LEGISLATIVE COUNCIL

Wednesday 19 November 1986

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

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

PETITION: BOTANIC PARK

A petition signed by 275 residents of South Australia praying that the Council request the immediate return of the area designated for a car park, located in the south-east corner of the Botanic Gardens, and urge the Government to introduce legislation to protect the parklands and ensure that no further alienation will occur before the enactment of this legislation was presented by the Hon. I. Gilfillan.

Petition received.

PETITION: EGG BOARD

A petition signed by 235 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.

WATER SUPPLY DISTRIBUTION SYSTEM

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

Development of EL 076 Zone Water Supply Distribution System.

QUESTIONS

LAND BROKER'S DEFAULT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General a question on the subject of land broker's default.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday I raised questions about the land broker Ross D. Hodby and the concerns which had been expressed to me by investors with Hodby who appear to have lost their money or whose securities appear to be at risk. I mentioned on that occasion that I understood that audit reports on Hodby's trust account for three years had not been lodged but his licence had been renewed. The Attorney-General said in his reply that in fact two years audit reports had not been lodged. I have now been informed that a number of licences of agents and brokers had been renewed notwithstanding that they have not lodged audit reports of their trust accounts.

The Land and Business Agents Act, as it was called, contained provisions for filing of annual returns and audit reports and suspension and other disciplinary action if they were not filed. Yet, as I understand it, a number of agents and brokers who did not comply still had their licences renewed. If that is the case, as I am informed that it is, then it is a matter of considerable concern. I have also been told that there are some agents and brokers whose audit reports have been qualified but those qualifications have not yet been sorted out within the department, even though they continue to carry on business. I am not sure where the problem lies although, from the information that I have, I suspect it is somewhere in the Department of Public and Consumer Affairs. After the crashes of the past two or three years—the Swan Shepherd case, Field, and now Ross Hodby and others over those years—the confidence in the system is somewhat shaken. My questions to the Attorney-General are:

1. How many agents and brokers did not file audit returns by the due date yet had their licences renewed?

2. Why were the licences renewed if audit reports were not filed?

3. How many qualified audit reports have not yet been dealt with in the Department of Public and Consumer Affairs and why have they not been dealt with whilst the agents and brokers continue to carry on business?

The Hon. C.J. SUMNER: I cannot answer all those questions but I will attempt to obtain answers and bring back information for the honourable member. The first thing that needs to be said, however, is that it is not the Government which licenses land brokers. The report in the newspaper yesterday which somehow or other suggested it was the Government that was responsible for licensing land brokers is not correct.

The Hon. K.T. Griffin: I didn't say that.

The Hon. C.J. SUMNER: No, you may not have said it, but the implication of the headline in the *Advertiser* this morning was that the Government licensed land agents and land brokers. That is not correct. The Land and Business Agents Board licenses land brokers and land agents. It is a board independent of Government, established for the purpose of licensing those occupations.

The Hon. K.T. Griffin: Up until 10 November.

The Hon. C.J. SUMNER: The honourable member interjects correctly, 'Up until 10 November.' From that time, under a revamped system, the Commercial Tribunal will take over the licensing of land brokers, land agents and indeed other occupations, and I believe that the new system will be a significant improvement on the old system. The Commercial Tribunal, headed by a judge, is not subject to Government direction.

The Land and Business Agents Board, now the Commercial Tribunal, has the appropriate responsibility for licensing agents and land brokers. That does not mean that officers attached to that board or officers of the department are not responsible for carrying out inquiries in some circumstances. It should be made quite clear that the responsibility for licensing rests with the Land and Business Agents Board as it was, and now the Commercial Tribunal. It is for that body to make the necessary inquiries to satisfy itself that landbrokers should be licensed.

I will ascertain what the circumstances are in respect to the questions asked by the honourable member. I might also say as an aside that what this particular instance probably demonstrates, without any shadow of a doubt, is that the proposal for the negative licensing of land brokers, which was proposed by the Hon. Mr Burdett when he was Minister of Consumer Affairs and which was being proceeded with at the time this Government took over, would have been an absolute disaster. Members opposite wanted to have negative licensing. They did not, in effect, want to have licensing of land brokers. That was the policy of the Hon. Mr Burdett and that proposal was quashed when I took over from the Hon. Mr Burdett as Minister of Consumer Affairs. Surely he would not be sustaining the argu-

ment now that negative licensing was appropriate for land brokers.

Clearly, what is necessary—and I think will need to be introduced—is increased regulation of brokers. In particular, if brokers wish to handle clients' money in the way that Mr Hodby has handled it, I believe they will need an extra qualification or endorsement on their licence to enable them to do that. The case of Mr Hodby is one of grave concern for the community, given the amount of money that is involved and the number of innocent people who have been caught in the circumstances involving this particular land broker. Rather than fewer regulations, it seems that we will now have to develop a system of licensing of land brokers which covers those brokers who wish to be involved in dealing with clients' money, in other words, acting as investor consultants for clients and, indeed, taking the money of clients for investment. I do not think there is much doubt that we will now need to examine—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: As the honourable member points out, compulsory insurance. Legislation is presently before us with respect to the Consolidated Interest Fund to increase the amount of money that will be available to pay to people who suffer as a result of defalcations. It may be that some kind of compulsory indemnity will also need to be looked at. As the Hon. Mr Davis knows, people who provide investment advice are usually, at least with respect to stocks and shares, licensed. Yet it has been possible for land brokers to take clients' money and invest it, without having to have any particular expertise or additional restrictions on the broker's licence.

Of course, many people who deal in good faith with people like Mr Hodby, assuming that he is of substance, have been apparently caught by his activities. I suppose that there is no real reason why the public should have had any suspicions of Mr Hodby as he was apparently quite a well known person in the broking profession and, indeed, at one stage I think he was President of the Land Brokers Society.

It does indicate that rather than having less regulation of land brokers we probably will need more, and I will be developing a proposal for consideration by the Government. I cannot give any detail at this stage, other than to indicate that there ought to be, for brokers who wish to deal with their clients' money in this way, to take money to invest on clients' behalf in mortgages and the like, some additional qualification, requirement or endorsement on the landbroker's licence to enable such brokers to conduct themselves in that way. I will seek the information sought by the honourable member and bring back a reply.

The Hon. K.T. GRIFFIN: I desire to ask a supplementary question. When the Attorney is investigating that matter with a view to bringing back a response, will he also bring back information about the procedures followed within the department and the Land and Business Agents Board when an agent or broker has not filed an audit report or files a qualified audit report?

The Hon. C.J. SUMNER: I will examine that matter as well.

LAW AND PENAL SYSTEM

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about a committee inquiring into law, order and the penal system in South Australia.

Leave granted.

The Hon. I. GILFILLAN: The release of details, in particular, of early release schemes to relieve pressure on South Australian gaols is in the *Advertiser* this morning. The issue of home prison sentences and community service orders as alternatives to imprisonment both highlight starkly the drama and crisis that has emerged in the South Australian penal system. I do not intend to labour that at length, but I indicate to members and the Attorney that these difficulties have arisen from and obviously been compounded over the years by extraordinary mismanagement and a disorganised approach in the way that South Australia has dealt with the problem of having a proper, fair and adequate penal system in this State.

I remind the Attorney of pre-election promises given by the Premier on 25 November 1985. I quote two of the first three paragraphs in the appendix of a copy that I have, as follows:

> Law and Community Security:
>
> Respect for law, order and the security of individuals is the basis of any civilised society. There is no disagreement on this important principle.
>
> The fight against crime must be beyond Party politics. We will put this beyond doubt by seeking to establish a joint Party committee of the Parliament to act as a focus for continuing vigilance and reform in this crucial area.

The *Advertiser* picked that up as being an important and major plank in the policy. Indeed, I quote from a paragraph in the *Advertiser* article of 26 November that year, as follows:

> Law and order is a major plank of the policy, with a joint Party committee of the South Australian Parliament planned to act as a focus for 'continuing vigilance and reform in this crucial area'.

Just to prepare the Attorney's ground before asking my specific question, I recognise that the Government has indicated its intention to establish a committee. I commend it on that. I believe that a joint Party committee promised in the pre-election promise could be covered by a select committee from this Council, which is one of the most excellent forms of objective analysis of issues such as law and order and the penal system. It is with that in mind that I intend to ask the Attorney to respond to my questions. In specific terms of today, it is quite apparent that the penal system itself is not just a sort of lock away cupboard for criminals in this society, but should also be a rehabilitative process resulting in a direct reduction in criminal activity in this State. It is essential that any committee dealing with this issue has as one of its major terms of reference the way in which prison systems, sentencing and types of sentences are involved.

My questions to the Attorney-General are as follows:

1. Does the Government intend to honour its election promise to set up a committee, the nature of which I have outlined previously in my explanation?

2. What action does the Government envisage taking to implement this election promise?

3. When will the committee be established?

4. Will the Attorney-General give an assurance that the terms of reference for the committee will embrace the penal system as well as other law and order responsibilities?

The Hon. C.J. SUMNER: I thank the honourable member for his question. A number of matters were referred to in the Government policy before the last election in relation to law and order and, in particular, the question raised by the honourable member of the establishment of a committee of Parliament. In addition, in the Premier's policy speech other matters were mentioned, such as amendments to the parole laws and test cases to be taken by the Attorney-General on the sentences for such offences as rape and armed robbery. With respect to the latter two, the new parole changes have passed Parliament, so that policy has been dealt with.

I have given instructions to the Crown Prosecutor to consult with the Solicitor-General with a view to determining appropriate test cases to take in the areas of rape and armed robbery where it is considered that the sentence imposed is too lenient and that the general principles of sentencing for these violent offences ought to be addressed by the Full Court. Of course, that will take time, depending on what cases are presented before the courts and the cases in which it might be appropriate to address the principles of sentencing for those violent offences. So, those two matters specifically referred to in the Premier's policy speech have been addressed by the Government. In addition, in this budget, despite the very severe financial constraints under which we operate, there has been an increase in resources to the police. The general question of parliamentary committees has been addressed by me on numerous occasions in this Council over a long time, and certainly since 1982.

The Hon. M.B. Cameron: Like FOI.

The Hon. C.J. SUMNER: No, FOI was not referred to a joint parliamentary select committee that was established during the last Parliament. I do not think that I have to admit to too many mistakes over the past few years. However, I am quite happy to bare my soul to the Legislative Council and admit that that was one of the mistakes of the first three years of my stewardship as Leader of the Government in this Chamber and as Attorney-General: that is, referring the question of parliamentary procedures, committees and structure to a joint committee of Parliament consisting of members of all Parties from the House of Assembly and the Legislative Council.

That was a great mistake because, if I ever wanted to get something bogged down and achieve nothing, that was the way to do it. I am still waiting for the submission from members of the Liberal Party in another place on the committee system of Parliament (apparently Liberal Party members in the two Houses have different views). The joint parliamentary committee was set up a short time after the 1982 election. A discussion paper was prepared and circulated to all honourable members. A few responses were forthcoming, but it was clear that to continue meetings of the committee in the light of attitudes of some honourable members was—

The Hon. M.B. Cameron: Members on both sides.

The Hon. C.J. SUMNER: No, that is not correct. I really must say that the Labor side responded. We produced a discussion paper.

The Hon. I. GILFILLAN: A point of order. A question that is completely out of order from the Leader of the Opposition has diverted the attention of the Attorney-General from my original question, which was in order.

The PRESIDENT: There is no point of order.

The Hon. C.J. SUMNER: The Parliament needs to know the history of this matter, which is that I wanted the committee system of the Parliament to be upgraded. Because it was an important matter for the Parliament, I consider that it ought to be done on a bipartisan basis by both Houses. That was not successful, as I have said, principally because of reluctance of members of the Party opposite in the House of Assembly, who were circulated with the discussion paper and did not even do the committee the courtesy of any sort of response to it. So, clearly they were not interested.

I did make an attempt in that first Parliament of the Bannon Government to get some reform of the committee system. In the last election campaign, in addition to the specific commitment that the Hon. Mr Gilfillan has referred to, a policy was put out on reform of the Parliament, which referred to the committee system, and we have to give attention to it. I hope that we can give attention to it during the course of this Parliament but, as with everything at present, it must be viewed in the budgetary context and we have to see what resources are available in any reform of the committee system.

There was a suggestion that there ought to be a law reform committee of the Parliament and a public bodies review committee of the Parliament. Recently, the Government has appointed a Deregulation Adviser, and I have asked him to liaise with the officer in my department who prepared the original discussion paper for the joint select committee to see whether or not there are any grounds or capability for cooperation between the Deregulation Adviser and any future public bodies review committee that might be established by the Parliament.

The Hon. R.J. Ritson interjecting:

The Hon. C.J. SUMNER: Maybe; I am not sure, but it is a matter for the Parliament. The Parliament failed itself between 1982 and 1985. More resources were available then: if Parliament had grasped the issue at that time and run with it we may have established within this Parliament a more effective committee system, of which I have been a long-time supporter. Unfortunately, the Parliament did not do that. Now, in a much tighter budgetary situation we have to work through the commitments that have been made on the committee structure of the Parliament.

Honourable members mentioned the so-called law and order committee, a law reform committee and a public bodies review committee. All these matters will be considered as part of the budget context for the next financial year. I cannot, however, say whether they will be accepted by the Government and whether funds can be allocated for them, but I do not resile from the commitments made by the Government in this area—either the general area or the specific one raised by the Hon. Mr Gilfillan.

At present, I am having the whole issue reworked, both with respect to the committee that the honourable member has mentioned and to the other committees that I have mentioned, including perhaps what role the Deregulation Adviser may have *vis-a-vis* a public bodies review committee, with a view to producing a specific set of proposals that can be considered as part of the next budget considerations. I expect that the penal system certainly could be included within the terms of reference. No specific decision has been made about that as yet, but I see no reason why it ought not be included within the terms of reference of such a committee when it is established.

The Hon. I. GILFILLAN: A supplementary question: will the Attorney-General consider implementing a select committee dealing with law and order and the penal system, without cost, from the Legislative Council? If not, why not?

The Hon. L.H. Davis: How can it be without cost?

The Hon. C.J. SUMNER: The Hon. Mr Davis, ever the alert economist, asks, 'How can it be without cost?', and I accept what he has said. It cannot be without cost. In fact, the Hon. Mr Gilfillan seems to think that we can run select committees in this Parliament without cost somehow or other. Presumably, divine providence produces the various reports that this Parliament has to consider from time to time. I am sorry, but that is not how things happen, no matter what issue.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The honourable member is interjecting: I am telling him that it costs money. I would prefer to see the issue dealt with in general terms first because I see as a principal objective getting attention to the committee system of the Parliament.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Certainly not a higher priority of issues. If we have a decent committee system the issues can be dealt with in some kind of structured way. If, having gone through the process that I have outlined, it is not possible to get this committee established in the budget context, then no doubt consideration could be given to a specific select committee, but I ought to say with respect to the penal system—

An honourable member: We can get private sponsorships of committees.

The Hon. C.J. SUMNER: The honourable member is now suggesting private sponsorship.

An honourable member: The Fosters Law Reform Committee.

The Hon. C.J. SUMNER: I know that the honourable member is very keen on privatisation and those sorts of issues. This side of the Parliament is somewhat less keen on that idea, although it is a little bit difficult to determine just where honourable members opposite stand on these issues of deregulation and the like. We are bringing in almost weekly a deregulation Bill: it almost inevitably gets opposed by honourable members opposite, despite their rhetoric and the rhetoric of their Leader—their present Leader—in another jurisdiction, Mr Howard.

In answer to the honourable member's question, I do not see a case for a select committee at the moment. There is overcrowding in the prisons at present, but significant initiatives have been taken in this area by the Government: the new remand centre, the construction, which is proceeding, of the Mobilong minimum security prison, improvements in security at Yatala. All these things have been done. A substantial amount of capital funds and recurrent expenditure have been put into the penal system over the past three years. The honourable member has not realised that that is the fact. At present there is overcrowding in the prisons: that is not all within the Government's control.

An honourable member: It needs a committee.

The Hon. C.J. SUMNER: The honourable member says that it needs a select committee. I am not sure whether the honourable member will suggest that the judges be on the committee. Prison population is not completely under the Government's control: it depends on a whole lot of factors that are operating in the system, in particular, the judicial sentencing policy.

Frankly, the policy of the Government has been, in so far as it is within the capacity of the Government, not to have people in prison who are there because they cannot pay fines or debts or who ought not to be there because they are not likely to reoffend. Our policy is that people are not to be in gaol on remand, for instance, if the only reason they are there is that they cannot provide the financial sureties that are necessary. Some of the prison population come into that category.

On the other hand, our policy clearly is, as reflected through appeals on lenient sentences, that those people convicted of violent criminal acts such as rape or armed robbery—the sorts of things about which the community wants the Government to take a lead in terms of sentencing—ought to be given longer prison sentences than has been the situation up to the present time. That is the broad policy with respect to prison numbers, but the Government does not have control over prison numbers except in a very broad way. The honourable member needs to realise that.

CHILD SEXUAL ABUSE REPORT

The Hon. J.C. BURDETT: I seek leave to make a statement prior to asking the Minister of Health a question about the child sexual abuse report.

Leave granted.

The Hon. J.C. BURDETT: In last Saturday's *Advertiser* on the front page, with a great fanfare of trumpets, was an article about the child sexual abuse report. It was said to be a blueprint. It was reported that there were 358 pages and 100 recommendations in the report. It had been released last Friday. I do not know what are the merits of the report, but the blueprint seems to have been lost. It does not seem to be possible to find it.

On Monday of this week I had my staff contact the Minister's office and ask for a copy of the report. The first information given to the staff member was that I would be put on the mailing list. When the staff member rang back and said that that was not good enough, she was told that I would get the report in perhaps a week or a fortnight. At least one of my colleagues has done the same thing and got exactly the same reply, namely, that she would be put on the mailing list and that the report would be available in about a week or a fortnight. At least one senior professional operating in the field made the same request for a copy of the report and was told the same thing. There is not much point in having a high powered report if members of Parliament and professionals in the field as well as other people with a legitimate interest cannot get access to it quickly. Will the Minister take steps to see that people who have perfectly good reasons to seek copies of the report get them as soon as possible—I suggest within a few days.

The Hon. J.R. CORNWALL: I am most unhappy that the Hon. Mr Burdett and anyone else in this Chamber or elsewhere has not been able to obtain the report quickly and easily. It is a very large report—358 pages—and to my recollection we were looking for the first four copies with covers as we went to the press conference last Friday. It certainly should not be the case at this stage, in the middle of the following week, that at least 500 completed, covered and bound copies are not available.

The Hon. Diana Laidlaw: They will not be available until the end of next week.

The Hon. J.R. CORNWALL: I will make sure the honourable member gets at least an uncovered copy within the next 24 hours.

The Hon. J.C. Burdett interjecting:

The Hon. J.R. CORNWALL: Certainly. All members can have copies if they indicate that they would like one. We will send down at least a dozen. It has been released and is a very important and significant document—probably the most important and comprehensive of its kind ever released in this country. It is important that every member of this Parliament reads it and takes great note of the recommendations. If members have any constructive comments at all, whether critical or otherwise, we would like to have them on or before 31 January 1987.

It is, as I said, a very serious blueprint for the comprehensive protection of our children from child sexual abuse. I might say that, in view of the fact that members opposite have had this regrettable difficulty in obtaining their complete copies, it is a little strange perhaps that Ms Laidlaw has already commented publicly on what she perceived to be deficits in the report and indeed the strategy that the Government has adopted. I wonder whether Ms Laidlaw realises just how serious child sexual abuse is in this State, in this country and, indeed, internationally.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: Her stated public opinions sit very strangely with the fact that, as Mr Lucas says, Ms Laidlaw realises the very serious and dreadful nature of child sexual abuse. I also hope, of course, that Ms Laidlaw and other members opposite already have a copy of the

Bidmeade report which again is a very elegant report, very well written by a very good analytical legal mind. It is indeed a first class blueprint for some of the most progressive and positive changes with regard to children in need of care and protection, so the two really ought to be read in conjunction. We are very much about child protection and the prevention of child sexual abuse. The protection of children from child sexual abuse is a most important part of a comprehensive strategy for child protection in general. I shall ensure that at least a dozen copies, not necessarily with their covers but certainly all 358 pages, are made available within 24 hours to members opposite, to Ms President and anybody else who is interested. They will be made available free of charge—a limited offer only.

FAMILY COURT

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to asking the Attorney-General a question on the subject of a reduction in Family Court services.

Leave granted.

The Hon. DIANA LAIDLAW: I have received an increasing number of representations in recent weeks expressing concern about the progressive reduction in Family Court services to country areas and, it would appear, particularly to the South-East. These reductions appear to be in addition to the rather dramatic reductions which the Attorney commented on last year and about which concern was expressed at that time in this Chamber. In the South-East, for example, the Family Court counsellor visited Mount Gambier on eight occasions in 1985 but during the first six months of this year has made one trip only and to date, in this financial year, no trips. In addition, the Family Court circuit sittings not only to Mount Gambier but also to the Iron Triangle, Port Lincoln and the Riverland have been reduced. Such reductions in services are prolonging tension and conflict between parties in dispute by extended delays in appearances before the court or before counsellors and also, I have been told, imposing additional expenses on the parties in the dispute.

I am aware that, for urgent matters, families can travel to Adelaide to receive the services, but this again creates inconvenience and places extra financial pressure on families. In the meantime, DCW offices in country areas are receiving an increasing number of custody and access inquiries per week. The Mount Gambier office, which I cited earlier, is taking about 10 Family Court inquiries per week and other offices in the region and elsewhere in the State are taking on average about five. As the Minister of Community Welfare would acknowledge, DCW officers could well do without this extra workload. I therefore ask the Attorney-General:

1. Would he be prepared to bring to the attention of the Federal Attorney-General the adverse impact of reductions in Family Court services to country people who have no alternative local resources, who face extra high costs if they seek help elsewhere, and whose financial situation at the present time is particularly difficult in many instances?

2. In the light of these factors with respect to country people and access to Family Court services, would the Attorney be prepared also in that request to the Federal Attorney-General to seek the re-establishment or restoration of Family Court services to country areas to their 1984-85 level?

The Hon. C.J. SUMNER: The Family Court is not a responsibility of the State Government. It is a matter for the Federal Government and complaints about the Family Court and its resourcing should be directed to the Federal Government through the Federal Attorney-General (Mr Bowen). The honourable member has raised a number of problems that have been brought to her attention. I do not have any independent indication which would verify those problems that the honourable member has outlined. Clearly, concerns have been expressed to her and I am happy to take up her question and the issues she raised with the Federal Government and will advise the honourable member of the response.

THE STAGE COMPANY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister Assisting the Minister for the Arts a question on the subject of the Stage Company.

Leave granted.

The Hon. L.H. DAVIS: The Minister Assisting the Minister for the Arts will be well aware of the plight of the Stage Company, one of South Australia's top professional theatre companies. In the State budget tabled at the end of August, just 11 weeks ago, the Stage Company was allocated $317 000 for the 1986-87 year—up by $6 000 on what was received in 1985-86. In September, less than one month later, the Theatre Board of the Australia Council met to allocate grants for the 1986-87 year. I am advised that a senior officer of the Department for the Arts advised the Theatre Board that the State Government did not consider that the Stage Company was financially viable. Not surprisingly, weeks later the Australia Council announced the grants for theatre companies, and the Stage Company lost its previous annual grant of $60 000. Yesterday, the Stage Company was summoned to meet the Premier and Minister for the Arts (Mr Bannon), who advised that the Government was reneging on the budgeted amount of $317 000 for the 1986-87 year because it did not believe that the company was financially viable. The Stage Company artistic director, Mr John Noble, strongly disputes this claim.

The Minister would, no doubt, be aware of the contribution of the Stage Company in recent years. When the State Theatre Company was running through a rough patch in 1984 and 1985, the Stage Company was most successful. This year the Stage Company staged *Masterclass* at the Melbourne Arts Centre, and was well received.

Then, artistic director John Noble and the Stage Company designer and Max Cullen staged *Sons of Cain* in London's famous West End. *Sons of Cain*, by Australian playwright David Williamson, had a most successful season with the Stage Company in December 1985. In London, *Sons of Cain* was a resounding success. Its six week season was extended to 10 weeks. I was in London at the time *Sons of Cain* was receiving fabulous reviews. As part of the Jubilee year, the Stage Company performed in San Antonio, Texas, for one week, and that also was to great acclaim.

Back in Adelaide, the Stage Company staged the premiere of *The Humble Doctor* by well-known local playwright Rob George. That also was well received. Currently, the company is rehearsing its production of Steve Spear's musical *Those Dear Departed*, which commences a two week season at the Space on 4 December. I understand that the 1987 season includes seven plays and 10 workshops. I have spoken to several people about this fiasco and several points emerge. First, the Premier and Minister for the Arts had earlier assured the Stage Company that its 1986-87 funding was secure. Secondly, something which I find outrageous, the Department for the Arts made no contact with the artistic director of the Stage Company (Mr John Noble) over the

last two months, so there was no opportunity for the Stage Company to put its point of view.

Thirdly, there was dirty work at the crossroad. The Department for the Arts, with or without the Minister's knowledge, effectively brought the curtain down on the Stage Company by its advice to the Australia Council. If the department and the Minister are to close down performing arts companies on the basis that they are in deficit at a particular time, then in recent years most would have been closed down.

The Hon. Diana Laidlaw: We wouldn't have a theatre company left.

The Hon. L.H. DAVIS: Exactly. The Premier said that he had done this because the current deficit of the Stage Company was $50 000 (that is a quote from this morning's paper). However, the Troupe Theatre, which also receives a State Government grant, has a current deficit of $25 000 and so, not unreasonably, people today have been asking whether that company will also be closed down. Certainly, that is not a step I would advocate. My questions are:

1. Does the Minister realise this *ad hoc* and unilateral action is regarded as outrageous and unacceptable by key people in the theatre community in Adelaide?

2. Does the Minister accept that the Stage Company has carried Adelaide theatre in recent times when the major State funded State Theatre Company was running roughly, and that it deserves better than this shabby treatment?

3. Does the State Government accept that South Australia cannot boast arts leadership if arts administration behaves in such an underhanded and ratty fashion when dealing with a respected theatre company?

4. Will the Government immediately review this hasty and ill considered decision?

The Hon. BARBARA WIESE: They are very fine sounding words, but I think the Hon. Mr Davis, the pretender of the Adelaide arts community, should examine the facts and look at the record of Labor Governments in this State with respect to arts. He should examine that alongside—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —the record of Liberal Governments during the minuscule number of years they have been in charge in this State during the past 30 years—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Yes, I know Murray Hill's record in the arts.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The point is that Labor Governments in this State have supported the arts in an exemplary way in all the years we have been in Government in this State, and still in South Australia the arts are funded on a per capita basis better than is the case anywhere else in the Commonwealth. Let us put all this in some sort of perspective. Let us look at this Government's commitment to the arts over the years—it has been excellent. We live in tough times, Ms President, and we have discussed this in many areas already. This year the Government has had to take some tough decisions in a number of areas with respect to the budget.

With respect to the Stage Company, it ought to be placed on record that the Government's support for that company has increased from $120 000 in 1983-84 to $317 000 in 1986-87. That is an excellent increase in funding for a company that has enjoyed strong Government support and backing over those years. The fact is that the Stage Company is in financial difficulty. Over the past two years officers of the Department for the Arts and officers of the Arts Finance Advisory Committee have been talking with the Stage Company about its financial difficulties and have offered advice and assistance to help it through its tough times. It is most regrettable that the theatre board has decided to withdraw the funding. However, based on that decision the State Government has now decided that it would be irresponsible to continue funding to the Stage Company beyond the end of this year.

The Hon. C.J. Sumner: Who recommended that?

The Hon. BARBARA WIESE: The Arts Finance Advisory Committee recommended that money should be withdrawn. It is a very proper decision based purely on financial grounds. There is no doubt that the Stage Company has played an important role in South Australia. It has particularly provided a fine opportunity for Australian writers, and that cannot be underestimated in the arts. As I said, we live in tough times and we have to be realistic. We have to take the appropriate decisions with respect to funding not only in the arts but right across the board. The decision we have made is proper.

