LEGISLATIVE COUNCIL

Thursday 4 December 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 11 a.m.

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

PETITION: PROSTITUTION

A petition signed by 19 residents of South Australia praying that the Council pass unamended the Bill to decriminalise prostitution was presented by the Hon. G. Weatherill.

Petition received.

PETITION: MARIJUANA

A petition signed by 150 residents of South Australia praying that the Council reject any legislation which proposes an expiation fee for marijuana offences was presented by the Hon. M.B. Cameron.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Builders Licensing Board of South Australia—Auditor-General's Report, 1985-86.

Credit Union Stabilization Board—Report, 1985-86.

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

Pursuant to Statute—

Corporate Affairs Commission—Report 1985-86.

Registrar of Credit Unions—Report 1985-86.

Building Societies Act—Report on the Administration, 1985-86.

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

Pursuant to Statute—

Committee Appointed to Examine and Report on Abortions Notified in SA—Report, 1985.

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

Pursuant to Statute—

Maralinga Lands Parliamentary Committee—Report, 1986.

The University of Adelaide—Report and Statutes, 1985.

Department of Mines and Energy—Report, 1985-86.

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

Pursuant to Statute—

SA Local Government Grants Commission—Report, 1986.

SA Waste Management Commission—Report, 1985-86.

SITTINGS AND BUSINESS

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

That Standing Orders be so far suspended as to enable Question Time to be postponed to a later time of the day, and to be taken on motion.

I indicate that we will probably have Question Time at the normal time of 2.15 p.m.—certainly not before 2.15 p.m. The conference on the Occupational Health, Safety and Welfare Bill is proceeding. It may be possible for the Council to deal with some other matters while that conference is proceeding but, unfortunately, it seems that people involved in most of the conferences today are the same people, so it may be difficult for the Council to sit and continue to work for a great length of time while the conferences are proceeding. However, I understand that there may be some business that the Minister of Local Government may be able to progress to some extent. So, the Council will have to bear with the organisation of the business paper today, and I anticipate that there will be suspensions of the Council for reasonably lengthy periods while the conferences are occurring during the course of the day.

Motion carried.

[*Sitting suspended from 11.10 to 2.54 p.m.*]

LIGHT COLLEGE OF TAFE

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

Light College of Technical and Further Education—Nuriootpa Branch.

LIBRARIES REPORT

The Hon. BARBARA WIESE laid on the table the Annual Report 1985-86 of the Libraries Board of South Australia.

Ordered that report be printed.

QUESTIONS

MURDOCH TAKEOVER

The Hon. M.B. CAMERON: I seek leave to make a short statement before asking the Attorney-General a question about Rupert Murdoch.

Leave granted.

The Hon. M.B. CAMERON: I understand that this morning Mr Murdoch had discussions with the Victorian Premier, Mr Cain, about the implications of the takeover bid for the Herald and Weekly Times Group. I am sure the Council would be interested to know whether the South Australian Premier or any member of the Government has been given the same courtesy and, if so, the outcome of those discussions. Evidently, Mr Cain has endorsed the takeover. In *The Age* this morning he says:

Market forces should dictate newspaper ownership and the Government should not get involved in corporate takeovers.

The Prime Minister has said the same thing in Adelaide this morning. The Opposition agrees with them. However, Mr Hawke and Mr Cain appear to be at odds with the South Australian Secretary of the Australian Labor Party, Mr Schacht, who said on ABC radio today that Mr Murdoch is not a long-term friend of the Australian Labor Party and that the State Government would have to look very seriously at newspaper monopolisation in Adelaide, implying there should be some form of Government intervention.

Has the Attorney-General or the Premier or any member of the South Australian Government had any discussions with Mr Rupert Murdoch during the past 24 hours about his takeover bid (which affects the *Advertiser* in this city)? Will the Attorney-General say, in view of the conflicting statements by the State Secretary of the Labor Party on the one hand, and the Prime Minister and the Victorian Premier on the other, whether the South Australian Government intends to intervene in this matter?

The Hon. C.J. SUMNER: I am not aware of any discussions. However, that does not mean to say that the Premier has not had any discussions. As far as I know, he has not had any discussions. The matter has not been formally considered by the Government, as the honourable member would expect. The matter was announced yesterday. Apparently, the Secretary of the Australian Labor Party has expressed a point of view. He is entitled to have a point of view. Whether the Government will take any action in this area, I cannot say.

I think it should be pointed out that, with all these sorts of issues, there would be in any event some difficulty in relation to State action over the ownership of newspapers in this State. The action that the State Legislature can take is limited. I suppose the question of limitation of shareholdings is something that has happened in the past with the support of both Parties with respect to Santos and the Executor Trustee Company. However, I certainly do not believe that that is an appropriate course of action in this case.

The simple fact is—and it was demonstrated by the Victorian Norris inquiry about four years ago—that the capacity for State Governments to intervene in this sort of area is very limited, even if it were considered to be desirable. In any event, I am not sure that it would be desirable. So at this stage the Government has not considered the matter formally. If there is a need to deal with media monopoly in Australia, I think that, because of the Federal Parliament's constitutional powers over radio and television and the fact that it would have greater capacity to take action in this area, any concerns about media monopolisation should be addressed at the Federal Parliament or Government level. Indeed, the Federal Government has already announced plans dealing with certain limitations on media ownership in Australia. So I think any action considered necessary in this area would have to be taken at the Federal level.

With respect to South Australia, the limitations on State powers are quite strict. In any event, I do not believe that it would be necessarily appropriate to attempt to intervene in the circumstances that have occurred with respect to Mr Murdoch's takeover of the Herald and Weekly Times group (thereby gaining a majority interest in Advertiser newspapers). The matter has not been formally discussed by the Government. I am not aware of any conversations, as suggested by the honourable member, having been had by members of the South Australian Government with Mr Murdoch. However, I know that Mr Murdoch was in Adelaide about a week ago, as I recall. I know the Premier saw him on that occasion. Whether or not there were any discussions pertinent to this matter, I have no idea.

PUBLIC LIBRARIES

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Local Government a question about public libraries.

Leave granted.

The Hon. L.H. DAVIS: The Minister would be aware that the State Government supports on a dollar-for-dollar basis, up to limits, local government expenditure on public libraries. The public library program has had bipartisan support, and public libraries are now located in most local government areas in South Australia. Indeed, eight to 10 libraries have been opened in the last year, and it was anticipated that a similar number would be opened this year, and that would pretty well complete the very exciting program initiated some years ago to develop the public library system in South Australia.

However, the development program and the maintenance program for public libraries have been severely jeopardised by the State Government funding cutbacks, and funds for new libraries coming on-stream have been slashed by at least half in the current year, as far as the development program is concerned. For example, the Hawker public library, which was meant to be developed in the current financial year, has been put off—which is, of course, a disappointment in the sense that Hawker is a growing area and services an important tourist region. Also, the maintenance program for public libraries has been cut dramatically in real terms.

Perhaps the most concerning feature of this cutback by the State Government in its Budget funding for 1986-87 is the slashing of the local purchase subsidy, which provides a flexible element to an otherwise centralised purchasing system. In other words, the public libraries around South Australia rely on the Public Libraries Branch at Norwood to purchase their books. There is a centralised purchasing system, but it is topped up by a flexible element, that is, the granting of funds to the public library in the local community, to enable it to purchase books, magazines and other publications of interest to that local community.

There has been, quite clearly, outrage expressed by local government. In fact, I understand there has been a violent reaction from local government. At least 30 councils to date have responded, attacking the cuts in the local purchase subsidy, and many of the librarians are upset. Just to give an example of the severity of the cutbacks, the Noarlunga public library in 1985-86 received $7 600 in subsidy from the State Government, matching a similar amount from the local government. This year it has received nothing. Happy Valley, received $3 750: this year it has received nothing.

Burra, which has a small community library, for that smaller community, received $430: it has now been given nothing. Port Lincoln received a $2 000 subsidy last year: it has now received nothing. Salisbury last year received $8 600: this year it asked for $11 500 from the Libraries Board for the State Government allocation, but has received nothing. Port Augusta was $650 and is now nothing. Port Adelaide was $5 000 and is now getting nothing. In other words, the local purchase subsidy has been cut back savagely by the Libraries Board on the recommendation of the Public Libraries Branch located at Norwood, because of the meanness of the State Government.

Is this a deliberate attempt by the State Government to curb learning, to curb education, particularly in regional areas? Is it a belief of the State Government that ignorance is bliss? Why is it that the public libraries have been so severely squeezed? Why is it that the Government has cut back on what has been a bipartisan program—a program which has had the support of local communities, and of local government, and has left local government high and dry?

The Hon. BARBARA WIESE: The Hon. Mr Davis is a bit like a broken record. He gets up here every week and asks the same questions. He must have a very limited repertoire.

The Hon. L.H. Davis: I have never asked a question on that before.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I have certainly answered questions on this before, so you must have asked something about these issues.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis: I never have.

The PRESIDENT: Order, Mr Davis!

The Hon. BARBARA WIESE: The Hon. Mr Davis has asked me a number of questions about cutbacks in libraries and, as I said, is starting to sound a bit like a broken record. However, I am happy to go through it again. The libraries program in South Australia has had to find savings this year—as have all other publicly funded areas of Government. I know that it is very difficult for people in the libraries area to cope with this change which has occurred this year. They are not accustomed to having to make savings in many of these areas, because in the past we have lived in times in which it has been possible to provide expansion.

This year we are in a situation where it is no longer possible to provide expansion in these areas and, in fact, we have had to take some tough decisions across the board in all sorts of programs, and libraries, unfortunately, are no exception. The situation with the public libraries program, like other areas of Government, means that they have had to cope with certain funding commitments. The Libraries Board, accepting that these savings had to be made, has made certain decisions about the way in which the money could best be distributed. What the Libraries Board this year determined to do—

An honourable member interjecting:

The Hon. BARBARA WIESE: That is another question, and I will be happy to address that, too. What the Libraries Board determined this year was the most appropriate way of allocating the funding for the public libraries program, the maintenance subsidies for public libraries, would be to ensure that the catalogue book allowance could be maintained at the ideal level, because libraries rely very much on the central book purchasing arrangements to keep down their costs. It was important to preserve the cost savings to public libraries by preserving the subsidies to the catalogue book allowance. These are where most of the savings for the local libraries can be made. If they can purchase the majority of their books through that central scheme, they are more likely to be able to buy more books. So, it was important to preserve that.

The Hon. L.H. Davis: You've taken away their flexibility.

The Hon. BARBARA WIESE: Would you please listen to the reply? You can ask another question if you do not like the answer. That was the first decision taken by the Libraries Board: it was important to maintain that program because it was in the very best interests of the local libraries.

Secondly, it was determined that the next most important area which needed to receive a boost, if that was possible, would be the administration allowances that are made to community libraries. In fact, we have been able to provide a modest increase in funding for administration this year. They have received a 3 per cent increase in their administration expenses.

In order to achieve that, savings had to be found in some other areas and the local book allowance was one area where savings were found. Although the provision is that there is an additional 12 per cent allowed to public libraries—or has been in the past—for the local book allowance, the fact of the matter is that the whole of that allowance is not claimed. So, it was decided that some of that money could be reallocated to other areas. In fact, we have saved only about $120 000 from that local book allowance.

The Hon. L.H. Davis: You provoked outrage. You have every local government in South Australia jumping and hopping.

The PRESIDENT: Order! Order, Mr Davis!

The Hon. BARBARA WIESE: That is not true either, Ms President. There are some local libraries which have indicated ther dissatisfaction with the arrangements for the local book allowance but it is also the case that, when the overall facts are explained to people in local libraries, people can understand the need for the new arrangements this year; they can understand the logic of the Libraries Board decision.

To maintain the central book allowance is the first priority and to increase administration expenses was also a high priority. We have managed to achieve both those things whilst providing modest savings in other areas, which has enabled us to continue the maintenance program and to give the boosts in the areas which are most important. I am sorry that has had to be done and the Government is very sorry that has had to be done, but we had no choice.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: If the Hon. Mr Davis can suggest some other area of government from which I might take money in order to boost the libraries program, then I will consider it. However, he never makes one constructive suggestion in this place. He comes here day after day after day in Question Time and does nothing but criticise and complain. We never hear anything constructive. He has no idea about how government runs; he has absolutely no idea how budgets are constructed; and he has no idea about the constraints that we are living with. It is very easy and it is very, very cheap to be able to stand up in this place and criticise decisions but he has never once made a constructive suggestion about what might have been done otherwise. It is quite unreasonable and he needs to get his act together because, quite frankly, it is not me who is the laughing stock out there: it is the Hon. Mr Davis.

MURDOCH TAKEOVER

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to the Murdoch takeover of the Herald and Weekly Times.

Leave granted.

The Hon. I. GILFILLAN: It is with serious concern that I think I, and many other South Australians, received the news that it is almost inevitable, unless there is some intervention, that the Murdoch empire will take over the other daily newspaper in South Australia, the *Advertiser*, and therefore lose, for South Australians, any complete separation and diversity of editorial opinion and policy of the daily media.

An honourable member: And the suburban papers.

The Hon. I. GILFILLAN: As my colleague says, the Messenger Press and the Sunday Mail would be in the same stable. Will the Attorney respond to the opinion I and many others hold that the political pressure of such a monopoly will be very great to resist? The verbal assurances of editorial independence, although superficially sounding attractive, are virtually meaningless, with no ongoing effect. The independence assured can very easily be destroyed by even the vaguest hint that a position might no longer be held by the editor or editorial staff person who offends against the main thrust of the Murdoch press. We have seen that activity in previous political campaigns, often to the discomfort of the Labor Party when it is campaigning.

I believe that in South Australia we are entitled to and should demand freedom of expression, freedom of the press, and we cannot expect that if the only two daily newspapers

that we have printed in South Australia, plus one that is a national newspaper coming from outside, are controlled by the one economic and philosophical entity controlled by Rupert Murdoch. I would ask the Attorney-General to consider that in fact in 1978 the Labor Government introduced statutes which protected the Executor Trustee and Agency Company from takeover by company raiders; in 1979 the Labor Government introduced a Bill to amend the South Australian Gas Company's Act to protect SAGASCO from Mr Brierley; and, finally, the Santos Bill in 1979. The Commonwealth Government has taken action in a number of significant ways—trade practices, foreign investment controls, controls over banking, and controls over television and radio interests. The Victorian Government legislated with respect to a prospective takeover of Ansett Industries by TNT. The Queensland coalition Government legislated only a few years ago to limit shareholdings in All Gas Energy Limited to 12½ per cent. So, we do have precedent for intervention.

I do not believe that there has ever been a more crying strident need for intervention to prevent this takeover of the *Advertiser* by the Murdoch press. It is with that—and I feel I am expressing the heartfelt concern of a vast majority of South Australians—that I beseech the Government to respond to these questions.

Does the Government view with concern the effect of the proposed takeover on the freedom of the press, as it would apply in South Australia over the years ahead? Would the Government—and I ask the Attorney-General to reconsider his earlier answer—please consider the action that could be taken to control the shareholding and therefore the control of the *Advertiser* by any intervention move by Murdoch, or another monopoly for that matter? Would the Government consider, if all other measures fail, seeking first the Federal Government's action and, if unsuccessful in that, consider encouraging an independent paper so that some alternative, some completely independent daily press, would be available to the people of South Australia? There could be a Government guaranteed cooperative paper with advertising rights, or even the ABC, authorised with advertising rights, could put out a daily paper.

The PRESIDENT: Before calling on the Attorney, I point out to the member who has just asked a question that Standing Orders do not permit any opinion to be given in an explanation. I suspect very strongly that the comments made by the honourable member in his explanation were not just facts but contained his own opinions. This is not permitted under Standing Orders.

The Hon. C.J. SUMNER: I have already responded to these questions when the Hon. Mr Cameron asked me a question earlier in Question Time. The first thing I say is that the Government has not formally considered the question of a News Limited takeover of the Herald and Weekly Times.

The Hon. I. Gilfillan: John Bannon said this morning that he wasn't going to intervene.

The Hon. C.J. SUMNER: I am simply saying that the Government has not formally considered the matter. It was announced yesterday, so I am not in a position to give a Government response on the matter.

The Hon. L.H. Davis: What is your view?

The Hon. C.J. SUMNER: I am not going to express a view on the matter. As a member of the Government I will discuss the matter in the proper forums of Government—which is Cabinet—and, if Cabinet decides that it wants matters examined and that I have a role in that, I will do what the Government wishes to be done. What I have pointed out this afternoon, however, which I think is reasonable, is that there are severe limitations on the power of the State Government to involve itself in restrictions of ownerships in this area or in attempting to somehow or other divest News Limited of its shareholdings in the Herald and Weekly Times group. I indicated before, unprompted I might add, that the South Australian Parliament has taken action on previous occasions to limit shareholdings. That applied in two particular cases that I recall—the Santos situation and in respect of the Executor and Trustee Company. It is worthwhile noting that, to say the least, there was considerable public controversy about the action taken by the South Australian Parliament in relation to Santos, and the Santos shareholding limitation measure passed this Parliament by only a slim majority—and not all Liberal members supported it.

Members interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Cameron did not and the Hon. Mr Laidlaw, the Hon. Mr Geddes and the Hon. Mrs Cooper did. The Hon. Mr Geddes and the Hon. Mrs Cooper found themselves very smartly dispatched out of Parliament by the Liberal Party after that episode.

The Hon. R.I. Lucas: That is twisting the truth—typical.

The Hon. C.J. SUMNER: The honourable member knows as well as I do that the Hon. Mr Geddes lost his preselection.

The Hon. L.H. Davis: Mrs Cooper retired—she had served 20 years.

The Hon. C.J. SUMNER: She may well have retired, but she was also under considerable pressure—

The Hon. L.H. Davis: Rubbish!

The Hon. C.J. SUMNER: I was in the place—the member opposite was not in the Council.

Members interjecting:

The Hon. C.J. SUMNER: I certainly will not apologise, because I know what went on in Parliament at that time. That was only to indicate that that legislation and, indeed, as I recall, the Executor and Trustee Company legislation, was not passed without some controversy and considerable opposition in the Parliament. Generally, the question of regulation of companies and securities is a matter that rests with the cooperative scheme and with the National Companies and Securities Commission, and it is difficult for the State Government and the State Parliament to intervene effectively. I point out that the Santos legislation was challenged as being in breach of section 92 of the Constitution. Ultimately that case was settled, but with the Santos legislation we were dealing with a share register in South Australia, a listed company in South Australia; we were dealing with a natural resource that existed in South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The headquarters of News Limited is in Adelaide, whereas the Herald and Weekly Times does not have headquarters in Adelaide. Advertiser Newspapers headquarters is in Adelaide—but that is only one part of the group, as I understand it. I have not fully inquired into all the shareholdings that exist in the Herald and Weekly Times group. It has a 51 per cent shareholding interest in Advertiser Newspapers. However, one is not dealing with an attempt to control a national resource which is owned by a company that exists in South Australia.

The Hon. L.H. Davis: The ABC will be up for grabs next.

The Hon. C.J. SUMNER: By whom?

The Hon. L.H. Davis: Who knows—the Labor Party will privatise anything, it seems.

The Hon. C.J. SUMNER: I repeat: the Government has not considered the matter formally. I am merely trying to provide honourable members with a little bit of information

on the topic, which may help them to clarify their own thinking on the matter.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Just let me explain to the honourable member. I have tried to explain that there are limitations on the State Government powers in this area. If anything was to be done, first of all some kind of legislation would be needed. Secondly, whether that legislation could be sustained in this circumstance is open to considerable doubt, for reasons referred to in debate in this place on two other issues in recent times, relevant to the effect of section 92 of the Constitution. In any event, we are not dealing with a fixed natural resource in South Australia but with the production of newspapers which, of course, I suppose it could be said do not have to be produced in South Australia. I am not quite sure what the Hon. Mr Gilfillan is suggesting. If we want to put a control on Advertiser Newspapers—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I am concerned, too, but I am also concerned that the honourable member understands that, like a lot of issues that arise, it is not simply a matter of coming into the Parliament and asking a question and chasing a few cheers. It is all very easy to do. I am not condemning the honourable member, but I just want him to have a think about the issues. The preliminary advice I have is that that sort of control, to start with, by some imposition on share ownership of Advertiser Newspapers, legally would be very difficult to carry out, even if it were politically sustainable, in the sense that it could be passed through Parliament.

The honourable member knows as well as I do that whenever a State attempts to intervene in the area of share registers there is a massive outcry throughout the country—and it has been sustained on a couple of occasions in this State—one on a very important occasion in respect of gas reserves and Santos. But as I said then, in such a case one was dealing with a company registered in South Australia and a company with resources in South Australia. This situation is different: one is not dealing with a resource but with the production of newspapers. I merely put the practical problem to the honourable member, which is this: what happens if Advertiser Newspapers decided not to produce in South Australia? Where is your legislation then?

The Hon. I. Gilfillan: I suggest that the Attorney addresses himself to the rest of the question.

The Hon. C.J. SUMNER: I am addressing myself to the question. I am pointing out to the honourable member that there are practical problems. Even if this was sustained legally there are practical problems—because one is not dealing with a resource stuck in the ground in, say, the north-east of South Australia but with the production of newspapers. Is the honourable member suggesting perhaps that the newspapers could be produced in Victoria?

The Hon. I. Gilfillan: What about Victoria—Ansett and TNT are not newspapers or fixtures in the ground. The Attorney's argument has gone down the drain, anyway. The Cain Government did exactly what you are talking about now.

The Hon. C.J. SUMNER: The Cain Government did not involve itself in respect of Ansett and TNT.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: It did not—that was not a matter in which the Cain Government was involved; it occurred before the Cain Government came into office. The honourable member ought to start getting it straight. The capacity in which shareholdings can be limited in this country and in this State is very limited. I said that in answer to the Hon. Mr Cameron. If there are concerns about media monopolisation, really the only effective way that it can be dealt with, as has been done by the Federal Government in recent times in the promulgation of its policy, is by the Federal Parliament. It may be that there is some capacity for action through the Trade Practices Commission; at this stage I do not know about that.

I am concerned to point out to the honourable member (and I said this in answer to a question by the Hon. Mr Cameron) that the Government has not taken a formal view on the matter; it has not been formally discussed by the Government. With respect to consideration of any action that could be taken, I have given preliminary consideration to the issues and I have outlined to the honourable member that there are difficulties with respect to a State acting in the way suggested by the honourable member. Indeed, in 1981 there was an inquiry in Victoria which resulted in the Norris report, which the honourable member could peruse in the library and, once he has consulted it, he then may be able to consider the issue further. On my preliminary advice, there is no doubt that the action suggested by the honourable member would run into considerable problems as far as the constitutional power of the State is concerned.

DRUG ALLEGATIONS

The Hon. CAROLYN PICKLES: I seek leave to make a short explanation before asking the Minister of Health a question about drug allegations.

Leave granted.

The Hon. CAROLYN PICKLES: On 27 November, the *News* carried a story under the headline 'Girl tells of school drug deal', which it was claimed was certain to inflame debate surrounding on-the-spot fines for the personal possession of marijuana. The allegations were said to have been made during an interview which was arranged by the Hon. Martin Cameron. Can the Minister indicate whether the police investigation has substantiated allegations of a drug network operating in high schools in the southern suburbs of Adelaide and the presence of the drug 'crack' on the city streets?

The Hon. J.R. CORNWALL: This report caused some concern to me and to the Deputy Premier. Accordingly, the Deputy Premier asked for a formal report from the Commissioner of Police. In part, when expressing an opinion about the article, the Commissioner of Police stated:

> It appears to be another sensational drug story printed in the daily press based on the unsupported allegations of an anonymous student.

I think it is worth quoting the short minute from David Hunt, the Commissioner of Police, to the Minister of Emergency Services, as follows:

> I refer to the attached copy of a press clipping from the *News* on 27 November 1986. Inquiries into the allegations made in this article have proven fruitless. The article was written by Geoff de Luca. When questioned, de Luca stated that he did not know the identity of the schoolgirl or anything which would identify her or the school she attends. The interview was arranged by Mr Martin Cameron and took place at Parliament House.
>
> Mr Martin Cameron would not reveal the identity of the schoolgirl when interviewed and he was unable to add anything further to the newspaper article or give any specific information that would assist in investigating this matter. Similar allegations were made in the *Messenger* press by Alderman Villani several months ago. When checked, they also appeared to be 'sensational reporting'. Inquiries by the Drug Squad do not reveal any serious problems with drugs in any of the southern suburbs high schools. The newspaper article made mention that students 'could readily obtain marijuana, and sometimes cocaine, from them'. Drug Squad members believe cocaine to be in very short supply and selling for in excess of $150 a street gram, which would make it

too expensive for the majority of students. This appears to be another 'sensational drug story' printed in the daily press, based on the unsupported allegations of an anonymous student. It is concerning when an elected member gives credit to the article and then refuses to name his sources.

I must say that I share the Police Commissioner's concern. I very deeply regret that a person in Mr Cameron's position should not only be uncooperative, but also should attempt to give credence to unsupported claims in a dishonest attempt to whip up community anxiety. It is a typical ploy of Mr Cameron's to which we have become accustomed this year and its origins can be found in a deliberate strategy of the Liberal Party to use falsehoods and distortion for political gain.

I intend to take some time in tracing that history, because it is relevant to the question asked by Ms Pickles. The tactic was clearly spelled out in the House of Assembly in February this year, when a Liberal frontbencher said that the truth could be jettisoned for the sake of winning. The member for Bragg said on 11 February in another place that he had learned that in politics 'truth and campaigns do not matter'. He stated.

We on this side of the Chamber have to learn more about that—that at the end of the day winning is more important than what one says.

This has been Mr Cameron's bible throughout the year during which he has been shadow health spokesman.

For Mr Cameron (and it is typified by the most recent incident to which the Commissioner of Police referred), politics is not about truth; it is about point scoring, whatever the cost to the community. He is the man who would create any sort of modern Frankenstein to serve his own ends. Earlier this week he invented a phoney account of a Cabinet meeting at Berri. The surprising thing about that is not that Mr Cameron would fly a kite but that the media would give him a guernsey without asking themselves if there was the slightest grain of truth in his fantasy or where a supposedly senior Liberal MP would get a hotline into what transpires in Cabinet. It is just as silly as his dramatic challenge that I apologise to some members of the medical staff at the Royal Adelaide Hospital because they allegedly feel aggrieved about certain deficiencies which have been identified not by me, but by a senior doctor who works at the Royal Adelaide Hospital. Mr Cameron cannot have read the report. To expect me to apologise for a responsible reporting of concerns to Parliament is strictly Alice in Wonderland. It is just another example of Mr Cameron's creed, typified by what I described earlier.

Let me examine his performance a little further as we draw to the end of this budget session. On 25 February, Mr Cameron was on his feet in this place insisting that the Lyell McEwin Hospital was in a grave financial position. On this occasion he claimed that Health Commission documents showed that the hospital faced a deficit of $500 000 in 1985-86. He was deliberately using the hospital's own projected figure at mid-year and putting up the spurious position that the hospital was mismanaged. It earned him a rebuke from the Chairman of the board of management of the Lyell McEwin, Mr Jack Young, who wrote to the *Advertiser* on 11 March, to put the record straight. Mr Young's published letter indicated that the health service would finish the financial year very close to the Health Commission budget. He was quite right, of course, and Mr Cameron was hopelessly wrong, because the hospital's actual 1985-86 budget result was to underspend its $17.3 million budget by $6 767.

Members interjecting:

The Hon. J.R. CORNWALL: I can understand your being upset about it. Far from being $500 000 in the red, the hospital was in the black. Mr Cameron is very sensitive about the Lyell McEwin. One may well ask why he was persisting in his attempts to blacken the hospital and the Health Commission. The answer lies in his embarrassment over the findings of the Auditor-General, who at my request investigated Mr Cameron's allegations that Health Commission officers had been engaged in a cover-up. The Auditor-General concluded that there was no evidence to support the allegations levelled against commission officers by name.

Mr Cameron's capacity for malice and his distaste for fair play were never better demonstrated than in his refusal to accept the Auditor-General's findings and apologise. I invited him to do so but, instead, true to form, he made a churlish comment about the efficiency of the officers. In April, once again showing the form about which the Hon. Ms Pickles complains in her question, Mr Cameron set up his 'hospital hotline' in an attempt to sensationalise the issue of waiting times in public hospitals.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The Hon. Mr Cameron told the *Advertiser* in a report dated 4 April that he had received 243 calls and that the information he had collected from the hotline would be forwarded to the Minister of Health with a request that the most urgent cases be assessed and dealt with quickly. That was in April: it is now December and I am still waiting for that information to be forwarded to me. The information has not been forwarded in that period from April to December. So, it was a gimmick; a political stunt.

The Hon. R.I. Lucas: What's this got to do with it?

The Hon. J.R. CORNWALL: It has got a lot to do with the Hon. Mr Cameron's credibility in relation to the concern expressed quite rightly by the Hon. Ms Pickles. In June, the Hon. Mr Cameron called for the resignation of the then Chairman of the Health Commission.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I know that members opposite do not like to hear this, but I will put it on the record. In June, Mr Cameron called for the resignation of the then Chairman of the Health Commission, Professor Andrews, because he said Professor Andrews was a part-time chairman. In the *Advertiser* in September (three months later), under the headline 'Health Chief Wronged, says Lib.', Mr Cameron defended Professor Andrews and said it was me, not Professor Andrews, who should resign. In June he called on the Chairman to resign; and in September he said that it was the Minister's fault.

In August, the State Coroner, Mr Ahern, found that an inquest into the death of a woman from legionnaires disease at the Queen Elizabeth Hospital was not justified. Mr Ahern considered all the relevant factors and circumstances and found there should not be an inquest.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: No, it is not. It is a carefully prepared answer, and I am placing it all on the record.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Mr Cameron refused to accept the finding of the State Coroner and was quoted in the *Advertiser* of 28 August as saying Mr Ahern had 'accepted all propositions put to him without taking account of the fact that some of those propositions contradict information given to other people'. This was astonishing behaviour, even from one as careless with the truth as Mr Cameron. If Mr Cameron had any relevant information, it was his duty to

present it to the Coroner, and not to make carping criticism over a verdict he did not like.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Once again, the Hon. Mr Cameron's appetite for headlines and his reckless allegations had left him exposed for the cynical, irresponsible person that he is.

Members interjecting:

The Hon. J.R. CORNWALL: I know that members opposite do not like to hear this, so they are doing their best to shout me down. Whatever happened to free speech?

Members interjecting:

The Hon. J.R. CORNWALL: I am enjoying this enormously.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: In October, radio news services reported Mr Cameron as saying that I should stay out of the negotiations with the nurses over pay and conditions and that the situation warranted the essential participation of the Premier. The very next day, his Leader, Mr Olsen (the Leader for the time being in another place), was quoted on the same radio news service as saying that the Premier knew nothing about the issue and should keep out of it.

In November came the RAH emergency services issue. Mr Cameron called on me to apologise to medical staff at the RAH over the Allen report when quite clearly he cannot have read the report. These are just some of Mr Cameron's antics and political stunts through 1986 as outlined by the Hon. Ms Pickles. Here is a man who seeks to portray me as a person who is disliked within the health system and as someone, he would have it, prone to make hot-headed attacks when faced with criticism. It is a really hypocritical stance for the Leader of the Opposition to squeal about terms used in Parliament when his own language (recorded clearly in *Hansard*) includes remarks like 'clown', 'sleazebag', 'Goebbels', and 'dog'.

Members interjecting:

The Hon. J.R. CORNWALL: What a rabble!

Members interjecting:

The PRESIDENT: Order! I remind honourable members that Standing Orders provide that repeated interjections are out of order.

The Hon. J.R. CORNWALL: The Hon. Mr Cameron has assailed hospitals, Health Commission officers and citizens by name in this place without regard to truth or common justice. His intemperate attacks have put him at odds with the Auditor-General, the State Coroner and now the Police Commissioner.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! I point out that the Hon. Mr Davis is repeating his interjections.

The Hon. J.R. CORNWALL: It is terrible behaviour; it is disgraceful.

Members interjecting:

The Hon. J.R. CORNWALL: All right, I seek leave to table the minute from the Police Commissioner.

Leave granted.

The Hon. J.R. CORNWALL: It is long past time for Mr Cameron to drop his irresponsible view of his role as Opposition spokesman on health and to realise that the beat-ups he has engineered are neither in his interest nor his Party's. They are certainly not in the interests of the people of South Australia. Finally, if he does have any information about drug usage in our schools or crack on the city streets, I challenge him to supply it immediately to the police, and to release the names of the persons who may be concerned. The Hon. Mr Cameron should be fair dinkum—he should put up or shut up.

LOCAL GOVERNMENT RATES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Local Government questions about local government rates.

Leave granted.

The Hon. DIANA LAIDLAW: In response to a question asked by the Hon. Legh Davis on the same subject on 26 November, the Minister confirmed that she had done a 180 degree backflip on the issue of minimum rating by councils based on new information. I remind members that only a year ago the Minister told the Annual General Meeting of the Local Government Association:

> There is no question whatsoever that the ability to levy a minimum rate should be removed.

