance by the Government of potential difficulties with the Bill and a willingness to attempt to resolve them through amendment.

I may need to draft some amendments and put them on file, and accordingly I ask the Attorney to report progress to enable me to have time to consider the comments he made.

Progress reported; Committee to sit again.

ADJOURNMENT

At 12.19 a.m. the Council adjourned until Wednesday 19 November at 2.15 p.m.