I understand that the Stage Company will be approaching the Australia Council about the withdrawal of funding by the theatre board. Unfortunately, a decision about that probably will not be known until early next year. However, the State Government will consider the position once we have more information from the theatre board about funding, and it will be considered in the normal budget process for 1987-88. Also, it will be considered, along with other theatre companies that exist in South Australia, and we will be looking at such things as the number and range of theatre companies and the minimum viable levels for those companies operating in South Australia.

It seems to me to be an extraordinary cheek for members of the Liberal Party to stand in this place in such an indignant—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —manner, criticising—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —this Government—

Members interjecting:

The PRESIDENT: Order! Mr Hill, Order!

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order! It is not a question of saying who is on dangerous ground. You are on very dangerous ground when you continue interjecting after I have called 'Order!'

The Hon. BARBARA WIESE: It certainly seems to me to be an extraordinary cheek for members of the Liberal Party Opposition to stand in this place and criticise this Government and previous Labor Governments on their performance in the arts, because the record speaks for itself, and it is excellent.

LIFE LINK SOUTH-EAST

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Local Government a question about Life Link South-East.

Leave granted.

The Hon. M.B. CAMERON: I have received a copy of a letter sent to the Minister of Local Government from members of the board of Life Link South-East, a parent body which operates Lifeline in the area.

It is extremely disappointed that its application for funding for a South-East community information service has been unsuccessful. They applied for $23 000 towards the service, which is similar to the Citizen's Advice Bureau in Adelaide although far more comprehensive. It is the second time they have applied, and the second time they have been knocked back.

The board members were particularly surprised and disappointed because during a visit to Mount Gambier in November 1985 the Minister met with Life Link's then chairman and director and 'personally encouraged them to reapply for funding, indicating that this time it would almost certainly be assured of success'.

Since that time, the letter says, extensive work has been done in setting up Life Link's information service program and it is very close to being implemented. Had Life Link received the grant for 1986-87, information services in four centres would have been operational before December this year. The letter states:

> We are embarrassed that the people of the South-East should again be let down, particularly after such strong encouragement from you [the Minister] a fact which received wide media coverage. Four local councils have contributed financially in expectation of a local government information services grant to the South-East Community Information Service. However, these contributions . . . are insufficient in themselves to sustain the system.
>
> We also draw your attention to the contribution of the Life Link Board, which has committed itself to 25 per cent funding of the service, which represents a large commitment on the part of a volunteer board. On behalf of the above board, I can only hope that you will demonstrate your sincerity in a more practical way, when we again apply for assistance in 1987.

My questions are:

1. Does the Minister believe that she misled Life Link by telling members of the board that their grant application was 'almost certainly assured of success'?

2. Does the Minister believe it is proper practice to virtually guarantee the success of grants before they are decided?

3. Will the Minister apologise to Life Link for leading it to believe its grant would be successful and for the inconvenience her actions caused?

4. Will she reconsider the grant application?

The Hon. BARBARA WIESE: True, I met with representatives of Life Link when I was in Mount Gambier late last year and we discussed its application for funding. The funding application that had been made the year before had not been successful, and I certainly encouraged the organisation to apply again. I did not tell the people that their funding application would be successful because it is not my place to make such a decision. The point is, Ms President, that funding applications are considered by the Information Services Advisory Committee, which makes recommendations to me on the funding of information services.

Invariably, it is the practice of the Minister to accept those recommendations for funding. This year, as I have said many times in relation to other portfolios that I hold, we have had to make some tough decisions. We have not been able to provide as much funding for information services in South Australia as we would have liked. This has meant that we have not been able to fund the number of new information services that we would have liked to fund and Life Link is certainly one of those.

What we have tried to do with the funding available to us this year is to consolidate as much as possible and support those information services that currently exist while providing small grants to a limited number of new services. The Information Services Advisory Committee, using its own measure for these matters, apparently decided that Life Link was not one of the information services that should have priority this year. Certainly, I would encourage Life Link to apply once again in 1987-88 but, just as I could not guarantee last year, I cannot guarantee next year it will be successful in its funding application. However, I would be pleased for it to apply again.

BEVERAGE CONTAINER ACT REGULATIONS

The Hon. M.J. ELLIOTT: I move:

That regulations under the Beverage Container Act 1975 made on 13 November 1986, and laid on the table of this Council on 18 November 1986, be disallowed.

I refer first, to the Minister's second reading explanation when the container legislation was introduced earlier this year into this place. I will quote extensively from that explanation, particularly from those parts that are relevant. The Minister stated:

> This Bill seeks to change certain aspects of the beverage container legislation as they apply to beer cans and bottles. The Government sees no reason at this stage to change the Act in respect of soft drinks and the Bill is framed accordingly. A position has arisen whereby the much valued traditional South Australian use of reusable containers for the marketing of beer is under threat. In August 1985, following discussions with the Government, South Australia's breweries increased the refund amount for refillable bottles from 30c to 50c a dozen. The interstate brewer has refused to follow suit.
>
> Since a return to the 30c deposit level by the local manufacturers would be an environmentally retrograde step the only reasonable course open to us is to legislate to place all suppliers on an equal footing. The amount is to be fixed at 48c per dozen, 4c a container, something which will be easily understood by the public. These deposits will continue to be redeemed at marine store dealers.
>
> The effect of this change, if taken on its own, would be to seriously erode the differential between multi and one trip containers and hence reduce the strong disincentive against a move into one trip packages. Accordingly, the Government believes the time has come to restore the relativity between the deposits on multi and one trip containers as it existed at the time of the introduction of the principal Act.
>
> The new deposit for one trip bottles and cans containing beer will therefore be 15c. Provision is made in the Bill for further adjustments to this figure to be made by regulation. Again, I stress that this does not relate to soft drink cans and the colour coding system will be used to ensure that beer and soft drink cans can be easily sorted and differentiated at the marine store dealers. The higher deposits will have the effect of increasing scavenging, thereby reducing the loss of resource to either the litter stream or buried in rubbish tips. In this way the twin objectives of the legislation—litter control and resource reuse—will be improved.

The Attorney said in reply to a question the other day, that there were two major purposes for the legislation: one was to stop littering and the other was to get rid of broken glass. The Attorney was partly right. The legislation had two purposes, one being to reduce the litter problem. The other important aspect, which explains why the Act is so important, is that the legislation is aimed at preventing the wastage of important resources.

The Minister must have an extremely short or selective memory, and I would like to make the following points. The original legislation in 1976 set the deposit on single trip bottles and cans at 5c per container or 60c a dozen. At this time refillable beer bottle refund rates to the public were 12c a dozen for Echo bottles and 15c a dozen for 750 ml bottles. This was a deliberate attempt by the South Australian Government to create a bias towards refillable glass containers for litter control and efficient resource utilisation reasons.

It was to create a financial disincentive via substantially higher deposits for single trip beer bottles and cans and an additional disincentive for non-refillable bottles by way of the point of sale return for deposit redemption, and to

closely link the deposit levels of non-refillable bottles and cans. The system has worked well and South Australia has an excellent litter control record. It can be argued that the right choice was made for the State and the relative refund and deposit level differentials were successful in moving industry to a committed refillable system.

It is worth noting that the local brewers accepted the situation despite disagreeing when the Bill was first introduced. They made an appropriate massive investment to handle a refillable system. During the past decade the refund paid to the public for refillable bottles has been regularly increased at the request of various Governments and stood at 50c a dozen in 1986. That has been more than double the inflation rate and the result has been an improvement in the collection level of refillable bottles, together with a consequent further reduction of these bottles in the litter stream in South Australia.

During the same decade the deposit on non-refillable bottles and cans has remained at 5c a container, or 60c a dozen. When one considers the service fee of over 30c a dozen paid to marine store dealers for collection of refillable bottles, together with 48c per dozen refund rate, there has been a massive and total reversal of the original deposit refund relativities—in fact, a substantial financial disincentive to the South Australian Brewing Company and Coopers to use refillable bottles. The increase in deposit levels as proposed in the Bill earlier this year on non-refillable bottles and cans from 5c to 15c is only a threefold increase.

So, in fact, it is not even keeping up with inflation and the relativities that existed between the refillable and non-refillable containers would even then have decreased significantly. The failure to maintain those original relativities over the 10 years has opened the way for users of non-refillable bottles, who happen to be interstate—but that is irrelevant—to encroach upon the market. In many instances the law has been ignored. In other instances there has been a token compliance with the letter of the law but hardly with the true spirit of bottle re-use.

Marketers of non-refillable bottles have been allowed to flood the South Australian market with low-cost, attractive, non-refillable bottles, with no financial disincentive and no required system of recovery of the returned bottles. In fact, the combined public refund and dealer allowance for refillable bottles became 40 per cent more than the deposit on non-refillable beer bottles. So, it is no wonder that the Government had been lobbied for changes. It is worth noting that customers wishing to buy beer products in non-refillable containers will not have to pay more for their beer because of the 15c deposit level. They will, however, have to pay a higher premium to litter if they are not responsible and do not return their bottles and cans for refund. The deposit on non-refillable bottles and cans must remain the same at 15c per container on the grounds of consistency.

With the 1976 legislation beer cans were virtually eliminated from the South Australian market. They forced South Australian Brewing and Coopers to move right away from canning line developments, with the result that their competitors have since gone into cost-efficient, high speed canning lines. It is ludicrous to suggest that section 92 is being contravened. I have taken a great deal of legal advice, which seems to be contrary to that which the Attorney-General and the Minister for the Environment have been receiving.

This is no burden on interstate trade whatsoever. Any brewer can sell beer in South Australia as long as he obeys the same laws that apply to everyone. Clearly, the intent of this law has been environmental: it has never been aimed in any way at interstate trade. Of course, I have not had the opportunity to have the advice received by the Government, but when I voted in this place in support of a Bill earlier this year on the basis that the deposits would be 4c and 15c, I took the Government at its word at that time. I now find it changing its word and, by regulation, wishing to change those levels of deposits. The least that it could do is to give me the advantage of the advice that it has received, because I for one am not convinced that what might happen in the High Court is what it is predicting.

I quote from a paper that was presented to the Victorian Government when it had an inquiry into deposit legislation. It was prepared by the Friends of the Earth in collaboration with the Australian Conservation Foundation, with State Government money, in February 1984. I will quote several pages from the document because it is important. It reads:

> The concept of compulsory deposits for beverage containers is not a new one. For more than a decade, legislation affecting carbonated beverage containers has been operating successfully in Oregon (USA). Similar, more limited legislation has been working successfully in South Australia since 1977.

In fact, South Australia has been a trend setter, and the rest of Australia has been looking to South Australia as an example. We now see ourselves backing off. The text goes on:

> Eleven states in the USA now have various forms of such legislation on the books, the most notable being the recent addition of New York State, following a 10-year long campaign by environmentalists and community groups.
>
> Although 'deposit legislation' is clearly beneficial in that it reduces visible litter, and so improves the aesthetic environment, the effect on the issues which environmentalists see as being more important, that is, energy and resource consumption, are less clear. This report attempts to quantify the amount of raw materials that would be saved by implementing two versions of container deposit legislation. The first scenario is based on the South Australian model, with the addition of beer in bottles. The second scenario, which yields the most favourable results, is based on more far-reaching legislation which does not discriminate against carbonated beverages, and so includes fruit juices, wine and spirits, flavoured milks and other non-carbonated beverages as well.
>
> It must be stated at this point, that the savings predicted in the following pages are not achievable without high return rates, of the order of 90 per cent or over. And such return rates will simply not occur until a monetary value is placed on what have been up until now, almost valueless containers.
>
> From the experience in Oregon, and later in South Australia, it has emerged that a two or two and a half cent redeemable scrap value is too low to have the desired effect on increasing return rates to over 90 per cent, the 'threshhold of environmental acceptability'. On the other hand, a five cent deposit does appear to have been adequate in increasing return rates for virtually all types of beverage bearing such small deposits to at least 90 per cent and in the vast majority of cases to between 95 per cent and 97 per cent.

So, certainly the Bill and the amendments are right in that they guarantee a fairly high rate of return. The 4c and 6c deposits are close to that 5c deposit which is seen as necessary to get that high return rate. The text goes on:

> As can be seen from the following table, savings accruing from return rates of 70 per cent and 80 per cent, which can occur with containers which can be easily returned for their scrap value, are not nearly as great as the savings which result from return rates in the order of 95 per cent, as occurs through a deposit system.

One of the hopes that I had for the legislation, which has now been through this Parliament, was that eventually it would start to extend to other forms of containers and that we would encourage as much as possible the return and recycling of materials rather than becoming solid waste, the disposal of which is becoming an increasingly great problem. The text goes on:

> 'Separate Collection at Source' recycling schemes, involving a regular house-to-house pick-up of separated recyclables, usually glass, paper and cans, are an efficient, labour intensive means of recycling a significant proportion of the potentially recyclable segment of domestic wastes. Commonly, such schemes recover 20 per cent to 40 per cent of the total weight of the household's domestic wastes. Far from being mutually exclusive with deposit legislation, such schemes effectively recover large amounts of non-

beverage glass wastes, along with the other materials collected. This 20 per cent to 40 per cent of household waste collected represents between 25 per cent and 50 per cent of the potentially recyclable household generated materials.

An important argument in favour of compulsory deposits is the positive effect on employment. With deposits, capital and resource-intensive one-way containers are displaced by the more labour-intensive returnables, leading to a net gain in employment.

South Australian Brewing Company, for instance, has suggested that it will lose 50 jobs immediately in South Australia, because of the change that the South Australian Government is now making. The text goes on:

Again, the employment benefits from a 70 per cent to 85 per cent return rate (arising from scrap values) are significantly lower than the employment benefits resulting from a 95 per cent return rate, with deposits . . .

Climbing out of a recession does not necessarily mean a large number of new jobs will be created, if the increase in spending is directed towards greater and more rapid investment in capital-intensive technology and process. In fact, employment opportunities can acually diminish!

That is one of the problems we have in the current development trend that we have, not just in Australia but worldwide. We are moving more and more to capital intensive technology and processes, which do not need workers. That is why we have such a high unemployment rate in Australia. It is simply high tech industry that is driving things in that direction. In many industries we can make a choice between labour intensive and capital intensive production. The decision by our State Government is towards capital intensive production, and jobs must go. The text goes on:

In the case of the beverage industry, sales of carbonated beverages have increased approximately 40 per cent over the past 10 years, on an Australia-wide basis. At the same time, this sector of the industry has reduced its workforce by around 40 per cent over this 10-year period.

So, production is up 40 per cent; employment is down 40 per cent. The text goes on:

This loss of employment appears to be a direct result of the shift over the past decade from use of refillable containers to single-use containers, which require much less labour per unit filled than the equivalent refillable package.

This changeover has of course also resulted in a rapid increase in comsumption of raw materials and energy for each unit of beverage sold, as resources and energy have been substituted for labour on the production lines. As the relative cost of resources and energy increases, so does the cost of products which consume large amounts of these commodities, such as 'one-way' beverage containers. Resource-efficient products, such as the labour-intensive refillable glass bottle and the recyclable aluminium can, become very cost competitive in relation to the equivalent 'one-way' package, provided the refillable/recyclable package achieves a high return rate, as they do under the deposit system.

There are a few statistics that I think everyone should be aware of, and I will quote from some very eminent sources. First, I refer to 'Resource and Environmental Profile Analysis of Nine Beverage Container Alternatives', a report put out by the Environmental Protection Agency in the United States in 1974. The report compares various non-returnable containers with a 10 trip refillable bottle and concludes that air pollution would be reduced by between 60 per cent and 70 per cent, and water pollution by between 38 per cent and 49 per cent by the use of refillable bottles.

Another report, commissioned by the United States Congress and prepared by the Resource Conservation Committee in January 1978, is entitled 'The Committee Findings and Staff Papers on National Beverage Container Deposits'. The report compares the steel can and non-returnable bottles with a 10 trip refillable bottle and it concluded that water use savings would be a factor of between 55 per cent and 58 per cent. One final comparison, known as the Baster and Hoffman report, was prepared in Zurich in 1974 for the Swiss Federal Office for the Protection of the Environment and it compared non-returnable containers with a 20 trip returnable bottle (and I point out that in the other comparison it was a 10 trip refillable bottle). The pollution savings were: air pollution, 95 per cent reduction; and water pollution, 84 per cent reduction.

Those three reports come from what I consider to be quite eminent bodies and I believe they all say quite conclusively that we should be looking as much as possible at not only the returnable container but also the refillable reuseable container. The changes made by the Government in this regard in the current regulations have left deposits for cans at 15 cents and reduced the non-refillable bottle to 6 cents. Quite simply, the cost comparisons for the companies between using the non-refillable and the refillable containers are such that they have now put the non-refillable bottle at an advantage.

This State Government has made a decision that non-refillable containers will have the advantage. It made that decision under pressure from Bond Brewing. The Government has sacrificed a number of South Australian companies which abided by South Australia law for the past 11 years; and it has gone back on what it said last February, that is, not wasting resources is a very important principle. So we have started peddling backwards. What will the State Government do if Comalco starts applying pressure about cans? What if it starts threatening to go to the High Court? Will the Government again go to water? I believe that this principle is very important, and I believe that the likelihood of success (at least on the advice that I have been given) is such that we must proceed to the High Court, if that is necessary, because the law we had was good. The proposal to use five cents and 15 cents deposits was good. I do not believe that a State Government should be bullied by large corporations which, I understand, do not have the law on their side, anyway.

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

ENVIRONMENTAL IMPACT ASSESSMENT PROCESS REPORT

The Hon. M.J. ELLIOTT: I move:

That this Council strongly urges the Minister for Environment and Planning to release the report of the Committee of Review of the Environmental Impact Assessment Process immediately.

In moving this motion I really cannot stress too much the importance of this matter. At the moment South Australia faces potentially one of the most disastrous decisions by a Minister or a Government in a long time. What may be (and I stress 'may') at risk is every beach north of Glenelg and a number of other possible environmental consequences. I refer particularly to the Jubilee Point project. I think that, if I outline the problems that have occurred there, members may see why I believe it is so important that this report should be released.

The Hon. C.M. Hill: Have you seen the report?

The Hon. M.J. ELLIOTT: No. The environmental impact assessment process involves, first, the Government setting out the terms of reference or the questions that a company needs to address in what is known as the environmental impact statement. The company then goes away and as best it can answers those questions. At that point the draft environmental impact statement is released and the public can have input. The public have an opportunity to make their observations and express any doubts that they may have about the proposal that has been put forward. Those particular statements or questions are then passed back to

the proponents who then go away and prepare a supplement to the environmental impact statement.

On that being prepared the Government looks at the report and makes a decision on whether or not the project can proceed. I believe that that all seems fairly reasonable on the face of it. The public have had a chance to have an input and, hopefully, a sensible decision is then reached. Perhaps I can best point out the deficiencies by illustrating what has happened with the Jubilee Point project. When the environmental impact statement draft came out earlier this year a large number of people (including a large number of qualified people) were extremely disturbed that a number of the terms of reference which should have been addressed in the original EIS simply were not addressed. That made it very hard for a member of the public to comment on something which was not there. How can you criticise something which is missing?

Nevertheless, it was pointed out that those questions had not been answered and what were considered to be deficiencies in other parts of the report were pointed out. People talked to me about their specific concerns and they included people with Ph.Ds in relevant disciplines: people which Ph.Ds in coastal geomorphology—the sorts of people who could make very valid comments about what was occurring there. They told me that they were very worried, that there were deficiencies and that they could not comment simply because they were not there. Nevertheless, they did the best job they could.

It appears that the State Government realised that that deficiency occurred and, for the first time ever (and I give it recognition for this), it also allowed the supplement to be opened for public comment. That would have been fine, except for what ended up happening with the public comment. People with very detailed knowledge of the sorts of problems that would occur made submissions and the proponents took those detailed submissions and summarised them into what they thought were pertinent points. They decided what were the pertinent points in the submissions. Many important points simply fell out or were grossly simplified. Members of the public who made the submissions had no chance at all to make any comment on the fact that this gross simplification had occurred. So, the proponents answered the questions that they wanted to answer rather than answering the questions that were put by members of the public.

The Nature Conservation Society wrote letters to 80 or 90 of the people who had made submissions on Jubilee Point and asked the simple question, 'Are you happy with the responses that the proponents gave you?' The simple answer from 85 to 90 per cent of them was, 'No, we are not.' The complaints they made were that the quite detailed observations had simply not been addressed adequately. Proponents are obeying the rules as they exist within the environmental impact statement process, but they are getting around the real intention which was that, where people had knowledge, they could put it in and that it would be taken note of. What has happened is very scurrilous. The problem to which I have alluded in the case of Jubilee Point is not a new one. There has been an awareness of it for some time. Why else would the Minister have set up a committee of review to look into the environmental impact assessment process unless there was a perceived problem? He did set up such a committee 2½ years ago and that committee sat for two years. It produced a report and gave it to the Minister over three months ago. It asked the Minister to release the report for public comment, but the Minister has sat on it.

The Minister gave a rather piffling excuse, when given a Dorothy Dix question, that he wanted to show it to his colleagues first. He has had it for three months. Why on earth is he sitting on it? He is very slow with everything anyway, as the time his questions spend on the Notice Paper indicate. Nevertheless, he has had a report from very competent people who spent two years working for him. They are asking for it to be released for public comment and he is refusing. I have no doubt in my mind, although I have not seen the report, that they are saying the same sort of thing as I am saying about Jubilee Point. They are not saying it about Jubilee Point but about the process. The process is deficient—so deficient that mistakes are prone to be made. The process needs to be changed.

The Minister wants to wait until after the current set of projects have gone through and then look at the process. Does that mean that we could have a project under review currently with dire environmental consequences, with the Minister having had warning of it and deciding to ignore it? That is what the Minister is doing and it is an absolute scandal. If the Jubilee Point project goes ahead at this stage, so be it. It will be following the laws of the land. If in 20 years time, more or less, depending on how long it takes for things to go wrong (which they may or may not) who will pay for that mistake? It will not be the Minister, who will certainly be on a pension. The State of South Australia will pay the price of the arrogance of a Minister who, when he consults, fails to do what the consultants suggest. That is damnable.

I am very glad that we now have before us a freedom of information Bill so that the sorts of information which should be open to the public from a Government of a Party that I always thought believed in open government (the only people who believe in open government are those in Opposition: when they get into Government they close the door as quickly as they can)—

The Hon. J.R. Cornwall interjecting:

The Hon. M.J. ELLIOTT: I am not likely to be either, frankly. I join Parties that are growing and not Parties that are shrinking. I join Parties that are consistent on policy and not Parties which are not. If this Labor Government does believe in open government, why cannot reports intended to be public be made public? Why cannot the important processes in which the public are supposed to be involved be made completely public—if the Government is fair dinkum?

The Hon. M.B. CAMERON (Leader of the Opposition): I do not intend to go through any information in relation to the substance of the report. That is not a matter of which I have any knowledge whatsoever, and I do not intend to take up the time of the Council. However, an important principle is involved in this motion. The Hon. Mr Elliott is not seeking to condemn anyone or do anything other than obtain information. Any desire on the part of a member to obtain information in this place would most certainly have my support and that of the Opposition because we believe in open government.

I have obtained a lot of information on the health system without a freedom of information Bill. It would be simpler if there was a freedom of information Bill so that I did not have to receive envelopes containing information and people did not have to put themselves in the position of providing us with such information. I have no hesitation in supporting the desire of the Hon. Mr Elliott to obtain a copy of a report which quite clearly has been around the traps for a long time, from information given by the Hon. Mr Elliott. I have no reason to disbelieve what he says.

With those few words I indicate that the Opposition will be supporting the motion.

The Hon. G. WEATHERILL secured the adjournment of the debate.

SELECT COMMITTEE ON DISPOSAL OF HUMAN REMAINS IN SOUTH AUSTRALIA

The Hon. G.L. BRUCE: I move:

That the report of the select committee be noted.

I draw honourable members' attention to the details that have gone into the report and I urge members to study the report. I also urge members of the community and the wide world outside to note the report. Further, I urge the Government to take heed of the report. A large amount of work by the select committee went into this report. There were four members on the committee—two from each side of the Chamber—and, as usual, my support for the select committee system knows no bounds when it comes to select committees such as this. They work well and efficiently as they are away from the public arena and members get on with the job. This report reflects my view that select committees do good work.

The committee met on 18 occasions and interviewed many witnesses as can be seen on pages 27 and 28 of the report. Apart from interviewing those witnesses, it also received written submissions. The report is based mainly on the disposal of human remains in South Australia. It was a very interesting committee and certainly brings home to the individual that one is mortal. One realises that there is no such thing as immortality when one gets involved in a committee looking at the disposal of human remains. One of the issues that brought about the initial report and the setting up of this select committee was the dispoal of bodies and how they were transported. Members will remember what was called the great salami scandal many years ago when human remains came over in a truck of meat goods; that originally got the select committee going, following the report of the committee appointed by the Government of the day. The report ranges far and wide from the transportation of human remains to the certificate of life extinct and the disposal of a body by permit. I could go through it in detail, but I do not think I need do that. I just need to draw some of the vital points out—

The Hon. J.R. Cornwall: Or the not so vital.

The Hon. G.L. BRUCE: Or the not so vital points. One of the things brought home to the committee was that, since cremation has come into South Australia, the most common method of disposal is cremation. We have recommended that the treatment of a body for burial and cremation should be the same. There was a big push for a certificate of life extinct. We looked at that and considered it was not necessary in the context of the evidence we received, and we have given a recommendation on that. We considered whether there should be a referee for the disposal of the body. We considered that in great detail and finally decided that a person need not be appointed from the Coroner's Office to be a referee, but we recommended that the death certificate be signed by a second medical practitioner in appropriate circumstances.

We went into many things in great detail. Other speakers will touch on more of those things. I commend the report for reading by members. One of the things of interest, and it was in yesterday's *News*, was that the committee recommended that the disposal of bodies without a coffin—non-coffin burial—be permitted. An article in yesterday's *News* stated that Victoria had given that concept away. In Victoria, the bodies had to be encased in a plastic bag. According to the article, one of the reasons why it was given away was that the ordinary person was trying to arrange non-coffin burials, and it appears to my mind that the only reason they would do this would be the cost factor. We have covered that fairly well by saying it should be only a person in accordance with Islamic practices and rites. We state further that the issue of permits for this type of burial should be only for ethnic and religious groups in accordance with accepted practices and rites.

The Hon. R.I. Lucas: There might be mass conversions to Islam.

The Hon. G.L. BRUCE: That could be, but I very much doubt it. The safeguard that we have included would prevent the ordinary person from getting a burial on the cheap, without a coffin. With that type of religion, the person buried just with cotton cloth wrapped around them is buried by close relations. The transportation of a body to the graveside in those circumstances is carried out in the normal manner but, from then on, the relations take over and handle the body. My view of what has happened in Victoria is that, if they are getting the ordinary Tom, Dick and Harry trying to arrange the ordinary cotton shroud type of thing, they would not have the relations and are probably looking for funeral directors to do it. Our intention was not that at all—it was purely on religious and ethnic grounds. The evidence given to us was that there was a very strong feeling by those people that they had to have their close relatives handle the body and nobody else. We have not even made allowance for a plastic bag, other than where there is contamination of the body and health requirements specify that a plastic bag is required.

The Hon. C.M. Hill: That is a very good decision, too.

The Hon. G.L. BRUCE: We thought so. We felt the freedom of choice for a burial, where it did not interfere with other individuals in the community, should be recognised. There was quite a bit of discussion on the composition of coffins. Because of the competition now, we have laid down that there should be criteria established but it should be left, if I recall correctly, to the Health Commission to decide the criteria for coffins. Because we recommended burial other than in the ground—we have mausoleums—there has to be a standard for a coffin that is to be above ground. We had submissions from many people relating to that type of burial. In our wisdom we felt it should be possible in South Australia where the cemetery authority felt there was some merit in it and wished to set up their cemeteries so that mausoleums were provided for. We did not feel that mausoleums should be on a vast scale. We laid down standards to which they should be built. There should be a minimum standard laid down by the health committees, but it could be built in line with those standards by a private contractor. We did not think there was any merit in having a specific person dedicated to building those mausoleums.