She is now proposing to do just that. As I said, on 26 November the Minister said:

> Any reasonable Minister—any reasonable Government—with new information will change their mind.

I therefore ask the Minister the following series of questions. As I anticipate that she will not have all the answers at hand, I would be more than pleased to receive the information later. First, can the Minister table this important new information which caused her to break her promise to local government on minimum rating? Secondly, can the Minister say what effects, in detail, minimum rating has had in the following council areas: Port Adelaide, Woodville, West Torrens, Salisbury, Elizabeth, Prospect, Marion, Unley, Walkerville, St Peters, Whyalla, Port Pirie, Port Augusta and Mount Gambier? Thirdly, can the Minister say what effect the abolition of minimum rating would have on those council areas if council revenues were maintained?

Fourthly, can the Minister confirm whether or not 75 per cent of the pensioners in the Prospect council area would pay more rates if the minimum rate were abolished and the council revenue maintained? Fifthly, can the Minister confirm whether or not, in councils with minimum rates, more people would pay more in council rates if the minimum were abolished and council revenues maintained?

Sixthly, could the Minister advise how many millions of dollars the South Australian Housing Trust would save in council rates if the ability for councils to levy a minimum rate were abolished? Finally, if the Minister does not have all the above information, either on hand or to be supplied later, will she advise the Council why she is proposing such a drastic disruption to local government without all the facts before her?

The Hon. BARBARA WIESE: I will certainly try to ascertain as much of the financial information about individual effects as I am able, but I must point out that it is very difficult for the Department of Local Government to have access to very specific information about individual rating effects without being given access to individual council financial records, and very often individual councils are not willing to give access completely to their financial records.

In some cases we are able to get very accurate information about some things; in other cases we are not. It really is a matter for the individual councils as to whether they will divulge the information we are seeking. I certainly must indicate that assessments we are able to make are based on that situation. With respect to the first question asked, as to whether I would table the new information which has emerged since I gave that address last year at the Local

Government Financing Authority meeting, I think I made it clear in my response when the question was asked last time as to why I had changed my mind. However, if it is not clear to the Hon. Miss Laidlaw, I will repeat that, at the time I made that address and indicated that it was my view that minimum rates should not be abolished, I had been advised that it was possible to produce information to justify the retention of a minimum rate, and I was advised that way by the Local Government Association.

What has happened since that time is that, in the detailed negotiations which have taken place with officers of my department and representatives of the Local Government Association in the preparation of the rating and finance Bill, the information (that I was assured was available to justify the retention of a minimum rate) has not been produced and I have been advised that it is not possible to produce such information. Some people in local government say that it is, but the Local Government Association has not been able to produce a justification for the minimum rate. I understand that the reason for that is that there is a difference of opinion as to just which elements of council services ought to be included in an assessment of a minimum rate. That being the case, it seems to me that it is very difficult to justify the retention of the minimum rate in view of the fact that it was introduced in the first place to cover the cost—

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: Would you please shut up and listen while I answer my questions?

Members interjecting:

The PRESIDENT: Order! Call on the business of the day.

QUESTION ON NOTICE

TOTARO REVIEW REPORT

The Hon. C.M. HILL (on notice) asked the Attorney-General: In regard to the Totaro Review Report of the Ethnic Affairs Commission (September 1983), what action has the Minister taken over the past three years on each of the recommendations—9.5, 9.6, 9.7, 9.8 and 9.9—all of which deal with nominations and appointments to the Equal Opportunities Advisory Panel, the Equal Opportunities Branch of the Department of the Public Service Board, the staff of the Commissioner for Equal Opportunity and the promotion by equal opportunities officers to ethnic issues generally?

The Hon. C.J. SUMNER: I do not have a prepared reply on this matter.

The Hon. C.M. HILL: In asking that this be placed on the Notice Paper for Tuesday 17 February next year, I make the point to the Attorney-General that several members of migrant communities have asked me to ask this question, and I feel that they should be informed before the middle of February next year. It is absolutely disgraceful.

The Hon. C.J. Sumner: It is not disgraceful at all.

The Hon. C.M. HILL: It is disgraceful.

The PRESIDENT: Order! This is not the time for debating. You may put the question on notice for a future date and that is all, Mr Hill.

The Hon. C.M. HILL: I seek leave to make a personal explanation.

Leave granted.

The PRESIDENT: I would remind you that a personal explanation can deal only with personal matters.

The Hon. C.M. HILL: Yes, this is very personal. I keep in very close contact with many friends who are members of migrant communities and from time to time they approach me personally to seek information from the Government of the day, and in this case from the Minister of Ethnic Affairs. It upsets me, and personally affronts me, that I have put this question on the Notice Paper in the proper and normal way. Except for the record of the present Government in this particular session, replies come back within a reasonable time.

The Hon. C.J. Sumner: You've got to be joking. You've got an incredibly short memory. You've got the shortest memory of anyone in the House.

The Hon. C.M. HILL: Don't try to get out of it.

The Hon. C.J. Sumner: I remember your appalling behaviour. As a Minister you were hopeless.

The Hon. C.M. HILL: You're not going to get out of this by continuous interjection. My personal explanation, Madam President—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. C.M. HILL: Would you shut the fool up over here? These constituents deserve a reply before the middle of February next year.

The PRESIDENT: That is not a personal matter.

The Hon. C.M. HILL: It is very personal to me that I cannot provide it to them. The point I was about to make a moment ago was not only that it should go on the Notice Paper for next February: also, will the Minister, when he has obtained the reply, which I assume ought to be within the next few days, please write the answer to me so that at least I can satisfy my constituents and my conscience and then in due course the reply will be recorded on the public record in February next year? It is a personal matter that I am in this place to serve people and I am doing my darndest to do just that but I cannot do it if the Government will not provide answers to the questions on the Notice Paper. Now that we are faced with two or three months without sitting in this Chamber—

The PRESIDENT: I think you are leaving the personal explanation.

The Hon. C.M. HILL: Will the Minister give an undertaking that he will send a letter with this answer as soon as he obtains it? Then, in due course, it can be given in the normal way in February of next year.

The Hon. C.J. SUMNER: I will give the answer.

Members interjecting:

The PRESIDENT: Order! Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.M. Hill: He is treating the place with contempt.

The PRESIDENT: Order! Interjections will cease; if they do not, I will name people and I do not mind if I name half the people in the Parliament.

The Hon. C.J. SUMNER: The honourable member having just abused the leave that he was given to make a personal explanation, I feel constrained thereby to provide an answer to the question on notice and to make some remarks on the comments made by the honourable member in what was a completely phoney personal explanation. I do not have the detailed answer, which is what I indicated previously to the honourable member, but I can say that, in regard to the Totaro report, many of its specific recommendations were implemented before the last election and implemented in such a way that the Government was generally applauded for its policy on ethnic affairs throughout the community and is still very well regarded and well

respected for the actions it took in establishing the Totaro report. In changing—

The Hon. C.M. Hill: The paragraphs in the report.

The Hon. C.J. SUMNER: I will get to it. I refer to the changing of the direction of ethnic affairs in this State. The honourable member might as well know, if he does not already, that I have talked on the Totaro report on a number of occasions publicly. I have indicated—

The Hon. L.H. Davis: Why didn't you answer the question? You've got no answer to it, have you? Fifteen love!

The Hon. C.J. SUMNER: I am answering the question.

The PRESIDENT: Order, Mr Davis!

The Hon. C.J. SUMNER: The honourable member knows that I have publicly commented on the Totaro report on occasions previously and that specific recommendations have been implemented in almost every instance. Certainly the tenor of the recommendations of the Totaro report has been acted on, including the recommendations here. The honourable member wants these specific answers exactly, which I said I had not been provided with and I said I would get them.

The Hon. C.M. Hill: I'm saying, when can you get them?

The Hon. C.J. SUMNER: You did not have to get up and give a personal explanation.

The Hon. C.M. Hill: How can I get them?

The Hon. C.J. SUMNER: I will send them to you, which I would have done, as a matter of course, anyhow.

The Hon. C.M. Hill: You wouldn't have.

The Hon. C.J. SUMNER: I would have.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: Yes, if I get the answers, I will send them letters. That is the normal course of action I usually take. That has been my practice ever since I have been a Minister. However, the honourable member has to get up and carry on with this claptrap under the subterfuge of a personal explanation. All I would like to suggest to the honourable member is that he goes back to when he was in Government. I remember asking questions week after week after week.

The Hon. C.M. Hill: That is not right.

The Hon. C.J. SUMNER: There were questions the Hon. Mr Griffin did not answer for five months.

The Hon. L.H. Davis: You have done just as well in this section. Look at ASER!

The PRESIDENT: Order!

The Hon. C.J. SUMNER: There were questions put to the Hon. Mr Griffin on the budget that were not answered for five months. They were in the budget debate; I remember them well. It might have been more than five months. All I am pointing out to the honourable member is—

The Hon. C.M. Hill: Mr Griffin is out of the House.

The Hon. C.J. SUMNER: It is true. I also had to raise questions in that period pointing out the length of time that had elapsed before answers were given. Let honourable members not come into this place with these sorts of accusations; they know the circumstances in which answers are given. There is little doubt that this archaic procedure has to be looked at and, in my view, amended. It did not work under the previous Government. There are delays in providing answers to questions. They are often not questions directed to the Ministers in this House and this charade that we go through every day of every week really needs to be stopped. We cannot continue this sort of carry-on in the procedures of the Parliament for ever.

The Hon. R.I. Lucas: We're not allowed to ask questions; that is what you're saying.

The Hon. C.J. SUMNER: I am not sure what the Hon. Mr Lucas is on about. What I am saying is that the procedures ought to be amended. The problems that we have had with these sorts of questions existed under the Hon. Mr Hill's Government and, if members do not believe it, I will take them back through the period and find out where it happened. It was not questions on notice. The Hon. Mr Griffin must have taken five months; that is probably because he had to get the answer from the Treasurer (Dr Tonkin). He did not get it. Because we act for numbers of Ministers (10 other Ministers in the Government) it is not always possible for us to ensure that the answers are here.

The Hon. C.M. Hill: My question has nothing to do with that.

The Hon. C.J. SUMNER: I understand that. This has not been on the Notice Paper for very long in any event.

The Hon. C.M. Hill: You had a report on this three weeks ago from your Ethnic Affairs Commission.

The PRESIDENT: Order!

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: So, that is the position: in respect of the Totaro report, I have provided an answer. The honourable member has talked about specific answers, and I have said that I will get them. In accordance with my usual practice, I am happy to provide him with an answer during the recess—he did not have to get up and carry on in the way that he did.

HON. MURRAY HILL

The Hon. L.H. DAVIS: I seek the leave and indulgence of the Council to make a statement about the fact that the Hon. Murray Hill today celebrates his 21st year in the Legislative Council.

Leave granted.

The Hon. L.H. DAVIS: Madam President, this is quite a historic day for the Hon. Murray Hill and it is perhaps paradoxical, notwithstanding the fact that he is already the father of the Parliament, that today he comes of age as a member of the Legislative Council. We all know that the Hon. Murray Hill has had a distinguished record, as a Minister in two Liberal Governments, both the Hall and Tonkin Governments, in the portfolio areas of local government, transport, ethnic affairs, and the arts. Notwithstanding the fact that he is now a backbencher, having elected to step down from the shadow ministry after the last election, he is certainly not over the hill, and one can only reflect on the delightful question that he asked about the Henley Beach jetty.

The Hon. C.M. Hill: And I didn't get an answer to it.

The Hon. L.H. DAVIS: Indeed, as the honourable member rightly interjects, no answer has been provided, although he has been waiting for some months to receive one. I refer to his forceful contribution to the bread industry baking hours debate only last evening and to his impassioned plea to the Attorney-General just a minute ago to provide an answer to a question that had been on notice for a few weeks. On all these occasions, the Hon. Murray Hill has the rare ability to combine charm, wit, an ability to persuade, and logic in his argument.

I think it is appropriate that the Council take note of the particular importance of this day, coming as it does on the last day of this parliamentary year. I suspect that members not only on this side but also the other side of the Chamber would agree with my belief that the Hon. Murray Hill must be regarded as perhaps the most underrated politician in

the South Australian Parliament in the two decades that he has been here. I want to place on public record my tribute to the work that he has done for not only the Liberal Party but more particularly the people of South Australia.

Honourable members: Hear, hear!

TERTIARY EDUCATION BILL

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Returned from the House of Assembly with the following amendments:

No. 1. Page 1, Lines 19 to 34 and page 2, lines 1 to 9—Leave out Clause 4.

No. 2. Clause 5, page 2, line 35—After 'resignation' insert 'or on such later date, not more than 14 days in advance, as may be specified in the notice of resignation (but once the notice is received by the chief executive officer the resignation cannot be withdrawn)'.

No. 3. Clause 5, page 2, line 42—Leave out 'and'.

No. 4. Clause 5, page 2, after line 46—Insert new word and paragraph as follows:

and

(c) the member cannot be nominated as a candidate for the election to fill the vacancy unless he or she has submitted to the chief executive officer the return that was required to be submitted under Part VIII.

No. 5. Clause 5, page 3, lines 6 to 12—Leave out subsection (6) and insert new subsection as follows—

(6) Where the office of a member of a council becomes vacant under subsection (1) the chief executive officer must notify the members of the council at the next meeting of the council and give notice of the occurrence of the vacancy in the *Gazette* (but the members of the council need not be notified where the member was removed from office by the council).

Consideration in Committee.

Amendment No. 1:

The Hon. BARBARA WIESE: I move:

That the House of Assembly's amendment No. 1 be agreed to.

I remind the Committee that amendment No. 1 relates to an issue on which the Council was divided previously. It relates to the holding of polls at the time of amalgamation. The House of Assembly has disagreed with the Council's position on this issue. The Government agrees with the House of Assembly's view on the matter.

The Hon. C.M. HILL: I cannot support the House of Assembly's amendment, which seeks to revert back to the original position in relation to the question of local government polls for approval or disapproval of a proposed amalgamation. I believe that the Legislative Council should support the amendment that was passed by a majority of members in this place and all the arguments favouring the principle of giving people in local council areas a right to have their say through a ballot box.

The Hon. Barbara Wiese: The honourable member does not need to go through the arguments again.

The Hon. C.M. HILL: I thought someone might be able to get the Democrat representatives in here, as they were quite involved with this.

The Hon. C.J. Sumner interjecting:

The Hon. C.M. HILL: I would like one to get to his feet and say that the Democrats still do have that opinion—knowing what they are like. I am referring to the question of local people in council areas being given the right to say by way of a poll whether or not they agree with a recommendation for amalgamation.

The view of this Chamber, when it became known in the field, brought very strong support from those in local government in the various council areas. The actual amendment is an amendment moved by the Hon. Mr Gilfillan. It is similar to an amendment that was supported by members of the Opposition, the only difference being that under Mr Gilfillan's proposal the poll was to be held over the whole area involved in amalgamation, whereas the proposal supported by members of this side initially was that the poll would be held only in the council area that requested the poll and which, in turn, was part of a total amalgamation. Local government in the field and the Local Government Association accepted the idea.

Motion negatived.

Amendments Nos 2 and 5:

The Hon. BARBARA WIESE: I move:

That the House of Assembly's amendments Nos 2 and 5 be agreed to.

I indicate that the Liberal Party in the House of Assembly agreed to amendments Nos 2, 3 and 5.

The Hon. DIANA LAIDLAW: I am at somewhat of a disadvantage. I have sought to contact both the mover of these amendments in the other place and also the shadow Minister, but to date I have been unsuccessful. The Minister has advised that the Opposition in the other place supported these amendments and I would not wish to doubt her word on that matter, so the Opposition is pleased to support amendments Nos 2, 3 and 5.

The Hon. I. GILFILLAN: I support amendments Nos 2 and 5.

Motion carried.

Amendments Nos 3 and 4:

The Hon. BARBARA WIESE: I move:

That the House of Assembly's amendments Nos 3 and 4 be agreed to.

These amendments are related, so they can be discussed together. This amendment arose in another place when Mr Evans sought to add this new provision to that part of the Act which deals with casual vacancies in local government. It was his concern that a member who lost his position in local government because he had not provided a pecuniary interest statement should not be allowed to nominate for the casual vacancy related to that position until the pecuniary interest statement had been furnished to the Chief Executive Officer of the council. As I understand it, the intention is to avoid the need for a number of elections for a casual vacancy when someone obviously is not playing by the rules. The intention is to ensure that a person provides all information that is necessary before he is entitled again to stand for council. The Government supports this amendment and I commend it to the committee.

The Hon. DIANA LAIDLAW: The Opposition is pleased to support this amendment. I understand that the Hon. Mr Gilfillan has been more successful than I have in locating the original mover of the motion and it has been confirmed that the Liberal Opposition supported this amendment in the other place. On that basis, the Opposition supports this amendment in this place.

The Hon. I. GILFILLAN: I did not actually receive any direct indication as to how the Opposition voted on this matter in the other place but, as it was explained to me, I feel that it is a sensible amendment and I indicate my support for it.

Motion carried.

The following reason for disagreement was adopted:

Because the amendment removes the democratic rights of citizens to express their views on amalgamation at a poll.

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) (APPLICATION OF LAWS) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

COMMERCIAL TRIBUNAL ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

WORKERS REHABILITATION AND COMPENSATION BILL

Bill recommitted.

The CHAIRPERSON: I point out to the Committee that this is Bill No. 102A. It is not the Bill that came from another place. It is the amended Bill that emerged after Committee consideration in this Chamber last session.

The Hon. I. Gilfillan: Is it the same Bill as No. 13A?

The CHAIRPERSON: It is the same. It was No. 13A at the last session. It has a new number this session because it has been restored to the Notice Paper.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: I will make a few preliminary comments. First, I am very concerned because this Bill has been around since March this year and there appears to have been much debate behind the scenes and not much in public. This week we are being asked to reconsider the whole Bill. We must refresh our memories as to what was in the Bill when it reached this place in the last session while considering the content of the Bill that resulted from Committee consideration in March this year.

We are being asked to rush towards a conference between the managers of both Houses with a view to reaching a compromise on the last day of sitting this year. I deplore the way in which the Government has sought to rush this in now at the last minute, to try to get some resolution of an issue which has been around for some time—since well before the last State election. It was well canvassed in February and March and has now, at the last minute, been brought to us again.

Many of the issues to which my amendments relate were canvassed in the debate in the last session but, because we seem to be going through a procedure in which the whole Bill is recommitted and there are a whole series of new amendments—by the Government in particular, and by the Australian Democrats, the Government's amendments seeming to remove those amendments which were made in the Committee in March of this year—it seems to me to be appropriate to at least present the amendments which I put and for which I was not successful in gaining support in the last session, although I should indicate that I will endeavour to facilitate the conduct of the Committee in the hope that we will not sit through until the early hours of Friday morning deliberating on this Bill and considering it at a deadlock conference.

To that extent, I will endeavour to abbreviate my remarks. I hope that others will endeavour to do the same. Where there is a clear indication as to the numbers, I will not be calling for a division on the various amendments unless they are issues on which there is some uncertainty. When the Bill comes out of the Committee, I will want to have a few minutes to make some observations on that Bill as we debate the motion that the Bill be read a third time. There are several matters which I may want to address in more detail during the course of the Committee stage of this Bill. In order to facilitate it at this late hour, I am prepared to keep my comments, generally speaking, to a minimum. I move:

Page 1, lines 26 and 27—Leave out paragraph *(b)* of the definition of 'apprentice'.

I moved this amendment on the last occasion the Bill was considered. Paragraph *(b)* which I seek to delete allows the definition to be widened to include a person undertaking training in a scheme approved by the corporation for the purposes of this definition. I think it is inappropriate to give that sort of latitude to the corporation to widen the definition of 'apprentice'.

The Hon. I. GILFILLAN: I would like to briefly speak to the whole matter before dealing with this specific amendment. I appreciate the comments made by the Hon. Mr Griffin. I think it is fair to say that he has indicated a statesman-like attitude to this job in hand, and I would like to assure him and other members that the time spent dealing with this matter will certainly not be extended by any great verbosity on my part. The only one who may, perhaps, contribute to that is the Attorney-General, and it really depends on whether he disciplines his natural propensity to speak.

There may be a couple of points on which I think there needs to be comment, since the Hon. Mr Griffin took the opportunity to speak about the timing. Members will, I am sure, remember that the reason the Bill did not proceed was that there were questions on the costing. I instituted a committee which was funded by various groups. The invitations to contribute to that committee's work were widely spread across all employer and employee groups and the Government, and I will not go into the detail of that. However, the findings of that committee will be extremely significant. They have been significant not only in my proposals but also in the Government's thinking on the matter. The final supplementary part of that was finalised only this last week. We consider that it is the definitive work in the area in Australia. As a result of that, at an earlier stage I put forward a proposal which involved certain periods and levels of pension which are embraced in the series of amendments on file before the Council.

The Hon. Mr Griffin commented that there had been a lot of discussion, and there certainly has. I would like to say from the Democrats' point of view that we had exhaustive discussions with the costings committee and more or less casual discussion with other groups, but we have been available to employer and employee groups and the Government for discussion on this legislation without restriction. I am hopeful that we will emerge at the end of this session with an effective Act, and I do not wish to canvass all the advantages I see of it at this stage. I believe that the proposal we put forward earlier in the year reflected what were the costings as revealed in the original draft of the costings report. Therefore, the amendments seek to reduce the overall cost to the employers of South Australia—both private and public. I shall conclude my general remarks with one other observation: there has been some criticism of the Democrats as being the reason for the delay in the legislation and the reason for disadvantage being experienced by employers in South Australia. I would like to strongly refute that.

I think it is absolutely clear to the impartial observer that the Democrats' delaying of the Bill and instituting the cost-

ings committee will, through the ensuing years, save employers in South Australia millions of dollars and will contribute to setting up the most efficient, humane and effective workers compensation entity anywhere in Australia. It would compete with anything anywhere in the world. So, the delay is nothing about which the Democrats feel embarrassed, and the embarrassment, if any, should rest on the Government's shoulders, not only for not having the sense to cooperate with us in setting up the committee and looking objectively at the facts, but also in loading on to this poor benighted Parliament an almost inhuman workload.

I think I share that opinion with the Hon. Mr Griffin. I certainly intend to give the very best of my efforts to getting the Bill as near perfect as we can, bearing in mind the various forces which take part in our parliamentary procedure, and to do it as efficiently and quickly as possible. To facilitate that, I would like to indicate that the series of amendments on file from the Hon. Mr Griffin have been debated, and I would assume the majority—if not all—have been defeated in previous debate in this place. I look to be led by the Hon. Mr Griffin and trust him in this—that, where there has been a fresh contribution which he particularly wants us to consider afresh and objectively, he will indicate that. I have never questioned the honour or integrity of the Hon. Mr Griffin. There may be a few others about whom I have had some wavering doubts, but never the Hon. Mr Griffin. I am against the amendment.

The Hon. C.J. SUMNER: I oppose the amendment, and I refer to the previous debate.

Amendment negatived.

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

Page 1—

Lines 26 and 27—Leave out paragraph *(b)* of the definition of 'apprentice'.

After line 28—Insert new definition as follows:

'approved insurer' means an insurer declared by the Treasurer to be an approved insurer for the purposes of this Act:.

I suppose this amendment depends on another amendment. Everybody knows that the Liberal Party has a strong desire to retain in the system approved insurers, subject to appropriate guidelines being prescribed by regulation, rather than the corporation which is a Government monopoly being established as per the proposal in the Bill. We lost that debate at the last session. I had hoped that the Hon. Mr Gilfillan might have seen the error of his decision last time and would now be more likely to be persuaded that a corporation will really add to costs and will certainly not assist in reducing costs. It will put into the hands of the Government and a Government agency monopoly control of the whole area of workers compensation and rehabilitation. The Liberal Party wants to reassert that it certainly does not support that course of action and will resist it as much as possible.

The Hon. I. GILFILLAN: I oppose the amendment. I do not want to go into the reasons for it. In passing, I comment that it was not the Democrats' right or opportunity to choose the main frame of this legislation. There is a Government elected to this State and, in my opinion, it had a mandate to introduce the style and manner in which it wanted to reform workers compensation. In the process of my deliberations I have become less and less opposed to a single insurer as is proposed in the legislation and I feel confident, that with the constraints and controls that will be included by amendment, that it will perform well.

The Hon. C.J. SUMNER: This has been well and truly debated previously, so I oppose the amendment.

Amendment negatived.

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

Page 1, lines 29 to 32 and page 2, lines 1 to 4—Leave out the definition of 'assessment period'.

This amendment removes the definition of 'assessment period'. Later amendments to clause 70 to be moved by the Government seek to change the basis for the assessment of levies from an approach based on estimates of the aggregate remuneration to be paid by an employee over an assessment period to an approach which involves the regular assessment of levies on the basis of actual payrolls. Under the changed approach proposed levies will be assessed on the basis of actual payrolls in each month, and this eliminates the need for the concept of an assessment period.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried.

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

Page 2, after line 7—Insert new definition as follows:

'average minimum award rate' means the amount published by the Commonwealth Statistician as the weighted average minimum weekly award rate for adult persons (wage and salary earners) in South Australia:.

This amendment inserts a definition of 'average minimum award rate'. It ties in with later proposed amendments to change the basis for indexing weekly benefits under clause 39 and surviving spouse benefits under clause 45. This will ensure that these payments will move in line with general movements in award rates for wage and salary earners and is considered to be a more appropriate basis for the indexation of benefits than that provided for under the Bill as it stands.

The Hon. K.T. GRIFFIN: I have difficulty with the amendment. It tends to suggest more likely indexation of pensions and benefits and it seems to me to be an inappropriate way to index—if indexing is sought—those sorts of benefits.

The Hon. I. GILFILLAN: I will not go into a detailed argument but I have considered it in depth and I accept that it is a tolerable amendment.

Amendment carried.

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

Page 2, lines 16 to 18—Leave out the definition of 'class'.

This amendment removes the definition of 'class' and is consequential on the proposed change on the basis of levying premiums of one that is based on occupational classifications to a system that is based on the concept of broad industry classifications. The proposed change to an industry based classification system arises from the practical difficulties of assigning occupational classifications to employees and the scope that exists under such a system for premium avoidance through the manipulation of the occupational categories assigned particular employees.

An industry based classification structure is a cost effective and administratively simple way of grouping employers who are conducting similar types of business and who face similar levels of risk. It is a classification system which has been successfully adopted in Victoria under its Workcare scheme.

The Hon. K.T. Griffin: It hasn't had too much success in Victoria.

The Hon. C.J. SUMNER: That is not what it says here.

The Hon. I. GILFILLAN: I accept the amendment. It is a change in the method by which it was forecast that the levies would be imposed on employers, but I am prepared to accept it.

The Hon. K.T. GRIFFIN: I place my reservations on the record.

Amendment carried.

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

Page 2, lines 30 to 32—Leave out paragraph *(b)* of the definition of 'contract of service'.

This amendment was debated at length when we were last considering the matter in Committee in the last session. It relates to the definition of 'contract of service'. What the Liberal Party has been anxious to do is ensure that contractors and subcontractors are not within the definition, which would then enable them to be subject to the provisions of this Bill. The removal of paragraph *(b)*, which refers to a 'contract arrangement or understanding under which one person works for another in prescribed work or work of a prescribed class' would effectively remove the prospect of subcontractors, in particular, being at some time in the future, if not now, caught by the provisions of this Bill. We believe that this Bill ought to relate to employment, employers and employees and not to contractors and subcontractors.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. C.J. SUMNER: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I had on file an amendment dealing with the definition of 'the corporation'. I take the reference earlier to 'approved insurer' as really being the test case on whether or not there ought to be a corporation. I forecast that there will be considerable difficulties with the Government and the Democrats going down this course of dealing with workers compensation. My view—and the Liberal Party view—is on the record and I think all we can do now is sit back and wait to see the consequences. In the light of having lost the earlier amendment, I indicate that I do not propose to move this amendment.

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

Page 4, after line 20—Insert new definition as follows:
'industry' includes any business or activity in which workers are employed:

I thank honourable members for their cooperation.

Amendment carried.

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

Page 4, lines 22 to 29—Leave out all words in the definition of 'journey' after 'those places' in line 22.

This amendment relates to the definition of 'journey'; the original provision was defeated and on the last occasion this matter was debated it was replaced by an amendment made by the Hon. Mr Gilfillan, which limited what was in the original provision. I certainly prefer what was in the original Bill to what the Government is proposing, but I prefer my suggested amendment even better. It generally seeks to limit the definition of 'journey' to travel between two places by any reasonable direct or convenient route and to allow only minor deviations or deviations that are in connection with the employment of the employee concerned. It is a bit more restrictive than the provision in the Bill.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

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

Page 4—
After line 29—Insert new word and paragraph as follows:
or
(c) the deviation or interruption does not materially increase the risk of injury to the worker:.
Line 27—Leave out 'or'.
Line 29—After 'employment' insert 'or the purpose for which the journey was undertaken'.

The Hon. I. GILFILLAN: I oppose the amendments.

The Hon. K.T. GRIFFIN: The Opposition opposes them, too. This is really just putting back what was in the original Bill which came from the House of Assembly in the last session. I certainly oppose the amendments.

The Hon. C.J. SUMNER: These are very sensible amendments. This seeks to retain the *status quo* in respect of the definition of 'journey' and thereby to provide the same basis for entitlement to compensation that exists under the current Act in respect of journey accidents. I am disappointed in the approach of members to this matter.

Amendments negatived.

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

Page 6, lines 7 to 9—Leave out paragraph *(c)* of the definition of 'prescribed allowance' and insert paragraph as follows:
(c) by way of overtime;.

This is to limit the reference to overtime in the definition of 'prescribed allowance'. At the moment, a 'prescribed allowance' includes overtime other than amounts paid in respect of overtime worked in accordance with a regular and established pattern. It seems to me to be appropriate not to take the matter any further than just the reference to overtime.

The Hon. I. GILFILLAN: This amendment is opposed.

Amendment negatived.

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

Page 7, lines 25 to 31—Leave out paragraph *(a)* and insert new paragraph as follows:
(a) (i) the person has been so cohabiting with the worker continuously for the preceding period of 5 years;
(ii) the person has during the preceding period of 6 years cohabited with the worker for periods aggregating not less than 5 years;
or
(iii) although neither subparagraph (i) nor (ii) applies, the corporation considers that it is fair and reasonable that the person be regarded as the spouse of the worker for the purposes of this Act;

This amendment seeks to amend the definition of 'spouse' for the purposes of determining surviving spouse benefits under the Bill. The definition contained in the Bill at present is more restrictive than that provided for in the current Act. The definition in the Bill presently before us is also considered to be too arbitrary and, accordingly, it is proposed that the corporation is to be given discretion to recognise the *de facto* relationship where in the circumstances of the case it would be fair and reasonable to do so.

The Hon. K.T. GRIFFIN: I do not support that, I think that the provision in the Bill at present is fair and reasonable. In my view to give the corporation a discretion to extend the provision is quite unreasonable and I ask the Committee not to support that.

The Hon. I. GILFILLAN: I oppose the amendment. I think it is inappropriate for the corporation to be expected to make that judgment.

Amendment negatived.

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

Page 8, lines 20 to 29—Leave out subclause (2) and insert subclause as follows:
(2) The Crown is the presumptive employer of persons of a prescribed class who voluntarily perform work of benefit to the State.

Subclause (2) identifies who are, for the purposes of the Act, presumptive employees of the Crown. It identifies Ministers of the Crown, members of Parliament, judicial and other officers of the Crown and certain other categories of persons. When we last considered this clause I made the point very strongly that Ministers of the Crown are not employed by the Crown and that members of Parliament, judicial and other officers of the Crown are also not employed by the Crown. It is quite inappropriate to make them employees for the purposes of workers compensation. I did not win the argument last time, but I hope that the matter can be looked at more carefully, and in that respect I hope that the amendment is carried.

The Hon. I. GILFILLAN: I will be guided in this rather complex matter by the Government's own reaction to it. In respect of the intention of the Hon. Mr Griffin, I indicate

that I oppose his amendment, but I rely on the leadership of the Government in this case.

The Hon. C.J. SUMNER: We reject the amendment, but it might be that, as this matter seems to be heading for a conference, the issue could be canvassed in a conference if the honourable member so wished.

The Hon. K.T. GRIFFIN: I would like that. In fact, because I put it out in detail back in March, I would think the matter could have been examined, because we debated it at length and it is a matter of real principle. The way in which the Bill is developing, it puts the corporation in a position where it can in fact give directions to judges, to members of Parliament and to Ministers of the Crown. I think it is constitutionally improper that that should occur. If one looks at all the discretions and responsibilities of the corporation in respect of injured employees or workers, I do not see how that position can be logically or constitutionally supported in the Bill.

The Hon. I. GILFILLAN: I think that the conference will have plenty to consider. Unless the Government feels that there is an issue that needs to be specifically looked at, I will not support it.

The Hon. C.J. Sumner: I think that it ought to be supported.

The Hon. I. Gilfillan: Do you want me to support it?

The Hon. C.J. Sumner: I do not care one way or the other. It may need to be examined.

The Hon. I. Gilfillan: You can raise it in conference.