All in all, it was a very interesting committee. I would like to congratulate my fellow members of Parliament who were on that committee. I believe that they all worked well. We had the luxury I suppose, if you like, of having the Hon. Dr Ritson on it. He had an amount of knowledge that related to some of the finer points because of his medical background and that helped make the work of the committee much easier. I believe that the witnesses who came forward presented their evidence in a forthright and fair manner and I have nothing but praise for the committee and the witnesses. The report satisfies all of the queries and complaints that came before the committee. I have no

hesitation in recommending it to the Chamber as something that should be the basis of new rules on the disposal of human remains. We have changed some of the Acts. We have eliminated quite a number of Acts relating to the disposal of bodies and we have streamlined the whole procedure. I hope that the Government takes cognisance of this and in its wisdom acts fairly rapidly to bring in what I consider is a very streamlined and efficient way of disposing of human remains in South Australia.

One of the main things we did was put a 25 year limit on burials, but people have the right of renewal of leases. Cemeteries may be re-used after 100 years and 25 years after the last body was buried in that cemetery. So, the re-use of cemeteries and the recognition that they may be reclaimed or re-used is an important concept. When we travel interstate and see particularly how Melbourne has cemeteries that do not have a re-use provision and people have to travel 25 and 30 miles out for burials, we realise what an important provision it is. While we have wide open spaces in South Australia and Australia, it does not necessarily mean there can be unlimited ground made available for cemeteries, especially in the cities. I commend this report to Parliament and to the Government and hope that it fulfils all the wishes that were presented to this committee.

The Hon. R.J. RITSON: I support the motion. I thank my parliamentary colleagues on both sides of the Council who served with me on the committee. This is yet another example of the usefulness of this Council in relation to committee work. When the Government receives a report or recommendation from its officers which would require major legislative change it is, at times, useful and proper that the Government submit propositions for such change, not in the form of a Bill which, in the Committee stage, may perhaps last a day, but to a committee of the Parliament well in advance. Thus, while not being bound by the recommendations in such a report, the Government receives evidence from a wide section of the community and has a very good indication as to the sorts of changes that the Parliament may ultimately accept.

There have been some exceptions to the value of the select committee system. I will not go into it in detail, but one or two select committees during my seven years in this Parliament have been simply an adversary stand-off. However, for the most part they have been very useful information gathering and attitude forming instruments—useful to the Government, the Opposition and the community.

The matter now before us had several not very closely related agenda which made it a most interesting committee because the different agenda touched at various points. First, there was the question of the funeral industry, and different funeral directors had varying attitudes. Without meaning any disrespect to any of them, it was quite clear that there were legitimate but slightly conflicting vested interests in the industry and some desire, perhaps, to make the industry a closed shop. The committee examined that question and found that the sorts of malpractices which we were urged to pre-empt by taking measures such as licensing of funeral directors were, in fact, matters already able to be controlled under existing law. The committee, perhaps in a spirit of deregulation or anti-overregulation, felt throughout its deliberations that wherever possible it would look at submissions and decide whether matters could be dealt with under existing law rather than introducing new regulations. We decided that there was no need for the licensing of funeral directors.

The question of the reuse and redevelopment of cemeteries is an interesting matter. To a number of people it would be an emotional matter because people perhaps like to think that a grave is something that will remain the same and sacred for eternity. The graves of particularly famous people tend to remain thus for some centuries, but for the most part the evidence was that after two or three generations the next-of-kin had lost all attachment to the grave site and to the memory of their forefathers, and the cemeteries are left with maintenance costs and neglected ground.

Evidence from people who visited us from Melbourne indicated that in that State there is a crisis in relation to the availability of burial ground. The committee had to balance the rights of people to secure burial ground, and to have that respected and dedicated to the remains of their loved one, against the fact that all of the evidence indicates that for the most part after several generations the grave is forgotten. We decided, as a balance between those factors and the interests of the citizens of the future whom we do not want to have to travel 50 kilometres to a funeral, that we would recommend, as we have done, the 25 year lease with rights of renewal detailed in the report, and then with reuse of the burial ground.

The question of the medical referee was of great interest to me as a medical practitioner. It was put to us that there was a need to increase the autopsy rate in South Australia and that there were dangers that medical certification might be incomplete and that both scientific knowledge and patients' rights in relation to matters such as workers compensation might be lost. Indeed, there was a small amount of evidence—a few cases were cited—where traumatic causes of death were certified as such and slipped through the registry without autopsy or inquest.

The quantity of this evidence, and the amount of social wrong flowing from it, was not terribly impressive to the committee. The committee had to consider what might be gained by instituting the measures in the original Government report, namely, the establishment of the statutory authority of medical referee. In the end the committee decided that the primary responsibility is to the living, and that the recommendations from the medical referee and the certificate of life extinct had certain clinical and financial ramifications which we sought to avoid.

In relation to the certificate of life extinct, some of the Minister of Health's institutions which have visiting medical practitioners but no resident medical practitioners would have been affected by this. We received submissions in relation to the cost of people being called back to sign this form in respect of a patient that they had seen perhaps only an hour before when death was imminent and all the clinical information necessary to sign the formal death certificate the next morning was available. The committee had mind to situations in which locum medical officers may attend a nursing home, for example, and make a note in the case notes, but not have sufficient knowledge to sign the full certificate which would, in fact, be done the next day by the doctor who knew all the details of that patient's health.

The committee had mind to some of the problems that would be envisaged in decentralising this system of certificate of life extinct and the office of medical referee throughout remote areas of the State. In the end we decided that it would be valuable to tighten up the provisions for certifying death and the disposal of bodies, but not by creating a new statutory authority. We recommended that a second form be signed by a second medical practitioner in the case of burials, just as there is in the case of cremations, and that that second form would be a certificate by another medical practitioner that the death did not appear to be a type of death which ought be reported to the Coroner. We also recommended that that form carry on its face, amongst

other things, the guidelines for referring deaths to the Coroner.

We hope that in due course the Government will devise such a set of forms, part of which will constitute a permit for disposal, which would be handed in at the cemetery and subsequently transferred to the Registrar of Births, Deaths and Marriages. That slight amount of additional paperwork in the case of those people who are being buried would bring the paperwork up to no more than that involved with people who are presently cremated. It would be an added precaution against the disposal of bodies that ought for some reason or other to have been referred to the Coroner. I hope that the Government finds that recommendation more attractive than the creation of a new statutory authority.

The report is essentially a report on a report, and therefore has to be read carefully in that light. The various people concerned—the funeral industry, the Government of the day, the medical profession, and the controlling authorities of cemeteries—have all made some gains if these recommendations are implemented, and they have all been protected, I hope, against some of the more bureaucratising recommendations that were in the original report, that we were instructed to examine. So, I do not envisage any real problems or objections to these proposals in the community, and I look forward with interest to seeing what the Government of the day will make of our recommendations.

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

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.
(Continued from 22 October. Page 1328.)

The Hon. M.J. ELLIOTT: I support the Bill and I imagine that it will probably have a fairly speedy passage through this Council and another place because, back in July 1984, the Hon. Mr Sumner himself announced that he intended to introduce freedom of information legislation in the following year. Indeed, I would have expected the Hon. Mr Sumner to have a Bill produced last year. He stated:

> The proposal proved the Bannon Government was serious about freedom of information and it displayed a proper balance between a commitment to open Government and the proper protection of privacy.

We now see the Liberals introducing such a Bill and, as the Hon. Mr Gilfillan has pointed out, Democrat policy would go even further than this current Bill goes.

The Bill that the Hon. Mr Cameron has introduced is identical in most instances to the Victorian legislation introduced by a Labor Government. That being the case, I will be intrigued to see what sort of problems the Government might see with such legislation. I should imagine there will be howls of protest from certain sections of Government agencies about the introduction of this legislation, and I imagine that they would be suggesting to their Ministers that they are not ready for this kind of legislation and that they do not have the financial and staffing resources to service such requests.

I do not see this as a major problem. In fact, the Victorian experience has been that, although there was an initial rush, that rapidly died down and certainly the Government would be in a position where it could proclaim the Bill once the agencies got their act together, as long as they did not sit on it for too long. Whilst I am sympathetic with public servants and Government agencies working under quite extraordinary budgetary constraints and staffing cuts today, nevertheless freedom of information is here to stay.

It is here to stay because the overwhelming majority of the community requires it to be so. In fact, that majority demands as a legislative right that the Government of the day of whatever Party be accountable for the decisions it makes and for the process by which it arrives at those decisions. Quite rightly it demands access to those decisions and processes. Of the various reactions that I have received to this Bill, by far the most prolific is that of over reaction to the implications to this kind of legislation couched in terms such as, 'If all else fails, resort to the exempt document section.'

While this kind of reaction could be described as somewhat unreasonable, it seems to be the standard reaction that accompanies the introduction of such legislation. I believe that it illustrates nothing more than unpreparedness on the part of those agencies who need to give effect to the public's right of access to official documents that they hold. I submit that Government agencies would never be ready for freedom of information legislation unless this Parliament told them that they needed to be ready and that they must proceed.

Commonwealth legislation has now been in place for several years and in that regard I quote briefly from the joint annual report of the Commonwealth Ombudsman and the Defence Force Ombudsman for 1985-86 where, in regard to freedom of information complaints, they state:

> Our impression during the year has been that agencies—particularly those whose FOI requests come mainly from clients seeking personal information—are becoming more comfortable with the notion of public access to official files, although there continue to be concerns about resource implications. There is now more often a presumption that access should be granted subject to checking whether exemptions really need to be claimed whereas in earlier days the main emphasis seemed to be to claim any apparently available exemption.
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> Delay in processing requests, usually involving breach of the statutory time limits, continues to be a major theme of complaints. Unfortunately our ability to obtain a quick and effective remedy for complainants, when we identify delays, is limited. We can certainly bring about expedited processing in some cases, and encourage agencies faced with complex requests to make staged releases or discuss with the complainant a more workable definition of the parameters of the request. However, with requests involving substantial research or consultation with other agencies on important exemption issues, for example, we may be able to do little to assist. While this of itself does not mean that the current statutory time limits are unreasonable, the fact that breaches of those limits may, in the absence of effective enforcement processes, be inevitable is a matter of some concern.
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> This year saw the first occasion on which we made a formal recommendation to an agency, under section 15 of the Ombudsman Act, that documents claimed to be exempt should be released; the agency accepted our recommendation (case study 'Third party allegation' in chapter 3).

Clearly, the report of those two Ombudsmen with a few years of hindsight shows that freedom of information has worked extremely well at the Federal level. I am pleased to see that Government agencies have become adapted to that idea and, Ms President, that exemptions have decreased markedly. The oral reports that I have been getting from people in Victoria are along similar lines, that there was an intial burst of many people wanting to gain information, that there were similar problems with exemptions, but that has now died away and the legislation is working reasonably well.

Already in this place today I have had need to move a motion to gain access to certain information which I believe should have been public months ago. There is nothing in it which is unreasonable for any member or for the public to want to have. That was a report of a committee of review into environmental impact assessments. That committee even asked that the report be made public and the Minister

decided, for whatever reason, not to do so. That sort of thing is simply not on and would not occur under freedom of information legislation. For that reason I strongly support the Bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act 1934. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

It makes a number of amendments to the provisions of the Local Government Act relating to the conduct of local government elections, based on the recommendations of the Local Government Election Review Working Party.

In 1984 as part of the first stage of the Local Government Act revision the electoral provisions of the Local Government Act were rewritten and the new provisions were used for the 1985 local government periodical election.

Following the election the then Minister of Local Government appointed a working party comprised of representatives of the Local Government Association, the Institute of Municipal Management, the Municipal Officers Association and the Department of Local Government to review all aspects of the 1985 periodical election. The working party considered the results of the 1985 periodical elections to determine whether the objectives of the prescribed counting systems were met and received a large number of submissions recommending variations to the administrative arrangements for the conduct of elections.

The working party reported in June of this year and in relation to the performance of the electoral systems said that both the optional preferential and proportional representation systems had achieved their objectives and while concluding that proportional representation is the fairer and more equitable method, where two or more candidates are to be elected, it did not consider it necessary for the method to be made mandatory as it considered councils will voluntarily move to adopt the proportional representation system.

With respect to the administrative provision for elections the working party made a number of recommendations for amendment, which it believes will facilitate the conduct of elections. Some of the more important recommendations are:

- that councils in rural areas with small numbers of electors be permitted to use a postal ballot in lieu of opening polling booths;
- to permit the primary count to be conducted in the polling place in lieu of a central polling place to assist in speeding up the counting process;
- to permit 'How-to-Vote' cards to be displayed in polling places.

The report was released for public comment and I am pleased to say that the working party's recommendations received widespread support, with two exceptions, the first a recommendation that where a group of persons had failed to nominate an agent that the first member of the group in alphabetical progression should be enrolled. The second a recommendation that advance polling places, which would operate in the same manner as a polling place on the day of the election, be established to receive votes prior to the day of the election. Neither of these matters has been included in the Bill.

One matter dealt with in the Bill, but not flowing from the report of the working party, is an amendment which will allow the Governor to suspend the periodical elections in any area affected by a proposal for amalgamation of areas which is before the Local Government Advisory Commission. Honourable members will be aware of moves emanating from within local government to rationalise the boundaries of councils and presently there are a large number of proposals before the Local Government Advisory Commission. It is clear that the commission will not be in a position to deal with all of these matters before the May 1987 periodical election and it would be unreasonable to ask the councils affected to conduct an election in May 1987 and if any of the proposals for amalgamation are accepted to conduct a further election in the short term thereafter.

In addition to the amendments to the electoral provisions there are several other amendments included in the Bill to overcome administrative difficulties which have recently arisen in relation to the operation of the Act which are more fully explained in the clause explanations. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 provides that an electoral officer engaged by a returning officer is, for the purposes of this Act, an officer of the council.

Clause 4 proposes a new section 48. The new provision is substantially the same as existing section 48 except that new subsection (5) provides that where a member of a council has been convicted of an indictable offence then proceedings for the supplementary election to fill the resultant vacancy must not be commenced until all appeal processes have been determined.

Clause 5 amends section 49 of the principal Act to provide expressly that all allowances other than those payable to a mayor or chairman are payable in arrears.

Clause 6 inserts a new subsection in section 60 of the principal Act to confirm the practice that the chief executive officer initially presides at a meeting at which a chairman must be elected or a member appointed to preside.

Clause 7 provides for the enactment of a new section 91. The new provision is substantially the same as the existing section except that:

(a) an additional provision provides that where a person is nominated to act as an agent for a body corporate or group the person must be an officer of the body or a member of the group;

and

(b) provision is made for the chief executive officer to request a person who is enrolled as a resident to indicate whether he or she is still resident at the relevant address and if a reply is not received within 28 days or the reply is that the person is no longer resident at the address, it may be assumed that the elector is not resident in the area or ward.

Clause 8 amends section 92 of the principal Act to provide that the closing dates for a revision of the voters' roll are to be the second Thursday in February and the second

Thursday in August (a month earlier than what is presently the case). It has been submitted that the present provision, as it applies to periodical elections in May, does not allow nominations to be checked for validity as they are received.

Clause 9 amends section 94 of the principal Act in two respects. First, provision is made for the Governor to suspend the holding of periodical elections for councils that are subject to a proposal for amalgamation before the Advisory Commission. Secondly, the section is to be amended to provide that supplementary elections must be held as soon as practicable after the occasion for the election arises.

Clause 10 provides for the amendment of section 96 of the principal Act. New provision must be made for the close of nominations and new subsection (15) provides that each candidate nominated must be given a copy of Division X (Illegal Practices), thus ensuring that a candidate cannot subsequently claim that he or she did not know of the provisions that apply under that Divison.

Clause 11 provides for a new section 97. This provision includes two additional matters that will cause an election to fail. The first is where a candidate, after the close of nominations but before the conclusion of an election, ceases to be qualified for election; in such a case it is thought to be appropriate to provide that the election fails and a supplementary election must be held at a later time. (This will allow persons who supported the nomination of the candidate to nominate someone else.) The second situation is where the candidate becomes seriously ill. However, to ensure that a candidate is not influenced by other considerations, the notice that the candidate is withdrawing must be accompanied by a certificate of a legally qualified medical practitioner certifying that the candidate is too ill to carry out satisfactorily the duties of a council member.

Clause 12 provides for the amendment of section 99 of the principal Act. The form of a ballot paper for use at local government elections is not presently prescribed, with the result that at the 1985 periodical elections there were a number of variations, particularly in the nature of the directions given to voters. Accordingly, it is intended to provide that a ballot paper must conform with any requirements imposed by the regulations.

Clause 13 provides for a new section 100. A new subsection similar to section 76 (3) of the Electoral Act 1985, is to be included to provide that a tick or a cross appearing on a ballot paper is equivalent to the number 1. Furthermore, provision is to be made for a series of numbers to be regarded as valid even though all of the numbers on the ballot paper may not be correctly marked. The existing provisions of the Act would not allow a series in such a situation to be valid even though the voter's intention is at least to some extent clear.

Clause 14 provides for the amendment of section 106 of the principal Act. Section 106 (4) of the Act presently provides that advance voting papers must be delivered by post addressed to the place of residence of the applicant. However, many of the people who apply for advance voting papers are temporarily absent from the residential address shown on the roll. Provision is therefore to be made so that the advance voting papers may be sent to an address shown on the application.

Clause 15 provides for a new section 106a of the principal Act. This provision will allow voting to be carried out by post in a proclaimed area or ward. Under the proposed scheme, voting papers will be delivered by post to all electors and they in turn will be able to vote and then return the papers by post.

Clause 16 makes a consequential amendment to section 107 of the principal Act.

Clause 17 provides for the amendment of section 109 of the principal Act. It may be the case that advance voting papers are not received by an elector or are lost and so provision is to be made for new papers to be issued in these two situations.

Clause 18 is a consequential amendment on the enactment of new section 106 (9).

Clause 19 provides for a new section 112a relating to how-to-vote cards.

Clause 20 amends section 121 of the principal Act in several respects. One amendment will allow some preliminary sorting of ballot papers to occur at the polling place after the close of counting and before the ballot boxes and papers are transmitted to the returning officer. A second amendment provides for counting where all the votes have been cast through the use of advance voting papers. A third amendment reduces the time within which a recount can be requested or initiated from 72 hours to 48 hours. Finally, an amendment will clarify the procedures that apply on a recount.

Clause 21 revamps section 122 (3) of the principal Act. In particular, the provision will allow a council to choose the method of counting to apply at the next periodical elections up to three months before those elections.

Clause 22 inserts a new section 123a which will facilitate the use of electronic equipment of a prescribed kind in counting votes.

Clause 23 amends section 133 of the principal Act to clarify responsibility for the publication of electoral material as letters to the editors of newspapers.

Clause 24 allows a council to become involved in proceedings on a disputed return. In some cases it may be fair and reasonable that the council participate in the proceedings, particularly if the election is being challenged on the ground that the council has failed to comply with a requirement of the Act. However, the court must be allowed a discretion in relation to this matter and if the council is allowed to intervene in the proceedings it should only be to such extent as the court directs.

Clause 25 amends section 144 of the principal Act to provide that costs may be awarded in favour of or against a council that has become involved in proceedings.

Clause 26 amends section 303 of the principal Act so as to enable councils to declare public pathways and walkways as public roads for the purposes of the Act (and thus allowing them to be opened or closed under the Roads (Opening and Closing) Act).

Clause 27 amends section 359 of the principal Act so as to allow part only of a street, road or public place to be closed on a temporary basis.

The Hon. C.M. HILL secured the adjournment of the debate.

COMMERCIAL TRIBUNAL ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Commercial Tribunal Act 1982. Read a first time.

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

That this Bill be now read a second time.

It amends the Commercial Tribunal Act 1982. Since the beginning of 1986, the Commercial Tribunal has acquired jurisdiction under the Landlord and Tenant Act 1936, the Second-hand Motor Vehicles Act 1983, the Second-hand

Goods Act 1985 and, on 10 November 1986, under the Land Agents, Brokers and Valuers Act 1985.

It has developed essentially two functions. The first is the licensing function, envisaged when the Commercial Tribunal Act 1982 was first passed. The second, which has become more extensive is a dispute resolution function. The second function, when the tribunal is often required to act as though it were a court, has revealed some inadequacies in the principal Act, essentially in relation to the enforcement of non-pecuniary orders.

The Bill provides for the appointment of a number of Deputy Commercial Registrars in addition to the Commercial Registrar. However, it enables delegation of tribunal functions only to those registrars who are legal practitioners, and the requirement that the Commercial Registrar be a legal practitioner is maintained. It provides for the review by the tribunal of decisions formerly made by a registrar, as an alternative to, and not in substitution for, an affected party's rights of appeal.

It overcomes the anomaly in the principal Act which provides for a means of enforcement of orders of the tribunal for the payment of pecuniary sums, but not for orders of any other kind. It makes a failure to comply with non-pecuniary orders a contempt of the tribunal. A contempt is made punishable by fine, either by prosecution for a summary offence, or by the tribunal. The provisions for enforcement of orders for payment of money are unchanged.

The Bill makes a number of other amendments in the nature of statute law revision, as set out in its schedule. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends section 4 of the principal Act which deals with interpretation.

Clause 4 provides for the repeal of section 10 of the principal Act and the substitution of a new provision. The new provision is substantially similar to section 10 of the principal Act except that in addition to the Commercial Registrar there shall be one or more deputy commercial registrars. A registrar (being either the Commercial Registrar or a Deputy Commercial Registrar) who is a legal practitioner may, with the approval of the tribunal, exercise the jurisdiction of the tribunal in relation to matters of a prescribed class.

Clause 5 amends section 15 of the principal Act by substituting 'a registrar' for 'the Registrar' and by striking out the contempt provisions which are provided for in clause 11 of the Bill.

Clause 6 amends the heading to Division IV consequential on the amendment contained in clause 7.

Clause 7 inserts a new section 21a providing that a party to proceedings in which the jurisdiction of the tribunal is exercised by a registrar may, within one month of the decision or order of the registrar, apply to the tribunal for a review of the decision or order.

Clauses 8, 9 and 10 amend sections 22, 24 and 25, respectively, of the principal Act consequential on the amendment proposed in clause 4 of the Bill.

Clause 11 provides for the insertion of two new sections in the principal Act. The proposed section 25a sets out the actions which constitute a contempt of the tribunal. The proposed section 25b provides that a contempt of the tribunal may be prosecuted as a summary offence or dealt with by the tribunal and, in each case, be punishable by a fine not exceeding $10 000.

Clause 12 is an amendment consequential on the amendment proposed in clause 4 of the Bill.

Clause 13 provides for the making of various other amendments to the principal Act which are being made in conjunction with the proposed reprinting of the Act.

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

STATUTES AMENDMENT (EXECUTOR COMPANIES) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the ANZ Executors and Trustee Company (South Australia) Limited Act 1985, the Bagot's Executor Company Act 1910, the Elder's Executor Company's Act 1910, the Executors Company's Act 1885 and the Farmer's Cooperative Executors Act 1919. Read a first time.

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

That this Bill be now read a second time.

The purpose of this Bill is to amend the enabling Acts of the five South Australian executor and trustee companies. The amendments are designed to enhance the ability of the statutory trustee companies to provide an efficient service for their clients and to compete on an equal footing within the extremely competitive financial markets. In essence there are four amendments made to each of the enabling Acts with the exception of the ANZ Executors and Trustee Company (South Australia) Limited Act 1985, in which case one particular amendment was not necessary.

First, the enabling Acts are amended to allow companies to charge against their common funds an administration fee. The companies have argued that the necessity to charge a fee has arisen from the deregulation of the financial industry and the increased competitiveness in the market. Trustee companies have been forced to increase salaries to attract the correct investment staff and have introduced sophisticated EDP systems. They have been forced to outlay more funds for advertising and improved investor reporting and have been open to increased audit costs both external and internal. The fee provided for in the Bill is equivalent to 1 per cent of the value of the fund per annum and is equivalent to the fees charged in Queensland, New South Wales, Victoria and Tasmania. The Western Australian fee is half a per cent, but that dates back to 1974.

Secondly, the Bill contains amendments to the provisions relating to the valuation of common funds. At present the statutory trustee companies are required to value their common funds on the first day of every month. Payments out to clients during that month are then calculated on the basis of that valuation. This procedure was appropriate where investments were not volatile. However, companies are now offering cash management and equity funds which can be extremely volatile. If these funds are not valued at more appropriate intervals, then investors can be disadvantaged depending on when they decide to withdraw from the fund. The fund itself may be subject to runs where the asset value has dropped, but payments out must be made on an inaccurate historical valuation. So that statutory trustee companies can operate on an even footing with other fund managers and to increase the security of their funds, it is appropriate to amend the enabling Acts to allow valuation to be made on dates determined by the respective companies.

The third set of amendments relates to the ability of the companies to charge a fee or commission in relation to

services for clients who are *sui juris* without having to seek approval of the court. The Bill allows the statutory trustee companies to negotiate fees with *sui juris* clients, but retains the necessity for the companies to seek approval of the court for the setting of fees in relation to services provided to beneficiaries who are minors or disabled persons. Providing companies with the ability to negotiate a fee brings their powers in line with those of statutory trustee companies in the other States.

The final amendments remove the restriction on the companies, when acting under a power of attorney, to exercise powers and discretions by the manager or any two directors only. These provisions are unduly restrictive and not commercially practical. The ANZ Executors and Trustee Company (South Australia) Limited Act 1985 is not amended in this way as that company was never subject to this restriction. The above amendments were requested by the companies themselves and the Government in the furtherance of its policy of supporting legitimate business aims is happy to implement these amendments which will increase the efficiency and security of the operation of statutory trustee companies in South Australia. I commend this Bill to the Council. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for various amendments to the ANZ Executors and Trustee Company (South Australia) Limited Act 1985. The amendment effected by paragraph *(a)* is consequential on proposed new subsections (6) and (6a) of section 8. Under the amendments contained in paragraph *(b)*, the company will be entitled to charge commission either under section 8 or under an instrument and court approval will not be required in relation to the charging of a commission or fee independently of the section unless a beneficiary of the particular estate or trust is a minor or a person under a disability. Under the amendment contained in paragraph *(c)* the company will be required to value the investments for each common fund held by the company on the first business day of each month and, at the discretion of the company, on such other days of the month as the company thinks fit. Paragraph *(d)* contains a consequential amendment. Under the amendment contained in paragraph *(e)* the company will be required to effect investments in and withdrawals from a common fund on the basis of the most up-to-date valuation. The amendments effected by paragraph *(f)* will allow the company to charge an administrative fee against a common fund. The fee will be chargeable on a monthly basis and will not be able to exceed one-twelth of 1 per cent of the value of the fund as at the first business day of the particular month.

Clauses 3 to 6 (inclusive) contain similar amendments to the various other Acts to be amended by this measure. The only additional matter is contained in paragraph *(a)* of each of the clauses, which will allow each company acting under a power of attorney to delegate its powers and functions to an officer of the company (instead of the present situation where the manager of the company or two directors must act).

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

The Hon. T.G. ROBERTS: Mr Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

LITTLE SISTERS OF THE POOR (TESTAMENTARY DISPOSITIONS) BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to apply certain testamentary dispositions in favour of the Little Sisters of the Poor for the benefit or extension of the nursing home or hostel conducted by Southern Cross Homes Incorporated at Myrtle Bank; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

It allows for the vesting in Southern Cross Homes of testamentary gifts and bequests expressed to be in favour of the order of nuns known as the Little Sisters of the Poor and in connection with the nursing home formerly operated by the sisters at Myrtle Bank. Southern Cross Homes Incorporated is a non-profit organisation providing homes and accommodation for elderly and indigent people. One of its main activities is a major nursing home at Marion but on 24 February 1983 it took over the operation of the nursing home at Glen Osmond Road, Myrtle Bank, formerly operated by the Little Sisters of the Poor South Australia Incorporated. That order of nuns has now ceased to operate in South Australia and has concentrated its activities in the Eastern States.

Southern Cross Homes Incorporated is carrying on the nursing home and hostel at Myrtle Bank by providing accommodation for elderly people who cannot afford accommodation at resident funded nursing homes. The Government is advised that it has been the practice for many years for some people to make provision in their wills for the nursing home at Myrtle Bank and the general form of the bequest has been to 'the Little Sisters of the Poor at Glen Osmond (or Myrtle Bank)'. As the Little Sisters of the Poor now no longer operate within South Australia and as Southern Cross Homes Inc. has now taken over the operation of the nursing home, Southern Cross Homes have requested legislation to provide that bequests and gifts to the Little Sisters of the Poor at Myrtle Bank vest in Southern Cross Homes.

This Bill has been prepared in consultation with the solicitors for the Little Sisters of the Poor Inc. Because it is a hybrid Bill it will have to be referred to a select committee of the Council after it has been read a second time. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 gives the Bill a retrospective operation to the date on which Southern Cross Homes Incorporated first took over the conduct of the nursing home. Since that date some bequests to the Little Sisters have been executed in favour of Southern Cross Homes Incorporated. The intention in making the Bill retrospective is to ensure the legality of the execution of those bequests.

Clause 3 provides that certain dispositions referred to in subclause (1) shall be for the benefit of the nursing home or hostel, at Myrtle Bank. It may well be that after 24 February 1983, but before the enactment of this legislaton a disposition of a kind referred to in subclause (1) was executed in a manner contrary to that subclause. Subclause (2) ensures that, despite the retrospective operation of the Act, such an execution shall not be invalid. Subclause (3) ensures that surrenders and releases are included in the Bill.

The Hon. C.J. SUMNER: I indicate that, with the cooperation of the Opposition, I will move, as soon as the Hon. Mr Griffin has responded, that the Bill be referred to a select committee today so that the select committee can hear evidence and hopefully the Bill can pass before the Christmas break. Southern Cross Homes has requested that that occur if possible and I am happy to facilitate it with the cooperation of the Opposition. In doing this today it merely means that the select committee will be established and have to receive evidence and make a recommendation to the Council. There will then be a further chance to debate the matter and decide whether the Council should pass the Bill.

The Hon. K.T. GRIFFIN: The Opposition is prepared to support the second reading of this Bill to facilitate the establishment of a select committee. As the Attorney-General has indicated, because it is a hybrid Bill it must be referred to a select committee as it changes the beneficiaries who may be named in wills prepared up to the present time and hereafter. It is a not uncommon practice to refer matters such as this to a select committee of the Legislative Council. A number of issues need to addressed, and several come to mind immediately. One such issue is that a testator may have provided for a devisal or bequest to the Little Sisters of the Poor and may have also provided that, in the event of that body not being in existence at the date of death, the property should devolve to some other beneficiary or beneficiaries. The Bill does not address that issue and in my view it at least ought to be considered by the select committee. The Bill is to be retrospective to 24 February 1983.

I generally have no difficulty with that, except that there will need to be questions raised about wills which have come into operation by virtue of the death of the testator between that date and the present time, where there may have been a provision for a devisal or bequest to the Little Sisters of the Poor but, because they no longer carry on that work, some other provision of a will may have come into effect. I would not want to see any provisions of wills which have become operative in the intervening period from 24 February 1983 to the present time in fact set aside by virtue of the operation of this Bill.

I have no disagreement with the principle of the Bill. The Knights of the Southern Cross have obviously taken over the charitable work of the Little Sisters of the Poor at the nursing home at Glen Osmond, and I think most people who know of the work of the Little Sisters of the Poor relate it to the nursing home facilities at Glen Osmond Road, Myrtle Bank. Any persons intending to benefit the Little Sisters of the Poor or to benefit the work of that order at Myrtle Bank would quite obviously have had in mind the nursing home facilities at that location. So, one can see a general spirit in which the Bill is framed. There is logic in it, in the light of the work of the Little Sisters of the Poor having ceased, but there are some important questions having legal connotations and consequences which must be addressed. To facilitate the consideration of those matters and others, and also to give persons who may have an interest in the Bill an opportunity to make submissions, I am prepared to support the second reading.

Bill read a second time.

The PRESIDENT: As this is a hybrid Bill, it must be referred to a select committee.

Bill referred to a select committee consisting of the Hons J.C. Burdett, K.T. Griffin, C.M. Hill, Carolyn Pickles, C.J. Sumner, and G. Weatherill; the quorum of members necessary to be present at all meetings of the committee to be fixed at four members; Standing Order 389 to be so far suspended as to enable the Chairman of the committee to have a deliberative vote only; the committee to have power to send for persons, papers and records, to adjourn from place to place, and to report on Tuesday 2 December.

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

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

Motion carried.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 21 October. Page 1262.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading of this Bill. Although it would have preferred to see substantive amendments to the Trespassing on Land Act so that people living in the rural areas of South Australia would have a reference point for dealing with trespass in a separate piece of legislation, that objective is not possible to achieve in the current context. However, in the context in which this matter is now raised, we are prepared to support the second reading and propose to move a series of amendments to tighten it up so far as trespass is concerned. The Government formed a working party to prepare a discussion paper on trespass on private land and the criminal law. That was published in June 1985. It makes a comprehensive review of the law relating to trespass and legislative enactments in South Australia, other States and countries. One of the disturbing observations of the report is that, in reaching its conclusions, the working party made the statement:

The following considerations may weigh against any extreme change to the law of trespass to private land in this State.

Paragraph 6 provides:

That as society becomes more and more mobile and pluralistic, the law will be required to meet further changes in competing attitudes to the ownership of property and the enjoyment of the environment. Therefore, any attempt to codify the law could ossify its ability to respond sensitively and adequately to meet such new demands.

That is a particularly threatening paragraph. It suggests that there are to be some quite remarkable changes in the way property ownership is to be regarded in this State. The mere argument that some attempt to codify the law could ossify its ability to respond sensitively and adequately to meet such new demands is a new criterion for determining whether or not legislation ought to be enacted.

We are dealing with the present. We are dealing with deficiencies in the law relating to trespass, particularly in rural areas of South Australia, and we are dealing with property ownership as we know it now and not some airy fairy concept of changes in property ownership at some time in the future.

The Hon. C.M. Hill: Not with Big Brother.

The Hon. K.T. GRIFFIN: With Big Brother it may be those changes will come more quickly than we might presently anticipate. The fact is that persons who own land have a right to the quiet use, enjoyment and possession of that land, and that ought to be recognised in the law and adequately protected. Those, for example, who have an interest in leasehold in land, under the terms of their leases ordinarily have the right to the quiet use and enjoyment of their land without interference from the owner or registered proprietor of that land. So, in that respect, possibly tenants are better protected in law than the owners.

However, if there is, in anticipation of the Government, any change in the recognition of private ownership in this State which might justify the paragraph to which I have referred, then we ought to know about it.

The Hon. C.J. Sumner: You're a joke.

The Hon. K.T. GRIFFIN: Well, Madam President, the discussion paper was prepared by the Attorney-General's Department and it makes a reference to changes in ownership of land in the future.

The Hon. C.J. Sumner: That is not one of those references.

The Hon. K.T. GRIFFIN: It did. I just read it out to you.

The Hon. C.J. Sumner: That's absolute rubbish.

The Hon. K.T. GRIFFIN: That was the conclusion that was referred to in the report prepared by the Attorney-General's Department.

The Hon. C.J. Sumner: Not in the way you are representing it.

The Hon. K.T. GRIFFIN: It did. No-one can misconstrue it. It is there in black and white and I put it in context.

The Hon. C.J. Sumner: You're not putting it in context.

The Hon. K.T. GRIFFIN: I put it in context, Madam President.

The Hon. C.J. Sumner: You are scaremongering.

The Hon. K.T. GRIFFIN: It is not scaremongering. The Attorney-General can answer it when he replies, if he likes. The fact is that it is there in black and white in the discussion paper, and it is one of the conclusions that has prompted the recommendations referred to in the report. All I am doing is referring to it in the context in which it appears in this discussion paper. The discussion paper was published in June last year, and last year, prior to the election, some amendments were brought in dealing with the Trespassing on Land Act, but they dealt only with proposals to increase penalties, and they were supported by the Opposition. However, other amendments which were designed to tighten up the law relating to trespass on rural land were not supported by the Government or the Australian Democrats in this Council.

Since then representations have been made to the Liberal Party with respect to difficulties experienced with trespassers in rural areas. The Lenswood and Forest Range branch of the Agricultural Bureau of South Australia submitted:

> At a recent meeting of the Lenswood and Forest Range Agricultural Bureau, considerable concern was expressed regarding the increasing problem of trespassing in the area. Generally the trespassers are relatively young—late teens and early twenties, often arriving by the car load and sometimes bringing dogs with them. They have little or no regard for private property, fences or livestock. If approached they often become rude or nasty and at times threaten the landholder.
>
> In almost all cases, the 'problem' trespassers are looking for magic mushrooms as a source of cheap drugs.

The letter then deals with other aspects of the problem and the difficulties that landowners in that area say they have in being able to get rid of those trespassers and to ensure that they do not return. The letter refers to the concern which they and their families experience when confronted by these people trespassing on their properties. The Dairyfarmers Association also made some observations, as follows:

> The paramount problem facing primary producers (more so than mere members of rural communities as such) is that of personal and social isolation. Whilst we can appreciate, and even applaud, the activities of the obvious bushwalker and birdwatcher, the general assumption of a rural landholder on seeing a person on the property is, not unreasonably, that the person should not be there, and may be 'up to no good'. When more than one person is seen the suspicion is compounded. And that applies to open land. When the person, persons, or group is, or are, in the vicinity of buildings, or vehicles, the suspicion must be further magnified. What, then, is the landowner to do, even if armed with a copy of the proposed amendment to the Summary Offences Act?

The letter then goes on to detail concern about the proposed amendments to the Bill. The Trespass Committee from Lobethal talks of similar difficulties it has experienced with the administration of the Trespassing on Land Act and the advice that it has been given by police in dealing with persons who are trespassing on property. It indicates that even if trespassers are requested to leave and do not return for 24 hours, particularly those looking for magic mushrooms, they frequently return after the expiration of 24 hours only to harass and waste more landowners' time and patience.

If passed, the Government's Bill—and we certainly support it so far as it goes—will do a number of things. It will allow the law to provide the following: first, entry to or presence on premises for an unlawful purpose or without lawful excuse will be an offence, and the penalty will be a maximum fine of $2 000 or imprisonment for six months. Secondly, where a member of the Police Force, believing that a person has entered or is on property for the purpose of committing an offence, orders the person to leave and the person refuses to comply, the maximum fine is $2 000 or imprisonment for six months.

Thirdly, for a person trespassing, where that trespass interferes with the enjoyment of the premises of the owner and the trespasser is asked to leave the premises and fails to leave or again trespasses within 24 hours, the penalty is a maximum of a $2 000 fine or imprisonment for six months. Fourthly, in the case of a person trespassing on premises who behaves in an offensive manner or uses offensive language the maximum fine is $1 000. Fifthly, for refusing to give a name, either by the landowner or occupier to the trespasser or the trespasser to the landowner or occupier, the maximum fine is $1 000. Sixthly, for interference with gates, that is, not leaving gates as you find them, the maximum fine is $5 000. Finally, in the case of disturbance of farm animals in the context of farming operations, the maximum fine is $500. These penalties apply to premises that are defined in section 17a of the Summary Offences Act, as follows:

(a) any building or structure;
(b) any land that is fenced or otherwise enclosed;
(c) any land (whether or not fenced or enclosed) that forms the yard, garden or curtilage of a building;

or

(d) any aircraft, vehicle, ship or boat.

The difficulty with that definition, if it is not amended, is that there are many rural properties that are not fenced. For example, orchards and vineyards in the Adelaide Hills, vineyards in the South-East of South Australia or at Clare, are not fenced. Therefore, those unfenced premises which do not form the yard, garden or curtilage of a building are not within the provisions of section 17a as proposed to be amended by this Bill. It seems to me that that definition should be extended to relate to any land, and I will be proposing an amendment to enable that to be achieved. Section 17a presently provides:

(a) a person trespasses on premises;
(b) the nature of the trespass is such as to interfere with the enjoyment of the premises by the occupier;

and

(c) the trespasser is asked by an authorised person to leave the premises,

the trespasser shall, if he fails to leave the premises forthwith or again trespasses on the premises within 24 hours of being asked to leave, be guilty of an offence.

There are two difficulties with section 17a (1). One is how to establish the interference with the enjoyment of the premises by the occupier. I have suggested previously—and I repeat what I said—that there are significant difficulties in

the way of establishing interference with the enjoyment of the premises by the occupier.

If there is a person on premises walking across a paddock perhaps looking for magic mushrooms but not causing any interference with the enjoyment of the premises by the occupier, it will be difficult to apply section 17a to that person even to the extent of making a request for the person to leave those premises.

The other difficulty with this section is the 24 hour period. That has been there since 1984, but the suggestion has been made, and I tend to agree with it, that that period is much too short and ought to be a longer period. A period like seven days might be an appropriate period. To test the feeling of the Council in Committee I will be seeking to extend that period to seven days. Also, I will be seeking to remove the prerequisite of the nature of the trespass being such as to interfere with the enjoyment of the premises by the occupier.

One of the difficulties that has been put to me in the administration of the Trespassing on Land Act and, more particularly, the Summary Offences Act, is that the concept of lawful authority is not embodied in those provisions, that is, if a person is not on the property with lawful authority, there is simple trespass and only civil action can be taken and not any form of action for a breach of statute.

It seems to me that we ought to explore further the concept of lawful authority being the criterion which determines whether or not a trespass is a breach of the statute and, although I moved similar amendments last year which were rejected by the Council, I put them on the table again because they need to be considered, that is, that a person who is on property without lawful authority commits an offence. There are a number of exceptions which I think are relevant and which have been clarified since the last occasion when these matters were being debated in the Council.

A person does have lawful authority to enter or remain on land if the person is the owner or occupier of the land, is authorised by or under any Act or law to enter or remain on the land, has permission of the owner or occupier to enter or remain on land, enters or remains on the land for the purpose of seeking from the owner or occupier permission to be on the land, enters or remains on the land for social or business reasons relating to the owner or occupier of the land, enters or remains on the land for the purpose of dealing with a situation of emergency, or enters or remains on the land in circumstances permitted by the regulations, which is really a catch-all provision to enable an expansion of the classes of persons who might be regarded as having lawful authority.

The Hon. C.J. Sumner: Where is that covered?

The Hon. K.T. GRIFFIN: I am proposing that. What I was saying is that I did have some proposals last year in a different form and now I am proposing them by way of amendments, which will be circulated. A number of people have lawful authority to enter property by virtue of statute or regulation. In some circumstances we have tow truck inspectors, Woods and Forests inspectors, council weeds and vertebrate pests inspectors, meter readers and a whole range of other people whose authority is not affected by the operation of the Summary Offences Act or the amendments that I propose.

In essence, it seems to me that the principle which ought to be recognised is that people can come on to another's property provided they have a lawful excuse or they have sought or are seeking permission or there is an emergency, and the concept of permission or authority to be on the premises is not an unreasonable one where, in other areas of the law, individual rights and liberties are being gradually eroded and there is a need in my view in those circumstances to enhance the right to property and the entitlement to have free, quiet use and enjoyment of that property without interruption from persons who may trespass on that property.

It is in that context, Madam President, that I support the second reading and indicate that I will be moving amendments at the appropriate time to give the Committee an opportunity to consider those issues to which I have referred.

The Hon. J.C. BURDETT: I, too, support the second reading. The Bill does materially improve the present law. I refer particularly to the provisions dealing with interference with gates and disturbance of farm animals. However, the Bill, in my view, does not go far enough in protecting the landholder against trespass.

In order to assess any change in the law relating to trespassers, it is first necessary to allude to the law relating to freehold and leasehold land. Our law relating to land tenure is derived from the English law, although we were well ahead of the English in our law of land title with the Real Property Act, commonly called the Torrens title system. It is true that in English law, to quote from Halsbury's *Laws of England* (4th edition, pages 217 and 218 paragraph 306):

> Technically land is not the subject of absolute ownership but of tenure. According to the doctrines of the common law there is no land in England in the hands of a subject which is not held of some lord by some service and for some estate.
>
> This tenure is either under the Sovereign directly or under some mesne lord or a succession of mesne lords who, or the first of whom, holds of the Sovereign.

In South Australia all freehold land is held directly of the Sovereign. Leasehold land is held, in regard to broad acres, mainly on lease from the Crown or otherwise on lease from a holder in fee simple or, more rarely, a life tenant or a tenant in tail. So, while it is true that technically land is not the subject of absolute ownership, it is clear that the rights of the holder of an estate in fee simple and the rights of a Crown lessee are absolute against all other subjects of the Crown. The law of trespass against land must be considered as a protection of this right.

A reason given in the discussion paper on this subject for not taking more radical action in regard to trespass is that:

> As society becomes more and more mobile and pluralistic the law will be required to meet further changes in competing attitudes to the ownership of land and the enjoyment of the environment.

This same part of the working paper was quoted by the two previous speakers, Madam President, both the Hon. Mr Griffin and the Attorney-General in his second reading explanation. If there is a change in the law relating to land ownership or tenure, the legal concepts of land tenure may be changed. But that has not happened yet and it may never happen. The present legal concept of land tenure is as I have stated it, and the law of trespass must protect that right in present day conditions.

The law of trespass must be based on the current law of land tenure. If that law is ever changed then, at that time, it may be appropriate also to change the law of trespass. But at this time the law of trespass must protect presently existing tenure.

As was pointed out in the paper, the common law of trespass did not make simple trespass an offence. But there was, in the days when it was developed (namely the common law of trespass) a much greater respect for ownership of land and much less mobility of individuals than there is now. At the present time the majority of citizens have access to motor cars and can readily travel to remote parts of the

countryside. It is of course very good that they can and that almost all members of our society may at least from time to time enjoy the rural areas of our State. But this does make it more necessary to see that landholders are protected.

The paper gives as one of the reasons for not making the change more radical '... that the basic rules however conceptually untidy they may appear, have served society for a long time'. Yes, Madam President, but more recently they have not served it very well. The protests in recent years, particularly by landholders in the Adelaide Hills, are an example of this. The genius of the English system of law has been that it has not been like the laws of the Medes and the Persians which changeth not. It has been able to adapt to changes in society both through the common law system itself and through legislation. After all, every Bill which we pass changes the law, however insignificantly in some cases. There is no argument not to change the law of trespass where circumstances warrant it.

The arguments put forward that simple trespass in all cases ought not to be an offence has some validity. However, the position after the enactment of this Bill will not give sufficient protection to the landholders. Landholders have suggested, and it seems reasonable, that persons wishing to enter on and remain upon their property ought to seek permission and certainly most landholders, when asked for such permission, usually give it. This procedure enables the person seeking permission to be directed to some part of the property which will be most suitable to his purposes and will cause a minimum of risk to the landholder's interests and to the person seeking the permission.

I think there is a strong argument to say that a landholder may request any person to leave his property without having to establish any reason or any misconduct on the part of such person and that failure to comply should be an offence. The person in question may be remaining on a part of the property which is out of sight of the landholder and some considerable distance from his or her home. I do not see why the landholder should, in effect, have to patrol the property to ensure that the person does not do any damage during the time when he or she stays on the land. If there is any doubt about the suitability of the person to stay on the land, the landholder should be able to order that person off and it should be an offence unless that person leaves the land as soon as reasonably practicable.

The discussion paper refers to the question of simple trespass being made an offence (and as I have said I do not support this in all circumstances) and says:

> In this respect one only has to envisage the situation where an owner or occupier has called a person on to his land to discuss business. If during talks he decides that he has had enough and revokes his permission, the invitee would immediately be committing the crime of trespass. The criminal law normally requires that the guilty mind accompany the guilty act. But in the example quoted, no such contemporaneity is evident, unless there is some sort of 'relation back' which achieves this end.

What a load of rubbish. I see no problem in making the person guilty of an offence if, whether he or she got there by invitation, leave and licence or as a trespasser in the first place, he or she does not leave as soon as practicable after being asked to do so.

It should be remembered that in certain circumstances the landholder may be held liable if, even a trespasser, injures himself or herself while on the property. And the tendency of recent cases has been in effect to make it easier for the invitee, licensee or trespasser to establish such liability. The philosophy of the discussion paper seems to be that, if there is a trespasser on the property and he or she is committing no actual misconduct, the landholder just has to grin and bear it and accept being submitted to the risk of liability. Why should the landholder not have the right to terminate the risk by ordering the trespasser to remove himself or herself?

An answer to the problem of whether or not simple trespass ought to be an offence may be that this should be the case but that the person on the property may establish, as a defence, the onus of proof being on him or her to establish on the balance of probabilities, that he or she had lawful reason for being on the property.

The Bill is grossly defective in that it applies to premises as defined in the parent Act only. In the first place the term 'premises' is artificial and inappropriate as applied to broadacres. More importantly, in regard to land used for primary production the Bill will only apply to land which is fenced or otherwise enclosed. This is ridiculous and does no credit to the working party. In some parts of the State, for example, it is common practice that orchards are not fenced but the Bill would not apply to them. Also, of course, there is generally no enclosure in the pastoral areas of the State and once again these landholders are not protected by this Bill. For these reasons I support the second reading but consider that there is substantial room for improvement in Committee. I will address myself further to the matters that I have raised at that time.

The Hon. M.J. ELLIOTT: I rise to speak in support of this Bill. Certainly, under the new arrangements the provisions are generally wider. The definition of 'premises' is certainly better than 'enclosed field' and the gate provisions are specific. We also note the refusal to comply to requests and ensuing conduct and so on. I am not sure whether or not there may have been some change in onus in that 'the entry shall be deemed to be unlawful unless proved that it was not'. I am not quite sure that I have grasped that. I think that we in South Australia have seen a major social change which is leading to a number of problems.

Until 15 or 20 years ago there was probably not a person in Adelaide who did not live within five minutes of some sort of open field besides playing fields. I can remember back even as little as 15 years ago when the West Lakes area was still swampland and there were vineyards in quite a few areas around Adelaide. There were large areas of open space. Certainly when one talks to people of my parents' generation they talk about fields south of Daws Road and from Gepps Cross north. In the past 25 or 30 years we have seen a massive explosion in the population of Adelaide and we now have a million people in the major conurbation with very little space in it.

I think that has now started to place a great deal of pressure on the remaining farmlands near Adelaide. I think that at one time people pretty well took it for granted that they might wander in and out of fields. As a child in Mount Gambier one saw no problems in cutting across a paddock or something like that and there was no major harm. I do not think that that really caused any upset. However, with the rapidly growing population of South Australia it is becoming a major nuisance, particularly for people who live near Adelaide. People in the Adelaide Hills are now certainly finding an incredibly large number of people going on to their properties. Unfortunately, amongst them is a small minority who do damage, annoy stock or whatever.

I suppose the major question is: how do we go about addressing the problem? I have only just received the Hon. Mr Griffin's proposed amendments and I have not had a chance to consider them. I was not in any way disturbed by the Bill as it stood. I have a few ideas to float and I would like the Attorney-General to address these questions. Where is the problem with the landowner having the right

to refuse someone entering his property? Why cannot we ask people, where there obviously is a residence? It might be difficult where there is an extremely large property (which is the case away from Adelaide) for a person to find the residence on the property.

Rather than giving the landowner the right of absolute refusal, I wonder whether the landowner should be approached and he could impose perhaps some sort of conditions. People go on to land with no bad intent, particularly in the Flinders Ranges where they may camp by a water hole from which stock come to drink. Many South Australians enjoy camping and being near water is more fun than being some distance from it. I know of one landholder who lost several hundred lambs because they would not go to the water because of human presence and the lambs perished as a result. I suspect that under the law as proposed these people had committed no wrong of any sort.

The Hon. C.J. Sumner: I wouldn't count on that.

The Hon. M.J. ELLIOTT: I am really posing it as a question. If they had I would like the Attorney to address the question of how the law would handle such situations? It would be useful for people at least to make an approach to the owner so that he could say that in this paddock he had sheep that were lambing or some other problem that one should know of. It may be as simple as, 'Do not eat those blackberries because last week I sprayed them with something nasty'. These matters can be thrashed out in more detail later.

I raised problems with the Attorney-General about the definition of 'premises' which is clearly inadequate. I have been aware of problems for some time in the Riverland because one does not have fences to keep trees in; there is no need for them.

The Hon. R.I. Lucas: To keep people out.

The Hon. M.J. ELLIOTT: That is the only reason that one would put up a fence, so that the Act would work. I wonder whether it would not be simpler to insert within the definition of 'premises' land clearly used for the purpose of horticulture. If one sees a row of trees and does not know that it is for horticultural purposes or if one comes across a row of strawberries and does not know that that is for horticultural purposes, one has definite problems. Fences and gates are a tidy way of telling people whether they are in or out. When walking amongst a row of trees a person could not innocently say that they thought they were on public land. Horticultural land needs protection, as horticultural properties are prone to the intrusion of people pinching fruit, and so on. I would like to see an amendment that copes with that. I am not sure whether the amendment that the Hon. Mr Griffin put forward will cope with it. I do not think it will. It should be possible to come up with something along the lines of land being used for horticulture, as rows of plants are clearly put down for that purpose.

One other minor problem pointed out to me at a meeting with some farmers was that clause 3 of the Bill refers to opening and closing of gates. It refers specifically to land on which animals are kept. I wonder what might happen or how often it would happen that a property had a gate not for keeping animals in or allowing animals to move from one paddock to another but rather to keep animals out. One may have a horticultural property that is fenced. If the gate is left open by somebody animals get in and cause problems. I am wondering whether or not that needs to be looked at. We are specifically talking about land on which animals are kept for agricultural dealings. That clause may need further attention. I will leave further comment to the Committee stage and support the second reading of the Bill.

The Hon. PETER DUNN: The Attorney seems agitated about this Act, from listening to his coughing and huffing. I am not versed in the law as I was not educated in it. I therefore bow to the advice of the Hons Trevor Griffin and John Burdett who understand it. The Attorney is also well versed in the law. This Bill has a great bearing on the practicality of people living outside the metropolitan area. It impinges on those living within the metropolitan and urban areas of this State, too. I live out there but it does not impinge on me very much at all. In fact, I cannot ever recall having a trespasser on my property in the 30 years I have been there. I have had people passing through it seeking help and people coming to see me for enjoyment or educational purposes. However, some areas on the periphery of Adelaide feel the full brunt of the push from this large city. This legislation addresses the problem of such properties.

The Hon. Diana Laidlaw: Along the Murray River.

The Hon. PETER DUNN: Indeed, there are such areas, particularly those in the north of the State more closely allied to the big towns of Port Augusta, Port Pirie and Whyalla. The station country that surrounds those towns is under some pressure from people who trespass, sometimes unwittingly, sometimes knowingly, but who do cause a problem. It was mentioned by the Hon. Mr Elliott that dams can be a problem.

I have been alerted to the problem of people camping on private property inadvertently. I would choose to go near water if I were camping as usually there are trees there. Most animals drink at night in the warm to hot weather. Even in winter they travel early in the morning or late in the evening and if humans are there or have been there within a few hours the smell will frighten off the animals. It causes the animals and the owners of property some problems.

The law deals relatively well with gates. However, another problem is the person who goes on to land with the intention of killing stock for meat for themselves. There have been a number of well reported cases not far north of Spencer Gulf of stock slaughtered on the spot. They are easy to get to as there are no fences or gates and it is relatively easy to shoot an animal, take the prime cuts and go home because one's chances of being caught are remote.