The Hon. K.T. GRIFFIN: We can do it, but I suggest that the Hon. Mr Gilfillan support me on it, if only for the purpose of getting it considered in more detail in the conference.

Amendment carried.

The Hon. K.T. GRIFFIN: In relation to my amendment on file concerning page 9, lines 1 to 5, it refers to subcontractors. I have lost that vote and, accordingly, although I still very strongly adhere to the matter, I do not intend to move this amendment.

Clause as amended passed.

Clause 4—'Average weekly earnings.'

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

Page 9, lines 31 to 37—Leave out subclause (3).

This amendment relates to subcontractors and in the past has not been able to attract majority support. I still think it is important that I move this amendment and I do so.

The Hon. I. Gilfillan: I oppose it.

The Hon. C.J. Sumner: I oppose it.

Amendment negatived.

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

Page 9, line 44 and following—Leave out subclause (5).

This amendment relates to the average weekly earnings of a worker who was not a full-time worker immediately prior to the relevant date but who was seeking full-time employment and had been predominantly a full-time worker during the preceding 18 months. In those circumstances, the average weekly earnings are to be determined as if that worker had been a full-time worker. I do not believe that any special consideration ought to be given to persons in that situation and that the ordinary provisions of clause 4 relating to average weekly earnings ought to be a sufficient basis for determining average weekly earnings.

The Hon. C.J. Sumner: I oppose it.

The Hon. I. Gilfillan: I oppose it.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 10, line 21—Leave out '2.5' and insert '1.5'.

This amendment seeks to alter the average weekly earnings which are the maximum for which the pension would apply.

The Hon. K.T. Griffin: I support it.

The Hon. C.J. Sumner: I oppose it.

Amendment carried.

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

Page 10, line 39—After 'last published' insert 'before the relevant date'.

I move this amendment, which is necessary to make clear that the ceiling on the calculation of the average weekly earnings for a worker under subclause (7) *(c)* refers to a multiple of the figure of State average weekly earnings which was last published at the time of the commencement of the period of the worker's incapacity for work.

The Hon. I. GILFILLAN: It is a sensible amendment and I support it.

Amendment carried; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7—'The corporation.'

The Hon. K.T. GRIFFIN: I indicate that, while I do not support the clause, I have lost that battle in relation to the corporation and therefore I do not express any further view on that matter.

Clause passed.

Clause 8—'Constitution of the management board.'

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

Page 12—
Line 1—Leave out '12' and insert '11'.
Line 7—Leave out 'five' and insert 'four'.
Line 9—Leave out 'two' and insert 'three'.

These amendments seek to reinstate the provisions of the original Bill with respect to the constitution of the board of the corporation. The provisions of the original Bill relating to this matter were suggested after a long period of consultation and they have general agreement from the UTLC and the major employer organisations in this State. It is not considered appropriate to nominate particular employer associations, because there are other employer organisations that have equal rights to be represented on the board of the corporation. The naming of particular organisations also reduces the flexibility of rotating the membership of the board between the various employer organisations in this State.

The Hon. I. GILFILLAN: I oppose the amendments. I think it is appropriate that the various entities be specifically named. There are differences in the character of employment in such areas as the UF&S and the farming community. There is a good reason why the Chamber of Commerce and the Employers Federation should each have an opportunity for nomination. The Small Business Association, representing those people who employ smaller numbers, is entitled to have access and to have an input into the corporation. On that basis, we oppose the Government's amendments, but I foreshadow that there is an amendment on file in my name relating to nominations from the Chamber of Commerce and the Employers Federation.

The Hon. K.T. GRIFFIN: I indicate that I oppose the Government's amendments which, as the Attorney said, reinstate the provisions in the original Bill. To allow further consideration of this provision at the conference, I will support the Hon. Mr Gilfillan's amendments. However, I will want to hear more debate about those amendments when we reach that stage.

Amendments negatived.

The Hon. I. GILFILLAN: I move:

Page 12, lines 9 and 10—Leave out paragraph *(c)* and insert new paragraph as follows:

(c) one shall be nominated by the Minister, after consultation with the Chamber of Commerce and Industry, South Australia Incorporated;

(caa) one shall be nominated by the Minister, after consultation with the South Australian Employers' Federation Incorporated;

As the Hon. Mr Griffin said *sotto voce*, we have done that. I have argued that there should be specific representation. The Hon. Mr Griffin has indicated that he would welcome further elaboration on the amendments when we go to conference (and I assume that we will reach that stage). Therefore, I will not take up that matter now. Of course, that would involve opposition to the Government's amendment.

Amendment carried; clause as amended passed.

Clause 9—'Terms and conditions of office.'

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

Page 12, lines 30 to 43—Leave out subclauses (1), (1a) and (1b) and insert new subclause as follows:

(1) A member of the board shall be appointed on such conditions and for such term (not exceeding 5 years) as the Governor may determine and on the expiration of a term of office is eligible for re-appointment.

The amendment seeks to re-insert the provisions of the original Bill which enable board members of the corporation to be appointed for up to five years. The amendment will allow the staggering of appointments to ensure continuity of experience. The amendment would also enable the appointment on a short-term basis of persons with particular skills and experience where it is considered that it would be of some value to appoint or re-appoint them if they were unavailable for a full term or it was not appropriate to appoint them for a full term.

The Hon. I. GILFILLAN: I believe that my amendment brings this into line with the situation that was accepted in relation to the Occupational Health and Safety Commission. I believe that my amendment is an improvement on both the original Bill and this amendment.

The Hon. K.T. GRIFFIN: I prefer what is in the Bill, so I would oppose both amendments. However, if it is a matter of choosing which of the two that I should support, at this stage I tend to support the Hon. Mr Gilfillan's amendment. Again, it is an amendment that needs further consideration, and that will be done at the appropriate time in conference.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 12, lines 30 to 43—Leave out subclauses (1), (1a) and (1b) and insert new subclause as follows:

(1) subject to subsection (1a), a member of the board shall be appointed on such conditions and for such term (not exceeding three years) as the Governor may determine and on the expiration of a term of office is eligible for re-appointment.

(1a) The person appointed as the presiding officer of the board may be appointed for a term not exceeding five years.

Amendment carried; clause as amended passed.

Clauses 10 to 20 passed.

Clause 21—'Other staff of the corporation.'

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

Page 17, after line 39—Insert new subclause as follows:

(3) The staff of the Corporation are not public service employees.

The amendment will put beyond doubt that the staff of the corporation are not Public Service employees. This does not involve any change in policy incorporated in the original Bill but makes clear the status of the employees of the corporation.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 22—'Certain periods of service to be regarded as continuous.'

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

Page 17, line 42—Leave out 'officer of' and insert 'employee in'.

The Hon. K.T. GRIFFIN: I support the amendment.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried.

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

Page 18, line 1—Leave out 'as an officer of' and insert 'in'.

The Hon. I. GILFILLAN: I support this.

The Hon. K.T. GRIFFIN: I support this.

Amendment carried; clause as amended passed.

Clause 23 passed.

Clause 24—'Non-application of Government Management and Employment Act.'

The Hon. C.J. SUMNER: We oppose this clause.

The Hon. K.T. GRIFFIN: I support the opposition to the clause, because it is consequential upon the earlier clause which has been carried.

Clause negatived.

Clauses 25 to 28 passed.

Clause 29—'Prevention programs.'

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

Page 20, line 13—After 'establish' insert 'or maintain'.

This amendment seeks to extend the corporation's role to encompass not only the provision of assistance to employers to establish preventative programs, but to provide ongoing assistance in the maintenance of such programs.

The Hon. K.T. GRIFFIN: I support that, as it seems to me to be reasonable.

Amendment carried; clause as amended passed.

Clause 30—'Compensability of disabilities.'

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

Page 20, line 27—Leave out 'is wholly attributable to' and insert 'arises out of'.

This amendment seeks to reinstate into the Bill the same coverage for the purpose of compensation of secondary disabilities and disease that exist under the provisions of section 8 of the current act under the definition of injury.

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried.

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

Lines 32 to 38—Leave out paragraph *(a)* and insert new paragraph as follows:

(a) a journey between the worker's residence and place of employment (whether to or from the place of employment);

This seeks to re-insert the provisions contained under section 9 (2) *(a)* of the current Act in respect of those categories of injuries which are conpensable.

The Hon. K.T. GRIFFIN: I oppose that amendment.

The Hon. I. GILFILLAN: I oppose it.

Amendment negatived.

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

Page 21, line 33—After 'employment' insert 'unless the worker's disability results in death or permanent total incapacity for work'.

This amendment seeks to re-insert the provisions of section 9 (5) of the current Act which provides that no compensation is payable in respect of an injury which is consequent on or attributable to the serious or wilful misconduct of a worker unless that injury results in death or permanent total incapacity for work. Although such action is not condoned, humane considerations arise, and this amendment seeks to continue the provision of the current Act, where payment of compensation is provided for where the injury has resulted in death or permanent total incapacity.

The Hon. I. GILFILLAN: I support this. I believe that it may be the subject of discussion in conference, but my opinion is that no-one will deliberately go to the extent of exposing himself to this risk and it would be inhumane not to acknowledge that the Bill and the eventual Act should cover injuries that result in death or permanent disability.

The Hon. K.T. GRIFFIN: I do not support it. The clause is quite clear. Where a worker is guilty of misconduct or breach of the employer's instructions, or voluntarily subjects himself or herself to an abnormal risk of injury, the worker shall not then be regarded as acting in the course of employment. I think that is quite a reasonable proposition, rather than extending it, as the Attorney is suggesting, so I oppose the amendment.

Amendment carried.

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

Page 22, line 11—Leave out ', or in contravention of,'.

It seems to me to be unreasonable if the worker is deemed to be acting in the course of employment, notwithstanding that the worker is acting without or in contravention of instructions from the employer. If the employer clearly says, 'Don't do that because it's dangerous', why should the worker acting in blatant contravention of that instruction be covered by this clause? It seems to me to be most unrealistic and unreasonable. Accordingly, I move to leave out those words.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. C.J. SUMNER: I oppose the amendment.

Amendment negatived; clause as amended passed.

Clause 31—'Evidentiary provision.'

The ACTING CHAIRPERSON (Hon. C.M. Hill): Both the Attorney and the Hon. Mr Gilfillan desire to insert new subclauses after line 20. I ask them to canvass their proposals.

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

Page 22, after line 20—Insert new subclauses as follows:

(2) The regulations may extend the operation of subsection (1) to disabilities and types of work prescribed in the regulations.

(3) A regulation under subsection (2) must not be made except—

(a) on the recommendation of the corporation;

or

(b) after consultation with the corporation.

(4) An aggravation, acceleration, deterioration or recurrence of a pre-existing coronary heart disease shall be presumed, in the absence of proof to the contrary, to arise from employment in which the worker is engaged when the aggravation, acceleration, deterioration or recurrence manifests itself or, if the worker is not then in employment, the last employment that could have caused or contributed to the aggravation, acceleration, deterioration or recurrence.

My amendment seeks to provide for a mechanism to add to the disabilities listed in the second schedule, which reverses the onus of proof where known symptoms have been shown to be generally associated with work of a particular kind. The amendment also requires the Government, in framing such regulations, to have regard to and consult the corporation in relation to them.

The Hon. I. GILFILLAN: I move:

Page 22, after line 20—Insert new subclauses as follows:

(2) The regulations may extend the operation of subsection (1) to disabilities and types of work prescribed in the regulations.

(3) A regulation under subsection (2) must not be made except—

(a) on the recommendation of the corporation;

or

(b) with the approval of the corporation.

The Hon. C.J. SUMNER: Subclause (4) seeks to insert the provisions of section 9 (4) *(a)* of the current Act in respect of aggravation, etc., of a pre-existing coronary heart condition. The amendment seeks to restore the *status quo* in respect of this matter.

The Hon. I. GILFILLAN: I am opposed to paragraph *(b)* of subclause (3) because I believe that the power of extending the regulations should not be in any other than at least with the approval of the corporation. 'Consultation', the word in the Attorney's amendment, does not require that. Therefore, I prefer the wording of my subclause (3).

As for subclause (4), I am opposed to the inclusion of the provision for aggravation, acceleration and deterioration of pre-existing coronary heart disease to be taken in what is almost a reverse onus situation, as outlined in subclause (4). I indicate my opposition to that, which must mean that I oppose the whole of the Attorney-General's amendment.

The Hon. K.T. GRIFFIN: I oppose both sets of amendments. I do not believe the regulations ought to be able to extend the operation of subsection (1) to disabilities and types of work prescribed in the regulations. It seems to me that the clause in the Bill is satisfactory as it is. If there is to be any amendment to the schedule, it ought to be done by an amendment to the statute in an amending Bill that comes before the Parliament. However, if in fact there is to be some amendment carried, I would indicate my preference for the amendment of the Hon. Mr Gilfillan. I have two reasons for that: first, if a regulation is to be made, then it can be made only on the recommendation of the corporation or with the approval of the corporation; and, secondly, subclause (4) of the Attorney-General's amendment is one which we do not support, having eliminated reference to coronary heart disease from the schedule when the Bill was first before us earlier this year.

The Hon. C.J. Sumner's amendment negatived.

The Hon. I. Gilfillan's amendment carried.

Clause as amended passed.

Clause 32—'Compensation for medical expenses, etc.'

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

Page 22, line 23—Leave out 'for costs' and insert 'for necessary and reasonable costs'; leave out 'reasonably'.

My amendment seeks to limit the operation of suclause (1) to those cases where a worker is entitled to be compensated for 'necessary and reasonable costs' described in subclause (2) rather than for 'costs of a kind described' in subclause (2).

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. C.J. SUMNER: I oppose the amendment.

Amendment negatived; clause passed.

Clause 33—'Worker entitled to be conveyed for initial treatment.'

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

Page 23, line 13—Leave out ', at the employer's own expense,'.

The clause relates to the injury of a worker at the place of employment requiring immediate medical treatment. The clause presently contained in the Bill requires the employer to pay the costs of transportation. It seems to me that it is reasonable that it be covered by the general funds administered by the corporation.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. C.J. SUMNER: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: As I have just lost the vote on the previous amendment, I do not propose to move the amendment to lines 16 to 21.

Clause passed.

Clause 34 passed.

Clause 35—'Weekly payments.'

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

Pages 23 and 24—Leave out subclauses (1), (2), (3) and (4) and substitute subclauses as follows:

(1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

(a) if the period of incapacity for work does not exceed 3 years—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to

weekly payments equal to the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the worker's notional weekly earnings and the weekly earning that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds 3 years, the worker is entitled to weekly payments determined in accordance with paragraph *(a)* for the first three years of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 85 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 85 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning in suitable employment or could earn in suitable employment that the worker has reasonable prospects of obtaining.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of three years, this paragraph does not apply to a period commencing after, or extending beyond, the end of the third year of incapacity); and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment;

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability; and

(v) any other relevant factor.

These amendments seek to reinstate the general provisions of the Government's original Bill—that is, for injured workers to receive compensation on the basis of three years partial being total with 100 per cent compensation for any loss of earnings for those three years, to be followed by weekly benefits of 85 per cent of the worker's average weekly earnings for the first period of incapacity.

The amendment also seeks to ensure that, where workers suffer a permanent loss of income, whatever the degree of loss, a fair level of compensation is payable. Under the previous Bill as drafted it has since been pointed out that certain groups of workers were permanently partially incapacitated would have received no compensation at all for income losses of up to 20 per cent of their previous earnings after the first three years of incapacity. In the Government's view this is inequitable and it is proposed that compensation should be awarded as a percentage of the permanent income loss suffered by the injured worker. This approach is the method adopted in Victoria, the Northern Territory, New Zealand and the various Canadian Provinces where such pension based systems are in operation.

The Government believes the proposed benefit package under clause 35 to be affordable. The estimates recently released by the Democrats Costing Committee lend support to this view. When the Democrats Costing Committee's interim report was released in June 1986 the committee estimated that the Government's proposals would cost a hefty 4 per cent of payroll, far in excess of the cost of the current system of approximately 3 per cent of payroll. When the interim report was released the Government was severely critical of the costings and it is interesting to note that many of the Government's criticisms have now been acknowledged by the Costings Committee and attempts have been made to remedy the deficiencies. The latest costings accordingly have significantly revised downwards the estimated costs of the Government's Bill. According to the latest costings, the Government's proposals are now estimated to cost approximately 3.3 per cent of payroll and not the 4 per cent originally estimated. The revised costings of the Government's Bill reveal that the cost will be marginally higher than the costs of the current scheme in South Australia in terms of the actual premiums charged by insurers (and would in fact equate with the cost of the current system if the maximums under the current Act where updated to restore their real value). Whilst these latest costing figures suggest that there may be no short-term savings, the proposed system under the Government's Bill should maintain costs at a fairly constant level as a percentage of payroll and will thereby avoid the marked increases in costs that are inevitable should the current system be continued. That this is so clear from the most recent figures released on the cost of claim payments for South Australia for the year 1985-86 which indicate that the costs have increased by a massive 23.4 per cent over the figures for 1984-85. Over the past four years the costs of the current system have doubled.

The latest Democrats' costings attempt to project the costs of the current system over the next 10 years but they greatly underestimate the increase in costs that will occur. Their 10 year projections assume that premiums under the current system will only grow at a rate of 5 per cent per annum faster than wages. This is quite unrealistic. Over the past five years the excess rate of increase of premiums over earnings in South Australia has been greater than 20 per cent per annum. The latest Democrats' costing report gives no reasons why the experience of the past five years in projecting the trend growth in premiums of the current system has been ignored.

This quite unreal assumption about the growth of premiums is a serious source of error which has led to a gross underestimation of the long-term costs of continuing with the current system as well as significantly underestimating the substantial long-term savings that will flow from a move to the scheme proposed by the Government. I move:

Page 24—

Line 22—After 'section' insert 'in respect of that period'.

Line 23—After 'shall' insert 'not, unless the Corporation determines otherwise,'.

These amendments seek to amend subclause (5) to enable any allowances paid concurrently by an employer to a worker during any period on compensation benefits to be taken into account and to reduce the amounts payable as compensation where the corporation considers it appropriate. Subclause (5) as amended in the Bill now before us would require the automatic offsetting of any such payment or allowance. There may be instances, however, where this is not appropriate—for example, the payment by an employer of a living away from home allowance. The amendment proposed has been put forward as a result of discussions with representatives of employer groups.

The Hon. I. GILFILLAN: I oppose the amendment moved by the Attorney. I indicate to the Committee that I have amendments on file relating to this clause. It is with some relish that I hear the Government speaking with great interest and reverence about the Democrats' costing committee.

The Hon. C.J. Sumner: I wouldn't say reverence; I was mainly critical of it.

The Hon. I. GILFILLAN: I make the point that it is most unfortunate that the Government chose to deprive our committee of the contribution that it is now willing to make—once the report of the costings committee was released. It would have speeded up the process enormously had we had any cooperation at all from the Government or in fact from the UTLC. It is quite obvious that honourable members will find in due course that the costings committee has had a substantial and dramatic effect on the Government's attitude to its original proposal.

I would argue against the return in the Bill of a provision for a major increase in the period of time for the partial deemed total incapacity situation to three years and to lift the pension rates that are applicable. The latter part of the provision concerns a change of method in relation to allocation of long-term pensions, and I agree with that. With the indulgence of the Committee I will speak to this provision as it relates to the amendment that I will move in due course. The Democrats' costings committee originally interpreted the Bill as meaning that in the long-term pension situation there was a percentage of loss to be allocated so that, where a worker injured suffered, say, a 20 per cent incapacity, the committee assumed that the pension would be 80 per cent of lost income. Apparently, the more accurate interpretation of the original Bill is that it should have been a pension of a makeup to the level of the pension, namely, 85 per cent. I confess that it was my understanding, and certainly my intention, that it should be a percentage of loss. I think it is unfair to expect an injured worker who has suffered what would be described as a relatively minor incapacity, but still substantial and ongoing, to have no recognition of that by way of an ongoing pension. So, I support the intention of the Government's amendment in that area.

I now refer to my own amendments that I will be moving shortly. The work of the costings committee showed that there were enormous pitfalls in the sort of cost levels that the original Bill included. I proposed a series of amendments in a proposal made public some two months ago, and those amendments embraced those details. First, it was proposed that there would be a period of the first six weeks of the incapacity for work at which the pension would be 100 per cent of the notional weekly earnings. That would then drop to 90 per cent for the balance of the 12 months and after 12 months, which would be the period of time in which partial deemed total incapacity would apply, the pension would resort to a 75 per cent level of notional weekly earnings.

Members would note that in this batch of amendments I do not have anything to alter the common law level, and I take this opportunity to mention in passing that in the proposals that I put forward publicly two months ago I indicated that we would move for a threshold for commom law, so that only the more seriously injured employees would be able to claim common law. I have since changed my mind on that matter and consider that the Bill currently has 1.1 times the prescribed sum limit of common law, and that means, in effect, that a successful common law claim would not be above $66 000 and, therefore, it is worth noting that in this, which is the most significant package of the amendments—I believe both for the Government and myself—the proposal that I have put forward does not alter the current common law ceiling in the Bill, but it does in fact reduce the time at which a worker is entitled to 100 per cent and it reduces the long-term pension. So, I indicate my opposition to the Attorney's amendments and look forward to support for my own in due course. I move:

Pages 23 and 24—Leave out subclauses (1), (2), (3) and (4) and substitute subclauses as follows:

(1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

(a) if the period of incapacity for work does not exceed 6 weeks—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds six weeks, the worker is entitled to weekly payments determined in accordance with paragraph *(a)* for the first six weeks of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 90 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 90 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(c) if the period of incapacity for work exceeds one year, the worker is entitled to weekly payments determined in accordance with paragraphs *(a)* and *(b)* for the first year of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 75 per cent of the worker's notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 75 per cent of the difference between the worker's notional weekly earnings and the weekly earnings that the worker is earning in suitable employment or could earn in suitable employment that the worker has reasonable prospects of obtaining.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the Corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of one year, this paragraph does not apply to a period commencing after, or extending beyond, the end of the first year of incapacity);

and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment; and

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability.

The Hon. K.T. GRIFFIN: I indicate that the Liberal Party's preference is for the amendment of the Hon. Mr Gilfillan. I must say that what the Attorney-General related really supported the view that I and the Liberal Party have been putting—that really there is no need to change from the private sector insurers covering the risks to a Government monopoly corporation—but we have lost that battle. There have to be some reductions in benefits to accommodate the community needs. It seems that the more appropriate way of doing it is by following the amendment of the Hon. Mr Gilfillan which is based, to some extent, on the results of the costings committee, which I think we must remember was financed completely by the private sector. It

was a very expensive exercise to show up something which the Government should have identified from its resources before this whole exercise was begun.

The CHAIRPERSON: I first have to put the question that subclauses (1), (2), (3) and (4) stand part of the Bill. They are struck out.

The Hon. C.J. Sumner's amendment negatived.

The Hon. I. Gilfillan's amendment carried.

The Hon. I. GILFILLAN: I am in favour of the amendments to lines 22 and 23 proposed by the Attorney-General.

Amendment carried.

Progress reported; Committee to sit again.

[Sitting suspended from 6.7 to 7.45 p.m.]

RETIREMENT VILLAGES BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to regulate retirement villages and the rights of residents in such villages; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

I emphasise that this Bill has been introduced at this stage to enable members of Parliament, the public and industry in particular to consider its contents during the period of recess, so that it can be debated on our return in February. I fully expect that the Bill will need some adjustment and amendment and that there will be Government amendments also because the consultation process with the industry has not been completed. However, I felt that the better approach was to introduce the Bill and in effect allow it to lie on the table over the next two months to enable full discussion and consultation. I warn the Council that that will probably mean that there may be some amendments moved by the Government or indeed it may be that a clean Bill is tabled in February. In view of the pressure of business and the fact that the Bill will be on the Notice Paper for a couple of months, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The Bill before the Council seeks to ensure that persons who take up residence in resident funded retirement villages are accorded that degree of protection and security of tenure that is appropriate for an investment of this nature.

The Government has made an electoral commitment to provide for security of tenure for persons who enter resident funded retirement villages and to provide for the on-going relationship between the owner, the manager and the residents of a village.

In the past few years there has been a considerable demand for growth for this type of village accommodation for the ageing. The size, operation and the type of organisation promoting each village vary widely. A village may be a small cluster of units designed by a voluntary care organisation or it may be a large commercial village which offers a variety of features and actively promotes its activities. It is to bring about a degree of certainty for prospective and existing residents in an industry of such a diverse nature that has prompted the Government to introduce this Bill.

Resident funded villages are presently regulated under the prescribed interest provisions of the Companies (South Australia) Code. As these provisions are not always appropriate for the regulation of retirement villages it is proposed to exclude the villages from the operation of that legislation from 1 July 1987. I understand that some of the other States will also introduce legislation to regulate their retirement village industry and in fact Victoria has already introduced legislation on this matter. In fact the approach taken in this State is similar to that undertaken in Victoria.

It is intended that this Bill will lie in the Parliament and provide a basis for discussion within the industry for the next three months and that the Bill be debated during the next parliamentary session. It is proposed at this stage that the Bill would commence on 1 July 1987.

The following principles have been incorporated in the draft legislation:

1. All retirement villages to be registered and the registration of a retirement village to be noted on the appropriate certificate of title.
2. Before lodging any retirement village notice for registration on the certificate of title with respect to any future village, the owner or promoter of the village must ensure that all prior encumbrances have been released or where this is not possible that the prior encumbrances do not take in priority to the rights of the residents. With respect to existing villages, residents rights to a refund of any in-going contribution will be accorded priority over any charges or encumbrances that may be subsequently created.
3. Certain persons are not to be involved in the administration of retirement villages—namely, insolvents under administration and persons who had been convicted of certain offences, that is, fraud or dishonesty.
4. The resident to be given full disclosure of the rights that will be granted pursuant to the residency contract and a three-day 'cooling-off' period provided.
5. Provision to be made for the resolution of disputes between residents and between a resident and the owner. It is presently proposed that this matter be dealt with in the regulations following discussions with the industry.
6. Provision to be made for resident participation in the operation of the retirement village through the manager of the village being required each year to convene an annual meeting of the residents.

Many persons taking up residence at the present time do not appreciate that the only entitlement that they have is that of a licence to occupy a particular unit in the village and to use certain community facilities. The licence to occupy the unit can be revoked upon the resident concerned becoming ill or in some other manner not being able to comply with the contractual basis upon which the licence has been granted. Clearly, persons in this situation are vulnerable in that there are many factors outside their control that could lead to the loss of their security of tenure.

Churches, charitable organisations and commercial interests are all involved in the provision of 'resident funded' residential care for the aged in this State. 'Resident funded' operations that are 'offered to the public' by any of the entities referred to above are commercially based and should be so structured as to minimise the risk of loss of investment to those older persons who invest their life savings in what they are led to understand will be their accommodation for the remaining years of their lives. Accordingly, it is necessary for the regulatory regime that is to be implemented to provide appropriate disclosure and security of tenure arrangements.

The legislation will apply to all retirement villages whether existing before or after the legislation comes into operation, however, certain provisions could not reasonably be applied to retirement villages existing at the commencement date where this would be unreasonable because of existing financing arrangements. There is also provision in the Bill for the exempting of specified retirement villages and villages of a specified class from the Act. There is also power to exempt specified villages from provisions of the Act. These matters will be the subject of discussion with the industry.

The Government believes that there should be wide public discussion relating to the matters that are included in this Bill and that are proposed for inclusion in the regulations and to that end it is requested that interested organisations make any submissions that they consider to be relevant to the Corporate Affairs Commission, 25 Grenfell Street, Adelaide.

The Government is aware of the need for a balanced and sensitive approach to matters relating to the establishment and operation of resident funded retirement villages in this State and is concerned to ensure that there is full discussion with all interested parties.

There necessarily must be included within the regulations a number of matters that are of major importance and I have arranged for the Corporate Affairs Commission to discuss with interested parties the options that may be available to best achieve such fundamental issues as the means of resolving disputes between residents themselves and residents and the managers and/or owners of the village.

The Government believes that it is only through consultation with those already in the industry with experience in these matters that the best possible option can be settled. Any such discussions will be undertaken in consultation with the Commissioner for the Ageing and the Department of Housing and Construction. The commission will arrange for this to be done.

The matter of disclosure of information and other issues is in part contained in the Bill and will in part be contained in the regulations. This again is another area where there is the need for full consultation with the industry to ensure that the arrangements that are put in place are commercially realistic whilst at the same time providing that degree of protection which is appropriate for persons who make an investment of this type.

The Government is committed to the principles as outlined in this Bill and makes the Bill available for the purpose of allowing honourable members and the public to consider the issues. It may well be that further significant amendments will be necessary as the issues raised by this legislative initiative are complex.

The comments from industry groups should be received by the Corporate Affairs commission no later than 12 February 1987. The commission will arrange as soon as possible after that date for there to be detailed discussions with persons who are interested in this particular industry. I commend the Bill to the Council.

Clause 1 is formal.

Clause 2 provides for commencement.

Clause 3 defines words and expressions used in the Bill; most notably, 'administering authority', 'premium', 'recurrent charge', 'residence contract', 'residential unit', 'retired person', 'retirement village', 'retirement village scheme', 'service contract' and 'strata retirement village'.

Clause 4 provides that the proposed Act will apply to retirement villages established before or after the commencement of the Act.

Clause 5 confers on the Commissioner for Corporate Affairs responsibility for the administration of the Act.

Clause 6 relates to residence contracts and provides for certain 'cooling-off' rights. A resident will be entitled to rescind the residence contract (see clause 3) within three business days (not including public holidays—see clause 3) after the date of the contract or after receiving notice of this 'cooling-off' right. That notice should be given to a prospective resident before a contract is entered into.

Clause 7 provides that a resident's right of occupation in a retirement village cannot be terminated except if the resident dies or decides to leave the village, there is a breach of the residence rules (see clause 3) or the village is no longer a suitable place of residence for the resident because of his or her mental or physical incapacity. Termination on these grounds is, however, subject to any contractual arrangements between a resident and the administering authority. Notice of a breach of the residence rules must be served on the resident and, in the case of joint occupancy, each resident is responsible for the breach. In the case of the incapacity of a resident, the opinion of two doctors must be obtained, but if the resident refuses to submit to a medical examination the administering authority will still be entitled to terminate the right of occupancy. A resident must be allowed 60 days to leave the village, and the District Court may give an order for ejectment if a resident does not leave after that period has expired.

Clause 8 provides for the holding, in trust, of a premium (see clause 3) until the resident enters the retirement village. The premium must be refunded if the resident does not enter the village. If an administering authority does not comply with this proposed section, a penalty of up to $20 000 may be imposed.

Clause 9 provides that a service contract (see clause 3) is enforceable against the administering authority for the time being of the retirement village. Likewise, a premium that is understood to be repayable in certain circumstances may be recovered from the administering authority for the time being of the village. If there is a difference of opinion as to the refund of a premium, the dispute must be resolved in favour of the resident. The right of refund will be secured by a charge on the land of the administering authority within the village, but, in the case of a strata retirement village (see clause 3), this charge will not attach to common property of strata unit holders. The charge will have priority over all mortgages and other charges, except those registered before the commencement of the proposed Act.

Clause 10 provides that the administering authority may convene a meeting of residents at any time and requires the holding of annual meetings of residents. At such an annual meeting, the administering authority must present accounts of income and expenditure for the preceding financial year and estimates of income and expenditure for the coming year. The administering authority is required to allow residents to put questions at a meeting and must ensure that proper answers to such questions are given.

This clause also relates to increasing recurrent charges and imposing special levies on residents and provides that increases in charges must be justified by estimates presented at a meeting of residents and a special levy must be authorised by a special resolution (see clause 3) passed at a meeting.

If the administering authority of a retirement village fails to comply with this proposed section, a penalty of up to $10 000 may be imposed.

Clause 11 provides that residence rules (see clause 3) that are unreasonable or oppressive will be void.

Clause 12 provides for the supply of copies of the residence rules to the residents of a retirement village. If the administering authority of a retirement village fails to comply with this proposed section, a penalty of up to $2 000 may be imposed.

Clause 13 provides for the establishment, membership, functions and procedures of residents' committees at retirement villages. Subclause (6) empowers such a committee to call a meeting of all residents at any time.

Clause 14 provides that where land is used as a retirement village this fact must be noted on the certificate of title to the land. Any subsequent purchaser or mortgagee of the land will thereby receive notice that the land is used as a retirement village and that the proposed Act applies to the land. In the case of land so used at the commencement of the proposed Act, the owner of the land must apply for endorsement of the title within three months after that commencement; otherwise, the application for endorsement must be made before any person is admitted to the retirement village. Before applying for this endorsement, the owner must contact the holders of existing mortgages, charges or encumbrances over the land and, in the case of a retirement village set up after the commencement of the proposed Act, must obtain their consent to endorsement of the title to the land. A penalty of up to $10 000 may be imposed for failure to apply for endorsement under this section of the title to land.

Clause 15 prohibits certain persons from being concerned in the administration or management of a retirement village, namely, insolvement persons or persons convicted within a certain period of offences involving fraud or dishonesty.