I do not suppose we will ever stop that, whatever law we introduce. I do think that, if there was the requirement in the law for people to ask permission when they travel off the roads that traverse station country, it would be some satisfaction for the property owner, and that is a very important part of it. This legislation must be seen to offer some protection to the person who has a responsibility for that land. Let us not kid ourselves. The Hon. John Burdett pointed out in very clear terms the obligations of the person who owns land in this State. Let me state the obligations that I see that he has. He is required by law to keep the place free from weeds and pest plants. If people wander through areas close to the city, the carriage and transfer of weed seeds and pest plants is a very real concern. If a landowner is not aware of people traversing his property looking for, say, mushrooms—but that is not the only thing they look for—

The Hon. Diana Laidlaw: Blackberries.

The Hon. PETER DUNN: That is true. There are a number of other reasons they want to go on to the property of a landholder—and I use the term 'holder' because he is holding it for future generations. It is his responsibility to keep it free from pest plants and pest animals. However, in nine cases out of 10, if the person wishing to traverse that land were to phone the landholder or go up to his front

gate and say, 'I notice you have a nice lot of mushrooms (or blackberries or wild peaches), would you mind if I picked some?' I guarantee the landholder would say, 'Yes, help yourself. If you have three corner jacks on your car, would you mind leaving it here and I will take you out in the ute.' I really think there is a responsibility on the landholder, and this Bill does not do much to help that in any way whatsoever. We are really only asking the person who wishes to travel across that land to at least ask the person who is holding that land—in many cases for the Crown.

The definition of 'premises' has been well dealt with and, in connection with the definition of 'farming', I point out that about 80 per cent of this State comes under the category of grazing. I would rather see that the legislation was separated from the Summary Offences Act. The fact that it is an Act of its own can be used as an example, an education purpose, but in my opinion it gets lost when it is swallowed up in the Summary Offences Act. I am aware that that is no excuse for somebody to trespass, but that is the actual effect of repealing the Trespass Act. While it was there, the mere word 'trespass' meant something to somebody but, if one says to somebody that they are trespassing under the Summary Offences Act, they will say, 'What is the Summary Offences Act?' I suggest that many people are not aware of what the Summary Offences Act does.

In fact, there are a lot of areas within this State that people from the city may travel to. The Minister groaned when the Hon. Mr Elliott said that this city does not have much area in it. I would agree with him: I think Adelaide is rather well set out. We have a lot of park land—more than most cities—and we have fairly good highways to enable us to get in and out of the city. I think there are adequate areas for people to travel to parks, to the Heysen Trail, to walking trails, and enjoy the country. I read with interest the Attorney's response to the second reading debate the last time this Act was dealt with, and he made great play of the fact that in England one can use trails and stiles and fences that have been set up with easy access to walk from one property to another. The reason for that is quite simple: England was a country of very small villages and that was the method by which people travelled from one village to another—across the fields, the shortest most practical route. I can understand that, but that is not applicable today with our modern day transport. Generally, people are out in the country for their enjoyment—to pick fruit or a similar purpose.

The last thing I wish to mention is that the policing of this Act is sometimes rather difficult. By its very nature, it applies to rural areas where there is neither a policeman nor a phone box to call a policeman. I am not suggesting that the police should be called every time. In fact, I would suggest the reverse. People should seek permission before entering land; it is not difficult. Most people have a telephone, and most people have access to their properties, and I do not see any problem in doing that. I have camped previously and I always make sure, when I am going to an area that I know is not a designated area, that I ask first.

The fact that you cannot get police rapidly in some of the outback areas and even in the area of the Adelaide foothills means that the Act relies on the goodwill of the property owner and those other people involved who want to enjoy that land. I support the Bill. I think it has some advantages in dealing with stock, fences, gates, etc., but it falls short and I know that the Hon. Trevor Griffin has some very good amendments on file that I would like to support. I also add that I would have rather seen the Act have its own title in its own right.

The Hon. R.I. LUCAS secured the adjournment of the debate.

[Sitting suspended from 5.49 to 7.45 p.m.]

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

Adjourned debate on second reading.
(Continued from 18 November. Page 1979.)

The Hon. L.H. DAVIS: There is general acceptance that industrial safety practices can be improved in South Australia and for that improvement we need to see a mix of legislation, education and communication. It is important that any legislation seeking to improve existing occupational health and safety legislation should achieve a proper balance between the rights and interests of both employer and employee groups. Liberal Party policy at the last election clearly sought to reform occupational health and safety legislation. The Liberal Party proposed that legislation covering health and safety in the workplace should be brought under the one Act; that employee organisations should assist in but not control joint efforts to create a safer working environment.

There was a recognition that penalties for breaches of the Act should be increased and that an industrial safety, health and welfare board should be established with objectives including: inquiring into the training needs of the industrial inspectorate, employee safety representatives and managers; to collect interstate and international information about safety, health and environmental hazards in the workplace; to place emphasis on research into the identification and prevention of emerging occupational diseases such as repetition strain injury, tenosynovitis, heat stress, eye strain, mental stress and asbestosis; and to ensure proper reporting to Parliament on an annual basis of information gathered about industrial accidents. That would require workers compensation insurers and self-insurers to furnish returns to the industrial inspectorate on all compensable claims.

It is a matter of some concern to me that presently, I suspect, there is no one collection point in South Australia—indeed, in any State in Australia—that could honestly look at the impact of occupational health and safety legislation or workers compensation legislation and reflect back over a period of five or 10 years to see what has occurred to those people who have been so affected; whether we are talking about workers who have been disabled on a permanent or temporary basis or who have received substantial lump sum workers compensation claims. I suspect that little research has been conducted to establish what has occurred to those workers five or 10 years down the track. One hears anecdotal evidence about workers who have received a lump sum claim for back strain, let us say, and who have ceased to be employed by a particular employer but who, years later, are found working quite happily doing exactly the same work after having had the benefit of a significant settlement for an alleged permanent disability.

At the last election the Liberal Party believed that reform was necessary—indeed overdue—in this important area. The point made clearly by the Leader of the Parliamentary Liberal Party (Mr Olsen) was that the Liberal Party resisted and, in fact, vehemently opposed union controlled health clinics funded by the Government. As I said earlier, occupational health and safety legislation would be most effective if a proper balance was achieved between employers and employees working together to achieve standards and

safety; that they all must share in developing and maintaining a preventive safety mentality in the workplace.

When I say that, I say it in an even-handed fashion: that quite clearly both employers and employees in the past have been at fault in allowing safety standards in the workplace to slip below those which should be regarded as acceptable. Certainly, South Australia in many respects has a reasonable record in relation to industrial safety. We see, that in the matter of days lost by industrial disputes South Australia, for decades, has trailed other States in terms of working days lost. It is important to remember that industrial accidents can be extraordinarily costly.

However, one of the concerns I have about this legislation is that it is not as even-handed as many people in the community would have wished. For example, we see a steel fist in the velvet glove of this legislation; that Premier Bannon has, I suspect, been screwed down by Minister Blevins and the union movement to ensure that this legislation does not only seek to deal with fundamental matters affecting occupational health and safety but also seeks to improve the bargaining position and strength of the union movement in South Australia.

That may be seen by the union movement as a victory. I suggest that it is a very pyrrhic victory because, by effectively making subcontractors employees, by ensuring that only unionists can stand for election as safety representatives and thereby excluding non-unionists, it is tipping the scales too far in favour of employees, the union movement, and South Australia will not be better off as a result of these measures.

In presenting this legislation the Government has quite properly emphasised the importance of reform in this important field. Initially this legislation was introduced alongside legislation designed to reform workers compensation. These two pieces of legislation interact and go hand in hand. As it turns out, workers compensation legislation was introduced a year ago with very confident Government claims that it would effectively reduce the cost of premiums by over 40 per cent. Over a period of 12 months we have seen those claims revealed for what they are: fictitious claims without foundation, a position which the Liberal Party has constantly espoused. The Australian Democrats, after changing their position several times on workers compensation, have finally also come to realise that it is a fool's paradise to have such generous workers compensation provisions which will effectively operate against the good of the South Australian economy. So, as I have said, somewhat ironically, we are now debating the Occupational Health, Safety and Welfare Bill ahead of the workers compensation legislation which has lain on fallow ground for over 12 months.

Although it is easy to beat up this issue of occupational health and safety and say it is a pressing need, the figures are well worth putting on the record because industrial accidents and diseases in South Australia have not exploded as much as many people would believe. Therefore, I would like briefly to put on the record those figures and perhaps correct some false views that people might otherwise have. The statistics reveal that, in 1980-81, 19 fatalities resulted from industrial accidents.

The Hon. J.R. Cornwall: What is your source?

The Hon. L.H. DAVIS: Where does one get these figures from—the Bureau of Statistics. These figures have been checked and, in fact, they have been tabled in another place by the shadow Minister.

The Hon. J.R. Cornwall: They are notoriously unreliable because we don't have any central reporting mechanism.

The Hon. L.H. DAVIS: These figures have been checked. I am satisfied with their veracity and, if the Minister wants to take issue—

The Hon. J.R. Cornwall: We simply don't keep figures.

The Hon. L.H. DAVIS: Okay—

The Hon. J.R. Cornwall: The epidemiology branch does not keep figures; there is no reliable reporting mechanism. They don't mean very much.

The Hon. L.H. DAVIS: It is important to have the figures. If we do not have figures, as the Minister of Health well knows, what have we got to argue about?

The Hon. J.R. Cornwall: We don't have figures.

The Hon. L.H. DAVIS: Well, let us look at the figures that have been tabled in another place by the shadow Minister. I have been assured that they are as accurate as they can be. In 1980-81 we had 19 fatalities resulting from industrial accidents and that figure climbed in the next two years to 26. In 1984-85—the last available figure—the number of fatalities had fallen to 16. Similarly, with permanent disabilities there had been a fall in partial permanent disabilities over the period 1980-81 to 1984-85.

There had also been quite a significant fall of about 25 per cent in temporary disabilities over that five year period. The time lost in weeks as a result of industrial accidents had also declined over that five year period, notwithstanding the fact that the workforce increased in that time. The most significant and obvious point is that the amount paid as a result of industrial accidents doubled from about $44 million to $82 million from 1980-81 to 1984-85.

The same is also true of deaths, fatalities and disabilities resulting from industrial diseases. In 1980-81, there were 15 fatalities, and that figure had fallen progressively over five years to six. Similarly, with temporary disabilities, there had been a fall. Again, the amount paid for industrial diseases more than doubled in that same period.

The Minister has queried the figures but it is important that at least they are put on the record. An attempt has been made to collate them, notwithstanding the difficulties. It is obvious, even to the Minister, that some companies do keep records. It is also equally obvious to the Minister that there are some very notable success stories of companies that have worked closely with their employees in reducing industrial accidents as a result of a more conscious decision to review occupational health and safety.

One of the problems to which I refer is the undue weighting given to the union movement in this legislation. In fact, I have had a letter from a major employer in Adelaide who could be regarded as reasonably apolitical and who complains, as follows:

> The Labor Government seems to be more and more in the hands of radicals who have no perceptions of the costs of operating a business or the challenge that industry faces.

Members interjecting:

The Hon. L.H. DAVIS: That is a direct quotation. The Hon. Frank Blevins, as the Hon. Mr Roberts knows, is a member of the Left faction of the Labor Party. Let us not hide behind any columns when we talk about this. The Labor Party here, to give it its due, has been consistent in all legislation relating to industrial matters. It has sought to get rid of subcontractors: it has sought to make membership of unions compulsory, for example, to even participate in CEP grants and a whole range of Government benefits, to an extent that there is no escape from the claim that we do have compulsory unionism alive and well in South Australia.

I do not want to be deflected by this argument because I want to concentrate on the background to this Bill, knowing full well that it is essentially a Committee Bill and that

most of the debate on the various clauses will take place then.

In Adelaide only three months ago there was an international conference on occupational health and safety and it was attended by many well known speakers who are regarded, quite rightly, as world experts in this field. In particular, I refer to a paper given by one John Locke on international trends in health and safety legislation. He reflects on the development of health and safety legislation over the past century and makes the fairly obvious point that in the nineteenth century health and safety legislation had a low priority. It was in the days before businesses were run by companies which had their own legal personality, when the proprietors usually owned the business themselves and so, as he says, every pound spent on reducing risk to owners meant a direct reduction in the personal incomes of the owners of the business. So there was no particular concern about reducing risks in the workplace. That is a fairly obvious point to make.

Of course, in the twentieth century, from the early 1900s onwards, we have seen a steady growth of corporations owned not only by the managers but also by shareholders. There has been less effective control of those companies by the people who own the business. As a result, there has been far less resistance to action which might provide a safer work environment. In fact, we have reached a stage, I am pleased to say, where many large organisations are very proud of their workplace record. In fact, they actually put out regular brochures to their employees, and one can instance groups like Western Mining Corporation. The Minister of Health laughs. As a result of that, I will put on the record—

The Hon. J.R. Cornwall: It hasn't got a national occupational health and safety policy. That is direct from Hugh Morgan. It is at individual mine sites, so don't hold it up as an example.

The Hon. L.H. DAVIS: I will come back to that and put something on the record about Western Mining, which obviously has the Minister of Health's blood pressure going again (I just hope that the waiting list at the Royal Adelaide is not too long). Let us look at the second major social change in the past 50 years, and I refer to the development of trade unions. The trade unions have been a countervailing power to the employers who in this century have also formed their own groups and associations. With the growth of unions, not surprisingly, the lot of the worker was put under greater scrutiny and trade unions have been associated with improvements in the workplace for employees. Of course, that has also been matched by legislation which is now in place and which has ensured in most advanced western economies that there is protection for the workforce. Legislation by itself is not enough, but at least it is in place and there are sanctions against employers who do not properly observe that legislation.

Another interesting development which Locke refers to is the rate of change and innovation in western world economies. He gives the particular example of change which is so rapid that it sometimes leaves new regulations or new legislation which is being brought in well behind. He gives the particular example of new regulations in the 1960s to control hazards in ports, and many years were spent in bringing together these regulations in Britain. However, they were rendered irrelevant long before they were finished because bulk carriers came in along with container traffic and mechanised loading and unloading. The rate of change has made it difficult for legislators to keep up with modern developments in this field.

The final point that he makes (and again, it is fairly obvious) is that the scale of possible disaster from industrial activities has increased dramatically. He refers to chemical works, and says that the amount of hazardous chemicals in process or storage has risen to the point where there is the potential for the killing of thousands of people. We have seen examples of that in recent years but, fortunately, not in Australia. So there are chemicals, pesticides and drugs which are themselves a very big hazard. He also reflects on the social and industrial trends which have forced the reconsideration of the methods of hazard control.

In Australia we have based our legislation very much on the British model. In particular, we followed closely the British Act which was based on the Robens report. The report of the Robens committee of 1972 made two basic recommendations: first, that an attempt be made to create a more unified and integrated system of safety legislation and administration; and, secondly, it argued that Britain should create a more effectively self-regulating system. Although it never really explained how this self-regulating system would work, it seems that what it sought to do was to have a greater interaction between employers and employees.

The Robens committee made four principal recommendations: first, that employers should be required to be prepared and make available to their employees a written statement setting out their policy on health and safety in the workplace and how that policy would be put into effect; secondly, that the Companies Act should be amended to require boards of companies to advise their shareholders regularly how the health and safety of workers was to be catered for; thirdly, that the situation relating to public health and safety inspectors should be improved, and greater efforts should be made to establish and maintain contact with employees in their workplaces; and fourthly, that there should be a statutory duty on every employer to consult with his employees or their representatives on measures for promoting safety and health at work and to make arrangements for the proper participation of employees in the development of these safety and health measures.

As a result of the Robens committee report of 1972, in 1974, Britain introduced the Health and Safety at Work Act. It is true to say that in Australia most States have followed what is described as the Robens model. South Australia was the first State to implement legislation in 1972, with Tasmania in 1977, Victoria in 1981 and New South Wales in 1983. They were slightly modified versions. The South Australian Act, for example, did not confer any particular powers or duties on workplace representatives except to provide for their election.

In the 80s there has been a relook at health and safety legislation. We have seen in 1984 a steering committee established by the State Government to produce an interim report which seemed to follow closely the Victorian model. We have seen in particular the Federal Government take initiatives in the Occupational Health and Safety arena with the development of a National Occupational Health and Safety Commission, the National Occupational Health and Safety Office, the Environmental Contaminants Authority and the National Institute of Environment and Occupational Health. There has been an introduction of comprehensive legislation for the Commonwealth public servants for their health and safety and a National Occupational Health and Safety Commission established.

There have been major initiatives in this area. For the most part they have had bipartisan support, which is understandable, because everyone recognises that not only are we talking about the safety of workers, reducing the number of

deaths, reducing the number of temporary and permanent disabilities and the number of industrial accidents but also reducing the cost of industrial accidents which feeds into the cost of insurance premiums, the number of working days lost, the cost of production and affecting prices as well. So, it is not only the workers who suffer but also the community as a whole suffers from lack of proper regard to practices in the workplace. I am ready to acknowledge that there are instances where employers have not done the right thing, just as there are occasions when employees have failed to observe the safety procedures that have been laid down for them. Anyone who has worked in the private sector will readily acknowledge those two facts.

Hopefully this legislation, with its good points, overcomes some of those difficulties. There are most certainly bad points in the legislation that we will be debating at length in the Committee stages. It is interesting to note that in other States moves have been made in occupational health and safety legislation and I have been particularly impressed with the approach of the Northern Territory. Earlier this year Mr Ray Hanrahan, the then Business Technology and Communications Minister announced that the Territory had nearly completed a three year study of occupational health, safety, rehabilitation and compensation. In other words, they packaged workers compensation and occupational health and safety together and looked at the two items under the one umbrella. That, I thought, was a very sensible move and was something, unfortunately, not done by this Government. It has looked at the two systems at the same time, but we have not had the benefit of a total package which ideally interacts with each other.

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: The Minister can be cynical and say that the Northern Territory has a small population sample. Certainly it only has 150 000 people, but it is growing at about seven times the rate of the South Australian population, which lags the rest of Australia by so far that it does not matter.

The Hon. J.R. Cornwall: How many are in private industry and how many in Government?

The Hon. L.H. DAVIS: I would hope that there is no distinction made between the public and private sectors when it comes to occupational health and safety and I would hope that the Minister would not see it in that fashion. Occupational health and safety legislation presumably applies to both the public and the private sectors.

The Hon. J.R. Cornwall: It is not the most heavily industrialised area in the world.

The Hon. L.H. DAVIS: The Minister is being cynical about the Northern Territory and he may well be because the Liberal/Country Party is firmly in control.

The Hon. J.R. Cornwall: There are not too many Liberals in the Territory.

The Hon. L.H. DAVIS: What does Paul Everingham represent?

The Hon. J.R. Cornwall: Goodness knows!

The Hon. L.H. DAVIS: The point I am making is that the Northern Territory, at which the Minister of Health seeks to laugh, has a far better economic record in recent times than the South Australian Government. It has adopted a far more logical approach to this twin problem of workers compensation and occupational health and safety. The Minister responsible for the occupational health, safety, rehabilitation and compensation system in the Northern Territory said that the Government had commissioned three of Australia's leading actuaries to cost the earlier proposals contained in a draft Bill tabled in March. That is interesting to reflect on as it is more than the South Australian Government ever did.

Mr Hanrahan concluded by saying that the Work Health Authority would be a small statutory authority, consultative, advisory and conciliatory in style. This is the only possible approach to a system dealing with safety, rehabilitation and compensation where the interests of the various parties are delicately balanced. New South Wales has recently looked at occupational health and safety legislation. It has been debated in other States also.

In conclusion, I come back to the point I made earlier that, sadly, little statistical information is available in Australia about the cost of occupational health and safety. One of the more interesting papers delivered at this international conference in August was on the cost of occupational health and safety. The paper was presented by Mr Jim Royer. He observed that in America there had been a great deal of work done on risk and insurance management. A very detailed survey by the Risk and Insurance Management Society had been made. Its membership was surveyed in order to develop a scale of risks for the various industry groups. The industry group with the highest cost of risk was transport followed by health care, and at the other end of the risk scale was finance and banks, with a total cost of risk as a percentage of revenue of 0.11 per cent, with the highest cost being transport at 2.37 per cent of revenue. The size of risk management departments was measured and showed an average of 4.57 and a median of people. Staff size varied from the allocation of 5 per cent of one person's time to 120 full time people. In other words, they are talking about very large businesses and extraordinarily small businesses.

The Hon. J.R. Cornwall: Where did mining appear?

The Hon. L.H. DAVIS: I do not have that figure—I am quoting from the paper presented. He makes the point that it will be useful for a similar survey to be conducted in Australia to determine empirically the cost of occupational health and safety in Australia. Each industry could be shown on a yardstick to measure the effectiveness of its safety functions. I quote from my Royer's paper where he states:

> As far as I am aware, the only measure used in Australia today refers to lost time injury frequency rates which, to a risk manager like myself, are of dubious value apart from measuring the ability of their authors to 'cook the books' such as to impress those to whom these data are presented.
>
> As an alternative, would it not be more meaningful to management to present data showing the per capita cost of workers' compensation, or the annual variance of premium? I say this because such data is inherently incapable of manipulation, is more truly representative of the position as far as cost is concerned and it speaks in dollars which is a multi-lingual mode. Let me show you an example of the style of data which I circulate to Western Mining top management—

and I am continuing to quote from Mr Royer. This will put to rest the Minister's fairly shabby attack on Western Mining.

The Hon. J.R. Cornwall: Well, it was a shabby attack they told me.

The Hon. L.H. DAVIS: Just sit back and listen. In order to get a grip on the magnitude of what we are discussing—

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: If we look at the record for Western Mining for the years 1979-80, we see that although they have projected in 1979-80 an increase of over 100 per cent for actual premiums in workers compensation for the next six years, the fact is that the actual premiums from 1979-80 through to 1985-86 actually fell. As a percentage of wages, workers compensation premiums paid by Western Mining fell from 6.37 per cent in 1979-80 to 2.47 per cent in 1985-86. In other words, they cut it by 2.5 to 2.75 times.

That is no mean feat. I just happened to pick this out because it was one of the many papers presented, and I found the proposition about establishing some proper statistical data so that we can measure the costs of workers compensation from industry to industry and perhaps have a more meaningful international comparison. I found that a useful proposition, and I was also fascinated to see how Western Mining had done so well. Jim Royer continues:

> ... the first law of risk management, which provides that 'the incidence of loss is inversely proportional to the management effort expended in controlling it'.

In other words, Jim Royer accepts quite readily that management has a pivotal role to play in occupational health and safety legislation. He then asks:

> How to reduce the incidence of claims?

He answers his question by stating:

> Examine the workplace, look at the interaction between management and supervision and supervision and the work force. Feel the vibes on the factory floor. An experienced safety professional can assess this within ten minutes of walking around. Measure the lighting levels, sound levels, temperature, humidity, talk to people—communicate. If you don't have the time, ability or inclination to do these things, then get some outside help, there is plenty around. Then establish a datum point, be it, per capita cost of workers' compensation or premium as a percentage of sales or whatever, implement any necessary environmental or work method changes and monitor the results. Translate these into dollars and tell your management about the savings.

Now, Madam President, I have quoted that at length because I see it as good commonsense. I do not think that anyone in this Chamber tonight would disagree with that proposition. That is, after all, what this legislation should reflect, a good dose of commonsense which will allow employers and employees without feeling disadvantaged in any way to get together, to work on the problem, to realise that there is beyond that the opportunity to reduce real costs, to increase productivity, to increase profits, to increase prosperity and get Australia back on track.

Jim Royer makes the point that in America, the number of lawyers has been growing at six times the growth rate of population in recent years. Between 1969 and 1980, the number of lawyers increased 68 per cent while the population increased by only 11 per cent. In America, unlike Australia, they have the contingency fee for lawyers. Certainly, Jim Royer argues that we have to get our own house in order quickly because we are already the second most litigious nation on earth and the national cost of workers compensation is well and truly out of control. In fact, he argues that the workers compensation premiums in New South Wales are the highest in the world. That means, as it has already in America, that the situation of suing for damages will escalate quite dramatically. That is an enormous problem.

We have seen the tip of the iceberg in South Australia to a lesser extent than in the Eastern States, but it is upon us. Unless we get together very quickly, not only with occupational health and safety compensation but also workers compensation, we will feel the heat of those escalating claims. So, Madam President, I support the second reading of this Bill and commend many parts of it, but I express reservations about several aspects of it which have been detailed at some length by my colleague, the Hon. Trevor Griffin. I look forward to debating those clauses at the Committee stage.

The Hon. DIANA LAIDLAW: In company with, I believe, every Liberal member in this Parliament, I am committed to the provision and maintenance of a safe working environment in our commercial, industrial and public administration sectors. I also recognise the need to improve occupational health and safety practices in the workplace generally and I appreciate that the responsibility of an employer encompasses not only the prevention of injury and disease but also the elimination of risks to the health and safety of employees.

The Hon. Mr Davis, in his contribution, made some comments about industrial accidents and diseases, outlining that the figures had not exploded. In response the Minister of Health remarked that statistics in this field have been inadequately kept or not kept at all, and I cannot help but agree with the Minister's comments. It is in fact one of the disturbing areas in this field where there is so much social trauma and so much economic cost, yet we are operating in such a vacuum of accurate information, and I find it particularly disturbing that not only do we not have accurate figures for this State or across Australia, but also we have no figures that are broken down into ethnicity and the like, which is a subject I want to take up later. As the Hon. Mr Davis said, the figures have not exploded, but I would argue nevertheless that on the figures available, the incidence of accidents and diseases in the workplace are unacceptably high.

In 1984-85 the total fatalities and disabilities arising from industrial accidents in South Australia numbered 10 847, and from industrial diseases, some 868. In each category, deaths amounted to 16 and six respectively. In addition to the high social cost of this toll in terms of human suffering, personal hardship and family trauma, there are many direct economic costs, and these again are unacceptably high.

The level of workers compensation, for instance, paid by employers in South Australia is currently in excess of $170 million per annum. I understand that, if account is taken of factors such as loss of productivity and the cost of retraining, it is estimated that the total cost is a staggering $650 million a year, or in excess of $10 million per week.

I have no doubt that deficiencies in the current legislation (the Industrial Safety, Health and Welfare Act 1972) have contributed to the very unsatisfactory nature of the occupational health and safety environment in this State. Nor do I challenge the need for a new legislative framework to promote improvements in this area. However, with a considerable sense of sadness I take the strongest exception to the course that the Government has adopted to promote the desired improvements.

I readily acknowledge this sense of disappointment, but I believe it is clear from the whole tenor of the Bill and the Minister's accompanying second reading explanation that the Government regards employers with a degree of contempt and hostility, and that it tends to consider employers *en masse* to be untrustworthy and underhand and out merely to get a quick buck with no sense of responsibility for the people with whom they work or for the wider environment in which they operate.

The Hon. J.R. Cornwall: That is not true, Di.

The Hon. DIANA LAIDLAW: It is quite obvious to me. It may not be true, but it would be very pleasing to see a different emphasis in this Bill if it was not true.

The Hon. J.R. Cornwall: The whole approach is a tripartite approach.

The Hon. DIANA LAIDLAW: That is not so.

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: That is noted in the objectives, but I argue that the Bill belies those objectives. I believe that the attitude which I saw coming strongly through in the Bill, in particular in the Minister's second reading explanation, is absolutely ill-founded and counterproductive. As I said in reply to the Minister's interjections, I also believe it is contrary to the objectives noted in this Bill.

However, such attitudes I would also argue are not a new phenomenon from this Government. Recently we have seen similar attitudes expressed by both the Prime Minister and the Treasurer in relation to the capital gains tax, the fringe benefits tax, and the issue of tax deductibility for business expenses. As I say, that attitude I receive with considerable disappointment.

As an aside, I indicate my participation earlier this year in the Duke of Edinburgh study conference in May, when I attended the Pilbara region of Western Australia for 12 days. The theme of that conference was 'Managing Change in an Industrial Society'. After listening, learning and questioning people who were involved in all major industrial, commercial and community activities in the area, the 12 participants from Commonwealth countries who were also in my study group, together with myself, were forced to reach the conclusion that Australia would never learn to manage change in our industrial or technological age, let alone come to terms with the desperate need to become competitive with countries beyond our shores, until participants in industry were prepared to recognise and accept that they have a mutual interest, and that they would also derive considerable benefit if and when they were prepared to start working more closely together.

This study group comprised an equal number of trade union members and business people with people like myself from the Government sector. We were a particularly mixed group and our decision was unanimous—that we have to start working far more closely together. Not only I but other members of the group will never forget attending yet another stop work meeting at the Robe River site, the iron ore mine that was subsequently in the headlines. A union official from Perth—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: No, he came from Perth.

The Hon. C.J. Sumner: Jack Marks.

The Hon. DIANA LAIDLAW: No, I will tell you some stories about Jack Marks later. He is an interesting individual. I was distressed, as were other members of the group, when this union official from Perth came to speak to the stop work meeting and spoke solely in terms of 'exploited' and 'exploiter', and 'managed' and 'manager'. We all discussed this issue later. Such rhetoric really belongs to the nineteenth century. It certainly will be of no benefit to Australia as we approach the twenty-first century. I regret that the very same counterproductive sentiments are reflected, in part, in this Bill. The challenge to the Government should have been, when preparing this Bill, to develop mechanisms which would have healed the rifts in the workplace and promoted a far more cooperative commitment to workplace safety. Instead, the Bill perpetuates outmoded and unsound attitudes. It promotes division, casting the employers in the role of bogey men and, as I say, I believe that is a nineteenth century attitude.

The Hon. R.J. Ritson interjecting:

The Hon. DIANA LAIDLAW: It may be even longer ago than that, but I would have hoped that as Australia advanced towards the twenty-first century we could see a more mature response from the Government in this instance. From the Minister's second reading explanation one gains the impression that virtually every enterprise in our midst has a poor record of safety or is accident prone. Nowhere was there any acknowledgement that hundreds of thousands of businesses in this country are run totally injury free throughout their existence. Nor was there any acknowledgment that in recent years, as poor as the statistics may be, the incidence of industrial accidents and diseases has fallen steadily.

In seeking an explanation for these inexcusable omissions, I believe it is hard not to reach the conclusion that they are part of a deliberate strategy by the Government to paint a very false picture of management responsibility in order to justify the introduction of measures providing extraordinary and unwarranted power in each workplace to the trade union movement. I reach that conclusion with disappointment because I do not want to approach this Bill with any degree of suspicion—rather, an open mind. The Bill is indefensibly one-sided in its approach to rights and responsibilities. The duties of employers are comprehensive, requiring, in clause 19, that:

> An employer shall, in respect of each worker employed or engaged by the employer, ensure so far as is reasonably practicable that the worker is, while at work, safe from injury and risks to health . . .

However, no help is provided in the Bill in terms of defining 'reasonably'; nor who is to determine what are 'reasonable measures'. One must question whether these measures are relative to the circumstances that exist at the time. Will they vary from inspector to inspector and representative to representative and workplace to workplace? I believe that the reference to 'reasonably practicable' needs clarification, especially when one assesses the onerous penalties that are proposed to apply to employers. By contrast, the duty of workers is plain and simple, and delightfully unambiguous, requiring an employee to exercise care, to protect the health and safety of themselves and other people.

No penalties apply if an employee fails to abide by a specific instruction that a workplace practice cease or apply. In such instances penalties should be accepted for employees as they are for employers. Equally, health and safety representatives will be liable to disqualification only if they repeatedly fail to perform their duties, but no such benefit of the doubt ever applies throughout the Bill to employers.

If the representative acts in a manner intended to cause harm to an employer, or the business of an employer, the representative can be disqualified but incurs no instant dismissal, fine or possible gaol sentence as would be the fate of an employer who displayed an equally delinquent regard to their responsibilities. In regard to this one sided nature of the Bill, if it does in fact need further reinforcement, I note in clause 12 that provision is made for the protection of members of the South Australian Occupational Health and Safety Commission from personal liability when acting in good faith in the exercise or discharge of a power, duty or function.

Again, no such good faith is extended anywhere throughout the Bill in respect to employers. It is not my intention to cover all of the specific concerns in relation to this Bill because I believe that my colleagues who have spoken before me—the Hon. Mr Griffin, the Hon. Dr Ritson and the Hon. Mr Davis—have more than adequately canvassed these matters. Rather, I wish to address some specific concerns that I have. They relate to subcontractors, immigrant women in the workforce, legislative and award restrictions on women's employment and occupational health and safety in the public administration area.

In clause 4 we witness yet another attempt by the Government to clear the way for unionisation of subcontractors by classifying subcontractors as employees. In April 1984 in amendments to the Industrial Conciliation and Arbitration Act the Government threatened to wipe out the whole of the subcontracting arrangements operating in this State. The move was defeated at that time by Liberal and Democrat members and, while the Hon. Mr Gilfillan is present in the Council now, it might be of some benefit to prompt him, although I have no doubt that with his good memory he remembers his words and sentiments of that time. How-

ever, I quote from *Hansard* (page 3480, 11 April 1984) when the Hon. Mr Gilfillan made the following contribution:

We made a great effort to draft an amendment which would leave the contractor and contracting system uninterfered with, believing as we do that the right of the individuals to contract their labour and services free from dictation of what should be specific rates of remuneration and other conditions in which they should work, that those conditions should not be imposed on the contracting and subcontracting areas of industry in South Australia.

The honourable member also said:

However, that amendment left room for a serious threat to the contracting and subcontracting areas in South Australia, so we chose to back off from any attempt at all to amend the clause of the Bill dealing specifically with the contractor and subcontractor areas. Therefore, it is our intention to oppose the clause related to those areas, which was a difficult decision to make. However, we held so high in our priorities the freedom from interference and the right of contractors and subcontractors to work, or to offer to work, at rates and conditions that they alone chose, and the risk of destroying those rights by trying to amend the clause of the Bill was so great that we withdrew our amendment and will oppose the clause.

That was a very sound contribution and a moving statement in that context and I hope and trust that the Hon. Mr Gilfillan holds those same sentiments today, over two years later. Certainly, he held those sentiments a year after that contribution which I have just quoted when in May 1985 the Government further attempted to amend the Industrial Conciliation and Arbitration Act, this time in regard to the transport industry.

It attempted to threaten the role of contractors and subcontractors by seeking to deem owner drivers as employees. Again, this move was defeated by the Liberals and the Australian Democrats, recognising the need to distinguish and to defend the differences between the roles of subcontractors and employees. On the other hand, the Government on both occasions and again in this Bill aligns subcontracting with exploitation, totally dismissing the many advantages of the subcontracting system and the reasons why so many subcontractors have not chosen earlier, and do not now choose, to be deemed employees.

First and foremost, subcontractors are small business operators who prize their independence and freedoms which other employees do not enjoy in our rigid industrial relations and trade union structure in this country. The attempt in this Bill to achieve *de facto* recognition for subcontractors as employees and to require of principal contractors a duty of care and a responsibility for subcontractors over whom they have little or no control is, I believe, reprehensible and must be defeated.

Clause 15 relates to the functions of the proposed South Australian Occupational Health and Safety Commission and provides:

The commission shall, in the performance of its functions under this Act, take into account—

(a) racial, ethnic and linguistic diversity in the population of the State;

(b) the interests of both sexes; and

(c) the interests of those who may be physically, mentally or intellectually impaired,

and shall seek to ensure that the benefits of this Act are available to workers irrespective of their racial, ethnic of linguistic origins or background, their sex or any physical, mental or intellectual impairment.

In regard to this responsibility which is to be assigned to the commission, few members other than possibly the Hon. Mr Feleppa would be familiar with the report 'Immigrant women in the workforce' prepared by the Migrant Women's Advisory Committee and released by the South Australian Ethnic Affairs Commission in July 1984. The report noted:

Immigrant women from non-English speaking countries are one of the most disadvantaged minority groups whose members generally are relegated to the hazardous and strenuous jobs which Australian born shun.

Other reports have also alluded to the role and position of immigrant women in the workplace. I refer specifically to a report by Dr G. Hugo 'Immigrants in the workforce: a demographic perspective 1983', a paper prepared for a public forum on the ethnic disabled as a result of occupational injury and diseases. Dr Hugo notes —and I accept his statement—in part of this excellent report:

As immigrants, women suffer from the prejudices of the receiving societies. As women they are victims of the inequalities and discriminations which affect the lives of women in Australia and as workers they enter Australian society at its least privileged levels.

Dr Hugo argues that immigrant women are trebly disadvantaged. After the Second World War Australia attracted many immigrants from northern and southern European countries. They had rural backgrounds and very little work experience other than in primary industry in their own countries. With limited skills, no formal occupational training and poor English they tended to be employed in the least skilled jobs where their pay was poor and the work arduous. However, their strong desire to improve their economic status, coupled with the low rates of pay received by the traditional bread winner—the male—saw immigrant women look for employment. In most cases the women's contribution to the family income was (and remains) essential to economic survival.

Many women are joint providers, not only to their extended families in South Australia but also to their relatives overseas. The majority of women who came to South Australia during the growth period after the Second World War are now in middle age or are entering retirement. As a result of the years of hard and arduous work their middle age is frequently characterised by work related health problems. Unfortunately—and this fact is referred to at length in the report 'Immigrant Women in the Work Force, to which I referred earlier—because the problems that immigrant women regularly encounter in the work force have been neglected for so long, it is highly likely that many of the newly arrived immigrant women from Indochina and South East Asia, in addition to the traditional countries of northern and southern Europe, are about to follow similar patterns of employment experience.

In South Australia, data from the Australian Bureau of Statistics indicates that overseas born women resident in this State are more active in the labour force than Australian born women. Italian women, for instance, aged 15 years and over are in employment to the extent of 48.1 per cent. Moreover, the profile for occupational distribution for women from minority ethnic groups is again quite different from that of Australian born women. Women from immigrant backgrounds are clustered in industries and occupations where the work is often boring, repetitive, arduous and, as I stated before, hazardous. The risk of industrial accidents or disease for these women is obviously high—and higher than for Australian born women or for the work force generally.

Women from immigrant backgrounds also are over represented in occupations employing process and production workers and workers in the service, sport and recreation fields, which is a category that includes cleaners, housekeepers, kitchen staff and waitresses. For example, 50 per cent of Greek women and 58 per cent of Italian women who are employed work in these two categories. This compares with only 20 per cent for Australian born women. As employees, immigrant women certainly have a role to play in ensuring a safe working environment, and that role is essentially to act upon the information that they receive. Notwithstanding

this obligation, they are often unable as individuals to ensure that their working conditions comply with the standards set out in regulations and awards, if they are not empowered to do so in their role as workers. They must have access to information, because that is fundamental to the practice of safety in the workplace.

Management and unions, as appropriate, and the proposed commission all have a responsibility to provide this information in a manner which can be understood and acted upon. I know that the Minister of Ethnic Affairs would share my concern that this information should not always be provided in the printed form in the mother tongue because it is a fact that many immigrant women in the paid work force are illiterate in their mother tongue. So the copious production of printed material is not always the most advantageous way to inform these women of their rights and responsibilities and of safety practices.

The third matter that I wish to address briefly is the relationship between this Bill on occupational health and safety, South Australia's Equal Opportunity Act, the Commonwealth Sex Discrimination Act and the other legislative and award restrictions on womens employment. Concern has been expressed to me over a number of years that provisions in each of these measures often overlap and are confusing and certainly give rise to uncertainty amongst employers as to their liability. I understand that amendments are to be moved in this area. Certainly in the workplace there are established stereotypes of women. These have been reflected in awards and agreements framed over the years. Women have been seen either as far more fragile, less reliable and likely to get sick more often than men; and the extreme alternative which one hears often today is to deny absolutely that women are in any way different from male workers. Certainly many employers and union officials in industry, for example, have been reluctant to take on women because in some respects they are physically weaker than men with the often quoted statement which insists that women are about one-third less strong than men. However, at best this figure is a population statistic and population statistics do not predict for the individual; they speak only for the mythical average being.

Inevitably some women—and certainly a number in my acquaintance—are far stronger than some men. Further, in many cases today sheer physical strength is irrelevant. Today's technology with its increasingly tame hydraulics controlled so easily by silicon chips has done away with the hard manual work that was once the core of many jobs. In some countries, particularly in Asia whence we derive many of our immigrants and refugees, women routinely take jobs as builders, labourers and road builders. Increasingly in Australia today we see some women keen to take up similar work. In South Australia the Equal Opportunity Act overrides any previous inconsistent or discriminatory provisions in awards or agreements, including weight lifting restrictions. I support this principle but I am sufficiently attuned to the realities of the workplace to recognise that the measure often places employers in an invidious position in terms of liability.

This conflict must be addressed in this Bill, although I believe that the conflicts will not be a long term problem. Strenuous efforts are being made to revise industrial awards in South Australia to eliminate discriminatory provisions. These provisions relate not only to weight lifting restrictions. At the Federal level the Sex Descrimination Act contains an exemption to clause 40 whereby employers who comply with the award or law that offers less favourable treatment to women are not in breach of the Act. Recently the ACTU identified 31 Federal awards which contain provisions restricting weights to be lifted and carried according to the sex of the worker.

Incidentally, about 60 per cent of the Australian work force operates under Federal awards. Therefore, employers complying with laws or Federal awards that specify a maximum weight for manual handling by women are currently not committing an unlawful act under Federal law. However, the Sex Discrimination Act contains a provision that two years after proclamation the exemptions contained in section 40 will cease to operate. From that time laws and Federal awards involving weight lifting restrictions and the like will be overridden by the Sex Discrimination Act. At that time the Act will operate very much as the Equal Opportunity Act in South Australia operates in respect to overriding State awards and agreements.

In preparation for the repeal of section 40 exemptions to the Sex Discrimination Act, I was particularly interested to note that the Federal Government last month convened a meeting of the ACTU and Confederation of Australian Industry in Canberra to look at this whole question of restrictions on women's employment. That conference, which was held on 17 October, reached a historic agreement on a joint strategy to eliminate legislative and award restrictions on the employment of women. A joint communique was issued at the conclusion of the meeting committing the peak union and employer bodies to resolving restrictions on women's access to the work force by the end of 1988. Therefore, by 1988—a short period—many of the problems that employers are currently complaining of in the workplace will no longer exist. In the meantime, there are some problems that this Bill should address and clarify. In terms of the communique it is worth noting some of the key points, as follows:

No reduction in protection for workers involved in manually moving heavy weights.

Development of a national standard for work in lead processes.

Removal of all remaining legislative restrictions on the employment of women related to shift work, overtime and night work, because they were discriminatory.

Abolition of remaining legislative restrictions on the employment of women in underground mining.

Rewriting of regulations on women involved in abrasive blasting.

Similar rewriting of regulations covering women being in charge of the transport of explosives or of work with explosives.

In addition to those key points the Prime Minister also made a very welcome commitment that the Government would take specific action to remove discriminatory legislation. He said that Cabinet would soon consider an amendment to the Conciliation and Arbitration Act to require the Arbitration Commission, in making awards or orders, to take into account the Sex Discrimination Act.

Before finishing on the subject of discriminatory practices related to women in the workplace and occupational health and safety matters, I make brief reference to the hazards in the workplace in relation to women, reproduction and pregnancy. It is my view that care for women workers and their unborn children is a particularly important consideration, but I suggest that in terms of occupational health and safety it is time we moved beyond the popular myth that reproductive hazards are specific to women workers. Research overseas (little of this research has been done here as yet) confirms that there are many factors in the workplace that can also make men impotent. That is extraordinarily important research that the trade union movement, employers and we as parliamentarians should be looking at because one only hears about women and reproduction. Because of an obsession with that subject one finds particularly discriminating practices against women and the assumption that all women want to become pregnant at some stage.

That is becoming a decreasing trend amongst many women aiming for occupational status. I would be keen to see that areas such as this are not only addressed in terms of concern for women but equally far more regard is made in future in award conditions to the concerns of health for men also.

It is my view that in highlighting that matter the only long-term solution to these problems is to clean up the workplace so that it is as safe and as pleasurable as possible for both men and women. I do not believe that the discriminatory practices, particularly as they have been set in the past against women, are the answers to those problems.

The Hon. T.G. Roberts: Why don't you move an amendment?

The Hon. DIANA LAIDLAW: There are so many men in this Parliament that it is time they paid attention to the interests of the health of men in the workplace and did not leave it up to women to pay attention to these subjects.

I will not keep the Council much longer but want to briefly refer to clause 5 (3) relating to binding the Crown. It is my view that it is an extremely important part of the Bill. I indicated earlier that accurate figures are hard to obtain, but the figures I have from the Australian Bureau of Statistics indicate that the public sector has been the major contributor to increases in industrial accidents designated as total permanent disability over the past four years.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: That may be, but the available statistics show that it is the public sector. Over the period 1980-81 to 1985-86 the increase has been from seven to 54. Whether the increase is proportionate or not to the increase in overall industry does not necessarily matter. The fact that it has gone from seven to 54 in four years should be of concern to us all.

I note that the increase in partial disability went from 132 to 178—again contrary to the decline in the record of all industries over that period. I highlight those figures because I recall with considerable pleasure a statement by a former Minister of Labour, the Hon. Jack Wright, in the *Advertiser* of 17 September 1984, as follows:

> . . . the heads of all Government departments would soon be issued with a strict code of practice to be followed in relation to occupational health and safety . . . Each department would be given specific targets and specific dates by which they had to reach those targets. Progress would be stringently monitored and if the targets were not reached on time, the departmental head would have to explain why.
>
> Mr Wright said that Governments were often accused of pointing the finger at others while failing to clean up their own backyards.

That is a sentiment I would share with the former Minister. The article continues:

> This had been an accusation levelled from time to time at the Government in relation to occupational health and safety.
>
> 'I am afraid that up until now there has been some truth in that accusation,' he said.
>
> 'The South Australian Government is the biggest single employer in this State with more than 30 000 employees—

as we all know, it has increased since then—

> on its payroll.'
>
> 'Yet a committee formed to look at occupational health in government departments found that 65 per cent had absolutely no safety policy at all.'

That was two years ago. It continues:

> Almost half the departments surveyed had no safety officer and 50 per cent had no mechanism for reporting hazards and unsafe conditions.
>
> The Government had decided this was an intolerable situation.
>
> 'We are planning to take some strong action to ensure that, on the question of occupational health and safety, our house is in order and can provide some sort of example to other employers throughout the State,' Mr Wright said.

At the time in September 1984 I applauded that statement. I must admit that since that time I have no idea of the commitment made by the current Minister to that same program. I have no idea whether each department has set specific targets and specific dates by which they had to reach those targets, but I would be very interested during the Committee stage to pursue that, so that in fact the Government can with confidence say that it is setting an excellent lead in this field and hopefully a fine example for industry in general to follow.

As I said at the outset, I am anxious to see improvements in the workplace in terms of occupational health and safety measures. I am extremely disappointed that the Government has adopted this approach by which to achieve those reforms, but apart from that and some of my other general concerns, I am certainly pleased to support the second reading of this Bill.

The Hon. I. GILFILLAN: I think this is a great occasion that we do at last have an occupational health and safety piece of legislation before us. I was impressed with the unanimity of enthusiasm that was about at least 12 months ago that this was long overdue and there was a consensus about that we would get it in place and have it operating very quickly. How disillusioned I have been since then! However, I do believe that this is a monumental achievement to have at this stage a Bill which will make a dramatic improvement in the safety of the workplace and the awareness of both employer and employee to the general health and wellbeing of the workplace as a major part of contributing to productivity, to the enjoyment of a healthy and safe workplace, and a reduction of the quite horrendous costs involved in the accidents in the work situation from which our State currently suffers.

The whole basis of this legislation was predicated on trust between employers and employees and with great enthusiasm I felt that there were constructive discussions taking place between employer organisations and employee organisations, with the Government playing its part, and under Minister Jack Wright, I am sure that that was the way it was progressing. Indeed, although a little more cynical, I do believe that the major substance of the intention of those plans is still in the legislation, and with some adjustment and some trimming here and there and some goodwill, the achievement at the end of it can be still a major substantial improvement to the South Australian workplace.

I have represented the Democrats at extensive discussions with employers and employees, and both groups have taken on board attitudes and initiatives for amendments which are contained to a large extent in the amendments which have only just been distributed to honourable members. Because much has been made of the hostility to the Bill, I will read into *Hansard* as a point of reference two brief extracts from major employer organisations. First, I will quote from a document titled, 'Submission to the Minister of Labour', dated 21 July 1986, from the Chamber of Commerce and Industry S.A., the Metal Industries Association of South Australia and the Retail Traders Association of South Australia. The document states:

> The Chamber of Commerce and Industry S.A. Inc., the Metal Trades Association South Australia and the Retail Traders Association of S.A. Inc. fully support the steps taken by the Government which are aimed at achieving effective, practical and widely accepted legislative initiatives in the area of occupational health, safety and welfare. Legislative initiatives both within Australia and overseas in the area of occupational health and safety have demonstrated that a cooperative, consultative approach to the matter successfully improves health and safety standards. Our organisations will support the Government in its draft Bill proposals which employ a practical approach to securing better safety standards and utilise cooperation, consultation and consensus as

the basis for promulgating change and establishing workplace consultative mechanisms.

The South Australian Employers Federation, a body which by its character tends to be a little more antagonistic to some of these initiatives, has circulated a document titled, 'Submissions to the Minister of Labour, Draft, Occupational Health, Safety and Welfare Bill'. I have not located a date on it but I can assure honourable members that it is something which was circulated in the past two or three months. A paragraph on page 1 states:

> We are supportive of the concept of a new Act in respect to occupational safety, health and welfare. Nevertheless, it should be noted that although much of the draft Bill is taken from the recently enacted Victorian Occupational Health and Safety Act, this is not in our view sufficient justification and each proposed provision needs to be assessed on its own particular merits. Therefore, in the course of this submission we will be outlining a number of serious objections which we believe should be given due consideration prior to a Bill being presented to Parliament.

Indeed, the federation has made constructive criticisms in many cases and some of them obviously were not incorporated in the Bill. I read these quotes into *Hansard* with the specific purpose of indicating that there has been a willing acceptance by employer bodies that this legislation should come into effect.

Now that it is before us, there are three issues which I would like to mention. It does contain serious obligations for any employer in South Australia with very heavy penalties. Those penalties are $100 000 and/or five years gaol as a maximum, and honourable members must remember that all penalties are maximum. They are often deliberately distorted in presentation by implying that any offence will incur the major penalty. That is just not right, and it is in fact a deliberate distortion of the real situation. However, the potential penalties are there and it reflects the very serious attitude that the Bill takes to an employer who deliberately flouts ordinary safety procedures and puts at risk the life and well-being of employees.

Obligations are spelt out in the Bill for employees and those who offend within the terms of the Bill. Penalties are provided for that. I know that from the unions' point of view, there are objections that those penalties are unacceptable. For safety representatives who get very substantial powers and have a responsible role to play, we support the amendments which apply a penalty for any safety representative who is proven in the Industrial Commission, which is a court of law effectively, to have deliberately abused that responsibility. There should be a penalty applying to that.

To us, that seems to be a fair and equitable situation. Obviously, if one is in either of those two camps—employer or employee—they will resent the fact that they are apparently carrying the risk of a penalty. We are convinced that for a sense of justice from those involved with this legislation and implementing it willingly, it needs to be seen to have been spelt out in the fairest possible way.

Employees are important. They have a responsible role to play in this matter. It is ridiculous to expect that without some reflection in the legislation that penalties apply if there is a deliberate flouting of responsibilities of the employees in the scope of the Bill. The Bill's effectiveness will largely rest on the calibre and energy of the commission. We believe that the commission is well designed with a good balance, although we have a minor amendment or two in relation to it. Basically, however, we are happy with the commission and emphasise yet again that it is centrally important to the effective working of the legislation.

The Liberals' response to the legislation has been interesting. In earlier days, I believe, that Party reflected an enthusiasm for legislation that would put emphasis on improving the safety of the occupational area, and occupational health and safety legislation when talked about in those days appeared to be set for an easy ride. On closer analysis of the comments that the Liberals have made, even up to this stage, I am not completely disillusioned. I think it is obvious to those of us who sit on the crossbenches, in the middle, or in an objective role, that there is some parading and point scoring on both sides by the major Parties. We are already conditioned to discount that factor and look at what the real essence is of the intention of the people who are eventually involved in voting.

Members interjecting:

The Hon. I. GILFILLAN: You can contribute that to a handbook, 'How to analyse the Democrats' performance'. It is inappropriate as an interjection. I will quote briefly from both major Liberal speakers (Mr Baker in another place and the Hon. Trevor Griffin in this place), although they were similar. On page 1635 of *Hansard* of 29 October, Mr Baker stated:

> However, despite the intimidation and the destructive nature of the Bill, it is the intention of the Liberal Opposition to squarely address the issue of occupational safety and attempt to correct the deficiencies and anomalies contained in this Bill. In keeping with this aim, we will support the second reading to facilitate debate and consideration in Committee.

The fact is that if the Liberal Party votes to support the second reading it does more than just facilitate the debate and consideration in Committee, because I have seen the Opposition in this place oppose the second reading and still contribute to Committee. It is more than a case of just wishing to contribute in Committee; in my opinion it is a fair signal that the sensible head of the Opposition recognises that this legislation has a lot to offer and, even if it is parading on the surface, it is attempting to be constructive. Mr Baker in relation to Liberal Party policy continues on the next page:

> The Liberal Party is committed to:
>
> 1. The provision and maintenance of a safe working environment in all industries . . .
>
> The Liberal Party believes:
>
> Occupational safety health and welfare issues arise from the working environment and accordingly fall into the jurisdiction of the Department of Labour—

Amongst a whole lot of other padding there are interesting signals in relation to what Mr Baker really feels. On page 1637 of *Hansard* he states:

> I turn now to the powers of safety representatives. The Liberal Party supports the concept of having a representative of employees with a safety watching brief on the shop floor. In other words, the concept of a safety representative is sound.

That is a good, clear statement from Mr Baker, at least, and I believe he speaks on behalf of the Party, that he is in favour of a safety representative. Mr Baker further states:

> The Liberal Opposition believes the cause of safety is being subverted by this Bill, and totally rejects the anti-business, anti-employment nature of this Bill; condemns the Bannon Government's intent to place further power in the hand of the union movement; opposes the attempt to bring subcontractors under union control; believes that the responsibility of safety representatives (the majority of whom will be untrained) are too extensive; questions the provisions of the Bill which require employers to be responsible for the psychological well-being of employees; condemns the Minister's inflammatory actions in respect of the massive increase in penalties; regrets the additional burdens being placed on small business that will not be able to cope; and believes that the Bill can be amended to achieve the aims to which we all aspire, namely, a safe working environment.

The astute discerning reader can pick the flesh from the flummery and realise that what has ben said there is a political criticism of political remarks in the Minister's introductory speech. However, in essence, it is a willingness to contribute to get a piece of legislation that will work.

I now turn to the Liberal member who has the carriage of the legislation in this place, the Hon. Trevor Griffin. He said:

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.

We abhor that method of dealing with the legislation. It was most unfortunate and caused a whole lot of unnecessary resentment. However, we now have a somewhat contentious statement. The Hon. Trevor Griffin states:

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.

It is an achievement to put on 18 pages of amendments. In fact, the Hon. Trevor Griffin has now made that number rise to 22. Twenty two yards is the length of a cricket pitch and I think that is sufficient. However, that statement was a complete misrepresentation. Obviously, I am the Australian Democrat who has allegedly been peddling the story. I have never indicated that the Opposition supported this Bill holus-bolus and I have reflected in my remarks to date that it is a fair interpretation of the Opposition's point of view, and I hope to its credit that I have reflected it accurately because I would hate to think that this has all been a facade and, in fact, that they are steadfastly opposed to the intent of the legislation. The Hon. Trevor Griffin continued:

In passing, it is appropriate to note that with the sort of raw power which the Government demonstrated in the House of Asssembly 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.

Here again is evidence of a need for a proportionately elected Upper House in South Australia and the South Australian people will, in the long term, benefit from the fact that we will have a deliberate objective debate on the Bill in this place. The Hon. Trevor Griffin continues in a slightly different context. Unfortunately, it reflects some of the hysteria that gets whipped up by the use of politically exploitive words. My next quote is from the Australian Small Business Association in its review of the Bill, and this was read into *Hansard* by the Hon. Trevor Griffin. It states:

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.