Clause 16 provides that a district court may excuse the administering authority from compliance with a provision of the proposed Act. Affected residents must be given an opportunity to be heard in relation to an application under this section.

Clause 17 prohibits 'contracting out' in relation to rights of residents under the proposed Act.

Clause 18 deals with offences against the proposed Act. The offences will be summary offences and may be prosecuted by the Commissioner or a person authorised by the Commissioner. If a body corporate commits an offence, a director or manager of the body corporate may also be guilty of an offence.

Clause 19 provides for regulations to be made by the Governor. The regulations may, amongst other things, prescribe the means (including arbitration) by which disputes between residents or between residents and the administering authority may be resolved.

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

WORKERS REHABILITATION AND COMPENSATION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2038.)

Clause 35—'Weekly payments.'

The CHAIRPERSON: We have two almost identical amendments on file. Parliamentary Counsel has advised that the Hon. Mr Sumner's version is to be preferred.

The Hon. I. GILFILLAN: I withdraw my amendment.

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

Page 25, after line 2—Insert new subclause as follows:

(9) In this section—

(a) a reference to a period of incapacity for work is, where the disability results in separate periods of incapacity for work, a reference to the aggregate period of incapacity;

(b) a reference to weekly earnings is a reference to weekly earnings exclusive of prescribed allowances.

Amendment carried; clause as amended passed.

Clauses 36 to 42 passed.

Clause 43—'Lump sum compensation.'

The CHAIRPERSON: Both the Attorney and the Hon. Mr Gilfillan have amendments requiring new subclauses (9) and (9a).

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

Page 31, after line 2—Insert new subclauses as follows:

(9) The Governor may by regulation amend the third schedule by adding specified disabilities and fixing in relation to each such additional disability a percentage of the prescribed sum that is to be payable in respect of that disability.

(9a) A regulation under subsection (9) must not be made except—

(a) on the recommendation of the corporation;

or

(b) after consultation with the corporation.

This amendment seeks to provide for a mechanism to add to the disabilities listed under the third schedule for the purpose of establishing the level of compensation as a percentage of the prescribed sum for non-economic loss under the provisions of this clause. The amendment requires that such additions to the schedule be put forward on the recommendation of the corporation or after consultation with the corporation. It is a similar issue to the one related to the connection of certain diseases to certain activities. I assume, therefore, that I will lose it.

The Hon. I. GILFILLAN: The Attorney is an easy loser, but I suspect that he is right. I move:

Page 31, after line 2—Insert new subclauses as follows:

(9) The Governor may by regulation amend the third schedule by adding specified disabilities and fixing in relation to each such additional disability a percentage of the prescribed sum that is to be payable in respect of that disability.

(9a) A regulation under subsection (9) must not be made except—

(a) on the recommendation of the corporation;

or

(b) with the approval of the corporation.

The difference between our two amendments is in the last line in paragraph *(b)*, where the word 'consultation' in the Attorney's amendment is replaced by 'approval' in my amendment. I repeat what I argued before: the corporation is, in our opinion, the most appropriate body to make the final decision about alterations to the regulations. Therefore, with my amendment, they will keep ultimate control over what changes in the regulations would be acceptable.

The Hon. K.T. GRIFFIN: Let me enable the Attorney-General and the Hon. Mr Gilfillan to convert their suspicion to conviction, because my preferred option is that of the Hon. Mr Gilfillan, and I will support that, although I would prefer to support neither. I think the Hon. Mr Gilfillan's proposal is preferable because it does mean that the regulations can be made only if the corporation recommends it or approves it. So, that is an appropriate safeguard. Whilst I will vote against both of them, I indicate that Mr Gilfillan's is the preferred option.

The Hon. C.J. Sumner's amendment negatived.

The Hon. I. Gilfillan's amendment carried.

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

Page 31—

Line 5—Leave out '$60 000' and insert '$30 000'.

Line 8—Leave out '$60 000' and insert '$30 000'.

The prescribed sum fixed in this clause as the maximum for non-economic loss and the base which is to be indexed is $60 000. During the Committee stage in the last session, I moved that that $60 000 be reduced by half, so that the amount would be $30 000, on the basis that the indexed pension and other entitlements provided in the Bill for an injured worker were adequate to meet the needs of such an injured worker, and that non-economic loss ought to be limited. However, I lost it on that occasion, and I suspect that I have lost it on this occasion. Nevertheless, I need to have it put on the record.

The Hon. C.J. SUMNER: I oppose this.

Amendment negatived; clause as amended passed.

Clause 44—'Compensation payable on death.'

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

Page 32, lines 26 and 27—Leave out 'the spouse was cohabiting with the worker within 6 months before the date of the worker's death and' and insert 'although the spouse was not cohabiting with the worker on the date of the worker's death'.

This amendment seeks to remove the arbitrary six months limit contained in the present Bill which would have the effect of unfairly denying the surviving spouse lump sum benefits to a spouse who was not cohabiting with the deceased worker at the time of the latter's death but where there was a clear indication that the separation would not have been a permanent one.

The Hon. I. GILFILLAN: I support this amendment. I realise at a quick glance that it does look like an inconsistency but, whereas the corporation in the Attorney's earlier amendment was standing as judge and arbiter of what did and did not constitute a spouse/marital-type relationship, this is not the same case. The issue of spouse or not is not technically in question here, and I think it is an unfair restriction that, because of reasons which I certainly will not put myself in a position to judge definitively, the spouse may not have been cohabiting on the date of the worker's death or six months before. I therefore think that this amendment is worthy of support.

Amendment carried; clause as amended passed.

Clause 45—'Review of weekly payments.'

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

Page 34, lines 13 to 15—Leave out all words in these lines after 'subsection (3)—' and insert 'to reflect changes in the average minimum award rate since payments were commenced under this Division or an adjustment was last made under this section (as may be appropriate)'.

This amendment is similar to an earlier amendment to clause 39, and it is consequential.

Amendment carried.

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

Page 34, lines 16 to 19—Leave out subclause (4a).

Amendment carried; clause as amended passed.

Clauses 46 to 50 passed.

Clause 51—'Duty to give notice of disability.'

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

Page 36, line 39—Leave out paragraph *(a)* and insert paragraph as follows:

(a) if practicable within 24 hours after the concurrence of the disability but, if that is not practicable, as soon as practicable after the occurrence of the disability;

Clause 51 relates to a worker who suffers a compensable disability giving notice of that disability to the employer and, 'if the worker is not then in employment or is self-employed—to the corporation'. Subclause (2) provides:

Notice of the disability should be given—

(a) as soon as practicable after the occurrence of the disability;

The clause then makes two other provisions in paragraphs *(b)* and *(c)*. My amendment is to require that notice be given within 24 hours of the occurrence of the disability but, if that is not practicable, as soon as practicable after the occurrence of the disability. It seems to me that some sort of time limit ought to be placed upon it and, the earlier that notice is given, the better it is for both the employee and the employer. I submit that 24 hours is not an unreasonable time within which to require that notice be given.

The Hon. C.J. SUMNER: That amendment is acceptable.

Amendment carried; clause as amended passed.

Clause 52 passed.

Clause 53—'Determination of claim.'

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

Page 39, line 15—After 'Corporation' insert 'from a list of approved experts'.

This amendment ties in with the later proposed amendment to clause 63 which places limitations on the medical experts to whom an exempt employer can refer a worker for a second medical opinion. The purpose of this, and the related amendment to clause 63, is to ensure that so far as is possible the selection of medical experts is kept on a non-adversarial basis. These changes have been discussed with representatives of the exempt insurers, and they have agreed to the proposed amendments. The amendments would require exempt employers to restrict their choice of a medical expert for a second medical opinion to those medical experts whose names are contained in the list approved by the corporation pursuant to clause 53 (2).

The Hon. I. GILFILLAN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 54—'Limitation of employers' liability.'

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

Pages 39 and 40—Leave out subclause (1) and insert subclause as follows:

(1) Subject to subsection (2), no liability (except a liability under this Act) attaches to an employer in respect of a compensable disability arising from employment by the employer unless the circumstances giving rise to the disability were attributable to recklessness or gross negligence on the part of the employer.

This amendment proposes to delete subclause (1) of this clause and insert a new subclause. The issue was debated on the last occasion that we were considering the Bill in Committee. The clause relates to the limitation of the employer's liability at common law and limits that liability much more severely than is provided in the Bill to those occasions where the employer was guilty of recklessness or gross negligence. It seems that that is a reasonable sort of restriction and assists even further in keeping the lid on common law claims in conjunction with workers compensation.

The Hon. C.J. SUMNER: I oppose the amendment. It has been debated previously. It seeks to eliminate common law actions for all but cases of recklessness or gross negligence and therefore is a restriction on current rights.

The Hon. I. GILFILLAN: I oppose the amendment. I want to make plain that I also oppose common law as being part of what was to be a no-fault compensation scheme. I have maintained that line consistently. I believe it is an unfortunate inclusion, but I recognise that the pressures for its inclusion are overwhelming. We should make every effort to keep it within whatever bounds are possible in the political forum.

Therefore, I remind members that by opposing this amendment we retain in the Bill the clause which restricts the sums that can be awarded in common law for non-economic loss at 1.1 times the prescribed sum, which is $60 000 according to the Bill. By opposing this amendment, I strongly support and reinforce (and reluctantly I accept that it must remain in the Bill) a ceiling on the sum that can be awarded at common law.

Amendment negatived.

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

Page 40, lines 11 to 16—Leave out subclause (3a).

These amendments seek to remove the limitation on the damages that can be awarded at common law for non-economic loss. The Government considers this to be an unnecessary limitation having regard to the overall benefit package proposed. By all estimates, the extra cost of retaining this common law right is likely to be marginal having regard to the fact that any damages awarded must be offset for any statutory lump sum for non-economic loss received under clause 43. In the Victorian scheme, this right has been retained in an unrestricted form, and there is no indication that its retention has given rise to concerns as to the level of its current or potential future cost.

The Hon. K.T. GRIFFIN: Because we did not gain support for our amendment which sought to place a different sort of limit on common law liability, the Liberal Party supported the Hon. Mr Gilfillan in inserting this subclause in the Bill. I see no reason to change that view and, accordingly, I oppose the amendment.

Amendment negatived; clause passed.

Clauses 55 to 58 passed.

Clause 59—'Registration of employers.'

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

Page 43, line 27—Leave out '$10 000' and insert '$3 000'.

This amendment is to reduce the maximum penalty of $10 000 to $3 000 for each worker employed by an employer, where the employer is not registered by the corporation. It seems to me that $10 000 is much too high for this penalty and ought to be significantly reduced.

The Hon. C.J. SUMNER: I oppose the amendment.

Amendment negatived; clause passed.

Clause 60—'Exempt employers.'

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

Page 44, after line 20—Insert new paragraph as follows:

(f) the views of any registered association that has, in the opinion of the Corporation, a proper interest in the application;.

This clause deals with registration of exempt employers. Subclause (4) sets out matters to which the corporation shall have regard in determining whether an employer or group should be registered as an exempt employer. The amendment seeks to insert a paragraph *(f)*, which would require the corporation to have regard to the views of any registered association that has a proper interest in the application. For example, unions have an interest in the way their members are being treated by exempt employers, and should be able to put a view forward on any application by an employer to seek or renew an exemption. Similarly, an employer association may wish to submit certain views to support an individual application.

The Hon. K.T. GRIFFIN: I will not support the amendment. This provision was removed from the clause when the Bill was last before us in Committee, during the last session. It seems to me that it would be quite inappropriate for any registered association to be involved in the determination as to whether an employer should be registered as an exempt employer or not. That ought to be a matter for the corporation and I suggest that the views of the registered association are quite irrelevant to the decision of the corporation on this question.

The Hon. I. GILFILLAN: I support the amendment. In the haste of the earlier debate, it seemed appropriate to remove this provision, but on reflection I am not in the least concerned about it. The corporation is a body of grown-up people who will not be bullied by the obligation of this amendment, which is purely 'that the corporation shall have regard to the views . . .' There is no dictating; there is no insistence for the attitudes or opinions to prevail, and I think it is an insult to the registered association which, the amendment stipulates, 'in the opinion of the corporation has a proper interest in the application'. It is an insult to the registered associations to deprive them of having a contribution in the thinking that leads up to a decision being made. I think the amendment is sensible.

Amendment carried.

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

Page 44—lines 26 and 27—Leave out 'arbitrarily, capriciously or oppressively' and insert 'unreasonably'.

This amendment would require as a condition of registration that an exempt employer not use any delegated power or discretion under the Act in an unreasonable manner. Tests in the Bill as it is presently worded would only restrict extremes of unacceptable behaviour, and it is considered more appropriate to insert a more practical test, which would require such exempt employers to act reasonably in relation to such delegated powers and discretions.

The Hon. I. GILFILLAN: I accept that.

Amendment carried; clause as amended passed.

Clauses 61 and 62 passed.

Clause 63—'Delegation to exempt employers.'

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

Page 45, line 37—After '53' insert ', other than the power to approve recognised medical experts for the purposes of section 53 (2)'.

This amendment ties in with an earlier amendment to clause 53 and has the combined effect of restricting exempt employers to seeking second medical opinions from a list of medical experts approved by the corporation so as to keep the system non-adversarial.

The Hon. I. GILFILLAN: I support the amendment. I do not know whether there needs to be a detailed analysis of it at this stage. I leave that to the Hon. Mr Griffin, if he wants further discussion, to indicate.

The Hon. K.T. Griffin: It is really consequential.

Amendment carried.

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

Page 46, line 8—Leave out 'arbitrarily, capriciously or oppressively' and insert 'unreasonably'.

This amendment is moved for the same reasons as the amendments to clause 60.

Amendment carried.

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

Page 46, line 9— Leave out ', with the consent of the Minister,'.

The Hon. I. GILFILLAN: The Democrats are in favour of this amendment.

Amendment carried; clause as amended passed.

Clause 64 passed.

Clause 65—'Corporation may impose levies.'

The Hon. C.J. SUMNER: New clauses 65 and 66, which I am seeking to insert, provide for the setting of levies on an industry basis rather than on an occupational basis as originally proposed. The changed approach has been adopted following the receipt of advice from the Victorian Accident Compensation Commission that an industry based structure is a more cost effective and efficient method of basing the assessment of premiums. Proposed changes also involve the adoption of a number of broad-banded premium rates.

It is becoming increasingly obvious that the workers compensation reforms in Victoria, which have dramatically reduced premiums in that State, pose a real threat to the competitive position of industry in South Australia. Victoria has broadbanded its rates into seven categories as follows: .57, 1.045, 1.52, 2.05, 2.66, 3.33, and 3.8 per centum of payroll. These rates reflect the position achieved in Victoria by reducing the average premium rate to 2.5 per cent of payroll. The approach adopted in Victoria is based on the concept of shared community costs.

Whilst it has achieved reductions across the board it is designed to provide the most benefit to industries exposed to national and international trade. The Victorian's position on this is based on a recognition that major benefits will flow to all sectors of the community (service, retail, and so on) if these potential growth sectors of the State economy are enabled to become more competitive. The Government considers that there is a great deal of merit in the Victorian approach in this matter. Even if this were not the case the economic imperatives are such that the State has little choice but to match the Victorian rates if our industry is to remain competitive and if we are to continue to attract new investment to this State. The provision has been inserted under proposed clause 66 (12) which will enable transition arrangements to be adopted, similar to those applied in Victoria, which will give relief for a number of years to those employers who can show that their level of premium under the current system was significantly lower than the new broad-banded rates. In Victoria very few such cases have arisen and this is likely to be the situation here. Nonetheless, it is considered appropriate to provide this cost relief to such employers.

The Hon. I. GILFILLAN: We support this series of amendments. I have been uneasy about cementing levy rates into the Bill. Pressure for it comes, principally (in my opinion), from the employers who have felt some misgivings about whether they will go out of the frying pan and into the fire with the proposed new single insurer.

I suspect that the Government has been influenced by that and therefore on the face of it, these levy rates, which are substantially lower than many employers are paying in South Australia, are very attractive. I do not think that there is any reason to be bashful about the fact that the upper limit suggested in discussions with me was 3.8 per cent. I asked for the Government to consider lifting it to 4.5 per cent, because it seems to me that it is essential that this Bill, as it becomes a working Act, be capable of working a system that is fully funded. I re-emphasise at this stage the extreme importance of having a system that is oriented towards being fully funded. That does not necessarily mean that, at the end of the first year, all capital needs to be in hand, but a sensible program building up to a fully funded condition at least within a five year timetable is essential if this system is to instil any long-term confidence in employers in this State.

I make these comments, because the support that I give to these amendments is qualified. I would have preferred that the corporation not be bound to a range of levies and I would have preferred also that, when it is established, it can make its own decision about that. Also, I want to recognise that there has been a change in the form in which the levy will be imposed into a broad band situation, so that a range of workers in different categories will be lumped together on an average rate, whereas previously (and in my opinion probably more accurately) workers were rated at the danger that applied to their style of work. I support these amendments. Proposed subclause (13) provides:

> The percentages prescribed by subsection (7) must be reviewed by the corporation before the fifth anniversary of the commencement of this Act.

Certainly, the corporation can review the percentages before the fifth anniversary as provided for in this subclause, but I would have preferred them to be obliged to review them before that time. I think that the pressure will still be very strong from business, from the employers and probably from the Government, for the corporation to keep levies artificially low. When that occurs, sooner or later, people pay and in this case it will be the public and private employers of South Australia. I support the amendments.

The Hon. K.T. GRIFFIN: This has to be a fully funded compensation fund. I have some reservations whether it will be achieved under the circumstances of these limitations, but quite obviously some limits have to be placed on the amount that can be levied from employers if the Government is to meet the promises which it has made. The difficulty with the amendments is that there are really no guarantees that, while there is a scheme estabished in new clause 66, the rates will remain fairly stable. The Attorney-General, in introducing these amendments, referred to the Victorian scheme. The information that I have is that the Victorian WorkCare Scheme in its first 10 months already is suffering a $25 million shortfall in revenue from employers. The administration costs blew out from a budgeted amount of $47 million to $53 million, which is a blow-out of about $6 million.

The first annual report of the work care scheme suggested that long term financial targets might not be able to be met and that employer contributions might have to be increased despite Government promises that the levy rates would be held firm for five years. The work care prognosis is a fully funded scheme in 10 years, but the first 10 months' results suggest that the Government was having a pipe dream. Obviously, there are grave deficiencies in the Victorian work care scheme and it is obvious that all the pre-election promises of Premier Cain in that State are not being met and that the Victorian Workcare fund will be hopelessly inadequate in the years to come unless there are substantial increases in levies upon employers.

The New Zealand fund, too, is in an incredibly desperate position, as employers in that country now face a 200 per cent rise in accident compensation corporation levies because of the hopelessly inadequate way in which that scheme is run.

The Hon. I. Gilfillan: They are low—much lower than anything here.

The Hon. K.T. GRIFFIN: They are low, but there was something of a pipe dream in that country, too. Sure, the levies are higher in this State's provision in the Bill, but they will not be adequate and all the promises will ultimately not be able to be fulfilled. So, I have hesitation about supporting the amendments, although some principles are suggested in the amendments that at least will enable some measurement of performance to be made against them. Accordingly, I give rather grudging and reserved support to the way in which the scheme will operate in accordance with those amendments.

Clause negatived.

Clauses 66 and 67 negatived.

New clause 65—'Preliminary.'

The Hon. C.J. SUMNER: I move to insert the following new clause:

> 65. (1) In this Division—
> 'class' of industry includes a subclass:
> 'remuneration' includes payments made to or for the benefit of a worker which by the determination of the Corporation constitute remuneration but does not include payments determined by the Corporation not to constitute remuneration.
> (2) For the purposes of this Division, two or more workplaces in close proximity may, if the Corporation so determines, be regarded as a single workplace.

New clause inserted.

New clause 66—'Imposition of levies.'

The Hon. C.J. SUMNER: I move to insert the following new clause:

> 66. (1) An employer (not being an exempt employer) is liable to pay a levy to the Corporation under this section.
> (2) The levy is a percentage of the aggregate remuneration paid to the employer's workers in each class of industry in which the employer employs workers.

(3) The Corporation may for the purposes of this section divide the industries carried on in the State into various classes.

(4) The Corporation may determine any question as to the class of industry in which an employer employs workers.

(5) In determining the class of industry in which an employer employs workers the following provisions will be applied—

(a) if the employer employs a worker in two or more classes of industry—

(i) the worker will, subject to an determination by the Corporation to the contrary, be treated as if solely employed in the class of industry in which he or she is predominantly employed;

and

(ii) if it is not possible to determine which is the predominant class, the worker will be treated as if solely employed in a class of industry determined by the Corporation;

(b) if the employer employs workers in different classes of industry at a particular workplace, all workers employed at the workplace will, if the Corporation so determines, be treated as engaged in the predominant class of industry;

and

(c) in determining what is the predominant class of industry, the Corporation will have regard to—

(i) the importance within the employer's total operations of each class of industry in which workers are employed;

and

(ii) any other relevant factor.

(6) The Corporation—

(a) must fix the percentages applicable to the various classes of industry by notice published in the *Gazette*;

and

(b) may, by subsequent notice published in the *Gazette*, vary the percentages so fixed.

(7) Subject to subsection (9), a percentage fixed under subsection (6) in relation to a class of industry must be one of the following:

0.5 per cent
0.7 per cent
1.0 per cent
1.4 per cent
1.8 per cent
2.3 per cent
2.8 per cent
3.3 per cent
3.8 per cent
4.5 per cent

(8) In fixing the percentage applicable to a particular class of industry the Corporation must have regard to—

(a) the extent to which work carried out in that class is, in the opinion of the Corporation, likely to contribute to the cost of compensable disabilities;

and

(b) the need for the Corporation to establish and maintain sufficient funds—

(i) to satisfy the Corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in a particular period from levies raised from remuneration paid in that period;

(ii) to make proper provision for administrative and other expenditure of the Corporation;

and

(iii) to make up any insufficiency in the Compensation Fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities.

(9) The Corporation may fix a percentage in excess of 4.5 per cent in relation to a particular class of industry if in each of 2 consecutive years the Corporation's estimate of the aggregate cost of claims in respect of disabilities attributable to traumas occurring in the year in the relevant class exceeds, as a percentage of the aggregate leviable remuneration paid to workers in that class, 30 per cent.

(10) A percentage may not be fixed under subsection (9) in excess of 20 per cent.

(11) A percentage fixed under subsection (9) will be reviewed annually by the Corporation and applies until it is revoked or varied by the Corporation.

(12) The regulations may provide for a reduction, in prescribed circumstances, of the levy that would otherwise be payable by an employer under this section.

(13) The percentages prescribed by subsection (7) must be reviewed by the Corporation before the fifth anniversary of the commencement of this Act.

New clause inserted.

Clause 68—'Adjustments may be made in respect of particular employers.'

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

Page 48, line 7—Leave out 'in previous assessment periods'.

This amendment is consequential.

Amendment carried.

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

Page 18, line 10—Leave out 'work' and insert 'industry'.

This is a consequential amendment.

Amendment carried.

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

Page 18, line 13—Insert new paragraph as follows:

(d) the desirability of providing the employer with an incentive to employ or re-employ workers who have suffered compensable disabilities.

The amendment will enable the corporation to give direct financial incentives to employers to employ or re-employ injured workers.

Amendment carried.

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

Page 18—

Lines 23 and 24—Leave out 'in previous assessment periods'.

Line 26—Leave out 'work' and insert 'industry'.

These are consequential amendments.

Amendments carried; clause as amended passed.

Clause 69—'Special levy for exempt employers.'

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

Page 48, lines 31 to 35—Leave out subclauses (1) and (2) and insert new subclauses as follows:

(1) An exempt employer is liable to pay a levy to the corporation under this section.

(2) The levy payable by an exempt employer is a percentage of the aggregate remuneration (as determined by the corporation) paid to the employer's workers over the period to which the levy relates.

This amendment is consequential on changing the method of assessing premiums on insured employers.

Amendment carried; clause as amended passed.

Clause 70—'Returns.'

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

Page 49, lines 2 to 42—Leave out subclauses (1), (2), (3) and (4) and insert new subclauses as follows:

(1) Every employer shall, within 7 days after the end of each month, furnish the corporation with a return in a form approved by the corporation containing—

(a) (i) if the employer is an exempt employer—a statement of the aggregate remuneration paid to the employer's workers during the month;

(ii) if the employer is not an exempt employer—a statement of the aggregate remuneration paid to the employer's workers in each class of industry during that month;

(b) prescribed information in relation to claims lodged with the employer under this Act during that month; and

(c) such other information as may be prescribed or required by the corporation.

(2) The return must be accompanied by the levy payable by the employer in respect of that month.

(3) The corporation may require an employer to provide—

(a) a certificate signed by the employer, a person authorised to act on the employer's behalf or, if the corporation so requires, a person with prescribed accounting qualifications, verifying the information contained in a return;

or

(b) some other verification of that information of a kind stipulated by the corporation.

This amendment is consequential and relates to the returns to be supplied by employers to the corporation for the purpose of assessing premiums, and is consequential on the changed basis of levying premiums.

The Hon. I. GILFILLAN: I support the amendment. I would like it recorded in *Hansard* that this amendment will oblige employers to make returns each month. That may be appropriate for some employers. This provision is an improvement on the original Bill because levies will be paid in retrospect. There will not be guessing in regard to wages and salaries, so this is a worthwhile amendment. I ask the Attorney to indicate under which provision the corporation will be able to allow smaller employers to have an alternative form of furnishing returns and paying levies other than on a monthly basis.

The Hon. C.J. SUMNER: It can be found in clause 70 (5). Why did you need to know?

The Hon. I. GILFILLAN: I did not need to know—I knew. It is important for many employers who are looking anxiously and intently at the Bill. People who employ one or two employees do not want to be bothered about returns every month. That is why I asked for that information to be spelt out clearly in *Hansard*.

Amendment carried.

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

Page 50—
Line 14—Leave out 'underestimates' and insert 'understates'.
Line 15—Leave out 'to be paid' and insert 'paid'.
Lines 15 to 16—Leave out 'to workers in an assessment period,'.
Line 21—After 'remuneration' insert 'paid by an employer'.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 71—'Making of assessments and payment of levies.'

The Hon. C.J. SUMNER: Consequential on the changed basis of living premiums already determined, I oppose this clause.

Clause negatived.

Clause 72—'Recovery on default.'

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

Page 51—
Line 6—Leave out 'is' and insert 'the Corporation has reasonable grounds to believe to be'.
After line 8—Insert new subclause as follows:
(1a) Where an employer fails to pay a levy, or the full amount of a levy, required by or under this Act, the Corporation will make an assessment of the amount payable by the employer.
Line 9—After (1) insert 'or (1a)'.

The amendments are consequential.

The Hon. K.T. GRIFFIN: We approve of the amendments.

Amendments carried; clause as amended passed.

Clause 73—'Penalty for late payment.'

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

Page 51, line 18—Leave out ', or instalment of levy,'.

This amendment is consequential.

The Hon. K.T. GRIFFIN: We approve of the amendment.

Amendment carried; clause as amended passed.

New clause 73a—'Review of levy.'

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

Page 51, after line 32—Insert new clause as follows:
73a. (1) Where an employer considers that the Corporation has acted unreasonably in relation to the fixing or assessment of a levy, or the imposition of a fine, the employer may require the board to review the matter.
(2) The procedures for a review under subsection (1) will be as determined by the board.
(3) An application for review does not suspend a liability to pay a levy or fine.
(4) On a review, the board may—
(a) alter a levy or an assessment;
(b) quash or reduce a fine;
(c) order the repayment of amounts overpaid.

The new clause provides for the corporate board to hear all appeals on premiums levied. In the Bill before us these appeals would have gone before the appeal tribunal for formal hearing, and the danger existed of such appeals becoming unduly legalistic and bogging down the operation of the appeals tribunal in settling disputed claims for compensation.

The Hon. K.T. GRIFFIN: We approve.

New clause inserted.

Clause 74—'Separate accounts.'

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

Page 51, line 35—Leave out ', in relation to each assessment period'.

The amendment is consequential.

The Hon. K.T. GRIFFIN: We approve of the amendment.

Amendment carried; clause as amended passed.

Clause 75—'Liability to keep accounts.'

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

Page 52, lines 9 and 10—Leave out 'of work' and insert 'of industry'.

The amendment is consequential.

The Hon. K.T. GRIFFIN: We approve.

Amendment carried; clause as amended passed.

Clause 76 passed.

Clause 77—'Proof of registration.'

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

Page 52, lines 34 and 35—Leave out 'or an officer of a registered association'.

My amendment relates to the requirement that an employer shall produce evidence of his registration under the Act when that evidence is requested by an authorised officer or an officer of a registered association. I do not believe that it is any business of a registered association's officer. In fact, I believe that the clause is unduly intrusive and that it should be merely the responsibility of the corporation that that evidence be produced. We have already debated this issue and I was unsuccessful. However, it is important that I put the amendment again, and I do so now.

The Hon. C.J. SUMNER: The amendment is rejected.

Amendment negatived; clause passed.

Clauses 78 to 84 passed.

Clause 85—'Constitution of medical review panels.'

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

Page 54, lines 23 to 25—Leave out subclause (2) and insert new subclause as follows:
(2) A Medical Review Panel will consist of—
(a) a presiding officer;
and
(b) two ordinary members.

Following further discussions between employer groups and the UTLC it has been agreed to change the method of constituting medical review panels. The method proposed under Bill No. 13A would have encouraged the various parties to put forward the names of medical experts who were likely to be favourable to their particular viewpoint. The amendment seeks to avoid such a polarised situation, and the selection of medical experts on the basis of recommendations of the corporation on its unanimous vote should eliminate any extremes of view in the make-up of such panels.

Amendment carried; clause as amended passed.

Clauses 86 to 90 passed.

Clause 91—'Powers of Review Authority.'

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

Page 56, line 23—After 'Panel' insert 'and approved by the Corporation'.

Amendment carried.

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

Page 56, line 39—Leave out 'Subject to subsection (4a), a' and insert 'A'.
Page 56, lines 44 to 46 and page 57, lines 1 to 6—Leave out subclause (4a).

It clarifies the self-incrimination rules.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. K.T. GRIFFIN: I support it as it is an important amendment. My understanding is that subclause (4) relates to both the medical review panel and the tribunal. Although (4a) refers to the tribunal or a medical review panel, the clause seems to relate to the review authority, which is a medical review panel. I want to ensure that we are going to retain the protection for persons appearing before the tribunal. That comes under clause 98.

The Hon. C.J. SUMNER: Subclause (4) applies to everyone. We are taking out subclause (4a). They are both review authorities and therefore covered by clause 91.

Amendments carried.

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

Page 56, after line 13—Insert new subclauses as follows:

(6) Where—

(a) the native language of a person who is to give oral evidence in any proceedings before a review authority is not English;

and

(b) the witness is not reasonably fluent in English,

the person is entitled to give that evidence through an interpreter.

(7) A person may present written evidence to a review authority in a language other than English if that written language has annexed to it—

(a) a translation of the evidence into English;

and

(b) an affidavit by the translator to the effect that the translation accurately reproduces in English the contents of the original evidence.

This amendment seeks to ensure that persons whose native language is not English are not denied a fair appeal through any language difficulty.

Amendment carried; clause as amended passed.

Clause 92 passed.

Clause 93—'Representation.'

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

Page 57, line 18—After 'authority' insert '(but a person is not entitled to be represented by another person whose name has been struck off the roll of legal practitioners or who, although a legal practitioner, is not entitled to practise the profession of law because of disciplinary action taken against him or her).'

This amendment will ensure that a person who has been struck off the roll of legal practitioners or is otherwise not entitled to practise the law cannot appear as a representative of a party before a review authority.

The Hon. K.T. GRIFFIN: I support this. It arises out of an issue which I raised last session. The information which I had was that a person who had been a legal practitioner was looking forward to the opportunity to develop a practice under this Bill, and I would have thought that that was quite inappropriate, and I am pleased that the Attorney-General has picked up that point and is now moving to do something about it.

Amendment carried; clause as amended passed.

Clause 94—'Statements of appeal rights, etc.'

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

Page 57, line 45—After 'review' insert 'unless the review authority, considers that an extension of time is justified in the circumstances of the particular case and allows an extension of time accordingly'.

Amendment carried.

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

Page 57, after line 45—Insert new subclause as follows:

(3) A review authority shall, at the conclusion of a review, inform the parties to the proceedings of the right to request a statement under subsection (1).

Amendment carried; clause as amended passed.

Clause 95 passed.

Clause 96—'Application for review.'

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

Page 58, lines 20 and 21—Leave out paragraph *(d)*.

This is consequential.

Amendment carried; clause as amended passed.

Clause 97 passed.

Clause 98—'Appeals to tribunal or medical review panel.'

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

Page 59, lines 15 to 20—Leave out paragraphs *(a)* and *(b)* and insert 'may appeal against that decision'.

After line 20—Insert new subclause as follows:

(1a) An appeal under subsection (1) must be made—

(a) in the case of a decision refusing registration or cancelling registration of an employer or group of employers as an exempt employer or a group of exempt employers—to the Minister;

(b) in the case of an aspect of a decision relating to a medical question (not being a question that has been decided by a Medical Review Panel)—to a Medical Review Panel or to the tribunal;

and

(c) in any other case—to the tribunal.