That is intemperate language. Obviously it will detract from a sensible, rational understanding of the legislation and does no service to the Small Business Association to be discussing it in those terms. I am sorry it was brought up as part of the debate in this place.

In relation to subcontractors, I am modest in some of my earlier pronouncements about matters of great import in this place, but it was flattering to hear an earlier assessment of mine on the emphasis and significance that the Democrats give the subcontracting system in South Australia. Although that is attractive to hear, it is completely irrelevant to clause 4 (2) of the Bill.

Subclause (2) is a measure to control the working environment in which people who are in the subcontracting arena work. If anyone cares about maintaining subcontracting as part of our industrial scene, they must also care about the safety of people working in the arena. A careful reading of this clause emphasises that the principal (in other words, the person who has the full responsibility of the overall job) is only required to take on such responsibility over matters over which the principal has control or would have control but for some agreement to the contrary between the principal and the contractor.

I believe that this clause is sensibly worded, not extending anything other than what is a reasonable and fair responsibility of a principal in these relationships and in no way does it threaten the working relationship of a contractor. If anyone in the Opposition can point out how this clause threatens the role of contracting or subcontracting in our industry, I would be interested to hear about it, but I believe it is a knee jerk reaction, perhaps understandably because, like the Democrats, the Liberals see the value of maintaining a subcontracting factor in our industrial scene. However, this is obviously a health and safety orientated provision and it is a great pity if, on some pedantic aversion to even discussing contracting or subcontracting, we avoid adopting a measure which will ensure that those who are working in the subcontracting area have the safest possible working environment in which to continue their occupations.

The psychological aspect in one of the subclauses has come in for comment and criticism and will obviously be the subject of further debate in Committee. It is important to consider briefly the issue of psychological aspects. Stress is the neatest linkage between the psychological aspect and the consequences for employees in the workplace.

My amendment now on file has been reworded so that we remove the two words 'psychological' and 'physiological' so that there is no specific emphasis or identification and just a general ambient phrase of wellbeing, which I consider is a fair way of identifying the areas of responsibility of an employer for employees. We are going to need to do more than just have a semantic argument about which words go into the Bill. The issue of stress and psychological responsibility is important. Those who are concerned about it from the employer side believe that this will open the floodgates for everyone who has either a genuine or *quasi* psychological problem to come leaping in on the bandwagon looking for compensation.

This Bill is not dealing with compensation but with optimum working conditions—the environment. In a moment I am going to quote a couple of paragraphs from a book which I think puts it reasonably well but, before doing so, I point out that the aim of the Democrats is twofold. It certainly is to create the best situation and to protect employees from undue stress and strain—physical and mental—but it also adds to the productivity of those who are involved in the workplace. I quote from the book *Using Psychology* by Morris K. Holland, as follows:

Stress and Life Changes:

Stress reactions are caused when you are required to make any major change or adjustment. In our fast-paced and rapidly changing world, we live with constant stress. Sometimes, however, everything seems to happen at once; we haven't had the time to recover from the last major change in our lives when we are required to cope with another major change. What is the effect on our health of these intense pressure periods?

Being required to cope with a number of major changes or problems in a relatively brief period can harm your health. Studies show that illness tends to occur during periods of stress in our lives and that we are more prone to accidents during these pressure periods. Your interpretation of life changes is also important: for example, changing a job or school can be seen as positive or negative.

There are some lists of factors which in the job situation can cause stress. It is ostrich-like to ignore the fact from any employer's point of view that stress and psychological strain reduce productivity and expose employees to a higher rate of accidents and are generally counter productive, if just on purely economic grounds.

So, it is counterproductive for an employer to ignore a situation which is causing psychological stress. I cannot see any point in allowing the wording of the Bill to cause unnecessary hysteria because of these fears, and I believe that the amendment we have on file will help overcome that.

I now move to a series of amendments—it is not an exhaustive list. I mention it so that members will be aware of the issues to which we will be moving amendments in Committee. A responsible officer of the body corporate is a matter that other members have raised as being a matter of great concern. As it was worded in the Bill— it may be appropriate now to just make a general comment on the wording of the Bill as it was presented to us—it was loaded in what could be described as a partisan way. It has been reasonable for that exaggeration and that over-extension from pressure from a Labor Government to have some counterbalancing effects, and that is where I believe that the Legislative Council's amendments can be useful in getting a balanced end product from the Bill.

Why every responsible officer of a body corporate should be subjected to the risk of the maximum penalty I do not know. I am not persuaded that that is a fair and reasonable way. We have worded an amendment which will mean that certainly a responsible officer in a body corporate who has had that area of responsibility and either by an act or by failing to act has been responsible for that unsafe condition will be liable to the penalties incurred in the Bill. We make no apology for that.

The sooner people who are at the top of the tree in corporate structures realise that they are dealing with real human beings and the failure of them to institute and insist on safe work places is a serious crime in the light of the way that we view the responsibility of employers to create and maintain a safe work place. It cannot be shuffled off in the rarefied air of boardrooms by saying, 'This is beneath our area of responsibility.' There must be people at the very top of corporate structures who must be liable to incur a penalty if there have been deficiencies in the maintaining of a safe workplace.

In the same way we believe that a Minister in a Government department should be held responsible if there are failures in maintaining adequate safety standards in the department. This may well be the subject of some interesting debate in Committee. I am not sure that the Parliamentary Counsel has persuaded me how effective my amendment would be in this respect. However, it seems quite unacceptable that a Bill which will impose draconian penalties on employers in the private sector leaves those who are ultimately the really responsible people for employment in the Government sector virtually immune from penalty.

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: We will have a crack at the Minister. It is ministerial responsibility. If the Government is going to have its respect in the outside world at large and be seen as being serious about safety in the workplace—we know how vast the work place is in the Government arena—someone has to be responsible. People get killed and maimed just as badly in the public work sector as they do in the private sector, and this responsibility has to be shared at the top in both private and public arenas.

The safety representative clauses in the legislation are contentious in respect of the responsibility of the safety representative. The Democrats accept that this is a worthwhile amendment to occupational health and safety. There are situations which a properly prepared responsible employee can handle and only that person can handle in the time and with the sensitivity that would be required on certain rare occasions.

However, we think that some other obligations and restrictions are needed on the field of operation of those safety representatives. One amendment is that that person shall be able to exercise his or her own powers only within the designated work group area for which the safety representative is responsible. We also feel that in smaller businesses where there are only a few employees some of the impositions of the legislation will be too severe and that there needs to be a practical consideration of what number of employees in a workplace can be required to have a work group with an elected safety representative with the compulsory obligation to have whatever period of training time per year. We have an amendment on file which would excuse employers with 10 or fewer employees from a compulsory obligation to fulfil these aspects of the legislation.

Obviously in many cases it will be to their advantage to comply with it, but we do not feel that it is fair to impose a mandatory requirement on them. The codes of practice, which will be a very significant part of the work of the commission (and as spelt out in the Bill), we believe are so significant that they should be subject to the same surveillance and restraint that is currently the case with subordinate legislation. Because of that, we have amendments; and I gather from the Hon. Trevor Griffin's comments that he has also seen the wisdom to support them or put forward something similar. I really feel that in many ways this is a constructive treatment of codes of practice and it does give them more significant status. As they are going to be virtually obligatory with the force of law for many employers, I think that the least this Parliament can do is to expect them to be presented to us for acceptance or otherwise.

Included in our amendments is a clause which will allow, under circumstances which I would consider to be most extraordinary, exemptions from parts or part of this Bill for certain industries and certain employers. It is quite a lengthy amendment that I will not read out, but it is on page 16 of my draft of amendments. Included is the qualification that the commission must be satisfied that the granting of an exemption would not adversely affect the health, safety and welfare of any employee, and various other qualifications. I think it is a worthwhile amendment to consider in so far as unless there is some flexibility for the commission the legislation is very rigorous. It is very positive in its injunctions and instructions. There may be rare occasions when it is inappropriate to be applied certainly in its full detail.

We also propose an amendment which will allow some specific consideration for the rural sector. The rural sector provides a work situation quite unique and certainly remarkably different from the organised large employee centres in the metropolitan area. Therefore, there are grounds for considering—both from the employee work situation and more specifically from the imposition of plant requirements—adjustments and changes to plant and equipment used on rural properties. Therefore, in a later stage of my amendments we have built in an amendment which allows a five-year moratorium for equipment in the rural sector in connection with compliance with safety regulations and standards. This allowance is not only for remoteness; it also reflects that in New South Wales and Victoria similar legislation has placed enormous pressure on the equipment and parts which are required for machinery. The UF&S and the farming communities have not asked for exemptions from the impetus of safety to the rural work force. It is a plea for a practical awareness of the current situation in the rural sector. I think that we cannot ignore that call.

I think that the Government has made a very serious effort in this legislation to substantially increase the safety of the workplace in South Australia. However, everyone that we have talked to have said, 'Where will the number of inspectors and other staff come from to actually do the work?' This is the crunch. How often have we heard the pious platitude and the sort of shiny ideals and intentions expressed but, when it comes to the crunch of actually getting something implemented and supervised, there is a shortfall in resources?

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: I have not had any of that sort of detail put to me. I do know from estimates that at least double the number of inspectors would be required to deal with the situation adequately. It is inadequately staffed at the moment. I remind the Government that in its enthusiasm to introduce this Bill there was no increased budget allocation. So from where will the extra money come? It has to be made to work. It will be a farce if the legislation is enacted and then the commission and the Department of Labour are left with inadequate personnel to deal with it properly.

In conclusion, I will make a comment on what could be described as the other side of the coin. A lot of concern has been expressed by employers, particularly employers that deal with particular unions, that they are very frightened of the consequences of this legislation on the way that they conduct their businesses and the industrial impact. This is another arm for a belligerent union to make the life of these businesses more difficult. Much of that approach can be put down to union bashing, and those employees in the union movement say that they hear that all the time. However, I know of several cases where I have had first hand explanations and descriptions of what has occurred in the workplace. I believe that these fears, certainly with some of the more militant unions, are soundly based.

I refer to a particular problem in a workplace. The problem was relatively minor and related to toilet facilities and things of that nature. The union representative insisted that an inspector attend and then urged the inspector to close down the factory. The inspector indicated that under the legislation he was not empowered to take that action as the deficiencies would not cause bodily harm to the employees. The inspector said that he would request the company to upgrade the facilities within a few days. At about midday on that same day two more union organisers arrived and there was a renewed attack on the inspector in an attempt to force him to close down the factory, but he was not prepared to do that. The union representative stated in private, 'I will get that bastard of an inspector', and so on in that tone. I am not seeking to put this into *Hansard* or before honourable members as a scare tactic or as part of an anti union campaign. In fact, I do not believe that that reflects the vast majority of union attitude at all. However, it does indicate the grounds for some employers to feel deep concern about how this legislation could be abused. That is why the Democrats urge amendments, so that there will be penalties for safety representatives who have abused the very substantial powers that they have.

We trust that in virtually every case there will be no need for this to even arise. We also believe that there will be a substantial improvement in the whole safety area of the workplace in South Australia and massive cooperation and goodwill from all sides. The experience virtually everywhere else has been such that there are no observable grounds for concern.

I refer to a book 'Occupational Health and Safety Enforcement in Australia—a report to the National Occupational Health and Safety Commission'. It is by John Braithwaite and Peter Grabosky, two authors who are very highly qualified. They are both Doctors of Philosophy and research fellows in various academic centres. They have contributed to compile this book which is an overview. They had this to say about South Australia:

> The Industrial Safety and Regional Services Division of the South Australian Department of Labour has also had responsibility for a variety of areas of enforcement beyond occupational health and safety. Between 1978 and 1983 it was responsible for 134 convictions related to its arbitration inspectorate functions and for 52 shop trading hours convictions. However, unlike its Queensland counterpart, substantive occupational health and safety matters have constituted the main area where convictions have occurred.
>
> South Australia has a good record of success in the courts in occupational health and safety matters, losing only four of 170 cases between 1978 and 1983.
>
> Unlike the other States, South Australia shows a decline in the level of enforcement since 1978. More remarkably, the average level of fines was higher in 1978 than in every subsequent year. South Australian employers in the 1980s have less to worry about from occupational health and safety enforcement than they did six or seven years ago.

Other interesting observations are made in this book, but I will not take up the time of members to read more. They will find it well worth looking into as it deals with radiation safety, mine inspectorates and other telling matters. It has a table on page 20 in which it indicates the declining number of convictions and the average fines. In 1978, there were 39 convictions with an average fine of $241. In 1979, there were 34 convictions with an average fine of $172 and, in 1984, there were 27 convictions with an average fine of $189. That indicates that the current legislation has not had a significant impact in the area of jurisdiction to emphasise the need for a safe workplace, and we have had a few horrendous accidents to bring home that point to us.

I will quote from a letter written personally to me. Both the authors of that book, John Braithwaite and Peter Grabosky, wrote saying:

> John and I are unaware of any abuses by worker safety representatives either in Australia or overseas.

For those who are scaremongering about this dreadful risk to South Australian industry of giving this responsibility to representatives, I point out that there is no evidence according to researchers that such has been abused. I have no reason to doubt that.

The Bill is a substantial achievement. It is reasonable to acknowledge the substantial contribution by the unions to evolving this legislation. I say that without any sarcasm or cynicism. From discussions I have had with them they have shown nothing but a serious intention to create a safer workplace. In my discussions with the employers there was, largely, a reflection of a similar concern to create a safer workplace. On balance the Bill offers employees who, after all, are the ones who suffer most if we do not create safe workplaces, a higher, more responsible track of contribution and a higher degree of responsibility. With appropriate amendments this Bill will add considerably to a safer, less costly and more productive workplace in South Australia. I support the second reading.

The Hon. T.G. ROBERTS: I support the second reading, but will not go into too much detail until the Committee stage. I will raise a few philosophical differences we have in relation to the direction of the Bill and some of the misconceptions put forward by some of the speakers so far. We will get into closer struggles in the Committee stage than at the second reading stage.

The philosophical direction of members opposite varies somewhat. The Hon. Diana Laidlaw identified and quantified some of the problems associated with migrant workers

and women in the work force. It is a pity she will not support the whole of the Bill to give these people protection that she sees they require. There is a certain amount of hypocrisy in some of the contributions made in supporting certain sections of the Bill and then having a wad full of amendments of many pages—almost as thick as the Bill itself, if the Liberal and Democrat amendments were combined, giving almost a new Bill based on the philosophical differences we have about implementation of occupational health and safety and how it is to be administered, not enforced, at the shop floor level. That is where problems were experienced in the Lower House when the numbers were used as referred to by the Hon. Mr Griffin when speaking about the abuse of power in the Lower House. He referred to the guillotine being used.

The Labor Party was elected with a mandate to introduce occupational health and safety and workers compensation legislation and we were not given an easy ride to bring in either. We now look like having a hybrid Bill that will not satisfy either the unions or employers and we could be left in a very embarrassing position if the Liberals and Democrats insist of implementing the amendments foreshadowed. If each individual member opposite analysed the sectional representative viewpoints they are putting forward they would find that they would be representing different viewpoints of employers and groups that have an interest in the introduction of the Bill with little regard to the way in which workers see it.

Talk about abuse of union powers or instituting more power for the unions at the shop floor level, is a wild exaggeration because, if members opposite spoke to some of the employers who have occupational health and safety agreements in place and have had for some time, including many of the provisions regarded as contentious in this Bill, they would find that the employers themselves are quite happy with the way in which they have anticipated the legislation, having looked at the ACTU models drafted as early as 1968 or 1970 and not implemented until the late 1970s or early 1980s. Many employers would be quite shocked, to say the least, to see some of the headlines used as scare-mongering tactics to influence small businesses and small employers who are being led to believe that the sky will fall in and that they will become bankrupt and locked away in gaol. There is a gross exaggeration of the penalties and I am glad that the Hon. Mr Gilfillan pointed out that the maximum penalty would not be imposed for each breach. There is a maximum penalty for the maximum breach as determined by the commission.

If we look at the way the debate has been carried on in the community, it is no wonder that the parties involved—the Trades and Labour Council, the Liberal Party and the Democrats—have not been able to get a reasonable position so that we can introduce a Bill that gives the maximum protection to workers, allows maximum participation by employers to negotiate with safety stewards on the job, and brings in a cover that gives confidence to the workers that they are not being done out of some rights in terms of the way in which they carry out their work in a healthy and safe environment. Hopefully, when we get to the Committee stage, some of the amendments may be changed by some of the discussions that we have. I hope to be able to play a bit of a role in that, having helped introduce into some factories health and safety agreements modelled on the ACTU model, which has a lot of similarities to the Bill we are discussing.

One of the basic philosophical differences that I have with the Hon. Mr Davis and the Hon. Mr Griffin is that I really do not have any fears about the abuse of powers that shop stewards will have, and I cannot see that there will be 500 safety stewards following the safety officer around as though he is a pied piper, as suggested, I think, at Mitsubishi. That is just an impossibility. If there is a large work enterprise with a large number of safety stewards, the key time that they will all be together is when they discuss how to work in a better and safer working environment. They will not be interested in traipsing after a section of employers down the other end of the workplace to find out how somebody squashed a finger. That will be worked out on site and has probably already been worked out at Mitsubishi without disrupting the workplace.

For those who have not looked at how an occupational health and safety agreement introduced by a private employer operates, I suggest that, before we get to the Committee stage, members contact an employer who has a practical operating occupational health and safety agreement and talk to them about how it has been implemented and see if there are any abuses. I think they will find in most cases, even though there are growing pains, there has been quite a lot of success in eliminating some of the worst aspects of dangerous plant and equipment in a lot of factories. The fact that the Bill is an Occupational Health and Safety Bill indicates that it is a measure that is to come to terms with some of the more dangerous aspects of chemicals and other more dangerous aspects of work environments. It would be worthwhile for a lot of people to perhaps go down to ICI and see how it operates. I am not saying it is a perfect example—

The Hon. I. Gilfillan interjecting:

The Hon. T.G. ROBERTS: That is an example of a process gone wrong. I do not know who is being blamed, but I am sure there would be some consultation as to how to overcome it. I am sure they would be sitting down with their stewards and health and safety people on site to make sure that it did not happen again. I hope that the people in the area learnt a lesson and perhaps, as an extension of the Occupational Health and Safety Bill, determined, as community participants living in an environment quite close to dangerous work practices, that they have some say in how ICI runs its operation. That is an extension of the process, although it is not part of the Occupational Health and Safety Bill at this stage. I think there is probably some room for negotiating community participation in future Bills. I do not want to complicate the situation by raising issues like that.

We have, I think, a major philosophical difference in terms of whether or not we trust workers to be able to act responsibly. It appears that some members opposite have a view that as soon as a worker or employee is classified as a member of a union, he somehow takes on a different face. It can be seen coming through some of the propaganda, particularly by Katherine West, that family based employees or family based unionists are somehow different from factory based employees and factory based unionists. As the Hon. Mr Gilfillan has said, speaking to people involved has left him in no doubt that it is the intention of the representatives of the unionists and the employees at the work face level to try to get an occupational health and safety agreement that covers workers to allow them to work in a safer environment. Perhaps the honourable member is now more at ease, and that will be reflected when we get to the Committee stage to make sure that the Bill is fundamentally operational when it is finally drawn up.

So, I do not expect every member opposite to have a total understanding of the industrial environment, about how management and unions come to terms with a lot of their problems. Australia at this time, and South Australia

in particular, are starting to negotiate agreements across the board, on wages, conditions and occupational health and safety. This is starting to reflect an attitude of cooperation so that we have a society that is producing as much as it is consuming and distributing. When unions negotiate agreements now, they do not set out to make companies go broke or throw company managers into gaol. It is to perhaps scare them in some cases into a responsible attitude for the way in which they run their premises.

One of the amendments that disturbs me a little, foreshadowed by the Hon. Mr Gilfillan, is to exempt places with fewer than 10 employees. If one looks at statistics, or the lack of them as the Hon. Ms Laidlaw pointed out, one will find that most of the accidents and most of the more dangerous work premises are those with fewer than 10 employees. It is the larger premises that have a more responsible attitude to occupational health and safety. I am not saying they are all angels, but at least they are generally more aware of many of the problems associated with occupational health and safety. They do not tend to have such a high turnover of labour and they tend to be more responsible in terms of how they operate on a day to day basis with regards to the safety of their employees.

There are exceptions of small businesses that work on a family basis. They tend to be non-union and to have a closer relationship with their employees. They also tend to take greater care about their occupational health and safety problems, but in a very basic way. So, it is probably a natural instinct to try to give small employers an out, if you like, or some sort of remission from what could be seen as some sort of cost impost, and that would probably be the first natural instinct. However, I am afraid that, if that happens, a lot of workers will not be protected because the employer will not have the same threats, if you like, hanging over him to change the way he operates to allow his workers to operate in a safe and healthy environment.

If one looks at some of the comments that the Hon. Diana Laidlaw made about migrant women, and women in particular, and if one removes the clause on subcontractors and allows subcontractors to somehow operate differently from employers, then I am afraid one will have the same problem when one allows small business operations of fewer than 10 employees to operate. Many outworking operations that presently exist in the Eastern States will begin in South Australia. Members will find that those operations will involve migrant women working long hours, and those women will be exposed to problems associated with tenosynovitis, and will not be protected by the Occupational Health, Safety and Welfare Act if they are exempted.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: They are. That is one of the problems. A large rag trade tends to subcontract small parts in an organised way. It would then be hard to work out whether individual women—and they are usually women—are employees or contracted persons. In most cases one will find that they are not covered by workers compensation, although they are under the impression that they are. Those women usually work at very low rates of pay on the basis that it is cash in hand and—

The Hon. Diana Laidlaw: Do not pay tax.

The Hon. T.G. ROBERTS: That is a problem. Perhaps the Identity Card will be implemented. If places of fewer than 10 employees and subcontractors are not covered, one will be exposing the most vulnerable to the excesses of the most exploitive. Members will find that over the past five years some of the major employers have started to take a reasonable and responsible attitude to occupational health and safety, and many of the provisions of the Bill already apply. However, it is for the people who do not come in contact with some of the more progressive employers' attitudes that the Bill should be strengthened, rather than weakened. I ask members to consider some of the implications of removing the cover for those people.

The Hon. Mr Davis spent a lot of time talking about costs associated with workers compensation, and mentioned that New South Wales was one of the most expensive places in the world for insurance. Some of the key arguments in relation to costs associated with insurance and self insurers have been debated in relation to occupational health and safety and workers compensation. I think that South Australia has a fair share of self insured who tend to take a different attitude to occupational health and safety and workers compensation from those who labour under expensive workers compensation insurance.

They have an interest in not only keeping their own premiums down and to cover their workers, but they tend to investigate more thoroughly some of the trends operating not only in Australia but overseas, to assist in bringing the accident rate and level down. Generally there is a more consultative process on site. There again where one gets into small workshops with 10 employees, one will find that the pressure is generally on from the time one clocks on to the time one clocks off. It is relatively easy for management to cover for one or two people out of the work force, perhaps not on a production or an assembly line, but in terms of having spares and people to cover for those people, than it is for people in a small enterprise who tend to work flat out from the time they get into their work premises until the time they leave.

The Hon. I. Gilfillan interjecting:

The Hon. T.G. ROBERTS: I thought that you were talking about exemption from the Act, but you were only talking about training.

The Hon. R.I. Lucas: He is not as bad as you thought.

The Hon. T.G. ROBERTS: No, I will have to take a bit of it back. However, the argument still stands. One can use the argument that it is harder to take someone out to train them if it is only a small business. However, there is an obligation because of those pressures to ensure that there is a level of understanding by those workers in those business premises of their obligations and some of the problems associated with the way in which they operate. One could find business premises using dangerous chemicals or processes associated with some known danger. To exempt those employees from training programs would be dangerous. One would find that in some premises there would be more need for occupational health and safety training than in others.

More emphasis would be placed on a high powered chemical process industry like ICI than with a straight out mechanical operation, a fully automated operation, or a skilled operation, where it might be part of the training for the particular skill for which the person is paid. The problems that the Hon. Diana Liadlaw saw with the attitude of workers at Robe River and the organiser from Perth with the 19th century attitude to employer/employee relationships—

The Hon. Diana Laidlaw: The Western Australian Government agrees; otherwise, it would not have set up the Iron Ore Consultative Council.

The Hon. T.G. ROBERTS: I think that the honourable member will find that workers and organisers tend to react and use the same tactics as the employers use. If one has a good employer there will generally be a good relationship with employees; if one has an employer that bases industrial relations on confrontation, then generally the unions tend

to reply. It is one of those things that need to be worked out between employer and employee.

Some influences outside the political process are advocating that we should get back to a 19th century system of industrial relations, and I think if that occurs it does not matter what occupational health and safety agreements one has on site: there will then be confrontation, no matter what. There is nothing that any organiser can do, and nothing that the ACTU or the Trades and Labor Council can do. The workers will take into their own hands a response that will reflect the attitude of management to them. If management has progressive ideas and some respect for workers' attitudes and treats them like people in the work process, then the employees will respond. Regarding the problems associated with health and safety representatives abusing their powers and the fine line that will be drawn between abuse of powers and being able to do their job properly, there is a bone of contention and an industrial relations problem that will emerge on each site. Members will find that as soon as a health and safety representative advises an individual about a particular matter in a particular way, if it is not in agreement with the way that the employer sees it, then there is a possibility for some conflict. I cannot see that that is going to be overcome by legislation; it will be overcome by negotiations on site.

Members interjecting:

The Hon. T.G. ROBERTS: That is all right. The other area touched on by two or three speakers concerned the attitude of Government enterprises compared with private enterprises, as if they are something different. Both Government and private enterprise are run by people. Where there are people we all have different attitudes. No-one on the union movement side or the Government side is saying that administrators in public enterprises are pure in the way they operate their business premises, either in terms of productivity or occupational health and safety. We will still have the same problems.

The Bill will ensure training programs run in private enterprise have emphasis placed on industrial and human relations, and the same emphasis will have to be made in public enterprise. If there are public enterprise managers who think that because they are public enterprise they are somehow exempted or that someone is going to stand in between them and their responsibilities, they are much mistaken.

The Hon. I. Gilfillan: What about the public chairman of directors like the Minister? Does he get pinged too?

The Hon. T.G. ROBERTS: I do not have legal opinion about who is going to be made legally responsible for litigation if it occurs. Once we go down that track—and it was alluded to—and get into the litigation area, we have lost the meaning of the Bill and how it ought to be applied. We should not be getting into a position of litigation: it should be a position of negotiation and, hopefully, of people understanding their responsibilities from both sides so that we have a practical understanding of how it operates on the shop floor level.

If we are in a position of taking each other to court whenever a problem arises, we will have not only an occupational health and safety problem but an industrial relations problem that needs to be addressed. It will not be any good overlooking one and concentrating on the other: they both go hand in hand. Members opposite have been saying that the industrial relations problems associated with occupational health and safety will be used by militant unions to turn the place upside down. What I am saying is that it does not matter what reason one uses: whether it be health and safety or an industrial relations program, one can do whatever one likes with the support of members at a particular time including an industrial relations problem.

So, it is up to employers and employees—both sides—to work out their problems. It is hoped that the next stage of the introduction of occupational health and safety policy will eliminate some of the dangerous work practices that exist so that industrial relations and occupational health and safety are seen as integrated parts tied together. They do not have to be divorced and be seen separately. It is a way of building up a relationship between both employers and employees; it is a way of making employers more aware of the employee environment so that they take a more responsible view, and it is the same with employees. It is their responsibility, once they understand what occupational health and safety is all about, and the rights that they will have under protective legislation, for them to acquaint themselves with their responsibilities to ensure the protection of other workers in the environment in which they work.

For some employers the legislation will not be a shock at all. They have already come to terms with it: their productivity is worked out in conjunction with their industrial relations policies, as are their occupational health and safety problems. It is those employees and employers who have held back—

The Hon. Diana Laidlaw: What industries are they?