Lines 23 and 24—Leave out all words in these lines after 'unless the' and insert 'appellate authority allows a longer time for the institution of the appeal'.

Line 26—Leave out 'tribunal'and insert 'appellate authority'.

Line 35—Leave out 'proceedings before the tribunal,' and insert 'appellate proceedings'.

The Hon. I. GILFILLAN: What is the wording of lines 23 and 24—after what?

The Hon. C.J. SUMNER: After 'tribunal'.

The Hon. I. GILFILLAN: I think there is a misprint on some of these filed amendments.

The Hon. C.J. SUMNER: After 'unless the.' This amendment proposes that appeals on questions of the registration and cancellation of registration of exempt employers be taken to the Minister in lieu of an appeal to an appeal tribunal. The purpose of these amendments is to ensure that the granting of exemptions is kept within reasonable bounds of control. The granting of exempt status affects the size of the overall premium pool and the spreading of risks, and it is therefore important that the granting of this status does not become a major area of litigation or that the independent tribunals adopt principles that have no regard for the broader economic considerations involved. It should pointed out that under the current Act the granting of exempt status is at the discretion of the Minister.

The Hon. K.T. GRIFFIN: I find that quite extraordinary—that if the decision to grant exempt status is a decision of the Minister—the Attorney just said it was a decision of the Minister.

The Hon. C.J. Sumner: Yes.

The CHAIRPERSON: We took that out.

The Hon. K.T. GRIFFIN: What the Attorney has just said is that the decision—

The Hon. C.J. Sumner: No—under the old Act it was with the discretion of the Minister.

The Hon. K.T. GRIFFIN: I misunderstood. I understood the Attorney to say that it was the decision of the Minister as to whether or not to grant exempt status, and in those circumstances an appeal against that decision to the Minister would have been like appealing from Caesar to Caesar. If that is not the position—and I have not had the time to check that aspect of it—I am a little more at ease with the amendment.

The Hon. C.J. Sumner: An appeal from the corporation goes to the Minister under this amendment.

The Hon. K.T. GRIFFIN: If that is the case, I am a little more at ease with it. I still have concerns about appeals to Ministers, because they will essentially be political or *quasi* political decisions, and not those made by a body which is completely independent. I would have preferred to have that appeal going to the tribunal.

The Hon. I. GILFILLAN: I support this amendment. I think that the points raised by the Hon. Mr Griffin are

important. I have enthusiasm for the exempt employer category: I think it is an area where the employer-employee relations in the case of injury and rehabilitation may well be as effective as, if not more effective than, any other. For that reason, I have been keen to see that under the Bill there will be no unnecessary restriction to appropriate employers being granted exemption status, nor should there be any particular rigorous exclusion of those who already enjoy that situation.

The dilemma seems to be who should make the arbitrary decision. I am not particularly happy that the Minister should, because I think it has to be related largely to the corporation's assessment of the capacity of an employer to exercise the responsibilities independent of its surveillance and to do the job properly. As the Minister said in his comments on this amendment, the corporation will tend to be opposed to exempt employers, because subconsciously at least it will tend to shrink the volume or the capacity of the corporation, both in funds on hand and in its general area of direct influence, so there is that factor to consider. But I have accepted the reason for leaving the appeal to the Minister, because if the corporation appears to be too legalistic and is being unnecessarily oppressive on those employers that it would accept as being exempt, at least the Minister will be able to counterbalance that. Any other form of appeal tribunal or review panel I think could become too legalistic, and I am not enthusiastic about introducing more litigation than is necessary for the proper administration of the exempt employers category.

Amendments carried; clause as amended passed.

Clauses 99 to 103 passed.

Clause 104—'Liability to pay levy not to be suspended by review or appeal.'

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

Page 60, lines 31 to 35—Leave out this clause.

This amendment is consequential.

Amendment negatived; clause passed.

Clauses 105 to 109 passed.

Clause 110—'Medical examinations at request of employer.'

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

Page 62, lines 7 and 8—Leave out subclause (3).

This clause deals with medical examinations at the request of the employer and the subclause provides for the corporation, if it thinks fit, to charge the costs of an examination to the employer. I would not have thought that that was appropriate. We have debated it before and I have moved the amendment to have the matter on the record to indicate our opposition to this proposal.

Amendment negatived; clause passed.

Clause 111 passed.

Clause 112—'Powers of inspector.'

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

Page 62, after line 44—Insert new subclause as follows:

(5) A person is not required to furnish information under this section if the information is privileged on the ground of legal professional privilege.

I hope the Attorney-General will accept my amendment, as he did in relation to the Occupational Health, Safety and Welfare Bill, as I think it is a reasonable safeguard.

The Hon. C.J. SUMNER: I accept the amendment.

Amendment carried; clause as amended passed.

Clause 113 passed.

Clause 114—'Confidentiality to be maintained.'

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

Page 63, line 24—After '$3 000' insert 'or imprisonment for 6 months'.

This clause relates to disclosure of confidential material by an officer of the corporation. The penalty at the moment is $3 000. Because the matter is particularly serious, I believe that a maximum period of imprisonment for six months ought also to be provided as a further and significant disincentive to divulging confidential information obtained in the course of one's duties as an officer of the corporation.

The Hon. I. GILFILLAN: I oppose the amendment.

The Hon. C.J. SUMNER: I oppose the amendment

Amendment negatived; clause passed.

Clause 115—'Disabilities that develop gradually.'

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

Page 63, line 42—Leave out 'the loss' and insert 'the whole of the loss'.

The Hon. K.T. GRIFFIN: I oppose the amendment.

The Hon. I. GILFILLAN: There seems to be a very strong emotional attachment to the words 'the whole of the loss' and grammatically I cannot for the life of me see that it makes any difference at all to the meaning of the clause. However, as I am always in the pursuit of people's happiness, I am prepared to support the amendment.

Amendment carried.

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

Page 63, lines 42 and 43—Leave out 'when the worker's employment last contributed to the loss before the date of the claim' and insert 'immediately before notice of the disability was given and, subject to any proof to the contrary, to have arisen out of employment in which the worker was last exposed to noise capable of causing noise induced hearing loss'.

The Hon. K.T. GRIFFIN: I oppose the amendment.

The Hon. I. GILFILLAN: My immediate reaction is to oppose it, and we can give some further consideration to it during the conference.

Amendment negatived; clause as amended passed.

Clause 116—'Certain payments not to affect benefits under this Act.'

The Hon. K.T. GRIFFIN:

Page 64, line 36—Leave out paragraph *(b)*.

This is an important amendment and, again, we have debated it at length on a previous occasion. The amendment provides that compensation is not to be reduced or otherwise affected by, among other things, an accident insurance payment, which I take to refer particularly to a compulsory third party motor vehicle insurance accident payment. I see no reason at all why that should not be taken into consideration.

The Hon. I. GILFILLAN: I do not believe that the Hon. Mr Griffin's interpretation is accurate. According to our costings, compensation is considered in the actual payments through third party bodies. I understood that this involved some other privately taken out personal insurance policy. Am I right?

The Hon. C.J. Sumner: Yes.

The Hon. K.T. Griffin: It could be.

The Hon. C.J. Sumner: It is covered under clause 54, apparently.

Amendment negatived; clause passed.

Clauses 117 to 125 passed.

New clause 125a—'Independent review of review officers.'

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

Page 67, after line 14—Insert new clause as follows:

125a. (1) The Minister shall, at the expiration of one year from the commencement of Part VI, cause a review to be carried out on the effectiveness of review officers under this Act.

(2) The person appointed to carry out a review under this section—

(a) must be an independent person appointed after consultation with the United Trades and Labor Council and associations that represent the interests of employers;

and

(b) must deliver to the Minister a report on the outcome of the review within four months of being appointed.

(3) The Minister shall, as soon as practicable after the receipt of the report delivered under subsection (2), cause a copy of the report to be laid before each House of Parliament.

(4) In this section—'independent person' means any person other than—

(a) a member of the board;

(b) an officer of the corporation;

or

(c) an officer or employee of the Crown or an instrumentality or agency of the crown.

This amendment establishes an independent review of the review officers. In the debate in Committee during the last session, we expressed concern about the effectiveness of review officers and particularly their relationship to the corporation as employees yet being required to act independently. We expressed a great deal of concern about the potential for conflict of interest and we believe that a review of the way in which they have been operating at the expiration of one year from the commencement of Part VI of the Bill is appropriate. This amendment establishes that review.

The Hon. C.J. SUMNER: I oppose the new clause.

The Hon. I. GILFILLAN: That extremely persuasive argument has convinced me that the amendment does not deserve our support and therefore I oppose it. This situation has been considered by us: I do not believe it is an essential amendment, and I will accept the Government's judgment in not accepting it.

New clause negatived.

Clauses 126 and 127 passed.

First and second schedules passed.

Third schedule.

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

Page 72, after—

Loss of phalanx of any other toe	7

Insert—

Loss of genital organs	70
Permanent loss of the capacity to engage in sexual intercourse	70

The Hon. I. GILFILLAN: My advice, which encourages me to support the amendment, is that it does no more than continue the current situation and, that being the case, I believe that the amendment deserves support.

Amendment carried; third schedule as amended passed.

Title passed.

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

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: Until yesterday one could not have believed that there was any sense of inevitability that this Bill was going to pass the Parliament, the matter having been relegated to the very back burner since March this year, then being revived only two days before the end of this part of the session, suggesting that the Government was not going to do anything about the matter of workers compensation in 1986. In effect, it has taken two years for the Government to get to this point where there is now a Bill about to pass through the Legislative Council and, after consideration in Committee on this second occasion, I suppose one could now suggest that there is an inevitability about the matter going to a conference, although one cannot foresee the result of that conference.

I have criticised the Government very strenuously and strongly for rushing the Bill into the Legislative Council at such short notice, only making the Government's position on the Bill known at 2.15 p.m. yesterday when, for the first time, amendments were circulated in this Chamber. In March, the matter was allowed to lapse by the Government because, quite obviously, inadequate research had been done on the costings of the Government's scheme. It was only as a result of the employers banding together and putting up substantial funds that some form of costing assessment of the Government's package was achieved.

It has been my view and the view of the Liberal Party that the full and detailed costing analysis of the Government's initial proposals and then the Bill as amended should be made before the current law is enacted. As has been indicated in the initial costings report, the cost of the Government's scheme introduced into the House of Assembly in February this year would have resulted in more by way of premium being paid by employers than is presently being paid under the current scheme, and even this proposal which the Government now has before it will cost more than the current scheme.

The prospects for this scheme, if it finally passes the Parliament after a conference, is bleak in my view. I indicated earlier during the Committee stage that the experience in Victoria is that after 10 months the operation of the Victorian WorkCare scheme showed that administration had blown out by about $6 million from a budgeted amount of $47 million to $53 million; the fund in that State had a $25 million shortfall in revenue from employers; and the deficits are quite extraordinary. The reported overall shortfall in the statement of income and expenditure for that 10 month period, which includes interest on investments and estimated outstanding claims, is $181.75 million. The accumulated shortfall in the supplementation funds is $128.795 million, making a total deficit in funds managed by the Victorian Accident Compensation Commission of $310.545 million before bringing investment valuation reserves of $21.231 million into account.

The experience in Victoria demonstrates a very bleak future for this fund. The fact that it is to be a Government single insurer monopoly will not enhance its prospects of achieving anywhere near a break even result if the scheme is to be fully funded. Although there are many areas on which I could address some comments, in view of the hour I want to put it on record that the Opposition does not support the establishment of the corporation; it is concerned about the extent to which levies may be made on employers; it is concerned about the extent to which costs can grow in both the administration and application of this Bill; and it is concerned about the extent to which common law is retained in the system alongside a generous indexed pension proposal.

Other factors in the Bill also cause concern, but those matters are the major matters of concern to us. We do not believe that the lack of competition will enhance the prospect of employers in the future being able to pay reduced workers compensation premiums to cover their injuries in the workplace. We do not believe that those who are relatively injury free will welcome the added premium burden being placed on them as they share the higher costs of injuries of those industries which experience a much higher level of worker injury. This Bill endeavours to bring employers down to something approaching a common lowest denominator, although I would suggest a common highest denominator would be a more appropriate description of it.

According to the experience in Victoria, those who are paying low premiums will find that their premiums will increase quite substantially as a proportion of their net wages bill and those who are paying a very high premium rate will have their premiums subsidised by those others who are paying low premiums.

I do not believe that it is good for the workplace; I do not believe that it will achieve the savings proposed by the

Government; and I do not believe that it will be able to be applied fairly and equitably, not only to employees but also to employers. Although I am sure that the Government and the Australian Democrats will cause this Bill to pass the third reading, I place on record the Opposition's view that the third reading of this Bill should not be supported.

The Hon. I. GILFILLAN: I support the third reading of the Bill. For those who are curious about the actual costs of various schemes, the supplementary report of the Workers Rehabilitation and Compensation Bill Costings Committee is available and I will make an effort to provide copies to those who would like to have a closer look at it. It has taken some time to produce that report and therefore it has not been freely available until now. I agree with the Hon. Mr Griffin that it is deplorable that the Government has not seen fit before now to reintroduce the Bill so that there could be a longer period of discussion.

The Hon. J.R. Cornwall interjecting:

The Hon. I. GILFILLAN: That is exactly what has not been happening. We have been virtually ignored while other parties in this fascinating game chat to each other behind closed doors. Certainly, we have had some discussions (particularly lately), but I think that it is reassuring to this Council to know that representatives of the Government have been discussing the Bill in detail with employers and employees and much of what we are prepared to accept has been the result of virtual consensus in several areas, or at least grudging acceptance of various aspects of the Bill which would not have been acceptable in debate earlier this year.

As a matter of statistics, I refer to comparisons of costs as presented in my final supplementary report. These statistics were provided by the actuaries, both of whom are highly regarded throughout Australia in the field of workers compensation. Of the schemes that were costed and have been referred to tonight, there has been quite a lot of play on how much more the scheme proposed in the Bill would cost as opposed to the present situation. Anyone who intends to make a fair comparison of that must realise that the present scheme has had its costs held down pending new legislation and that increases in the prescribed amounts would automatically take place and would very quickly take place if there is no legislation.

As percentages of wages (and this is total cost to employers) in 1986 for a series of schemes costed in our report, the present scheme at its current level would cost 2.54 per cent but, levelled to what would be appropriate had no Bill been pending, the cost of the present scheme as a percentage of wages would be 2.86 per cent. That compares with the cost of the original Government proposal at 3.32 per cent, and the cost of the proposal that we have now accepted as an amendment in the Legislative Council would be 2.31 per cent. That is less expensive than the current system at 2.54 per cent, and considerably less expensive than the original Government proposal. It is one full per cent of wages less expensive than the Government's original proposal.

There are other matters from this report that could properly, and indeed should, be referred to in this debate, but I do not have the time, with due respect to all other members who are involved. However, I point out that the actuaries costed on a 10 year projection basis what would be a level of premiums required to establish by 1990 a fully funded system. In their opinion, that would require an average of 3.23 per cent of wages in levies over the period to the end of 1990.

I am confident that the actual costings have fully justified the delay that we required of the Government before we would approve any legislation on workers compensation. It has been said in the press that the Minister has accused us of costing employers money because we delayed this reform, but I utterly refute that charge. Indeed, our delay has advantaged and will advantage South Australian employers by millions of dollars a year because of the much more effectively tuned scheme that will result from the committee's work. In this regard, it is not just a matter of costings or an argument about the rate of pension. The Bill contains good initiatives for creating safer workplaces, more responsive employers, and a much more efficient rehabilitation procedure, and I look forward to its eventually having that effect in the South Australian workplace.

The passing of this Bill in the reasonably near future will enhance our opportunity to attract in particular the submarine project and other industries, which will realise that, unlike Victoria, we have a system that is based on real costings and that we are not artificially presenting levies and a mirage of a lower ongoing cost. Employers, both here and in other States, are not fools, and they will realise the integrity of the actuarial work and, if this Bill is passed in a reasonable form, they will trust it as a responsible and efficient workers compensation scheme. I support the third reading.

The Council divided on the third reading:

Ayes (10)—The Hons G.L. Bruce, J.R. Cornwall, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Noes (9)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. B.A. Chatterton. No—The Hon. L.H. Davis.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

WRONGS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

Returned from the House of Assembly without amendment.

LITTLE SISTERS OF THE POOR (TESTAMENTARY DISPOSITIONS) BILL

Returned from the House of Assembly without amendment.

MENTAL HEALTH ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

MEDICAL PRACTITIONERS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

The House of Assembly intimated that it insisted on its amendment No. 1 to which the Legislative Council had disagreed.

Consideration in Committee.

The Hon. BARBARA WIESE: I move:

That the Legislative Council do not insist on its disagreement.

The Hon. C.M. HILL: I oppose the motion. I do not want to delay the proceedings unduly, but I want to make the simple point that all the issues that were in this Bill introduced by the Government when the Bill entered Parliament have been passed. Everything that the Minister wanted when she introduced the Bill has been passed by both Houses.

The Hon. Diana Laidlaw interjecting:

The Hon. C.M. HILL: There have been some amendments making adjustments to which the Government has agreed, and so forth. For the Government to be pursuing this matter further, apparently wanting to get it to a conference, when there is only one new issue involved which had nothing to do with the clauses in the Bill introduced by the Minister into this Council, I cannot understand. The only question at issue is the new feature of the amalgamation of councils and giving people in council areas the right through a poll to say whether or not they want an amalgamation.

Since the matter was introduced into the Bill in this Parliament a few days ago local government has applauded it. The representative body—the Local Government Association—its Chairman and its Director-General (who has been listening to the debate from the gallery) all support the principle that people should have this democratic right. As I said before, it is in keeping with the forward looking and forward thinking that is in local government now. It was not there a couple of years ago. Parliament should be sensitive to this new mood of the people out in the council areas and stand aside and give them this right to hold these polls if they so wish. That is the only issue. Because of that, I cannot understand the Government persisting with this matter. As aggressively as I can, I oppose the motion.

The Hon. I. GILFILLAN: I oppose the motion. I think that the amendment is suitable. It reflects what was a substantial opinion of members of the Local Government Association at its annual general meeting. I hope that it becomes part of the local government procedure. Therefore, I oppose the motion.

Motion negatived.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons I. Gilfillan, C.M. Hill, Diana Laidlaw, Carolyn Pickles, and Barbara Wiese.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

At 9.37 p.m. the following recommendations of the conference were reported to the Council:

As to Amendments Nos 1 to 49:

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

As to Amendment No. 50:

That the Legislative Council amend its amendment by inserting after the words 'registered association nominated by the employer' the words 'of which the employer is a member'.

and that the House of Assembly agree thereto.

As to Amendments Nos 51 to 53:

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

As to Amendment No. 54:

That the House of Assembly do not further insist on its disagreement thereto and that the following consequential amendments be made to the Bill—

Clause 4, page 5, after line 2—Insert new item as follows:

'Division 7 fine' means a fine not exceeding $1 000.

Clause 21, page 13, line 3—

Leave out 'Division 6 fine' and insert 'Division 7 fine'.

As to Amendments Nos 55 to 93:

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

As to Amendment No. 94:

That the Legislative Council amend its amendment by deleting the word 'matter' and inserting in lieu thereof the words 'claim or dispute'.

and that the House of Assembly agree thereto.

As to Amendments Nos 95 to 116:

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

As to Amendment No. 117:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof—

Clause 35, page 24, lines 23 and 24—Leave out subclause (14) and insert new subclause as follows:

(14) A default notice may be cancelled

(a) at any time, by the health and safety representative who issued the notice;

or

(b) if the health and safety representative is absent from the workplace and cannot reasonably be obtained, by a health and safety committee that has responsibilities in relation to the matter.

and that the House of Assembly agree thereto.

As to Amendment Nos 118 to 138:

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

As to Amendment No. 139:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof—

Clause 42, page 30, after line 1—Insert new subclauses as follows:

(4) A review committee may if it thinks fit make an interim make an interim order suspending the operation of a prohibition notice until the matter is resolved.

(5) An order under subsection (4) must be made subject to such conditions as may be necessary to protect the health and safety of the employees to whom the prohibition notice relates.

and that the House of Assembly agree thereto.

As to Amendments Nos 140 to 147:

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

As to Amendment No. 148:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 49, page 33, line 16—After 'shall' insert ', subject to an order made under subsection (6),'

After line 16—Insert new subclauses as follows:

(6) The Supreme Court may if it thinks fit make an interim order suspending the operation of a prohibition notice pending the determination of an appeal.

(7) An order under subsection (6) must be made subject to such conditions as may be necessary to protect the health and safety of the employees to whom the prohibition notice relates.

and that the House of Assembly agree thereto.

As to Amendments Nos 149 to 162:

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

As to Amendment No. 163:

That the Legislative Council do not further insist on its amendment and that the following consequential amendments be made to the Bill:

Clause 57, page 35, line 33—Leave out 'Subject to subsection (7), proceedings' and insert 'Proceedings'.

New clause—

Page 37, after line 6—Insert new clause as follows:

60a. The chief executive officer of each administrative unit under the Government Management and Employment Act 1985, must appoint a person to be responsible for the implementation of the requirements of this Act in that administrative unit.

As to Amendments Nos 164 to 166:

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

As to Amendment No. 167:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 60, pages 36 and 37—Leave out subclause (2) and insert new subclause as follows:

(2) For the purposes of subsection (1)—

(a) every company carrying on business in the State shall nominate a director or executive officer of the company as a responsible officer who is responsible for the health, safety and welfare of the company's employees at work;

and

(b) if—

(i) a company fails to nominate a responsible officer under paragraph *(a)*;

or

(ii) the body corporate is not a company,

'responsible officer' means—

(iii) a director or executive officer of the body corporate;

or

(iv) any person in accordance with whose directions the directors of the body corporate are accustomed to act.

and that the House of Assembly agree thereto.

As to Amendments Nos 168 to 183:

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

As to Amendment No. 184:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

First Schedule, page 42—Leave out item 31 and insert new item as follows:

31. In relation to penalties for breaches of the regulations—

(a) in the case of regulations prescribing standards for health or safety at work—penalties not exceeding a Division 2 fine;

(b) in any other case—penalties not exceeding a Division 6 fine.

and that the House of Assembly agree thereto.

As to Amendment No. 185:

That the Legislative Council amend its amendment by inserting the following new subclause after subclause (1)—

(1a) The defence provided by subclause (1) is not available in relation to the use of unsafe plant by an employee.

and that the House of Assembly agree thereto.

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

A number of significant issues were dealt with in the conference and I gave my assiduous attention to them all, with the result that we now have a report for the Council. I will not go into all the details of the amendments. Suffice to say that I think that the result was a reasonable compromise by all Parties.

The Hon. K.T. GRIFFIN: The conference was successful in reaching agreement and in recognising that many of the amendments proposed by the Legislative Council were appropriate amendments to the Bill. The first series of amendments related to a change in terminology from 'worker' to 'employee'. When the Council first considered the matter it was clear that the description 'worker' merely perpetuated the myth of worker/boss relationships rather than employer and employee relationships and that if this Bill was to work in practice there had to be less of a confrontationist attitude displayed in it and more of a cooperative attitude.

The Council was successful in persuading the House of Assembly that the change of 'worker' to 'employee' would assist in that cooperative effort. The difficulty from the Liberal Opposition's viewpoint, as I said at the third reading of the Bill, was that changes were not agreed to by the Council initially or at all to the prospect of contractors and subcontractors being regarded as employees. That was one of the disappointments that I expressed at the third reading stage.

The next major area was the extent to which trade unions should be involved in the selection of safety representatives and in the establishment of health and safety committees. In respect of the selection of health and safety representatives, it should be remembered that under the Bill as it came to the Council a provision existed that a candidate for the position of health and safety representative who was a member of a union would be the preferred candidate over an employee who was not such a member and, if one candidate was a member of a union, that was the end of the ball game. The Legislative Council did carry a proposal that all employees should be eligible equally for election as a health and safety representative. That has been maintained as a result of the conference.

The conference also agreed with the Legislative Council's amendment that any election of a health and safety representative should be by secret ballot, and that, in the designation of work groups and in the formation of health and safety committees, the union would not be involved as a matter of right but, in some instances, could be consulted by the employer.

The next area which was important from the Council's point of view was that the onus remain with the Occupational Health and Safety Commission for the publication of guidelines to assist people who are subject to the operation of the Act, and that remains in the Bill. Also remaining in the Bill is the provision that an inspector must attend premises where there has been a stop work notice posted by a health and safety representative, within one business day within the metropolitan area, and within two business days in areas outside the metropolitan area. The commission also has a responsibility to ensure that any guideline or information provided for use in the workplace is in such languages and form as are appropriate for those expected to make use of it.

The first amendment as to amendment No. 50 deals with the Legislative Council proposal that employers in prescribed classes should prepare and maintain policies relating to occupational health, safety and welfare at the workplace in conjunction or consultation with health and safety committees, employers, employees and any health and safety representative, and only on the application of an employee can a trade union become involved but, in that event, if there is such a request from an employee, the trade union is involved in that consultative process.

But the employer can arrange to have his or her own registered association of employers of which he or she is a member present during that consultative process. The next amendment, No. 54, deals with clause 21, involving the duties of workers. Workers are to take reasonable care to protect their own health and safety at work and to avoid adversely affecting the health or safety of any other persons through any act or omission at work. The Council insisted on its amendment and it was agreed to by the conference that there should be other obligations placed upon employees, namely, to use any equipment provided for health or safety purposes, to obey any reasonable instruction his or her employer may give in relation to health or safety at work, to comply with any policy published or approved by the commission that applies at the workplace, and to ensure that he or she is not, by the consumption of alcohol or a drug, in such a state as to endanger his or her own safety at work or the safety of any other person at work. The present fine was a Division 6 fine, which was $5 000. The conference agreed that there should be a new category of fine, namely, a Division 7 fine, which should be $1 000. So, the Division 7 fine of $1 000 now applies if an employee breaches those responsibilities.

That is important because the principle is now acknowledged in the legislation that employees have significant duties to comply with health and safety regulations and directions. The next amendment by the conference, No. 94 deals with clause 32, which identifies the functions of health and safety representatives. The Council was concerned to ensure that, where a health and safety representative exercises power, there should be some constraint against abuse of that power. The Council proposed a Division 6 fine—that is $5 000—if the health and safety representative in the exercise or performance of a power or function under the Act did so for an improper purpose, either intending to cause harm to the employer or a commercial or business undertaking of the employer, or for an improper purpose related to an industrial matter.

The conference considered whether 'industrial matter' was the correct description, and we finally agreed that 'industrial claim or dispute' would be the more appropriate description in that clause, but the principle of the amendment remains. Various provisions of the Bill which the Council inserted to ensure that legal professional privilege was recognised and protected and that information relevant to proceedings commenced under the Act could not be obtained by a committee of review, an inspector or the tribunal have remained in the Bill. The provisions relating to an employer with fewer than 10 employees providing for those employees to take only such time off work to take part in a training course should be subject to the reasonable determinations of the employer, recognising that small business is likely to suffer more in this respect than larger businesses where the work force is much more flexible, and the absence of an employee at a training course would not be so severely disruptive of the business as for a small business.

Amendment No. 117 relates to clause 35, which empowers a health and safety representative to impose a default notice on a part of the work place. One of the concerns which the Council expressed was that a default notice could only be cancelled by the health and safety representative who issued the notice, but, while I was concerned during the Committee stage that the health and safety committee should be able to overrule such a notice and cancel it, the conference was of the view that that ought to be a more limited right and that the health and safety committee should be able to cancel the default notice when the health and safety representative was not in the workplace or could not be reasonably obtained.

The next major matter was in relation to amendments Nos 139 and 148. Amendment No. 139 relates to the order of a review committee with respect to the review of a prohibition notice and amendment No. 148 relates to the power of a Supreme Court on appeal from a decision of a committee of review. I was concerned during the Committee stages of the consideration of the Bill to ensure that the committee of review and the Supreme Court had the power to suspend the operation of a prohibition notice provided, of course, that they were satisfied that there were precautions in place to ensure that there was no likelihood of injury or prejudice to the safety of an employee in the workplace. As a result of discussions at the conference, that has been clarified in amendment No. 139 in relation to the committee of review and amendment No. 148 in respect of the Supreme Court.

The next amendment is No. 163, which related to the contentious question of whether or not a Minister should be liable to prosecution. There is, of course, a constitutional issue involved and it is complex, but it is recognised that the prosecution of a Minister is controversial and that in the circumstances it would not be appropriate to make a Minister so accountable, although a Minister is accountable to the Parliament. In lieu of amendment No. 163 the conference agreed that there would be an advantage in providing specifically for the chief executive officer of each administrative unit under the Government Management and Employment Act to appoint a person within a department or administrative unit to be responsible for the implementation of the requirements of the Act in that administrative unit. Therefore, in effect, what we will have is somebody in each Government department appointed by the permanent head with a specific responsibility as to the implementation of the obligations imposed upon the Crown within that department under this Act.

I think that that is a very important amendment, which brings the public sector a little more in line with the requirements placed upon the private sector and very much demonstrates that occupational health, safety and welfare is as much to be administered in the public sector as it is in the private sector and that the obligations are to be taken as seriously in the one as in the other.

Amendment No. 166 relates to the liability of directors and other officers within bodies corporate. There has been a lot of concern expressed about the way in which a director or other responsible officer within a body corporate would be liable for conviction if the body corporate were convicted of an offence unless by establishing a reverse onus of proof the director or other responsible officer was able to show that due diligence was exercised or that it could not have been prevented even if the due diligence had been shown.

However, the amendment proposed by the Legislative Council was agreed to by the conference so that a director or other responsible officer is responsible only if the offence is attributable to that person and, to enable the establishment of who is the responsible officer to be facilitated, there are changes within this amendment to require a company to nominate a responsible officer and, generally, if the body corporate is not a company, then to identify the director or executive officer or some other person as the responsible officer.

Amendment No. 169 relates to the laying of approved codes of practice before both Houses of Parliament, giving both Houses of Parliament an opportunity to disallow them. That has been agreed to by the conference. The provision that consultation must occur in the educational arena with the Director-General of Education, the Independent Schools Board and the South Australian Commission for Catholic Schools in the development of codes of practice within those educational facilities was supported by the conference. The provision to allow the commission to grant an exemption from provisions of the Act was agreed by the conference, and that was an amendment made in the Council.

The next major amendment relates to amendment No. 184 regarding the regulation making power in the third schedule. I expressed concern that the penalty was a Division 2 fine or $50 000 maximum, which could be fixed by the regulations, and that that was extraordinarily high for regulations in view of the fact that they can be disallowed only when laid before Parliament and cannot be amended. In fact, the regulations would create offences that had not been approved by the Parliament. I still adhere to that principle, but the conference agreed by way of compromise that in this case the Division 2 fine, the maximum $50 000 fine, could be imposed only in respect of regulations that prescribed standards for health or safety at work and that in any other case the penalties would not exceed a Division 6 fine, or $5 000.

The remaining major amendment is No. 185, which relates to the moratorium that could be applied to farming prop-

erties. Five years was the time from the date of operation of this Bill during which the farming community could continue to use plant which was manufactured before the commencement of the Act and which may not necessarily comply with new codes of practice but which complied with the present Act, provided of course that it applied only to members of the family and others who were not employees. The conference recommends a defence not being available under this amendment in relation to the use of unsafe plant by an employee so that as from the date of operation of the legislation employees are covered, but farmers, self-employed persons, their families and others who may not be employees are not covered.

So, the conference has very largely endorsed and accepted the amendments proposed by the Legislative Council, many of which were amendments of substance. I personally regret that the Council itself did not accept a number of my amendments, which would make the Bill a more evenly balanced proposition. But, notwithstanding that, I feel that those amendments that we were successful in having carried by the Legislative Council have been largely endorsed by the conference and the Bill remains largely intact and in a similar condition as to when it left the Legislative Council.

So, I am personally pleased at the outcome of the conference. Very little was given away by the Council and as a result the Bill is a fairer piece of legislation than when it came to the Legislative Council from the House of Assembly. I support and endorse the agreement of the conference, in the belief that we have made significant gains in dealing with this legislation.

The Hon. C.J. SUMNER (Attorney-General): I take this opportunity to thank the Hon. Mr Griffin for his detailed analysis of the conference results.

Motion carried.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

A message was received from the House of Assembly agreeing to a conference, to be held in the Legislative Council Committee Room at 10.30 p.m. on Thursday 4 December.

SITTINGS AND BUSINESS

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

That the sittings of the Council need not be suspended during the conference on the Local Government Act Amendment Bill (No. 4) and the Industrial Code Amendment Bill.

Motion carried.

INDUSTRIAL CODE AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendment.

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

That the Council do not insist on its amendment.

The principal amendment in dispute on this matter of the bread baking hours is whether or not the Bill should be proclaimed to operate as soon as practicable, or whether the Opposition and the Democrat position that the Bill not come into operation until 1 July should be agreed to. The Government believes that there is no case for delaying the operation of the legislation until 1 July and puts that as a proposition the Committee should seriously consider.

One of the arguments put by members opposite and the Democrats was that there has been insufficient time to consider this matter as far as consultation and the like is concerned. I point out that this current debate has been public since September this year. Indeed, in a less public way, it has been around since before that time. On 1 August this year, the Retail Traders Association made its submission to the Government. On 3 September, the Retail Traders Association submitted its case to the Chamber of Commerce and Industry and to other groups, including the Bread Manufacturers Association and the Shop Distributive and Allied Employees Association.

In the *News* of 8 September, an article aired the issues. On 13 September the *Advertiser* contained an advertisement and, since that time, there have been a number of other public canvassings of the issues. In September 1986, the Bread Manufacturers Association submission was received. On 23 September the Baking Trades Employees Union's submission was received in which it commented on the Department of Employment's paper.

It can hardly be said that the matter has not been in the public arena for some time. In fact, if one goes back 10 years, the Hon. Mr Carnie moved that this legislation ought to come into effect. It certainly cannot be argued that the issue of bread has not been before the public almost every year over recent times in one form or another. In May 1985, the report of the Council of Technological Change included a heading 'The likely effect in South Australia of technological changes in the bread industry'. That report was published in May 1985 and it canvassed the change, and spoke of the benefits of removing section 194 of the Industrial Code.

In May 1985 the Council on Technological Change canvassed the benefits of removing section 194 of the Industrial Code. With respect to implementation, the delay of seven months would more likely lead to (and I think these were the words used by members opposite) a 'big bang' rather than if the changes were immediate. If the changes were delayed until 1 July 1987, there would be a great deal of anticipation and investment. If the changes were immediate, they would be smoother and there would be a gradual arrival at the final position. The adjustment proposed by the Liberals is likely to have the opposite effect to that intended. In other words, if immediate introduction occurs, I believe that people will make changes over the subsequent period. If you say that it is coming in on a certain date, there will be a lot of anxiety which is likely to cause a dramatic change at that time.

The other area that has not been considered in this matter is consumer demand. I believe that there is consumer preference for the Goverment's move, and that will be expressed during the next few months of summer if the Bill is passed immediately. It is worth pointing out that a petition of 14 000 people called for the immediate repeal of the current restrictions. It is also likely that, unless the Bill is immediately passed and the restrictions repealed, consumers are likely to be confused between now and July 1987 as to the availability of fresh bread from hot bread shops and instore bakehouses.

With respect to employment, there is a need to act immediately to reverse the decline in employment in the bakery industry in South Australia by permitting the growth sector and the labour intensive sector to expand. Without immediate deregulation, automation and rationalisation of major plant will create unemployment which could not be picked up quickly enough by hot bread shops or instore bakehouses.

With respect to enforcement, a delay will simply exacerbate current difficulties of enforcement through continued and perhaps expanded breaches of the law, due either to commercial realities or confusion as to the state of the reform. Arguments emphasising the dislocation which is suggested should this law be introduced immediately are grossly exaggerated, given the current extent of illegal baking.

With respect to price, bread is currently under price control. The immediate future, based on existing experience with those baking illegally in Adelaide and those baking legally in the country, is that there should be no price increase as their price is currently at or below the maximum retail price. Members of the Retail Traders Association have publicly stated that they will not increase the price of their product due to weekend baking being introduced. Any claim for penalty rate reductions or increases as contemplated by the Liberals (their argument for a delay) is likely to take far more than seven months before it is resolved in the Industrial Commission. For these reasons I believe that the balance of the argument in this matter, now that the Government has taken the initiative to proceed with the deregulation of bread baking hours in the metropolitan area, is that the sooner the legislation is implemented the better. I think that the matters raised by members opposite are exaggerated. The sooner this can occur the sooner people will be able to make plans for an expansion within the metropolitan area of what is likely to be a growth area in employment in this industry.

The Hon. M.B. CAMERON: I ask the Council to insist upon the amendment moved in a genuine spirit of trying to assist the little people, the people that members opposite I would have thought would support and represent; at least in the past they pretended to do so. It would appear, from the hard line attitude that has been demonstrated, that they no longer see themselves in that role. It has reached the stage where we would be able to set up a Liberal group of unions, because I would not be surprised to see these people approaching us to become affiliated with the Party. They might go towards the Democrats, but they would probably not be able to find enough telephone boxes in which to hold meetings. That is probably an unfair statement, but it has been said before. It is important that we consider the people who have been involved in this industry for some time. It is quite facetious of the Attorney-General to stand up here and talk about people having known since September that this would happen—

The Hon. C.J. Sumner: I didn't say that.

The Hon. M.B. CAMERON: That is the implication of what the Attorney said. The fact that the matter has been discussed does not mean that a decision has been made. Any of these people who have been in the industry looking back on some of the lead players, particularly the role of the Hon. Frank Blevins, in this whole issue would have thought that there would be no way that he would agree to deregulate or that he would abandon them with the stroke of a pen without giving them the opportunity of some readjustment. It was not until last Monday—in fact, Tuesday or Wednesday—after the Premier had misled Matt Abraham from the *Advertiser* on Monday night that it was announced that we would have deregulation of bread. It is only a week since they have known that. It is nonsense to say that people have been able to adjust because they have known that it would happen because of indications given in August or September.

It is important, when we make moves of this kind, that people have the opportunity to readjust in terms of their lives, capital and business. I will not go through all these arguments again, but I am surprised at the Government's hard line attitude. I suspect that there are other motivations behind it, but we on this side of the House are dedicated to ensuring that the little people in this State and industry are protected to whatever extent possible to ensure that they have an opportunity to readjust prior to the introduction of this new measure.

The Hon. Peter Dunn interjecting:

The Hon. M.B. CAMERON: It is the human face of the Parliament or it appears to be the human face of the Liberal Party and the Democrats who have to ensure that this measure is given a little bit of time and that people are given an opportunity. It is the hard-nosed arrogant face of the Government showing up. It is one of the things that we should welcome because, eventually, this attitude will lead to a change of Government. When Governments become arrogant and unfeeling about people and the future of little people that Governments disappear. It is a well known fact that Oppositions do not win elections but rather that Governments lose elections. We are seeing that tonight in a small way but this Government is heading towards its demise because of its failure to consider the feelings and the future of the little people of this State.

The Hon. M.J. ELLIOTT: I believe that we should insist on this amendment. It does not alter the substance of the Bill. This is a Bill to deregulate the bread industry and, under this Bill with this amendment, the industry will be deregulated. It has been regulated for 44 years, and we are saying that the final deregulation shall take another six months. This is not an unusual step. In the Occupational Health, Safety and Welfare Bill, for instance, we gave a phase-in period for farmers.

An honourable member: Five years.

The Hon. M.J. ELLIOTT: Yes.

The Hon. M.B. Cameron: Why did we do that—to give them the chance to adjust.

The Hon. M.J. ELLIOTT: That is exactly right—so that we did not have to send people to the wall unnecessarily. Our Party has done this sort of thing on other occasions. We tried to have the wine tax phased in. I believe that where we are taking an economic measure, unless it is of the utmost urgency, if it is likely to put people in a position where they may go bankrupt through no fault of their own, just due to the legislation itself, a period should be given to allow those people to readjust their finances as best they can. If we think legislation is important enough, we proceed with it, but we should show a little compassion along the way.

Some of the other matters that were touched on I do not see as terribly relevant. The Minister talked about technological change on the way, but I do not think that major technological change is coming to South Australia for a little while. Only one of the major bakeries, as I understand it, even owns land on which it can build a new bakery at this time, and that is Tip Top. It will have to build a bakery from the foundations up, and that is several years away. I do not think that anything drastic is likely to happen in the way of technological change in the next six months. So, I really think that is a bit of a nonsense.

It was stated that discussions had been going on since September. However, the possibility of deregulation of bread baking hours and of other matters on deregulation have been discussed on and off for years. I do not think, except for the last couple of weeks, that anyone would ever have considered that deregulation would happen within a matter of weeks. So no-one who is in the industry at the moment could have had a chance to prepare for these changes. As I said, the people about whom I am particularly concerned

are those who have been associated with the Hills bakeries and those who deliver that bread.

Some people have quite large investments, and they will lose money. There is no doubt whatsoever about that. If the Government, in its wisdom, has decided that deregulation is to occur—and I said that I am not fully in agreement with it—then it must be done humanely. We do need to insist on the amendment.

The Committee divided on the motion:

Ayes (5)—The Hons G.L. Bruce, M.S. Feleppa, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Noes (8)—The Hons J.C. Burdett, M.B. Cameron (teller), L.H. Davis, Peter Dunn, M.J. Elliott, J.C. Irwin, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons B.A. Chatterton, J.R. Cornwall, Carolyn Pickles, and Barbara Wiese. Noes—The Hons I Gilfillan, K.T. Griffin, C.M. Hill, and Diana Laidlaw.

Majority of 3 for the Noes.

Motion thus negatived.

[*Sitting suspended from 10.50 to 11 p.m.*]

SITTINGS AND BUSINESS

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

That the sitting of the Council be suspended until the ringing of the bells.

I thank members for convening. I advise members that, as a result of good management of Government business in these last couple of days of sitting, we will now suspend (assuming that members agree) until 10.30 a.m. tomorrow. The conference on the Local Government Act Amendment Bill (No. 4) will proceed this evening and tomorrow morning, if necessary, and will be in a position to report tomorrow.

A conference on the Workers Rehabilitation and Compensation Bill can be set up fairly early tomorrow and a conference on the Industrial Code Amendment Bill can be set up following that, depending on the availability of members. We can then proceed to consider the remaining items on the Notice Paper, possibly while the conference is sitting, depending on the availability of members and their commitments in the conference.

Motion carried.

[*Sitting suspended from 11.5 p.m. to 10.30 a.m.*]

PRIVATE PARKING AREAS BILL

Returned from the House of Assembly without amendment.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

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

INDUSTRIAL CODE AMENDMENT BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at the conclusion of the conference on the Workers Rehabilitation and Compensation Bill, at which it would be represented by the Hons M.B. Cameron, M.J. Elliott, C.M. Hill, T.G. Roberts, and C.J. Sumner.

WORKERS REHABILITATION AND COMPENSATION BILL

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

Consideration in Committee.

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

That the Council do not insist on its amendments.

The Hon. K.T. GRIFFIN: I oppose that proposition.

Motion negatived.

Later:

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council agreed to a conference, to be held in the Legislative Council conference room at 12 noon on 5 December, at which it would be represented by the Hons L.H. Davis, I. Gilfillan, K.T. Griffin, C.J. Sumner, and G. Weatherill.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

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

At 12.7 p.m. the following recommendation of the conference was reported to the Council:

As to Amendment No. 1:

That the Legislative Council do not further insist on its disagreement thereto.

Consideration in Committee.

The Hon. BARBARA WIESE: I move:

That the recommendation of the conference be agreed to.

After quite considerable discussion, the conference has reached agreement on these issues and has agreed on a course of action to be pursued during the next couple of months. I think that the position that has been taken by members of the conference has been very reasonable. The Opposition has agreed that it will not press its amendment and that it will support the balance of the Bill.

In addition, the Hon. Ian Gilfillan will give notice of a private member's Bill incorporating clause 4 which has now been deleted from the legislation before the Council. That private member's Bill will be introduced in February and debated as soon as possible during the autumn session. Also, I have given an undertaking that no amalgamations shall be proclaimed prior to the resolution of the Hon. Ian Gilfillan's Bill in the autumn session.

I think that this is a satisfactory resolution of the deliberations before the conference because it will allow the Bill as it was introduced into Parliament to be enacted without any delay and that will enable me, as Minister of Local Government, to keep faith with local government, which has requested the amendments contained in the Bill to be enacted prior to the next council elections. I again remind the Committee that these provisions were the result of a working party investigation into the council elections con-

ducted in May 1985. There was very widespread agreement to the amendments that are contained in the Bill, and I think that local government will be very satisfied with the outcome of Parliament's deliberations on those issues.

In addition, I think the agreement reached also allows time between now and February for the issues canvassed within the Hon. Mr Gilfillan's private member's Bill to be fully discussed by all interested parties. That is very important indeed, because it is an issue that was introduced at the eleventh hour; and it has not been widely canvassed in local government circles to this date. The amendment contains some very important ramifications: they should be discussed by local government so that all those concerned are aware of the ramifications of the provision and have an opportunity in proper time to consider and reach a view on those ramifications.

I am concerned that, under this provision, if a council which is party to an amalgamation proposal wishes to conduct a poll in order to seek the views of electors on the issue of amalgamation, in order to fulfil the requirements of the Hon. Mr Gilfillan's amendment (whereby the results of a poll should be aggregated over all areas affected by an amalgamation proposal) there would have to be a mechanism so that the other councils involved in any amalgamation could conduct their own polls. However, if one of those other councils was not interested in conducting a poll, the question as to whether or not the Minister should have the power to direct a council to conduct a poll would have to be considered.

I am very reluctant to assume the power to direct councils to take such action because it is completely against the philosophy which is being pursued by the Government to provide councils with greater autonomy in determining their own destiny. It is quite a draconian measure for a Minister to direct a council to take some form of action; and it is not a power that should be taken on lightly. That is just one issue of concern in the proposal. I am sure that, when we have had an opportunity to consider the procedure in full, there may be other issues that will have to be addressed by the Government and most certainly by local government.

The idea of deferring a decision on this matter for the next couple of months to give all interested parties an opportunity to consider it in full and reach a view is a very satisfactory outcome. In the meantime, my undertaking on decisions on amalgamations will stand. I certainly hope that, in both the Legislative Council and the House of Assembly, we can ensure that the Hon. Mr Gilfillan's private member's Bill is dealt with as quickly as possible. It seems to me that it is very important that this issue should be resolved as quickly as possible in the interests of local government in South Australia.

As members are aware, there are currently a number of proposals for amalgamation before the commission and, since I have given an undertaking that there will be no decisions made concerning amalgamation prior to the resolution of the Hon. Mr Gilfillan's Bill, it is important that we should reach resolution as quickly as possible in order to resolve the issue of amalgamation in those areas where it is currently under consideration. As many members have acknowledged during the course of debate of this Bill, amalgamation is a very sensitive issue in any local community where it is being considered, and it causes considerable dislocation and disruption to local communities.

It is very important, in my view, that the questions concerning amalgamation should be addressed as expeditiously, calmly and rationally as they can be, in order to reach a conclusion, and for local communities to adjust to the decision—whichever way it may go—so the communities can be restored to peace and tranquillity and good government. I certainly hope that the private member's Bill will be dealt with expeditiously in both places and that this issue can be resolved once and for all. I commend the conference's recommendation to the Committee.

The Hon. C.M. HILL: I regret that the Hon. Mr Gilfillan is not in the Chamber because he is attending a conference between the Houses at the present time. I will endeavour to indicate some of his feelings—as well as my own—on this compromise which has been struck. Rather reluctantly, I support the Minister and the motion, but I must express my disappointment that the other House at the conference did not agree with the view of this Council that the Bill as amended by this Council be accepted and passed into law. There was not a great deal of room for manoeuvre at the conference, because we are dealing, simply, with the Government's original Bill slightly amended, and supported in those amendments by both Houses, on the one hand, and this other, controversial, issue of the amalgamation question on the other.

I would have thought that the Government should accept the amalgamation clause, because the Government got all it wanted in regard to its own Bill and, at the same time, coming in from the council areas has been considerable support for the amalgamation proposition. After some discussion, the Government indicated that it intended to drop the whole Bill unless a retreat was made in regard to the amalgamation clause. When that kind of threat hangs over a conference, and when all at the conference were concerned that local government would suffer if its original Bill—many of the provisions of which are strongly supported by local government—did not succeed, then those from this Chamber at the conference tried to find what the very purpose of conferences is—that is, a compromise. Both Houses should attend conferences with a view to finding compromises, because that is the very objective of the conference. If there is a deadlock between the two Houses in the bicameral system, the means by which resolution of the deadlock is sought is through this machinery of a conference.

Therefore, rather than see the whole Bill thrown out, which was the threat at the conference, members from this Council tried to find a compromise, and that was finally forged. As the Minister has just explained, that compromise is that the clause with regard to amalgamations be removed from the present Bill, which will now pass through the Parliament, and the Hon. Mr Gilfillan will introduce a private member's Bill, because he was the mover of the specific proposal with regard to amalgamations.

The Hon. Mr Gilfillan's proposal differed from mine, as members will recall, and in the second reading debate he said he would not support my proposal, which meant that mine would have to go out the window. However, to keep the question of amalgamations alive, I said that Liberal Party members in this Chamber would support his amendment. It is his amendment which is clause 4.

The Hon. Mr Gilfillan has given an undertaking to introduce a private member's Bill comprising that particular clause, and half an hour ago, in this Chamber, he gave notice of that being introduced on the first private member's day in the autumn session in February. So, we can have a new debate solely on that particular question in about two months time.

However, the Minister also undertook, as part of that compromise—and I commend her for this—that she would not proclaim any amalgamations between now and the date when the Hon. Mr Gilfillan's Bill has been dealt with by Parliament. That means that many of our constituents who

have been contacting members on this side and who live in council areas which are under threat can now live in the knowledge that, until that question is resolved in Parliament in February or March, they will not wake up in the morning to find that their council district or municipality is no more. I think that that is certainly an important consideration in this whole question of compromise.

The Minister has indicated that local government can be canvassed on this question during the next two months, and I agree with her that a more considered view can be obtained from people in local government than has already been obtained although, from my experience, the feeling at the moment is very strong indeed.

The final point I make is that I hope the Government will not fear as much as it seems to fear this principle of polls in the amalgamation process. There is nothing for Governments to fear in helping people decide their own future—nothing whatsoever. It is democratic; it is proper; and it is what the people at that third tier of Government want. Rather than dig in and try to resist this trend, I hope the Government will give a lot of thought to it and not resist, as it has been doing, since this amalgamation proposal was introduced into the Bill.

The Minister says that she wants peace and tranquillity and she does not want that shattered in council areas; no doubt she is referring to the general social level of local communities, but I can assure her that the peace and tranquillity is shattered when her commission goes into those areas. If she does not believe me, she must recall what has already happened in Naracoorte, Georgetown and some other places.

So, it is not only the holding or not holding of a poll which questions this shattering of peace and tranquillity—that is already shattered by the lawful machinery that the Minister uses to ultimately achieve some amalgamations. Again, I stress that the Government should not fear allowing the little people out there, in the country areas particularly, to have the right to decide their own future and their own destiny on amalgamations concerned.

In summary, I was hoping, of course, today that the Bill would have been passed with the amendment and that this matter would be resolved. However, that was not achieved, and, because of the importance of the Bill and its provisions to local government, the conference decided, notwithstanding the problem, to pass the Bill in the form in which it had been introduced by the Government and as amended. The fight on the question of amalgamation has been shifted to another day in future. In the interim, all of us can explore the question with our local councils and with our constituents, who keep in touch with us from the distant council areas, and we will be well armed for a further debate on this subject in February.

The Hon. CAROLYN PICKLES: I congratulate the conference for its sensible and careful deliberations on the amendment that was before it. I feel that the best of both worlds has been achieved, and in the ensuing couple of months, before the Hon. Mr Gilfillan's private member's Bill is introduced, some ongoing consultations can take place with local government and with the 'little people', as the Hon. Mr Hill refers to them. It is very important that people in the general community have a say on what goes on in local government. For those reasons I think that the approach taken by the conference was very sensible.

I commend the Minister for the undertakings that she has given to this place. The Government did not consider letting this Bill lapse lightly. I think for the very reasons that I have outlined, namely, that ongoing consultation with local government and the general community can occur, the Government felt that it was important that the Bill be passed in its original form. When the Hon. Mr Gilfillan's private member's Bill is considered in this place two short months hence we will perhaps be able to deal with it in a more refreshed and open minded manner. Then a sensible solution, one that is satisfactory to the general community, can be found.

The Hon. DIANA LAIDLAW: I shall speak only briefly about the outcome of the conference. I do so with mixed feelings, because I share the disappointment that the Hon. Mr Hill mentioned, that we are not insisting on the amendment, although at the same time I recognise that in the environment of the conference a compromise was required. The Minister's assessment (that the resolution of the conference was satisfactory) is one that I share.

The Hon. Murray Hill first raised the issue of voter polls in this place last week. It has been his experience and certainly my experience, and the experience of other members in this place who have travelled widely throughout the State, that people are anxious about the role of the Local Government Advisory Commission, and that anxiety is very real. In country areas in particular, people identify very closely with their local community. Families have been involved or are currently involved in council areas and the provision of services. They have worked hard to build up the facilities in those areas, whether hospitals or sporting facilities. Community groups have also been involved in providing services.

People have a strong feeling about their local area, far stronger, I suggest, than one witnesses in the metropolitan area. When people see their community threatened by the activities of a larger community, and often that threat is for no reason other than the higher capital values in the neighbouring community, they become anxious, and we can well understand their anxiety. I am particularly sympathetic to that.

I also know that many people in the metropolitan area feel equally strongly about their local community. One has only to recall the report on amalgamations about a decade ago. I was a resident of Walkerville at the time, and feelings were intense about the thought that Prospect and Enfield would take over. That feeling is being expressed again in metropolitan areas: it was not only in Walkerville and other key seats where this issue was discussed. People are not paranoid: they are committed to their region, and in many instances there is a long-term family commitment.

I am sorry that this provision was not included in the Bill, because I believe that it was entirely reasonable that there be an option. The amendment did not insist that, in every case when a judgment was made by the Local Government Advisory Commission, the matter go to a poll: it was merely an option provided. It seems a pity that we could not provide that option so that people could have their views canvassed in the manner outlined in the amendment. Nevertheless, in the face of losing the Bill, I believe that we have reached a satisfactory but disappointing solution. I am pleased to note that the Minister has given undertakings to this Council (and the Minister in the other place has done likewise) in terms of any decisions made by the Local Government Advisory Commission until this matter is resolved in February.

The Hon. M.J. ELLIOTT: In the absence of the Hon. Ian Gilfillan, who was one of the managers of the conference, I would like to comment briefly. I suppose it is right and proper that, where a matter of new substance has been introduced into a Bill, it is reasonable that the Government be able to insist that it not remain. There was an entirely new idea over and above the provisions already incorpo-

rated in the Bill. It would be sad if the Bill, which is welcomed by local government, was lost because the Council insisted that the clause remain.

Nevertheless, I believe that the clause is a good one. Perhaps we might argue over some of the finer details of the clause, but the underlying concept of it is a very good one. I think that the State Government must look very carefully at its role in local government. It is unfortunate that under the Constitution local government does not have a role and perhaps that is something that can be addressed sometime in the future. Some powers are delegated from the State Government to local government, for example, under the Planning Act, etc. Sometimes, the Government directs certain finances for certain operations which are run by local government.

I do not think that Goverment has a role in telling a council how large it should be and what people should and should not be in a council. I think that the only reason for amalgamation of councils is on the grounds of efficiency but, surely, that is a decision that they can make themselves. If they end up with a less efficient council, the people who are within the area will suffer, so surely they should have some chance to decide whether or not they might get better library services or whatever if they operated in a larger council. Surely they can make a decision as to whether or not a larger and more efficient council might help to reduce rates. I am not sure that that is an area in which the State Government should interfere, if it can be avoided.

I think that consultation with people at local levels is something that should be attempted as much as possible. In relation to the question of daylight saving, it was proposed that the State be split into two zones. It is one thing to have a suggestion, but I think that it should be tested with the people who will be directly affected. If Parliament decides that it wants to amalgamate councils, then I think that the people living in those areas should have an opportunity to participate in that debate. Sometimes, the only time that people are heard is when they get involved in some form of poll, because the people who are consulted are not always terribly representative. When consultation occurs with a very small cross-section of a community, it can be selective or too narrow. I suppose it is right and proper that, where a new provision is introduced into a Bill, a Government should be able to insist that that not remain in the Bill. I support the motion.

Motion carried.

[Sitting suspended from 12.40 to 3.20 p.m.]

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1. Clause 14, page 12, line 38—Insert '—*(a)*' after 'amended'.

No. 2. Page 12, after line 39—Insert word and paragraph as follows:

and

(b) by inserting after subsection (2) the following subsection—

(3) A regulation made under this Act may prescribe educational standards, qualifications and requirements by reference to the determination or opinion of the Tribunal.

No. 3. Schedule, page 13, clause 11—Leave out 'transfer the money to an account that does comply with that section' and insert the following paragraphs:

(a) transfer the money to an account that does comply with that section within 6 months after that commencement or within such longer period permitted by the Commissioner;

and

(b) pay the interest accruing during that period in respect of that money to the Commissioner for payment into the Agent's Indemnity Fund.

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

That the House of Assembly's amendments be disagreed to.

I indicate that points of disagreement remain in relation to this Bill. In fact, a solution has been arrived at but, because it involves amendments to other portions of the legislation that are not involved in the amendments in dispute, we must have a conference.

Motion carried.

The following reason for disagreement was adopted:

Because the amendments affect the original intention of the Bill.

MINISTERIAL STATEMENT: JUBILEE RETIREMENT VILLAGE

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement.

Leave granted.

The Hon. C.J. SUMNER: On Wednesday 3 December 1986 the *Advertiser* newspaper published an article concerning Jubilee Retirement Village, Morphett Vale, under the heading 'Church Village on Market as Interest Bill Stops Project'. The promoter of the village, Jubilee Village Pty Ltd, has also published a brochure inviting offers to purchase the village or, alternatively, offers to enter into joint venture arrangements with Jubilee Village Pty Ltd. Both the newspaper article and the brochure infer that an eight-month delay in the processing of documents by the Corporate Affairs Commission has contributed to the parlous financial position of the project.

The project first came to the notice of the commission in September 1985 through a newspaper advertisement, which contravened the advertising provisions of the Companies (South Australia) Code. The commission sought to assist the promoters of the village by determining not to prosecute but, rather, to enter into discussion with the promoters with a view to alerting them to the fact that their project was subject to the prescribed interest provisions of the Companies Code. A breach of those provisions carries a maximum penalty of $20 000 or imprisonment for five years, or both.

It was not until 27 February 1986 that the draft documentation required to comply with the code was received from the solicitors acting for the promoter. Subsequent to that time the commission found it necessary to insist on significant redrafting of documents to ensure that they complied with the law, and conferred upon elderly prospective residents the security of tenure which the Government considers is a critical prerequisite to entry into this type of accommodation.

In the course of several months during which significant redrafting of documents and negotiation took place, the commission acted with the greatest expedition that its statutory obligations would allow. It is very significant to note that it was not until 15 July 1986 that the proposed trustee for the residents advised, through its solicitor, that the trust deed and supporting documents were in an acceptable form for execution by the trustee.

All necessary approvals and licences were completed by the Corporate Affairs Commission on 1 August 1986. I am satisfied that, far from frustrating this project by the delays which are alleged to have caused financial embarrassment, the commission has acted with both expedition and propriety in discharging its statutory obligations which have the

protection of the investor as their objective. The position of the commission is underpinned by the fact that it was almost at the end of the alleged eight-month delay that the trustee agreed that it was satisfied that the trust deed and other documentation were adequate to enable it to discharge its duties as trustee for the residents.

It is regrettable that these unwarranted allegations have been made, and I consider it important that they should be refuted to protect the commission in its role of investor protection. This protection is essential, given the complex financial structure of, and the cost of entry into, resident funded retirement village accommodation. The regulation carried out by the commission in this area endeavours to strike a balance between the rights and interests of the promoter and the rights and interests of the resident. It has the unqualified support of the Government in this role.

BEVERAGE CONTAINER ACT REGULATIONS

Adjourned debate on motion of Hon. M.J. Elliott:

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.

(Continued from 26 November. Page 2320.)

The Hon. M.B. CAMERON (Leader of the Opposition): This is an interesting issue with which virtually to finish the session—what a bunch of political wimps sitting opposite! The heroes of 1975 and early 1986 have turned out to have feet of clay. They have come into this Council consistently declaring themselves to be great supporters of our reuseable bottle system, but now a puff of wind from interstate hits them and like lemmings they rush into the sea and allow this system potentially to drown.

Let me make it quite clear that this whole debate is not about a case in the High Court; this is about the future of the reuseable bottle system in South Australia, which the Government, by the deal it has done, has thrown out the window, a system which had the support of the people, and until now the Government and the Opposition. The system is a unique institution which has been in place as I understand it since 1896. I cannot express too strongly my extreme disappointment at what Matt Abraham described as the willy wimp attitude of the Premier and the Government on these regulations. Members with longer experience in this Council would well recall the extreme lengths that the Labor Government of the day went to in 1975 (of which many of the members present were members) to increase dramatically the reuseable bottle system for beer. At that time the relativities between one-way bottles and reuseable bottles was quite clearly five to one. Everybody who sold beer in this State knew they were the ground rules. I expressed concern at that stage that the deposit on beer bottles was not quite high enough, although one had to admit that the system did ensure a very high return rate, somewhere close to 90 per cent.

South Australian Brewing Company, Coopers and Carlton United by virtue of this legislation stepped up their production of reuseable bottles in South Australia and South Australian Brewing commenced the echo line, which was opened by the Labor Party Minister of the day, Glen Broomhill, who praised the South Australian Brewing Company for its step which, of course, it was persuaded into by legislation. After that the Brewing Company, Coopers and Carlton United were persuaded from time to time and by the Liberal Government of 1979-82 to lift that base amount for reuseable bottles but, of course, the deposit on non-reuseables stayed at the same amount and this eroded quite clearly the relativity, and as I understand it the Government approached them recently again to lift the deposit and indicated at that stage that it would re-establish the relativity. Let me quote from the Hon. Chris Sumner, who in February this year put the Government's position:

A position has arisen whereby the much valued traditional South Australian use of reuseable 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 . . .

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 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.

That is a very clear statement from the Attorney—made only earlier this year. I want to make the point very clearly that the Government brought in this legislation and the statement by the Minister that the Government would restore relativity to succeed in the twin objectives of improvement in litter control and resource use made the Government's position at that time very clear. The legislation was brought in because an interstate brewer refused to lift the refund on refillable bottles from 30c to 50c a dozen—as the statement I have just read out clearly indicates. In the previous debate this is what I said on behalf of the Opposition:

Of course, the end result of the legislation was that the South Australian Brewing Company and others [which included Coopers and Carlton United] found themselves with a reversing trend which led back towards the use of returnable and reuseable bottles.

Over the years, quite properly, they have followed the market trend and turned their industry towards the use of refillable bottles. They have put large capital funds into the various areas of industry where these bottles have to be collected, washed, refilled and used again. There is absolutely nothing wrong with that. From my observation, in any action that they have taken they have attempted to do the right thing. They have provided money for advertising to ensure that there is a good rate of return of bottles. Everything that the Government has asked them to do over the years they have done.

The South Australian Brewing Company and Coopers, because of interstate companies bringing in one way bottles, has found itself in a difficult position indeed. It is bound by State legislation, but interstate brewers do not face the same problem.

The South Australian Brewing Company has provided facilities for container reuse but interstate brewers are not doing that and are using a lighterweight bottle, one that I understand cannot be returned and reused in many cases because if it passes through the caustic wash all sorts of problems arise with the outside of the bottle. Therefore, some real difficulties exist in forcing any reuse of such containers. The South Australian Brewing Company is faced with a financial problem caused by interstate brewers being able to compete at a better level.

In the debate on this issue, the Hon. Dr Cornwall said:

That was when I was much younger. I want to assure the Hon. Mr Cameron that the increase in relation to deposits on beer cans is to restore the relativity between refillable containers—both cans and bottles—and non-refillable containers which existed when the legislation was first introduced. So, if one goes back to 1977 there was a differential with both the cans and bottles which, at that stage, was a 5c deposit. Of course, reuseable ones were still something like 10c a dozen. All we are doing by this addition is to bring back that relativity.

Thirdly, the commitment of the South Australian Brewing Company and the Government at the time of the introduction of the Act was to a returnable refillable bottle system. The introduction of the echo bottle, or the stubbie as it is wrongly known, demonstrated the commitment by the South Australian Brewing Company to this system. The echo is different from what is called the stubbie interstate by the very fact that it is returnable. The

South Australian Brewing Company, to its great credit, is committed to the refillable bottle system ... The South Australian Brewing Company is South Australia's own, and I am very keen, as I know the Hon. Mr Cameron and everyone else is, to see it survive as a South Australian company ... If we are to retain (and it is essential that we retain) that very efficient system of reuseable beverage containers in South Australia, it is important that we go back to sensible relativities.

At least we intend that the South Australian Brewing Company should have an even go in the market. Currently we have in this State Castlemaine Tooheys and Swan, both marketing a non-returnable stubbie. The deposit is only 5c. It is no disincentive for every mug around the place who gets half boozed to throw them out their car windows or anywhere else. We have to return the relativities in that sense and, in doing so, we are picking up both cans and non-refillable, non-reuseable stubbies. That is what it is all about.

We want to stop the flood of non-returnable containers from interstate, which is threatening to break down what has previously been very good and very effective legislation.