The Hon. T.G. ROBERTS: I can give you a number of employers to ring.

The Hon. Diana Laidlaw: Could you just name some of those industries?

The Hon. T.G. ROBERTS: I prefer not to name them in Parliament because, in many cases, they prefer not to be publicised.

The Hon. Diana Laidlaw: Yet they are working so well under this new arrangement.

The Hon. T.G. ROBERTS: Yes, and I see the Hon. Mr Gilfillan nodding his head in agreement. Obviously, he has also acquainted himself with some employers.

The Hon. Diana Laidlaw: I am interested that they are working so well that they do not want to be named.

The Hon. T.G. ROBERTS: In the Committee stage I can supply a list of employers who are quite happy with the way that their industrial relations and occupational health and safety program fits in with their productivity and training.

The Hon. Diana Laidlaw: There are lots of others who have other arrangements and they're equally satisfied with the good safety record.

The Hon. T.G. ROBERTS: There are probably a multitude of integrated systems that operate to the satisfaction of both large and small employees about which we do not hear. One only hears about those who seek publicity, like Peko Wallsend and others, who run their enterprises on the basis of confrontation. I will give one illustration of some of the changes confronting the work force in relation to occupational health and safety. I visited the library to obtain a list of registered chemicals and the library had a book, published in 1928, which was 1⅓ inches thick, by Irving Sax and entitled *Dangerous Properties of Industrial Materials.* It lists something like 16 000 common dangerous materials that are used in the workplace. Many of them have names containing 16, 18 or 20 letters, which shop stewards and health and safety officers will not be able to pronounce. It is those sorts of problems with which they will have to come to terms.

I think the point was raised earlier that we will not have enough specialists to take part in the training programs for health and safety stewards. I think that programs already

are under way: courses are being run already in tertiary institutions, and the Bill alludes to people with experience and not just academic qualifications. I think that, if the Bill is passed in its present form without too many debilitating amendments, enough people will be trained not only to enforce the legislation but also to train those people who will be at the front line for creating a climate whereby industrial health and safety become not just a debating point in the press but also something which is a daily feature of employees' lives. It leads to a safer working environment where each employee or worker who goes to work hopefully can work in a safer working environment and can expect to come home after clocking on or off.

The Hon. J.C. BURDETT: I rise to speak very briefly to this Bill, most of the points having been covered. I support the second reading of the Bill, because it is vital to create and maintain a safe working environment. Prevention is always better than cure. From time to time, long before the Bill was ever introduced into Parliament, various parts of the trade union movement were reported in the press as deploring the fact that the Opposition was likely to delay the passage of the Bill. An attempt was made to blame the Opposition for deaths and injuries which it was said would follow from these delays. They were ridiculous statements. Any delays in bringing the Bill into operation, and particularly to Parliament (because it has to start from here), are on the part of the Government.

The Government has been extraordinarily dilatory in introducing this Bill. In typical fashion it has put the cart before the horse. It has been obvious for some time that new procedures and arrangements would be necessary to ensure a safe working environment and to provide for the rehabilitation and compensation of workers injured in the course of their work. As I have said, prevention is better than cure, and it would have been logical for the Government, if it were serious about safety, to introduce this Bill before it introduced the Workers Rehabilitation and Compensation Bill, or to do so at least at the same time, as a previous speaker suggested.

So do not let us hear any more rubbish about the Opposition trying to hold up or obstruct this Bill. In another place the Government shamefully bulldozed the Bill through and allowed a totally inadequate time for debate. This was doubly shameful because this is a most important Bill which should have been exposed to the full parliamentary process. As the member for Mitcham said in another place and the Hon. Trevor Griffin said in this Chamber, this Bill is about union power. The Bill should be about worker safety and worker involvement in safety procedures—but it is about union involvement. What about the workers who do not belong to unions? Do they not count? Does their safety not matter, and does it not matter whether they are injured? Examples of this have already been cited and I will look at them a bit further down the track, not at the higher levels but at the lower levels.

In regard to the appointment of health and safety representatives and committees, clause 27 provides in part:

(2) A health and safety representative shall be elected to represent a designated work group.

(3) Designated work groups shall be formed as follows:

(a) where any worker at the workplace is a member of a registered association—the work groups at that workplace shall be formed by agreement between the employer and the registered association or, if workers are members of various registered associations, by agreement between the employer and those associations jointly;

(b) where no worker at the workplace is a member of a registered association—the work groups at that workplace shall be formed by agreement between the employer and the workers.

It seems to me to be ridiculous that, if there are 100 people at a workplace and only one worker belongs to a registered association, that procedure shall be used in appointing the representative and the other workers are ignored.

Surely this legislation should be about workers, about employees and people in the workplace and not whether or not they belong to a union or a registered association. Clause 28 is similar in that it refers to the election of health and safety representatives, as follows:

(1) The election of health and safety representatives shall be conducted in accordance with this section.

(2) A person is eligible to be a candidate for election as a health and safety representative if—

(a) the person is a member of the designated work group that the health and safety representative is to represent; and

(b) either—

(i) the person is a member of a registered association;

or

(ii) although the person is not a member of a registered association, no member of a registered association is a candidate for election.

In that case, if one person who is a candidate for election is a member of a union or a registered association no-one else can stand. That does not really seem to be very democratic to me. Clause 31 provides:

(1) At the request of a health and safety representative, a prescribed number of workers at a workplace or a registered association representing one or more workers at a workplace, an employer shall, within 2 months of the request, establish one or more health and safety committees.

(2) The composition of a health and safety committee shall be determined by agreement between the employer, the health and safety representative and any registered association of which a worker at the workplace is a member or, if there is no such registered association, the workers.

So once again there is a very strong bias in favour of the unions, whereas it seems to me that this Bill should not be about unions or registered associations but about people. It should be about people who are working in the workplace. It seems to me that, when it comes to electing representatives and the other matters that I have referred to, whether or not they are members of a union, the way in which that they are elected should be the same. It should relate to the people working in the workplace. I refer to Part II, Division I—the South Australian Occupational Health and Safety Commission.

I suppose it is difficult when you set up a structure such as this to avoid it, but I cannot but comment that this is another quango, another bureaucracy, and it will have all the faults that bureaucracies and quangos always have. A matter that I have often raised in regard to other Bills arises in relation to clause 9 (1) of this Bill, which provides:

A member of the commission shall be appointed on such conditions and for such term, not exceeding five years, as the Governor may determine and on the expiration of a term of office shall be eligible for re-appointment.

I have often pointed out that this Government always introduces Bills appointing commissions, committees and so on in this way, for a period not exceeding five years. To take the issue to the ridiculous, the term could be one month, one day, six months or one year—a very short period—which of course puts the member of the commission entirely in the Government's pocket, because that person is dependent on the Government for re-appointment. The term should be for a fixed period, in this case five years. The Government has picked a term of five years out of the air. The Bill should not provide for a term not exceeding five years but for a five-year term, and during the first term staggering

provisions should apply so that all members do not go out at the same time.

Clause 16 provides for powers of delegation, and they are very wide powers. The clause provides:

(1) The commission may, by instrument in writing, delegate any of its functions or powers.

(2) A delegation under this section—

(a) may be made subject to such conditions as the commission thinks fit;

Clause 14 sets out the functions of the commission, and we note that there are 15 such functions—I will not go through them all. One of the functions of the commission is to formulate and promote policies and strategies for the improvement of occupational health, safety and welfare, and under clause 16 that function can be delegated. Further, the commission is to prepare codes of practice relating to occupational health, safety or welfare, to keep those codes of practice under review and, where appropriate, to make recommendations in relation to their revision. That power can also be delegated. All or any of those 15 very important functions set out under clause 14, may be delegated. I simply make the point that this is a wide power indeed.

I refer briefly to the limitation period for prosecutions. As the Hon. Trevor Griffin said, the provision is quite out of kilter in regard to other limitation periods generally, which are usually very much shorter than the period proposed in the Bill. Why single out this Bill? Why this area? Apart from all others, why introduce under this Bill such a draconian limitation period. For the reasons I have outlined, there is no doubt that a great deal of attention should be given to creating a safe working environment, and there is no doubt that legislation has its place in this regard. But in this area and in all other areas legislation does not work magic: it does not do everything. I sometimes think that Labor Governments believe that that is so, and that if there is some sort of problem all we have to do is pass a Bill and that will fix it. But that is not always the case. Undoubtedly legislation plays its part. The Hon. Terry Roberts spoke well about the practical level in the workplace involving stewards, employers and workers sitting down and doing things. That sort of thing often happens by agreement and so on irrespective of legislation.

So, safety legislation of itself cannot create safety. It certainly plays a part and I agree that there has been a need for stronger legislation than in the past. For this reason I support the second reading. For the reasons I have mentioned and, more especially, for those mentioned in more detail by previous speakers, I believe that a great deal of attention needs to be given to this Bill in the Committee stages and I shall certainly take part in that consideration. I support the second reading.

The Hon. M.S. FELEPPA: I support the second reading of the Bill. I congratulate the Government for bringing before the Parliament such an important piece of legislation. I will be brief, because I intend to say more at the Committee stage. My wish is to place on the record my appreciation to the Attorney-General, who has assisted me in ensuring that some of the amendments listed in his name and circulated a couple of days ago have been accepted by the Minister responsible for this legislation and proposed as part of the Bill before the Council. I am sure that, when these amendments, have been considered, all members of this Council will endeavour to reach the spirit of this legislation when it will be finally passed. It will assist in general all injured employees. Therefore, I urge members of the Council to consider those amendments. I also place on the record my sincere thanks to Mr Schultz, the Chairman of the Ethnics Affairs Commission, who I consulted during the time when I was drafting those amendments. I support the second reading.

The Hon. K.T. GRIFFIN: Madam President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. R.I. LUCAS secured the adjournment of the debate.

EGG CONTROL AUTHORITY BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 1993.)

The Hon. C.M. HILL: I oppose the Bill. The Minister is trying to deregulate—

The Hon. C.J. Sumner: You are a deregulator from way back.

The Hon. C.M. HILL: Get back in your seat and listen. The Minister is trying to deregulate this industry and I certainly agree with that principle, but it must not be implemented without much consultation with industry interests. That degree of consultation has not as yet taken place. All the interests from within the industry, as I perceive the situation at the moment, are hostile towards the Minister and his approach, and it is a great pity that the Minister, either through inexperience or an attitude of having scant regard for the industry and those involved within it, is endeavouring to bulldoze his views through Parliament.

Industries operating within a controlled marketing situation should be looked at from time to time to see whether they are efficient, to see whether the consumers and producers involved are getting the best possible deal and, in general terms, to see whether there is a need for controls and regulations to continue. I believe that here, such a review indicates that some changes should be made. However, the next step is that of consultation. There should be close communication on this question of introducing change between the Government of the day, the industry and the consumers involved.

The shadow Minister in the House of Assembly (Mr Graham Gunn MP) has already started this consultative process. It is his intention to bring down a private member's Bill to deregulate the industry in the manner that the Liberal Party believes it should be deregulated. In other words, the task should be done properly. Mr Gunn has informed me that such issues as the reduced size of the board, the number of unlicensed hens being increased from the present number of 20, streamlining the licensed committee machinery, the employment of staff under commercial conditions, the board not being involved in carton purchase and storage, the future of the pulping plant and the board's ability to set aside wholesale or farm gate prices for shell eggs are just some of the issues under his active consideration.

I believe that, rather than bulldoze the current measure through Parliament and incense the industry, the better course is for consultation to proceed and deregulation to take effect with the optimum possible approval from the industry. The Council, therefore, in my opinion should reject this Bill and it will have an opportunity to reconsider the whole question of deregulation in this area when Mr Gunn introduces his Bill in the relatively near future.

The Hon. T.G. ROBERTS: I am happy to support this Bill, which will provide for licensing of poultry farmers, establish an Egg Control Authority, and repeal the Marketing of Eggs Act 1941 and the Egg Industry Stabilisation Act

1973. There are approximately 420 registered egg producers in South Australia, 280 with fewer than 500 eggs, and 45 producers with more than 5 000 hens each produce 75 per cent of the eggs. A total of 13 million dozen eggs are sold by the South Australian Egg Board each year in South Australia, 11.2 million dozen as shell eggs and 1.8 million dozen as egg pulp. The gross value of the industry is approximate $24 million.

This legislation will mean that egg marketing will be deregulated and the egg producers and packers will be free to market their eggs where they wish and set down their own prices. However, hen quotas will remain for the present to protect the producers from overproduction. It is expected that hen quotas will be lifted over a five year period to allow a free market in the egg industry to apply.

There is already a well established egg marketing infrastructure in South Australia which will continue to operate after the proposed legislative changes have been implemented. South Australian Egg Board assets will be sold and the funds lodged in an egg industry fund to be used for industry approved projects. Employees displaced by the abolition of the Egg Board will be redeployed into the Public Service.

An Egg Control Authority will be set up at an estimated cost of $200 000, as opposed to $1.5 million for the existing Egg Board, which should please producers. The $200 000 will be funded by the egg producers by means of a voluntary levy on egg quotas. The Bill will require producers to negotiate the sale of eggs directly with wholesalers and retailers. There will be no legislative provision for equalisation, and producers will have to negotiate the sale of surplus eggs for pulp. If there is to be orderly marketing, suppliers will have to regulate egg numbers themselves.

The composition of the Egg Control Authority, consisting of five members, will represent both producers and sellers. The authority will report to the Minister and have the power to monitor egg production, set and police hen quotas, collect levies, monitor quota prices, and collect research levies on behalf of the Commonwealth. Hen quotas will be managed with flexibility to allow particular packers and producers to be able to temporarily increase their egg production in order to take advantage of any future profitable export markets for either shell eggs or pulp.

The egg pulping plant will be sold to operate on a commercial basis and continue to provide egg pulp in South Australia. As mentioned, the annual administration and promotion costs of the South Australian Egg Board are $1.5 million. Losses associated with domestic and export pulping are additional costs and are equalised over all eggs produced. All South Australian Egg Board costs are recovered by levies based on hens or eggs. Current levies are equivalent to 11.5c per dozen for administration and promotion and 3.5c per dozen for equalisation.

This legislation will reduce the current Egg Board administration and promotion costs by an estimated 10c a dozen, and it is expected that producers will benefit from reduced hen levies and that consumers will pay less for their eggs. This legislation is also aimed at lifting artificial price fixing, regulated marketing, and unnecessary imports billing placed on the consumer. If we have a look at Table 27 in the price of retail eggs, 55 gram grade, we will see that since 1983 the Prices Surveillance Authority has been collecting figures which confirm that South Australian eggs are by far the dearest in the Commonwealth by anything from 20c to 50c a dozen.

The Australian Bureau of Statistics data indicate that retail egg prices in South Australia are consistently higher than those in other mainland States. In the September quarter for 1986 retail prices in South Australia were 51c a dozen higher than in New South Wales. Producer prices in South Australia ($1.23 per dozen) are 25c a dozen higher than they are in New South Wales at 98c a dozen. The board has been given time to get its act into order, but it has not done so. There has been some debate about what getting one's act into order means and how long it should take, but I am sure, having read the second reading explanation, that they were spoken to and consulted. If this legislation is passed, it will be replaced by an authority which should be more streamlined and efficient, bringing benefits to all consumers.

An honourable member interjecting:

The Hon. T.G. ROBERTS: The previous Minister indicated to the Egg Board that there were problems and that it should look at its administration. Consumer interest regarding egg weight and quality will be protected by regulations under the Food Act 1985, through the Health Commission and the Packages Act 1976, through Consumer Affairs.

The Hon. PETER DUNN: I oppose the Bill, which is probably one of the best political exercises that has been put up for a long time. The Labor Party knows that, if we asked it to deregulate one of their industries with such rapidity, there would be such a hue and cry that we would be called fascists and all sorts of terms like that. The Government in one breath regulates the dairy industry and, without drawing another breath, as it breathes out, deregulates the egg industry with such rapidity that it is hard to believe. This Bill is about the price of eggs. I want members opposite to listen to some of the current figures I have here. These are not figures from 1983 or from October. They are the figures today: 19 November. In South Australia the money paid to a producer for large eggs is $1.43½ per dozen.

The Hon. J.R. Cornwall: The retail price in Sydney is $1.51.

The Hon. PETER DUNN: That is interesting, because in New South Wales for a 61 gram egg as at 17 November—two days ago—the producer gets $1.64. In fact, recently it has increased, and the price will again increase 15 per cent by June of next year. We are looking at what the producer gets, and not the retail price, over which there is no control. If the Government wants to control retail prices, let it do so. Let us look at the prices that South Australian producers have received during the past two years. On 25 November 1984—two years ago—for large hen eggs the producer in South Australia received $1.47. Today he receives $1.43½ per dozen. He has lost 2c in that time.

If we add inflation, which is in the order of 16 per cent on that amount, the price is between $1.60 and $1.70, which is what the New South Wales producers are getting, and not $1.43½. In fact, South Australian producers have gone backwards in that two year period. I fail to see that this argument will bring any advantage to the purchaser of eggs in South Australia. In fact, it will have such an undesirable effect on the industry that it will probably cost the Government a considerable sum of money further down the track—and I will explain that in some detail in a moment.

I agree that the industry has developed and has been mollycoddled to a degree, and that there needs to be some deregulation. However, that needs to be done gradually and in stages. I am the first to admit that the board has probably grown too large and that administration costs are greater than necessary. However, we are talking about 10c in relation to a dozen eggs. How many dozen eggs does the Minister in the other place eat in a week? How many eggs does a family eat in a week? What difference will that amount

of money make to a family budget? The Government is kidding itself if it thinks that this will be very important. The other day the Minister indicated that eggs will come down in price by 30c a dozen, but the retail price fluctuates more than that.

The Hon. J.R. Cornwall: Feed will be cheaper in the next couple of years.

The Hon. PETER DUNN: Feed will be cheaper, and the price will come down in the natural course of events. The Minister is right: feedstock and proteins have dropped and will continue to drop. Probably one of the reasons why an egg producer today receives less than he did two years ago is that he does not have to pay so much for feed.

As is usual with this Government, it did not consult with people in the industry and thus has caused them great pain. Naturally, they have reacted and said that they would like a fairer go with this Bill. What will happen if the industry is deregulated to the degree proposed? The effect of the Bill is to introduce voluntary levies: however, with the introduction of voluntary levies we know that it will take only one person to break that arrangement for the Minister to say that the system is not working, and that that is the end of it. That will be the end of quotas, too—the end of the hen levy. What effect would the abolition of that have? How would the egg producer then borrow money from the bank? He has no equity apart from his shed and his collateral for borrowing money is, in effect, the cost of the hen levy. I am not sure of the exact figure applicable in South Australia today, as I do not have the figures, but it must be between $18 and $20. A bank manager knows that when a producer sells that levy it acts as collateral for money borrowed from the bank.

If the industry was deregulated to the degree proposed a group of these producers would go broke very quickly, and there would be no way that the Government would be able to overcome that. The only option for producers would be to go to the Rural Assistance Branch of the Department of Agriculture and borrow money. That is how they would get their money—they would get it from the Government in that fashion. What the Government does not realise is that by deregulating the industry to the degree proposed it will finish up having to pay to have eggs produced. Do not let anyone tell me that they will be imported from Victoria or New South Wales, because we know quite well that that has not been done in the past—and there is nothing to say that it could not be done under section 92—nothing at all. The figures indicate that profitability is so fine with these eggs today, with the competition for retail purchases, that people from interstate cannot bring eggs into this State. One should remember the type of eggs that one purchased 15 or 20 years ago, with variations in size, cleanliness and keeping quality, and compare them with those obtained today. The eggs are virtually guaranteed; they are a great product.

The Hon. J.R. Cornwall: Full of cholesterol—they are like red meat.

The Hon. PETER DUNN: Yes, I agree; they are full of cholesterol. I could not disagree with that, but I still like an egg. We eat a lot of cholesterol, regardless. But they are a very good product and they are certainly a better product today, as are milk and the meat products that we consume today. Much of the food that we consume is certainly better than it was some years ago. But I am convinced that if this Bill goes ahead we will go backwards in that regard. Some 13 million eggs for South Australia cannot be produced for nothing. They do have a cost. If the industry is worth $24 million, and we deregulate it, who will pick up that $24 million? It is reasonable to assume that the industry is not going to expand rapidly to pick up where these bigger producers may go broke. There will not be people to pick that up.

Referring back to the time at the end of the depression or straight after the Second World War, many people on farms existed because they had a few cows and some poultry. For instance, most of the products on Eyre Peninsula, say, were sold to the Port Lincoln dairy factory, which processed and handled eggs, milk, cream and cheese, etc. Producers of such products existed on those small incomes. That is impossible today. The industry has galloped past that. It is efficient and needs high technology and people to be able to provide properly balanced diets for poultry—you just cannot feed straight wheat to chooks and expect to get the sort of productivity out of them that is achieved by poultry farms today.

I do not believe that by deregulating this egg industry so rapidly—and effectively that will happen—it will help. In fact, it will have counter results and the Government will have to dig into its own coffers through the Rural Assistance Branch, as I have already indicated. The Opposition has said it will introduce another Bill although, if the Government has any gumption, it will withdraw the Bill and introduce the provisions to which the Hon. Mr Hill referred. It is sensible to make change over a period, and I am sure that that method would not cause the hiccups that this measure will cause.

I will not deal with many other factors in the Bill that have been dealt with at some length by other honourable members, but I bring the Government back to the fact that this Bill is about price and the prices quoted from all over the place just do not hold up. These are floor prices, or the prices paid to producers. In New South Wales it is $1.55 for a 61 gram egg and the equivalent in South Australia is a large hen egg where producers get $1.43.5. How there will be a 30c drop there, I do not know.

Further, when they were getting 98c a dozen in New South Wales, it was said that producers were getting 8 per cent less than the cost of production for those eggs, and many producers went out of the industry in that State. I fail to see how this Bill has any credence whatever, and for those reasons I oppose it.

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

CROWN LANDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 1993.)

The Hon. J.C. IRWIN: This Bill is designed to allow any new land parcels created by the division of Crown lands or land held under Crown tenure to be numbered as allotments and, in particular, survey plans in a similar manner to divisions of freehold land.

More information will be available to the public on maps held in the Lands Department, where freehold land is concerned. As well as having a title of the land they will also have the name of the person and the number of the hectares involved in the allotment. This Bill is contingent on two other Bills that will be before us tonight—the Local Government Act Amendment Bill (No. 2) and the Irrigation Act Amendment Bill (No. 2)—and the Opposition supports this Bill with some enthusiasm.

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

IRRIGATION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 18 November. Page 1994.)

The Hon. J.C. IRWIN: This Bill 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. They are in fact the public map of the irrigation areas. This bill and the accompanying Bills are contingent on one another and, from information that we have received, they will free up considerably the time in the department, and we hope that that will lead to a great deal more efficiency. I must add that this Bill does not lessen the rights of the owner. The Opposition supports the Bill.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.
(Continued from 18 November. Page 1994.)

The Hon. J.C. IRWIN: This Bill is designed to change the way in which some public roads may be created. It provides that these roads, which were previously created by delineation on the public map, will be now 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 roads on the public map and which in future will be dedicated as roads by notice in the *Gazette*, will be defined as public roads or streets for the purpose of the Local Government Act.

The Opposition is happy to support this measure and facilitate its passage, even though there is obviously another Bill before us to amend the Local Government Act. It is reasonably obvious that this Bill to amend the Local Government Act is not compatible with the larger Bill that will be debated later. I must indicate that I have some difficulty with some of the wording in the Minister's second reading explanation. I have not had quite enough time to telephone contacts in the department to have it explained to me, but I mention my difficulty in this contribution. In relation to the creation of roads the Minister said:

> ... will now be created either by the transfer of relevant land in the case of freehold land or the surrender of land to the Crown in the case of Crown leasehold land.

I have difficulty with that, because I would have thought that the transfer of land would apply to Crown land and surrender of land would apply to freehold land. I believe that it should be exactly opposite to the way in which it is written. I do not expect the Minister to have an explanation with him in the Council, but perhaps someone can get back to the Opposition and explain that part later.

Later in the Minister's explanation he states, '... dedicated as roads by notice in the *Gazette*.' Without going through the passage that the Minister alluded to in his explanation, I indicate that I hope that will occur after proper notice and consultation with landholders, and only then will it be gazetted, rather than a decision suddenly being made by the Minister or the department transferring land for use as a road and having that suddenly turning up in the *Gazette*.

I refer to my own property in the South-East which we purchased as scrub land. A number of roads were designated through it and, as a result of consultation with local government, we were able to close some roads that were not required for use as public roads in the area. However, some have been left open because local government believes that they may have some use as fire access roads or for some other purpose in the future. As a landholder I must keep those roads open to the public. They should be fenced on both sides and signposted at either end, stating that they are public roads. However, I admit that I have not done either of those things. Nevertheless I pay rent for the use of those roads because they form part of my paddock system. I would have some difficulty if a decision was made elsewhere, without the knowledge of a landholder, to suddenly transfer land (not particularly the land that I just mentioned) owned by a landholder that is suddenly gazetted as a public road.

I hope that there is proper notice and consultation before it is dedicated and gazetted. I imagine that that would happen, but I would like an assurance. Otherwise, I indicate that the Opposition supports this Bill.

The Hon. J.R. CORNWALL (Minister of Health): The Hon. Mr Irwin has drawn attention to what is, in fact, the second sentence of the very first paragraph. I must say that on the face of it he would appear to have made a very good point, and my normal understanding of the English language is such that, unless there is some reason that is completely unclear to me, that sentence is not only unnecessarily tortuous but does not make terribly good sense. I undertake to bring this matter to the notice of the Minister and his officers and have one of them write to the honourable member who has drawn the matter to our attention.

The other matters that the Hon. Mr Irwin has raised, as he said (to paraphrase his words), are not really matters within my area of competence, and I am unable to respond directly. Again, those matters will be drawn to the attention of the relevant Minister and I will ensure that there is a response by letter. I thank the honourable member for his cooperation and I urge that the Bill be passed.

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

STANDARD TIME BILL

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

EDUCATION ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos 1, 3, and 6 to 14, had agreed to amendment No. 15 with an amendment, and disagreed to amendments Nos 2, 4 and 5.

FRUIT AND PLANT PROTECTION 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.

In view of the lateness of the hour I seek leave to have the detailed explanation incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This short Bill is designed to complement amendments made to the Fruit and Plant Protection Act in 1985. Those amendments provided that the declaration of quarantine stations, prohibited areas of the State and other matters would be effected by ministerial notice rather than proclamation. This method enables action to be taken swiftly in the event of a threat to South Australian agriculture, and for this reason, it has been decided to extend it to the declaration of pests and diseases under section 3 of the principal Act.

During the passage of those amendments mention was made of proposed subordinate legislation which would bring plant quarantine procedures in line with contemporary technical knowledge and trends in interstate commerce in fruit and plants. Accordingly, further provisions are contained in the Bill to enable subordinate legislation under the principal Act to operate by reference to a published standard or code, exempt persons or classes of persons from the provisions of the Act, and to apply generally or in specified circumstances.

Clause 1 of the Bill is formal.

Clause 2 provides for declaration by Ministerial notice of diseases and pests, a matter presently dealt with by proclamation.

Clauses 3 and 4 insert provisions under which Ministerial Notices and Regulations may be of general or limited application and may incorporate or refer to standards or codes of practice. Provision is made to enable exemptions to be made from the operation of ministerial notices. Regulations may be made providing exemptions from provisions of the principal Act, and conferring powers, functions or duties on the Minister, chief inspector or any other inspector.

Clause 5 provides for the insertion of a schedule of transitional provisions.

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

FUTURES INDUSTRY (APPLICATION OF LAWS) BILL

Returned from the House of Assembly without amendment.

RESIDENTIAL TENANCIES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

TRUSTEE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADMINISTRATION AND PROBATE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SALE OF GOODS (VIENNA CONVENTION) BILL

Returned from the House of Assembly without amendment.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Returned from the House of Assembly with amendments.

ADJOURNMENT

At 11.35 p.m. the Council adjourned until Thursday 20 November at 2.15 p.m.