He then goes on with that. As members can see, the legislation was clearly designed to retain the efficient use of reuseable beverage containers to ensure that the South Australian Brewing Company, Coopers and Carlton United had an even run, because they are committed to the reuseable system to stop the flood of non-returnable bottles from interstate which, to use the Minister's words, was breaking down what was designed to discriminate against non-refillable, non-reuseable containers, whether they be cans or stubbies as against recyclable, reuseable echoes and beer bottles. Again, to use the Minister's words:

The deposit of a non-returnable stubbie is only 5c. That is no disincentive for every mug around the place who gets half boozed to throw them out of their car windows or anywhere else.

Yet we now have these characters opposite who have been bluffed by an interstate brewer, Bond Brewing Company, the only group that has refused outright to conform to the legislation. In some way the Government now tries to say that, if we force it to return to the original relativity which it so proudly proclaimed earlier this year, in some way we are at fault for any problems that occur. What a joke!

What the Government is doing—and it knows it—is to ensure the finish of the reuseable bottle system in South Australia, a system which the Government forced on the South Australian Brewing Company, Coopers and Carlton United, and for which it has continued to claim credit. It is prepared to force them to throw aside all their investment to which the Government insisted by legislation that they conform, yet the Government did this deal with the Bond Corporation and did not even have the courtesy to discuss it with the South Australian Brewing Company, Coopers or Carlton United.

The first thing that those companies knew about it was when they read about it in the media. What a despicable act of a Government towards a South Australian company that has been so helpful to the Government in this whole issue over a long period of time! It should be ashamed of itself! The Government now has two courses of action in front of it and it will be entirely up to the Government. First, it can have a discussion (and I think that it will probably be the first one) with the brewing companies in South Australia and with Carlton United about the deal it has arrived at with Bond Brewing or, secondly, it can pick up its bat and head for the High Court and do a decent job.

What Parliament is saying is that we support the returnable bottle system (which I do not think the Government now does) and we reject the deal which the Government has done which threatens the very existence of the system. Do not try to tell me that the Brewing Company will continue with the reuseable system with the relativities that the Government arrived at, because it just will not do so. I guarantee that we will not see a reuseable system with the amount set in this deal. As recently as 30 April 1986, Dr Hopgood said (and I want to quote this press release put out by this brave Minister, and what a joke those words are now):

I am disappointed at the action of the Bond Brewing Company in attempting to overturn South Australia's acclaimed beverage container legislation. I am instructing Crown Law to vigorously defend the legislation against Bond Brewing's action in the High Court. In the unlikely event that the action is successful, Government will take any steps necessary to maintain the intention of the existing Act.

What a joke! The press release further states:

Bond Brewing entered the South Australian market in the knowledge that the system was based on refillable beer bottles. It entered the market in the knowledge that one-trip beer bottles were subject to deposit and returnable via point of sale. It should be of concern to all South Australians that the Bond Brewing Company is unwilling to cooperate with the Government in maintaining the South Australian deposit system.

In contrast, the State Government has received the full cooperation of both South Australian Breweries and Carlton United Breweries in Melbourne. Because of the legislation, these companies have invested heavily in refillable bottles. The South Australian container legislation is acclaimed world wide for:

- its efficiency,
- its impact on the reduction of bottle litter,
- fostering the conservation of energy and resources by promoting recycling,
- the generation of jobs.

As a result of the legislation, beer bottles account for only 3.1 per cent of the litter stream in South Australia. The South Australian legislation has strong community support.

I certainly agree with that. The press release continues:

It also has the support of all political Parties. In 1980 a public opinion survey undertaken by the Flinders University indicated that 77 per cent of South Australians prefer refillable bottles. Furthermore, 65 per cent wanted the Government to do more to stop the sale of non-returnable containers.

Clearly, the community, based on the Government's own figures, supports the system. The press release continues:

The Government recently moved to amend the Beverage Container Act. The amendments raise the deposit on non-returnable beer bottles to protect the refillable system that had been operating successfully in South Australia since 1897. It remains the Government's intention to apply the amendments. South Australian Breweries and Carlton and United Breweries have indicated they are able to meet the requirements of the change.

Bond Brewing knew the score when it entered the South Australian market with one-trip bottles. Its attitude and subsequent actions demonstrates that it has little regard for litter control in South Australia and the South Australian environment. The South Australian public does not want one-trip containers strewn on our roads and beaches as they are interstate. South Australians have every right to be angry at Bond Brewing's short-sighted action. It is a major assault on the environmental well-being of the whole community.

That is the end of the statement. So in April, Dr Hopgood, that brave Minister from another place, was heading to war, with all guns firing. I can say this much to the House, I would hate to go into war with him behind me because, when the first shot was fired, you would look around and he and his Government would not be there. It would only take a .22 rifle to frighten him off and when he waved the white flag you would know that he would give in beyond all possible belief. You have earnt yourself now the reputation of having a dismal level of commitment to South Australian companies, one of which you have treated with the utmost disrespect.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: You have. You did not even bother to approach them and tell them what you were doing. You have ignored the wishes of the majority of South Australians and you have given in at the first sign of any problem and have not been prepared to defend this State's excellent record in deposit legislation. You have given in to Bond Brewing Company and ignored South Australians.

I repeat: you are a bunch of political wimps who do not deserve to be in control of this State, and this is just one more in a string of decisions that will see you thrown out. As Dr Hopgood said:

South Australians have every right to be angry at Bond Brewing's short-sighted action.

But now they have every right to be angry with Dr Hopgood for his short-sighted deal. You have combined in a major assault on the well-being of this community and have taken a step that will destroy the deposit system. We will give you at least one chance to go back and rethink your whole attitude.

If you decide to head for the High Court you will go with the best wishes and support of all South Australians and we trust that this time you will show some gumption. If you decide to negotiate with all parties concerned we hope that whatever resolution you come to protects the reuseable bottle system and does not destroy it, because that is what the deal does that the Government has done. The disparity is not enough, and the Government knows that well. If the Government does not know it, then it did not talk to the South Australian Brewing Company or Coopers about it. If you had, the companies would have told you, but you did not even bother. You gave in. You are as weak as water. The incredible situation is that the legislation, which brought in the 15c deposit on 1 October and which everyone except Bond Brewing had made preparation for and incurred large expenditure for, has been rejected, and we find on 30 October fresh amendments coming in because of this extraordinary deal with one group which failed to conform.

In February 1983 we had Dr Hopgood presenting a submission to the Parliament of Victoria's Natural Resources and Environment Committee, and the Council should hear what this brave man said then, and his submission states:

The significance of the maintenance of the refillable bottle system cannot be underestimated. The fact that some refillable bottles can be reused up to 25 times (a conservative estimate based on local and overseas sources) and that each one of these would therefore be replaced by 25 throw-away bottles or cans, should the industry in South Australia follow the deposit-free State trends of the United States, is indeed an alarming prospect.

. . . The resource costs of returnable systems are generally lower than for non-returnable systems . . . In general, the total resource system energy is significantly higher for the throwaway system, varying from four and four-tenths (4.4) times as much for soft drinks in bottles to one and eight-tenths (1.8) times as much for milk in paper throwaways . . . dollar costs which show the soft drink glass throwaway container system to be about twice as expensive as the returnable system . . . In other words, the least social cost alternative is the returnable and refillable glass bottle.

The submission contains a table of figures which clearly indicate that Woolworths (Adelaide) were cheaper for Coca Cola one litre refillable bottles than any other capital city. Clearly, the Government has brought this matter on itself. It brought legislation into this Parliament earlier this year, and that legislation was supported by everyone in the Council. Suddenly, it has gone backwards. In that process it has ignored the interests of companies in South Australia which have done the right thing, right through its time in Government. It is a very sad situation when the Government just throws them away and says, 'You have invested but that is too bad. You will have to make other arrangements.' I suppose that next it will say, 'You should have known since April that this sort of thing could occur, because it has been discussed all this time', as it did recently in relation to the bread Bill. That is the logic I would expect from the Government, and those companies will be left on the wall.

People, not only in this area but in other areas, went to a lot of expense in getting ready for the change in regulations concerning the deposit system, and the Government has just pushed them aside. The Opposition supports the motion of the Hon. Mr Elliott. We hope that, if the Government decides to go to the High Court, it shows a bit of gumption. We hope that, if it starts renegotiating with Bond and all the other groups, it takes more trouble with the interests of South Australian companies and South Australian people when trying to get rid of bottles on our beaches.

The Hon. C.J. Sumner: Haven't you heard of the Australian Constitution?

The Hon. M.B. CAMERON: Obviously you have not heard of the Australian Constitution, because you changed your mind since May. Who is to know that within a month you will not come back and say that you made another mistake; you had a talk to another group of lawyers and found that it is possible that you might not win the next time or that you might win the next time? It is about time we got a decent Attorney-General who understands the law and does not bring in legislation, get it passed, and run to water. Why do you not check on the law before you bring in legislation? Why do you not get decent advice from people who know something about the law? Obviously, you do not.

The Attorney-General needs some advisers. He must have been alone in this matter; obviously his advisers did not agree with him at that time. I do not think that the Attorney-General is a very good lawyer. I certainly would not go to court with him behind me because I would not know whether or not he was going to change his mind about my innocence or guilt halfway through the case. I would not have a bar of him. The Opposition will be supporting the Hon. Mr Elliott in his move to disallow the regulations. We await the next lot of regulations.

The Hon. M.J. ELLIOTT: This matter has taken a great deal of my time over the past two weeks since I first moved the motion. My prime motivation has been to ensure that the deposit system is maintained, and I hope and expect that eventually it will be expanded. When I initially moved the motion I was not certain as to how the High Court would react, and I am still not certain—in fact I do not think that anyone knows how the High Court will react in relation to such matters. I am grateful that the Government came forward with a great deal of advice of the sort that I needed; in particular, it allowed Mr Selway from the Crown Solicitor's Office to speak to me and also Mr Inglis from the Department of Environment and Planning, who has been in charge of the legislation since it first came in. I was grateful for the time they gave me, and the briefings I had were valuable.

I should have liked to see a written advice, which I imagine would have been prepared. However, I did not see it, but I saw the affidavit that the Government had prepared. In my opinion, that affidavit was much weaker than it could have been. The affidavits were put before the High Court a few weeks ago. Having seen that affidavit, I believe that a far better job could have been done on it by the Government.

An honourable member: Have you seen Bond's affidavit?

The Hon. M.J. ELLIOTT: No. I have been trying to juggle with the uncertainty of the way in which the High Court will behave: what happens if we go to the High Court and what happens if we do not? If we go to the High Court our chance, according to which legal expert one talks to, is as low as 30 per cent or higher. However, I have been heartened by people to whom I have spoken recently and who think that our chance is higher than that and at least 50-50. The High Court, which is about to have a couple of changes in personnel, will change dramatically in character, I believe.

An honourable member: The judges are independent.

The Hon. M.J. ELLIOTT: Yes, but when one watches High Court judges over a long period of time one sees that they follow fairly predictable trends. I was leaning towards not proceeding because of the existing doubt, but what finally persuaded me that we had no choice but to continue was that I was informed that the Government had decided to take can deposits from 15c back to 6c. I could see that anywhere the Government could be challenged it would pull back and even the 6c could have been challenged by someone in future.

An honourable member: When did it go back to 6c?

The Hon. M.J. ELLIOTT: That was the advice that was given to me.

An honourable member: Has it happened or is it going to happen?

The Hon. M.J. ELLIOTT: It will happen in the future regulation. It was a fear that I had but, when it was confirmed to me, that certainly swayed my thinking. It seemed to me that the Government had no will to protect this legislation and the challenge could come not only from Bond but from anyone at some time or other and that, if we did not take it to the High Court, what we had would go backwards. I was hoping that this sort of legislation would be further expanded, for good reasons. One cannot expand legislation if one is not even game enough to stand firm on what one has already got.

The Government really made a botch of this in a number of ways. First, as regards its preparation for a possible court case, I believe that the data that it prepared was inadequate, I was informed that the only information that it could get was a report from Sweden by Lundholm and Sundström which compared refillable and non-refillable bottles. Then, from our own library I got a book that addressed the same issues. It had been sent to the library by the Department of Environment and Planning and was an Australian document prepared seven years ago. That book said the same sort of thing as did the Swedish book.

I found it interesting that, when I asked the Department of Environment and Planning for advice, it could find only one book, although it sent another book to the Parliamentary Library on the same matter and giving roughly the same sort of information. I believe that a far better job could have been done. However, the Department of Environment and Planning has, for a long time, been completely understaffed. People involved in environmental areas, whether as regards national parks or farmers trying to have problems such as land clearance considered, know how understaffed the department is and it cannot do a job of preparing data because of inadequate staff.

I believe that the Government also made a tragic mistake by going from 4c to 15c. Indeed, the differential was an overkill. If it had gone for a differential of 4c to 8c, I do not believe that we would have been in this position to begin with. I am sure that Bond Brewing would have worn that. In fact, everyone to whom I have spoken from both sides of the fence has conceded the point—that the Government made one heck of a mistake when it went for the 15c level.

The next matter is one of importance and needs addressing, namely, the method of return of bottles. When the legislation went through in February the intention was that non-refillable bottles would go back to the place where they were sold. That created a lot of problems for the owners of bottle shops, hotels, etc. That was a tragic mistake and one of the real concerns that Bond Brewing might have had. That was a problem that could be easily overcome. In the agreement with Bond the Government has said that it could go back through the marine dealer system. Why they did not do that to start with is beyond me. I hope that the Government will look at negotiating such that all major non-refillable bottles carrying deposits should go through marine dealers and not back to the place of sale. That is an unnecessary restriction on hotels and people trying to sell products.

We should not have unnecessary restrictions, and returning to the point of sale really was an unnecessary restriction. That could be overcome anyway. That created a great deal of heat from the hotels, other people selling the various types of bottles and from the marine dealers themselves. Obviously, the number of bottles that are not returnable starts increasing, and they are not going through marine dealers, and their business starts dropping off. People are worrying about their livelihood, which is incidental to the whole matter.

In three areas the Government has botched things up badly. We have seen South Australian Brewing, Coopers and Carlton United continuing to do the right thing, as has been covered already in this debate by the Hon. Mr Cameron. South Australia has the cheapest beer in Australia. It has had so for quite some time. The main reason we have had cheap beer is that refillable bottles are cheaper. The refillable bottle system saves people having to buy a bottle which is eventually just thrown away. If we drift from the refillable bottle system to the non-refillable system the price of beer and other beverages will go up, just as soft drink beverages have gone up interstate compared to the South Australian system. We need to recall the true reasons why this Bill came into existence: first, the question of litter and, secondly, the question of resources.

I do not see, under the new regulations proposed by the Government dealing with Bond, that litter is a problem. Both sorts of containers are carrying deposits—4c and 6c—and anyone scavenging for bottles will pick up the 6c bottles as quickly as the 4c bottles. The non-refillable bottles are as strong as the refillable bottles, so we will not have extra broken glass litter. The important question is that of resources. It is on that matter that the non-refillable system falls down badly.

According to both the Swedish report by Lundholm and Sundström and a report by the Australian Environment Council in 1979, the energy consumption alone of the refillable bottle system is half that of the non-refillable bottle system. Energy is an important raw resource for our society. It was only a matter of days ago (maybe even yesterday) that a report was tabled in this place telling us that South Australia had a guarantee of gas supply for three or four years. Certainly we will find more, but we will have to face the fact that we shall see the readily accessible cheap energy resources gobbled up quickly. The Leigh Creek mine will have a limited life and we will then have to start looking at lower quality coal for electricity generation, which will create more pollution. If the mining of coal is started at Kingston it will cause terrible problems with the water tables. The greater pressure we put on energy resources the more quickly we get into trouble.

Some people might argue that, if the bottles are being made interstate, it is no longer a South Australian problem. Well, it really is a question of whether or not we take an attitude of just what is good for the South Australian environment or whether we take a broader view and look at the Australian or even the international environment.

On the question of energy itself, which is derived primarily from fossil fuels, a number of concerns have been raised over recent years. One of those concerns I would like to bring to the attention of members, and that is what is

known as the greenhouse effect. It is something that has had very little attention in the local media as yet, but is proving to be one of the greatest environmental concerns raised. It is being raised by people who are extremely responsible. I refer members to an article in the *Economist* of 29 November, which is currently in our library, on the greenhouse effect. Responsible bodies such as the Environmental Protection Agency of the United States have produced documents—and I am holding in my hand documents about 2½ inches thick—on the greenhouse effect prepared by the Environmental Protection Agency. It is extremely worried about what will happen as we continue to use energy at increasing rates. It is irresponsible to use it at the speed that we are. Even the Electric Power Research Institute of the United States, a major producer of electricity, is producing papers that express the same sorts of concerns.

The Hon. C.J. Sumner: Would you be an expert witness?

The Hon. M.J. ELLIOTT: Yes, I would love to. I refer members to another document entitled 'Changing Climate' put out by the Board on Atmospheric Sciences and Climate, the Commission of Physical Sciences Mathematics and Resources, and the National Research Council—all eminent scientific bodies from the United States—pointing to the fact that, as we continue to gobble our way through our energy resources ever rapidly, we are taking ourselves towards what will be one of the biggest shake-ups that this world has ever seen. It will have ramifications which are not only climatic, changes not only in sea level—

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: It has gone way beyond this. I am talking about the Environmental Protection Agency of America. The CSIRO has already started producing documents on it. This is way beyond anything that the Club of Rome ever did.

The Hon. C.J. Sumner: They said we would be out of food by now.

The Hon. M.J. ELLIOTT: I presume that members would rather work by the theory of ignoring all this and waiting to see whether or not it happens. As I said, the documents that I have here are not from tin pot organisations. I am talking about the leading scientific organisations in the United States and Australia. Those are the sorts of people who are saying that the consumption of fossil fuels will lead us to great problems.

The other problem receiving considerable attention in the press concerns changes in the ozone layer as a result of consumption of fossil fuels, among other causes. If this motion is passed, I would call on the State Government to carry out a couple of actions.

The Hon. C.J. Sumner: Not to go to the High Court?

The Hon. M.J. ELLIOTT: I have no problems about it going to the High Court. However, if the Government wishes to negotiate and if any of the other companies are willing to negotiate, as I said before, I believe that the 4c and 15c differential was an overkill. Certainly, the differential needs to be at least double—4c and 8c.

The Hon. C.J. Sumner: What if that is not acceptable?

The Hon. M.J. ELLIOTT: Acceptable to whom?

The Hon. C.J. Sumner: In terms of settlement.

The Hon. M.J. ELLIOTT: Then it goes to the High Court. Certainly cans, which, unless they are 100 per cent recycled, are the greatest waste of resources, need a much higher price unless they have a proper recycling system where most of it comes back in. That is not happening at the moment, and their deposits need to stay proportionately much higher. If in fact it was possible to achieve 100 per cent recycling of cans, that would be desirable because in many ways they are as resource efficient as refillable bottles. Unfortunately, that is not occurring at the moment.

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: Those sorts of things have been taken into account in these studies. I also call on the State Government to look at marine dealers and to use them for the return of all bottles, because we cannot expect consumers to return them to the point of sale: that causes unnecessary problems for hotels and marine dealers who I believe are losing business to the non-refillable containers. If marine dealers have to pay 15c up front for each bottle, that is money that they must take from the bank in the first instance. I believe that they should receive a slightly larger return on bottles and cans compared with cheaper bottles. I ask the Government to consider marine dealers. If this matter goes to the High Court, I call on the Government to get its act together and prepare a decent case. I believe that a decent case can be mounted—certainly something far better than has been prepared so far. I urge honourable members to support the motion.

The Council divided on the motion:

Ayes (10)—The Hons. J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott (teller), I. Gilfillan, K.T. Griffin, C.M. Hill, J.C. Irwin, and R.I. Lucas.

Noes (7)—The Hons. G.L. Bruce, J.R. Cornwall, M.S. Feleppa, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons. Diana Laidlaw and R.J. Ritson. Noes—The Hons. B.A. Chatterton and Carolyn Pickles.

Majority of 3 for the Ayes.

Motion thus carried.

WORKERS REHABILITATION AND COMPENSATION BILL

At 4.15 p.m. the following recommendations of the conference were reported to the Council:

As to Amendments Nos 1 to 6:

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

As to Amendments Nos 7 and 8:

That the Legislative Council do not further insist on its amendments.

As to Amendments Nos 9 to 12:

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

As to Amendments Nos 13 to 15:

That the Legislative Council do not further insist on its amendments but make the following amendment in lieu thereof:

Clause 3, page 7, lines 25 to 31—Leave out paragraph *(a)* of the definition of 'spouse' and insert new paragraph as follows:

(a) (i) the person has been so cohabiting with the worker continuously for the preceding period of 5 years;

(ii) the person has during the preceding period of 6 years cohabitated with the worker for periods aggregating not less than 5 years;

or

(iii) although neither sub-paragraph (i) nor (ii) applies, the person has been cohabiting with the worker for a substantial part of a period referred to in either of those sub-paragraphs and the Corporation considers that it is fair and reasonable that the person be regarded as the spouse of the worker for the purposes of this Act;.

and that the House of Assembly agree thereto.

As to Amendments Nos 16 to 18:

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

As to Amendment No. 19:

That the Legislative Council amend its amendment by deleting '1.5' and inserting in lieu thereof '2'.

and that the House of Assembly agree thereto.

As to Amendment No. 20:

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

As to Amendment No. 21:

That the Legislative Council amend its amendment by deleting '12' and inserting in lieu thereof '14'.

and that the House of Assembly agree thereto.

As to Amendment No. 22:

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

As to Amendment No. 23:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 8, page 12, lines 5 and 6—Leave out paragraph *(b)* and insert new paragraph as follows:

(b) six shall be nominated by the Minister taking into account the recommendations of the United Trades and Labor Council;.

and that the House of Assembly agree thereto.

As to Amendment No. 24:

That the Legislative Council do not further insist on its amendment but make the following amendments in lieu thereof:

Clause 8, page 12, line 7—Leave out all words in this line and insert 'five shall be nominated by the Minister taking into account the recommendations of'.

Clause 8, page 12, line 11—Leave out 'after consultation with' and insert 'taking into account the recommendations of'.

and that the House of Assembly agree thereto.

As to Amendments Nos 25 and 26:

That the Legislative Council do not further insist on its amendments.

As to Amendments Nos 27 to 56:

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

As to Amendment No. 57:

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 58 and 59:

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

As to Amendment No. 60:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 35, pages 22 and 23—Leave out subclauses (1), (2), (3) and (4) and substitute subclauses as follow:

(1) Subject to this section, where a worker suffers a compensable disability that results in incapacity for work, the worker is entitled to weekly payments in respect of that disability in accordance with the following principles:

(a) if the period of incapacity for work does not exceed one year—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to the workers notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to the difference between the workers notional weekly earnings and the weekly earnings that the worker is earning or could earn in suitable employment;

(b) if the period of incapacity for work exceeds one year, the worker is entitled to weekly payments determined returned in accordance with paragraph *(a)* for the first year of the period of incapacity and thereafter—

(i) the worker is, if totally incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the workers notional weekly earnings;

(ii) the worker is, if partially incapacitated for work, entitled for the period of incapacity to weekly payments equal to 80 per cent of the difference between the workers notional weekly earnings and the weekly earnings that the worker is earning in suitable employment or could earn in suitable employment that the worker has reasonable prospect of obtaining;.

(2) For the purposes of subsection (1)—

(a) a partial incapacity for work over a particular period shall be treated as a total incapacity for work over that period unless the Corporation establishes that suitable employment for which the worker is fit is reasonably available to the worker in respect of that period (but where the period of incapacity extends beyond a period of two years, this paragraph does not apply to a period commencing after, or extending beyond the end of the second year of incapacity);

and

(b) the following factors shall be considered, and given such weight as may be fair and reasonable, in making an assessment of the prospects of a worker to obtain employment—

(i) the nature and extent of the worker's disability;

(ii) the worker's age, level of education and skills;

(iii) the worker's experience in employment;

and

(iv) the worker's ability to adapt to employment other than the employment in which he or she was engaged at the time of the occurrence of the disability.

As to Amendments Nos 61 to 77:

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

As to Amendments Nos 78 and 79:

That the Legislative Council do not further insist on its amendments but make the following amendment in lieu thereof:

Clause 39, page 26, lines 3 to 22—Leave out subclause (2) and insert new subclause as follows:

(2) An adjustment under this section—

(a) for the first and second years of incapacity—shall operate from the expiration of those years and shall be based on changes—

(i) in the rates of remuneration payable to workers generally or to workers engaged in the kind of employment from which the worker's disability arose;

or

(ii) if the worker applies, according to the regulations, for the adjustments to be made on the basis of changes in rates of remuneration payable to workers engaged in the kind of employment from which the worker's disability arose and furnishes satisfactory evidence of such changes—in those rates of remuneration;

and

(b) for the third and subsequent years of incapacity—shall operate from a date fixed by the Corporation and shall be based on changes in the average minimum award rate since an adjustment was last made under this section.

and that the House of Assembly agree thereto.

As to Amendment No. 80:

That the Legislative Council do not further insist on its amendment.

As to Amendments Nos 81 to 93:

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

As to Amendment No. 94:

That the Legislative Council amend its amendment by deleting '1.1 times the prescribed sum' and inserting in lieu thereof '1.4 times the prescribed sum'.

and that the House of Assembly agree thereto.

As to Amendments Nos 95 to 159:

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

As to Amendment No. 160:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Clause 115, page 61, line 22—Leave out 'immediately before the date of the claim' and insert—

'immediately before notice of the disability was given and, subject to any proof to the contrary, to have arisen out of employment in which the worker was last exposed to noise capable of causing noise induced hearing loss'.

and that the House of Assembly agree thereto.

As to Amendments Nos 161 to 167:

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

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

I am pleased that the managers in both Houses were able to constructively resolve the outstanding issues between the two Houses. The end result is that the basic structure of the Government Bill, as introduced early this year, is intact. Some amendments have been made but the structure of the Bill remains substantially unaltered, and the proposals that were initially put forward a few years ago have been placed in the legislation.

The Hon. K.T. GRIFFIN: This conference was a difficult one for me because the Liberal Opposition has all along expressed its very grave concern about the Workers Rehabilitation and Compensation Bill, both as introduced in the last session in February and also as it came to us in considerable haste only two days ago.

We also expressed our concern about the agreement which had been reached between certain groups of employers, the Government and the trade unions prior to the last State election, in what we interpreted to be clearly designed to keep business interests happy in the run-up to the 1985 State election.

The constant criticism which we have made of this legislation and the concepts which it embodies is that, rather than reducing costs to employers, it will increase costs in the longer term and probably even in the short term for some of those employer groups who presently pay lower premiums; they will pay higher premiums in order to subsidise those employers who presently pay high premiums but who, under this legislation, will pay lower premiums. In a sense, there is a trade-off between different classes of employers in the move by the Government to have this Bill passed through the Parliament.

The other difficulty that was expressed concerned the corporation, a single monopoly insurer and a statutory body taking over the responsibility for running the whole workers compensation and rehabilitation system, but I have canvassed those issues at length during the debate in the two sessions in which we have considered this matter, and I do not propose to deal with them at greater length now. Having said that and having criticised the rush in getting this matter back into Parliament seven or eight months after it was last considered and then pushing it through the conference stage to the point that we have now reached, I think it is important to outline briefly the agreements which the conference reports, recognising that, as a member of the conference, I do not support very much of what has come from it, but of course I am bound by Standing Orders in respect of the decision which comes from it.

The decisions of the conference relate to a number of issues. With respect to the first series of agreements, they relate to accidents which occur on the journey to or from work. The concern of the Opposition was that the Government's original Bill was much too wide and allowed deviation from the journey to occur without in any way being related to the employment and without the employer having any control over the employee while that deviation occurs. Notwithstanding that, the conference has agreed to the provision contained in the original Bill, which will enable an employee who travels to and from work and who deviates from the most direct or convenient route to claim workers compensation if injured in the course of that deviation. While we express concern about that provision, we acknowledge that the conference has now reached an agreement on it.

The next series of amendments relate to the definition of 'spouse'. Under the Bill as it was introduced, the definition of 'spouse' was broad; it did not follow the definition in the Family Relationships Act which has been in existence for about 10 years. It sought to provide a mechanism by which the corporation could extend that concept in certain circumstances. As the Bill left the Legislative Council the definition, as it appears in the Family Relationships Act, was the preferred option but, as a result of the conference, an additional amendment has been included which allows the corporation to extend that definition, but only in circumstances where a worker has been cohabiting with another person for a substantial part of a period referred to in the amendment (five years in aggregate over a total period of six years), and provided also that the corporation regards it as fair and reasonable that the other person be regarded as the spouse of the worker for the purposes of this Act.

The next matter, which is not the subject of any recommendation by the conference but a matter to which the Attorney-General has indicated he will give further consideration, relates to the status of judges, Ministers of the Crown and members of Parliament under this Bill. Members may recall that during the course of the debate in February this year I raised the constitutional position of judges, Ministers of the Crown and members of Parliament being subject to direction by the corporation or subject to investigation by inspectors and all the other intrusive aspects of the legislation. As a result judges, members of Parliament and Ministers of the Crown are not included but, in the meantime, until this is implemented, the Attorney-General has indicated that he will give further consideration to the constitutional implications of the Bill, and if any amendments are necessary he will then introduce them in the later part of this session next year.

The next area of amendment relates to the definition of 'average weekly earnings'. The Bill previously contained a provision (clause 3) that the average weekly earnings of a worker entitled to compensation under this Bill would in no case be fixed at more than 2.5 times the State average weekly earnings. As the Bill left the Legislative Council it was 1.5 times the State average weekly earnings, and as a result of the conference that has now been proposed as two times the State average weekly earnings as the maximum which can be awarded to a worker.

The membership of the corporaton is a matter of some concern and presents dilemmas to all on this side of the Council, in particular. As the Bill came before us from the House of Assembly, the corporation comprised 11 members, one of whom was to be the presiding officer; four nominated by the Minister after consultation with the United Trades and Labor Council; and three after consultation with associations that represent the interests of employers, one of whom should be a suitable person to represent the interests of small business, one to be nominated by the employer managed Workers Compensation Association Incorporated (the self-insured employers), and one to be the general manager of the corporation.

The amendments which went from the Council increased that number to 12, removing the general manager and specifically providing that certain bodies should nominate the four employer nominees on the corporation: the Chamber of Commerce and Industry; the South Australian Employers Federation; the Australian Small Business Association; and the United Farmers and Stockowners. However, the real difficulty with that specific nomination is that there are a number of other employer organisations which are not, by virtue of this Statute, entitled to make any nominations, although one may expect consultation: the Metal Industries Association; the Retail Traders Association; the Master Builders Association; the Housing Industry Association; and a whole range of other organisations which represent the interests of employers.

In consequence of the difficulty of leaving some in and some out the conference has accepted that the membership of the corporation should be increased to 14, which is large but nevertheless provides a better opportunity for a good balance of employer and employee interests to be represented on it. We have an assurance from the Minister that in appointing the employer representatives on the corporation he will endeavour to both maintain a balance between competing interests and claims and also ensure some rotation in the representation on the corporation. That is an appropriate way of doing it. The increase in the numbers to be nominated to the corporation, in my view, will allow that wide range of employer interests to be more adequately represented with less prospect of certain interests being disfranchised as a result of the amendments originally proposed by the Hon. Mr Gilfillan. The quorum, incidentally, of that 14 will remain at seven.

The next series of amendments relates to the level of benefits, and, again, this is an area of difficulty for the Opposition, because we do not believe that the benefits should be any higher than those which we proposed at the time the Bill was first considered and about which we maintained our position during the Committee stage in this session.

Nevertheless, both the Hon. Mr Gilfillan and the Government had proposals that were similar, but in terms of figures were apart. The compromise has been struck down the middle. As the Bill left the Legislative Council the level of benefits were to be the first six weeks of incapacity at 100 per cent of average weekly earnings, thereafter for the balance of the first 12 months 90 per cent and thereafter 75 per cent. As it comes from the conference the level of benefits is 12 months at 100 per cent of average weekly earnings and thereafter 80 per cent, which I must say is, in effect, more generous than the Victorian provisions combining both the accident compensation statutory awards and industrial award provisions in that State. It will undoubtedly add to the cost burden of running this whole operation.

A provision exists in the Bill to deal with partial incapacity and the point at which that will be deemed to be total incapacity. As the Bill left the Legislative Council it was one year after which partial incapacity occurred and in the proposals which came from the conference that has been extended to two years.

There was a difficulty with hearing loss. There were disagreements on all sides of the Council as to what was the appropriate description of hearing loss and the means of identifying it. As a result of discussions at the conference the identification of the quantum of hearing loss as a result of employment related activities has been reinstated to the position under the present Act so that employers can test for hearing loss at the point of employment and at the point of any cessation of work or injury sustained at work. The loss can again be quantified and the award is based on that differential of hearing loss at the time of commencement of work and hearing loss at the time of cessation of work. Non-economic loss and common law is again a vexed question.

The Liberal Opposition, as members will recollect, was not at all happy about providing any common law except in circumstances where an employer was found to be recklessly indifferent to safety procedures and that recklessness was the cause of injury or was grossly negligent. That was not to be the majority view of the Council and as a result of amendments proposed by the Hon. Mr Gilfillan the amount of non-economic loss that could be claimed at common law was set at 1.1 times the prescribed sum of $60 000, to be indexed according to the CPI. That 1.1 times has been increased to 1.4 times so that at the base figure it is $84 000 rather than the initial $66 000 as it left the Legislative Council.

The House of Assembly did not insist on its disagreement with the Legislative Council on a whole range of amendments made, some of which were moved by the Government in this Council and some of which were moved by the Liberal Opposition and supported by a majority here. Others were moved by the Australian Democrats and were supported by the Liberal Opposition. Those amendments, quite substantial in number, remain intact in the Bill as it leaves the Legislative Council. So, from the Liberal Party's point of view, there were some gains but overall they are, in the context, minimal. There has been, however, a significant reduction in benefits on the amendments proposed when the Bill first came into the Parliament. To that extent there has been a pulling back of the benefits to be awarded.

Nevertheless, we still see basic difficulties on the principle of the corporation and on the way in which this whole scheme will operate, and we would predict that after the first two or three years of operation we will see considerable difficulty in keeping the premiums, under this Bill, to a level at least comparable with or even lower than what is currently being paid by employers. I believe that in the business community among employers there will be some short-term satisfaction in some quarters but long-term concern about the way in which the scheme is administered. But those predictions have been made and they have been debated, and I believe that now we must rest our case.

There is no doubt that in the eight months since March there has been a lot of wheeling and dealing and debate behind closed doors. The Liberal Party has picked up whispers around the corridors and from what has appeared in the media, but I regret to say that we have not been part of the extensive consultative process and the wheeling and dealing which seems to have occurred in reaching conclusions on this Bill. I regret that very much. This is the forum for that discussion and debate—it should not involve that behind closed doors wheeling and dealing in an endeavour to get the numbers.

So, we are highly critical of the way in which this matter has now been dealt with. Although we do not support the way in which the scheme of workers compensation is now to be administered, quite obviously with the majority of managers having reached an agreement at the conference we have no alternative but to see this pass into legislation and await with interest the results of its application in the community. Of course, we will monitor carefully its administration and will endeavour to keep in touch with the implications of it for the community—not only for employers and employees but for the wider community, in relation to what we predict will be increased costs as a result of the costs of the administration of this scheme having to be passed on to the community.

The Hon. I. GILFILLAN: It is unfortunate that the Hon. Mr Griffin, speaking on behalf of the Liberals, feels that they were neglected. Unfortunately for them they have voted steadfastly against the measure; they voted against it at the third reading stage, and have shown no enthusiasm for this particular method of reform of workers compensation. So, it is no good now, having been disdainful of taking part in any constructive discussion held over the past eight months, to claim that they were not in the bosom of those working very hard to get an eventual formula achieved. I regret that the proposals that the Democrats put forward, which were eventually passed by the Council, concerning levels of pensions, were not accepted in the final draft. We have had concern about the costs of this proposal—and still do.

There are certain substantial improvements however, as a result of the Democrats' Costings Committee and its influence on the Government in the Bill as it was originally introduced. My actuarial advice is that the current satisfactory compromise, in so far as the Houses have at last agreed to a set level of pensions, will put us at a cost roughly equivalent to the present scheme had it been indexed up to current CPI and the mark-ups that would have occurred in the levels of payment.

The benefits in costs by way of premiums and levies to the employers in South Australia will principally come from two ways. First, there will not be a cost for the first week, although obviously the employers who are involved in the first week of actions will pay individually but it will not impact on the general levies. Secondly, the Government's charges, which have been imposts on current premiums of approximately 10 per cent, will be removed. So, there will be relief in the premium level in that context.

We believe there will also be a reduction in the overall cost of the scheme because of the more efficient means with which claims will be dealt and the stimulus for rehabilitation, and for re-employment of injured workers and, from that point of view, we believe that there will be a measureable improvement on the average of premiums paid by employers right across South Australia.

The method of calculating levies on a broad band or industry base will mean that the extraordinarily high level of premiums paid by some industries will not occur unless there has been a history over three years of particularly high claims made in that particular industry. That is for 30 per cent of wages over three years. Even in that case the premium can only be 20 per cent of wages. I am sure that that will reassure many employers that extraordinarily high and punitive premium rates that they may have been asked to pay in the last few years will not exist under this scheme.

The facts are that we are not at a level which gives me confidence that there will be dramatic savings in premiums compared to those that we have been paying on an average throughout industry in South Australia but, compared to Victoria, I believe that we have now got a substantial advantage. In the pensions to those injured employees receiving compensation, the factor of employment will have an immediate impact on the pension paid. In the first two years, if the corporation can establish that an injured worker has not accepted a job or a better paying job that they are deemed to be capable of performing, the pension will be reduced, and after the two year period the onus is reversed and an employee—an injured worker—who is attempting to claim the full pension over and above their capacity estimated by the corporation will have to establish to the corporation's satisfaction that there is no job available for them to take up.

I am convinced, and the committee that advises me is convinced, that that will make a substantial saving on the current situation as it exists in Victoria, where the costs and expenses are going to blow out above their levy level, causing a great embarrassment to the Victorian scheme.

The other aspect of advantage in our scheme compared to the Victorian one is that the Victorian Government was foolish enough to promise a level of levies of 2.4 per cent of the wage, which was just not sustainable. Fortunately, this Government has not been as foolish and I, for one, will be watching very closely that the premiums, the levies set, will reflect the real cost of the scheme. That may mean that employers are paying higher premiums in the earlier years than those promised to Victorian employers, but I am sure they will appreciate it and realise the good sense of it.

I regret sincerely that the direct representation of the rural community—the UF&S and the small business employer section in South Australia—has been deleted from the board. I believe that they had a particular right to be represented because of the uniqueness of the form of employment that they offer. The neglect of their particular needs by both the Opposition and the Government in refusing to allow them to have direct nomination to the board is regrettable and will leave them feeling deserted in regard to the representation of their interests on the board.

Although this may have been predictable, I regret that the Opposition also opposed there being a rehabilitation representative on the board. The Democrats are convinced that one of the major operations in the years ahead of this corporation will be encouraging and effectively implementing rehabilitation. It was a very shortsighted and quite inexplicable attitude of the Opposition that it wished to have no-one directly representing a rehabilitation skill on the board.

To the best of my knowledge, the Bill, as eventually passed, does not retreat from any of the benefits that are currently available for injured workers (and I believe that this is recognised in general), except in respect of a heart condition. Where there had been a coronary heart disease condition, the Government was intent on making that an automatic condition responsible to the worker's occupation so that it would immediately become a compensable condition. The Democrats do not apologise for having opposed that. There are many causes of heart disease, one of the most prominent being smoking, and we saw no reason why a workers compensation scheme should automatically be saddled with a cost of maintenance of people who have damaged their health through excessive smoking, so we considered that it must be proved that the deteriorated heart condition resulted directly from the workplace.

That is all I wish to say at this stage. It has been a long and tortuous exercise for many people to get this Bill eventually passed in its current form, but the Democrats feel that the justification for the delay is beyond argument and that South Australian employers will be massively better off to the tune of millions of dollars a year because the Bill that is currently before members has considerably lower compensation costs than had the unrealistic, utopian and counterproductive scheme that the Government introduced in its original Bill.

I shall be pleased when the Bill is passed and the corporation is working. I trust that it will then have the cooperation of all involved. We all hope that this legislation has a long and successful contribution to make in South Australia.

Motion carried.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

The House of Assembly intimated that it had insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

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

That the Legislative Council insist on its disagreement to the House of Assembly's amendments.

Motion carried.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons. H.P.K. Dunn, K.T. Griffin, J.C. Irwin, C.J. Sumner, and G. Weatherill.

A message was received from the House of Assembly agreeing to a conference, to be held in the House of Assembly conference room at 5 p.m. on Friday 5 December.

TOBACCO PRODUCTS (LICENSING) BILL

In Committee.

(Continued from 3 December. Page 2657.)

Clause 3—'Repeal of the Business Franchise (Tobacco) Act 1974.'

The Hon. C.J. SUMNER: Allow me to say, after the fracas that developed the other night, that I am quite happy to pursue questions on this Bill in this Parliament as long as the Opposition wants to do it. That was my position when the matter was debated previously in Committee. If it wants to stay this evening or come back next week, I am perfectly happy to allow members the time. What I do want to emphasise, however, is that when the matter was before the Council on the last occasion, I brought it on quickly because I was advised that the matter would take a very short time and therefore we could deal with it. If it was to take a long time, I would not have brought it on and we could have proceeded in a more orderly way with the business. That is the situation, and I am perfectly happy now for the matter to proceed.

I should say that on a review of *Hansard*, I affirm that, quite correctly, in my second reading reply I addressed the concerns of the Hon. Mr Gilfillan. I also addressed the answer to the question that had been given by the Premier to Mr Evans, and I said quite clearly:

> The obligation does not arise at or before sale but rather when or before the customer leaves the shop.

That is what I said—long before the Hon. Mr Lucas decided to launch into his speech on the topic. I had made it clear well before we entered Committee stage. Furthermore, having perused *Hansard*, I point out that there is no doubt that, in reply to the Hon. Mr Lucas when he asked:

> I refer to the statement of the Premier that I have quoted and ask the Attorney whether that is the effect of the legislation?

I said:

> No.

In other words, I said that what the Premier said was not the effect of the legislation. The Premier corrected that subsequently. Furthermore, on examination of the *Hansard*, my interpretation of what the Premier said is that he did in fact correct it. That is water under the bridge, but I do wish to make the point that I clearly answered the Hon. Mr Gilfillan's question in the response that I gave in the second reading debate. I clearly said that the Premier's statement of his view of the effect of the legislation was not correct. I believe also that he corrected that subsequently in the House of Assembly. As I said, that is now water under the bridge.

A number of issues have been raised by the Hon. Mr Gilfillan. I am happy for those issues to be raised and debated. He raised the question of enforcement in a form of legitimate debate. At one stage he referred to a provision being idiotic; that was taken up by the Hon. Mr Lucas with great glee. If we are to have an impost or tax on cigarette and tobacco consumption, or if we are to have any impost or taxes, surely a tax or impost on tobacco consumption (or, if one can do it in some other way, on tobacco) is more desirable than others, because it is quite clear from all the medical evidence that exists except that which comes from the Tobacco Institute that there is a direct relationship between the smoking of tobacco and health problems. I do not think that anyone in this Chamber would wish to deny that. So, if there is to be an impost or a tax, surely an impost on tobacco (in this case, tobacco consumption, which is the proposition put forward by the Government because of the limitations of the Australian Constitution) is a desirable impost.

If members do not believe that there ought to be any taxes or any imposts by Government, that is a position that can be argued, but it seems to be hardly a sensible or sustainable argument in modern Australia and, therefore, taxes and imposts of some kind are necessary and, if one is to have them, surely there is greater justification for having an impost on tobacco products as opposed to many other taxes, because of what I believe to be the clearly established relationship between tobacco consumption and health problems with the enormous costs that they impose on the community. Apparently, Mr Philip Satchell thinks that that cost is borne exclusively by the Federal Government, but that overlooks the fact that the health budget is about $800 million.

If one makes a decision that a tax or impost on tobacco or tobacco consumption is as desirable as, or indeed more desirable than, any other sort of impost, then one has to work out how it is to be done. In South Australia, up to the present time it has been done in a certain way (namely, by a franchise system). Because of the actions of one trader in seeking to exploit a loophole, unless action is taken, the collections on tobacco in some form or other, whether it be consumption or otherwise, are under threat; therefore, the revenue to the State is under threat. It is not just a threat in South Australia: it is a threat to every State in the Commonwealth (apart from Queensland) which has decided to put some kind of impost on tobacco in some form or other.

The Government has had to grapple with that situation. The Premier has said that he regretted the legislation. I can assure members (whether or not they want to know it) that it is an incredibly difficult issue. The Government has taken action which it believes will protect those basic policy objectives. If members opposite do not believe in those objectives, then let them come out and say so.

If they believe in them, let them then come out and make some kind of reasoned analysis as to how they will deal with the problem. To date they clearly have not done it. I indicated in my second reading reply the problems of the proposition of honourable members opposite. Victorian enforcement provisions we already have. In Western Australia they do not necessarily believe that what they are doing is the solution. Statements that this is an idiotic provision do not advance the debate at all. Honourable members opposite have to determine whether they are in favour of the broad policy objectives that I have outlined. If they are, surely they have to start sitting down and thinking in a constructive way as to how to deal with it.

The Premier said before that he regretted the fact that this action had to be taken, but on the Government's legal advice this was now the best, if not the only, way to go. If there are further questions, let us attempt to answer them. On file is an amendment under my name that honourable members may be prepared to consider now. However, if they wish further time to study it, we shall facilitate that. I think the Hon. Mr Gilfillan will move the amendment.

The Hon. R.I. LUCAS: In the interests of harmony I will not backtrack over Wednesday evening. Suffice to say that my views are recorded in *Hansard* and are clearly different from those of the Attorney and his outline of the events of Wednesday night. However, there is one substantive issue which relates to the overall legal advice on how the Act

hangs together. I want to provide to the Committee a copy of a legal opinion on this matter.

The Attorney-General's advisers have indicated that this issue is not clear cut and we could have arguments both ways. The Attorney's argument is that many constitutional lawyers would say the Business Franchise (Tobacco) Act would create problems it went to the High Court. However, if this legislation is passed I believe the Attorney feels that its prospects in the High Court would be somewhat improved. I do not know whether or not that is a fair summation of the Attorney's argument. I want to provide new material regarding legal opinions.

The Hon. C.J. Sumner: We will have a look at them.

The Hon. R.I. LUCAS: I will read it.

The Hon. C.J. Sumner: Who's it from?

The Hon. R.I. LUCAS: I am going to tell you. Because of the lateness of the hour and the fact that I have had to get material faxed through from Sydney this morning, the material is only in that form. Legal opinions were sought by the Tobacco Institute of Australia.

The Hon. J.R. Cornwall: Oh!

The Hon. R.I. LUCAS: Let me say, after the sniggering from the Hon. Dr Cornwall, that in the interests of harmony I will not respond. All I am saying is that the Tobacco Institute is not entering the debate on this issue. It has sought a legal opinion, and the legal advisers have provided me with a copy of the opinion as another opinion on the whole question of tax. It is not to be interpreted necessarily as the view of the institute in any way. I am not in a position to say what its view is.

The Hon. C.J. Sumner: Can we see the whole opinion?

The Hon. R.I. LUCAS: No; you cannot because I have only had time to get the faxed material. You can see as much as I have got. First, the material quotes an opinion from eminent counsel Bob Ellicott QC and Hayden, a company in Sydney, and a further opinion from a company with which I am not familiar (the Attorney may be) Anisimoff Davenport and Company, of Sydney. They are two separate legal opinions: one from an eminent QC—Bob Ellicott—and the Attorney would be familiar with him, and the second from a Sydney legal firm. I will read what I see to be the operative parts of the opinions and I will be seeking a response from the Attorney. As I said, I am not a lawyer. All I can say is that the Attorney has conceded that there are differing views on the effects, if we get to the High Court, of this legislation.

The Attorney's view obviously gives one side of the legal argument. All I am saying is that here is another argument for the Committee to think about, and I will be seeking a response from the Attorney. The material that I have before me, from Bob Ellicott, states:

> A recent opinion from counsel (Messrs Ellicott QC and Hayden) suggested that the mounting of a section 92 challenge would provide a good platform from which to mount a section 90 challenge under the Australian Constitution against the whole of the tobacco franchise tax. Section 90 of the Australian Constitution states that the Federal Government alone may impose a duty of excise. A duty of excise is a tax on the production or distribution of a product. The tax levied upon a licensed tobacco merchant under the new legislation is calculated in the same manner as that calculated under the previous South Australian Business Franchise (Tobacco) Act 1974. The opinion from counsel was that it was more likely than not that the High Court would uphold the constitutionality of this tax on the basis that the State Governments had, in the past, arranged their revenue raising activities in reliance on previous decisions of the High Court.

The Hon. K.T. Griffin: That opinion is that an appeal would be upheld?

The Hon. R.I. LUCAS: Yes, that it would uphold the constitutionality of the tax. That is one opinion, and there could be many opinions. This opinion continues:

> Although from a strict legal point of view the tax would appear to be unconstitutional, the practical situation was that the High Court would be reluctant to overturn the tax. However, if there was sufficiently distinguishing aspects of the case (such as an element of section 92 unconstitutionality) then the High Court would be more likely to overturn the constitutionality of the whole tobacco tax legislation in South Australia.

That is the critical part of the opinion from Ellicott that, if there is an additional element of section 92 unconstitutionality, for example, then the prospects of the whole tax being thrown out in the High Court—not just what we are talking about now—would be improved. I continue to quote:

> This would then undermine the constitutionality of the tobacco franchising legislation in the remaining States of Australia.

Further, another lawyer to whom I have spoken suggests that if that were to occur then the whole question of business franchise taxes—not just tobacco, as it was put to me (although I am not a lawyer)—could well be brought into question. If tobacco was thrown out in the High Court, the Government's taxes in relation to other franchise taxes may go as well.

I further quote from legal opinion that I have received—this comes not from Mr Ellicott, QC, but from a legal firm—referring to the legislation that we have before us at the moment:

> In theory, therefore, tobacco merchants would be free to sell intrastate tobacco subject to the legislation and would also be free to sell interstate tobacco without the requirement to pay any tax provided that they complied with the restrictions contained in Part III of the Act.
>
> In practice however, a merchant would have great commercial pressure not to follow this course; in fact he would do either of the following:
>
> 1. Not sell interstate tobacco at all because of the administrative complications and, further, if he remained unlicensed he would only be able to sell to licensed consumers;
>
> or
>
> 2. Treat interstate tobacco as intrastate tobacco and voluntarily pay tax on this tobacco.
>
> In my opinion it is arguable that the commercial dilemma presented by the legislation would be considered so burdensome that a court would likely consider it an unwarranted interference with the freedom of interstate trade and commerce and accordingly unconstitutional under section 92 of the Constitution . . .
>
> In summary therefore, the key element is the commercial pressure being placed on the tobacco merchant to either not deal in interstate tobacco or to pay the tax on it as if it was intrastate tobacco. The practical effect is therefore a severe burden on the freedom of interstate trade and commerce. In other words, it would be totally impractical for the tobacco merchant to deal as an unlicensed tobacco merchant with respect to interstate tobacco and a licenced tobacco merchant with respect to intrastate tobacco.

I am quite happy for the Attorney to look at this faxed material. I do not want to delay the proceedings of the Committee any longer than I have to. As a non-lawyer, I am reading what appears to be the important parts. The final paragraph that I wish to quote is as follows:

> The strength of the section 92 case is so strong that if challenged before the High Court it could bring into question the constitutionality of the entire concept of a State Government imposing a tax upon the production or distribution of cigarettes under section 90 of the Australian Constitution. Section 90 provides that only the Federal Government should impose a duty of excise. In the past, the High Court has been unwilling to overturn this legislation even though most constitutional lawyers agree that current tobacco business franchise legislation is unconstitutional. The High Court may be prompted to embrace this view if the case was presented with a particular distinguishing feature, such as an element of unconstitutionality under section 92.

That is a reiteration by this legal firm of the section of the opinion from Bob Ellicott, QC. I put it on record for what it is worth. I point out again that I am not a lawyer or a constitutional lawyer. All I am saying at this time is that the Attorney has conceded that there are doubts about what would happen once we got to the High Court—if and when we got to the situation of having to fight the case in the High Court. I think the Attorney indicated that one person

or company in South Australia had already given notice of an intention to take that course.

I do not know how much we are saving by this legislation, but, in trying to save a handful of millions of dollars, or whatever it is, if we get to the High Court (and if this legal opinion is correct), it appears to me that the whole $40 million that we currently get from the tobacco business franchise tax might be struck down by the High Court. If the further legal advice that I have received verbally is correct, if the tobacco business franchise tax is struck down, other business franchise taxes, which I understand contribute another $50 million to State revenue, would possibly be struck down, under the same legal interpretation. So, possibly $90 million is at stake, if that sort of legal opinion was to be correct, as opposed to the position if the legal opinion from the eminent persons (and this is no criticism of the legal opinion that the Attorney has got) proves to be incorrect.

I am not in a position to know, but it is obviously a high risk game that we are playing. To cut off the amount of revenue that we are talking about in this tax, we get ourselves into the high risk business of going to the High Court to save this amount of money and find that the whole lot is struck down and we lose $40 million or $90 million because the whole concept of a franchise tax is struck down in the High Court if this legal opinion is correct. Has the Attorney received any legal advice at all from his legal advisers that there is some chance if we end up in the High Court that the circumstances that I have outlined to the Committee could occur? I am not arguing probabilities. I know that the Attorney will say: obviously, the best legal advice says it will not occur. I want to know whether the Attorney has received any legal advice that says there is a chance that this might occur in the High Court.

The Hon. C.J. SUMNER: The problem with the honourable member is he tries to make simple what are fairly complex issues, and tries to put into my mouth answers which it is just not possible to give in simple or indeed direct terms, for that matter. The honourable member can now perhaps put on another one of his turns, but the fact of the matter is that, when dealing with issues like this, there are some constraints. The first constraint is, I suppose, if I express a view here one way or the other about the legislation it may end up in the High Court. If I express a view about a particular factual situation, my views may end up in the High Court.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That is the problem. The advice may end up in the High Court.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That is why I tried before on the beverage container legislation to provide confidential advice, although it did not remain very confidential as it turned out.

An honourable member interjecting:

The Hon. C.J. SUMNER: Well, it did and it did not. First of all, that is a problem, and, with the beverage container legislation, I had to explain certain things, but perhaps hopefully the High Court would not give any particular weight to an expression of opinion across the Chamber. It may give weight to an expression of a factual situation or an expression of opinion applied to a factual situation if that were announced by a Government representative in the Parliament.

So, the first problem—and we had it with the beverage container legislation—is that to some extent I am constrained in the extent to which one can directly answer the honourable member's question. The second constraint clearly is that there are different views on this issue. There are different legal views, and there are different views in the High Court. As I said the other day, some judges in the High Court on the section 92 point have indicated that they may change their view, which of course then throws the whole thing into the melting point again, one way or the other. Because the High Court is being dealt with in a sort of politico-legal area, if you like, the area of speculation is increased so much more, particularly with respect to such difficult areas as section 90 and section 92. As I said in my reply, the problem with respect to fuel franchise or franchise schemes could be overcome—not necessarily the section 92 problems—by a referral of powers to the States so that they had a broader capacity to impose an excise, but they have not got that at the moment. I am not sure whether the Hon. Mr Ellicott has expressed an opinion on this Bill. It sounds from what he said that he did not.

The Hon. R.I. Lucas: No.

The Hon. C.J. SUMNER: Well, that is an interesting point.

The Hon. R.I. Lucas: I said that.

The Hon. C.J. SUMNER: I am not suggesting that the honourable member did not say it, but I am reaffirming that that is an interesting point, because what we have is an opinion on this Bill, this scheme of the Government, with respect to section 92. I have said in the Council previously—

The Hon. R.I. Lucas: Sections 90 and 92.

The Hon. C.J. SUMNER: Yes. I have said in the Council that this scheme may be challenged. We understand that one trader has announced his intention to challenge the measure, to go to the High Court. The fact that someone has announced his intention to challenge probably means that an argument can be put forward about it. In practical terms, our problem at present is that, with respect to cigarettes in particular, the honourable member has tried to make it out as being a handful of millions—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It may be a relatively small amount at present, but the potential is very significant. Therefore, one must try to take some action that will overcome the difficulties and, despite the Government's not being particularly enthusiastic about the means, it has decided that, within the limitations of the Constitution, this is the action that can be taken. That does not say that the action will not be challenged. We have heard that it may be challenged: we will then be in a position to have to defend the legislation in the High Court.

If, as the honourable member says, the challenge is successful in the High Court, then obviously, as I said, there are grave implications for every State in Australia. But that would occur irrespective of whether there was a challenge under this legislation or a challenge under the franchising scheme.

The Hon. R.I. Lucas: The question is whether this makes a challenge more likely. That is the difference.

The Hon. C.J. SUMNER: No, and I do not think these people know the full ramifications of the case. It is all very well to express an opinion *in vacuo* without necessarily knowing the full facts of the situation. In our view, there is a better chance that what is before us now will be upheld than our being able to use the franchise system to control in some way the flow of cigarettes into Australia without duty.

The Hon. R.I. Lucas: What do you do as a State Government?

The Hon. C.J. SUMNER: We would then be in terrible, desperate trouble, as every State Government has known for years and years.

The Hon. R.I. Lucas: Could they strike down South Australia and not the other States?

The Hon. C.J. SUMNER: They could strike down only the legislation before the court, but clearly, if that goes down, everyone else around Australia will challenge it and there will be a disastrous situation. As I said, everyone who has studied the Constitution and the problem in recent times has decided that these schemes that the States have had to use, such as the franchise scheme, are not desirable. One needs a more explicit method of raising revenue. I believe that one of the impetuses of the Constitutional Convention (if my memory serves me correctly) back in 1973 was the expression of concern about this area.

At that time it was promoted by a Victorian Liberal Government. It has been debated time and time again at constitutional conventions. We had an opportunity to do something about it at the last Federal election. The referendum on interchange of powers would have enabled the Federal Government to refer powers on that topic to the States for those that wanted it, but that was lost, despite the fact that it was supported by most people and political Parties at the Constitutional Convention. The problems relating to the franchise system are nothing new. They have been recognised; they are always subject to challenge.

The problem that we have with cigarettes particularly is that they are small, so they are much more easily transported across the border. Petrol is a little more difficult. I do not think that we really basically dispute what Mr Ellicott said. I do not want to give that as a considered view because, as the honourable member knows, I have not seen that statement. We do not concede that what is contained in this Bill constitutes an unwarranted burden on interstate trade in terms of section 92 but, presumably, if someone challenged the legislation, that would be one of their arguments; we know that. At the present time, in relation to cigarettes in particular in South Australia, because of the method that is used to bring them from a State that does not impose any kind of impost on cigarettes, the existing franchise on tobacco in our view is deficient. If that scheme proceeds in other areas, then the whole franchise scheme is at risk.

I do not know whether or not that has answered the honourable member's question, but it is a very difficult area. There are some aspects of those opinions with which we disagree and I only say that having heard them without having studied them in detail, but obviously a number of statements there reflect the sorts of issues with which we are involved.

The Hon. R.I. LUCAS: I will not pursue this at any length. Obviously, the Attorney says that he cannot directly respond to the question that I put because the views that he expresses in this Chamber may end up in the High Court. The information available to me from within legal circles in South Australia (without being specific) indicates that there have been suggestions that the prospects of the matter being struck down after this legislation passes are as high as 50-50 and it is no better than that.

The Attorney-General has said that he believes he cannot indicate any further than he has done in this Chamber and so be it. I am concerned that this legislation, which is supported by the Government and the Democrats, may well, in my view, if this opinion is correct, jeopardise our whole business franchise tax system and that we may well find ourselves at some time in the future, when trying to put our finger in the dyke of this loophole, losing somewhere between $40 million and $90 million. I am not a constitutional lawyer and I hope I am wrong and that the Attorney-General's advice is correct. It has been put to me by another lawyer that a tax was struck down. The Victorian Government placed a tax on the Esso pipeline, I think it was.

When that tax was struck down, the advice given to me is that it was made retrospective. The Victorian Government then found itself liable for (I think) over $100 million, which had to be repaid. If the legislation were to be struck down here—and without asking the Attorney to say whether or not he thinks it will be—could it be made retrospective, thereby creating an additional problem for not only South Australia but other States in relation to revenue already collected as per the example with Esso and the Victorian Government?

The Hon. C.J. SUMNER: Frankly, I do not think it is really appropriate to comment on that. That matter will have to be argued out. To comment at this stage would not be wise. Suffice it to say, if I understand what Parliamentary Counsel is saying, it is not likely to be a problem, according to what he believes. I will respond to the honourable member's first question. The honourable member mentioned that the chances of the legislation being struck down were 50/50. We believe that there is a good prospect of success with this legislation; or we would not be proceeding with it. If there were no prospect of success, why would we be doing it?

The Hon. L.H. Davis: Look at the beverage container legislation.

The Hon. C.J. SUMNER: It is all very well to introduce that. We have had that debate, but members opposite did not seem to take it very seriously.

The Hon. L.H. Davis: It's a valid comparison.

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: It is not a valid comparison at all.

The Hon. L.H. Davis interjecting:

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: There is absolutely no comparison between the two situations. I am not sure why the honourable member insists on being irrelevant again. That is the view. One must rely essentially on one's legal advice, the factual situations that we are presented with. Obviously members opposite have not really had much to do with the law over the years—and that may be a problem.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: That may be; I agree. In fact, over the past few years perhaps I would have preferred to have much more to do with the law instead of being in Parliament. However, I will not go into the reasons for that. Nevertheless, I can answer the honourable member's question to this extent: we believe that there is a good prospect of success in upholding the scheme. We would not have proceeded with it otherwise. A number of other options were canvassed, all of which we decided not to proceed with. At the beginning of his remarks I think the honourable member said that there was no problem with the franchise system operating on tobacco.

The Hon. R.I. Lucas: Me?

The Hon. C.J. SUMNER: Yes, that is what the Hon. Mr Lucas said when he quoted the opinion of Mr Ellicott.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: He gave the view that it would be sustained—not struck down; even though technically not constitutional, the High Court would not strike it down.

The Hon. R.I. Lucas: I am sure that he would accept that there is a problem, but he gave a view.

The Hon. C.J. SUMNER: All right. The problem with that, and the problem that we are faced with here, is that the franchise system overcomes section 90 problems (as currently interpreted by the High Court) and allows us to impose the franchise fee in the way we do on tobacco and liquor. However, that is not the problem in this case. The problem is not section 90—the imposition or otherwise of an excise—but rather section 92. The franchise system is fine as far as intrastate freight is concerned. The big question with which we must deal is whether it is effective with respect to interstate traders.

The Hon. R.I. Lucas: Ellicott is saying that if you open up section 92 and you get into court you open up the whole question of section 90. He is saying that if you do not get into court you do not play with fire.

The Hon. C.J. SUMNER: That is all very well for Mr Ellicott and members opposite. In the meantime, what do we do? The Liberal Party has called for action.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: It has now backed off action. The grounds are shifting. In the other place, and maybe here, honourable members opposite called for action. Now that action is taken, the tenor of the Hon. Mr Lucas's statements is that perhaps we ought not to take action because we might threaten the whole of the franchise scheme.

The Hon. R.I. Lucas: We are saying that we should think through the action that we are taking. That is all we are saying.

The Hon. C.J. SUMNER: I am happy to think it through. Indeed, I can assure the honourable member that the matter has been thought through.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: The honourable member interjects on another matter that is quite irrelevant.

The Hon. L.H. Davis interjecting:

The CHAIRPERSON: Order! Interjections are out of order.

The Hon. C.J. SUMNER: It seems that there is a shift of ground. One minute honourable members want the legislation. When they get it, they decide that perhaps it is better not to proceed with it because it may have an effect on other revenue raising capacities. That is a shift of ground.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Perhaps the Hon. Mr Lucas is running his own race and not expressing the view of the Liberal Party. If he is responding to what Mr Ellicott has said, the problem is not a section 90 problem but a section 92 problem. What do you do? Do you allow the situation to proceed as it is? The franchise scheme can be challenged at any time. This will not necessarily result in the High Court taking a different attitude on the franchise scheme. With respect to what Mr Ellicott said, it is difficult to disagree. He did not express a completely firm view in any event. Did he address this scheme?

The Hon. R.I. Lucas: No.

The Hon. C.J. SUMNER: We did not agree with the opinion of the other solicitors that this scheme was an unwarranted burden on interstate traders. With respect to Mr Ellicott's view, it is legitimate, but it does not address the problem that we have here, which is not the franchise system but its applicability to other than intrastate traders.

The Hon. R.I. LUCAS: I have one comment on this matter. On retrospectivity, verbal legal advice that I have had from persons in legal circles in South Australia is that the possibility of retrospectivity exists in this matter. We are talking high risk. We are talking not only about the whole business of franchise legislation possibly but also about retrospectivity in relation to a High Court decision regarding the Victorian Government. It is a further argument for both Government members and Democrats to think seriously about their decision to support what is a high risk option. As I indicated earlier, it has been put that it is no greater than a 50-50 option. When it gets to the High Court via this unnamed person, the whole lot might be struck down. We are really talking big bickies, if that is to be the case.

Clause passed.

Clause 4—'Interpretation.'

The Hon. R.I. LUCAS: In relation to the definition of 'consumption', the question has been raised with me as to whether it will mean that—together with other aspects of the Bill—when tobacco manufacturers, distributors, wholesalers and retailers provide, as they do, cigarettes to staff, will they require a licence under this legislation?

The Hon. C.J. SUMNER: If they are obtained from a licensed tobacco merchant, they will not need a licence: if they are not, then they will need one.

The Hon. R.I. LUCAS: Will the effect of this legislation change the existing situation in relation to the purchase of duty free cigarettes at Adelaide Airport or duty free shops in Adelaide by international travellers? It has been put to me that there is no exemption under this legislation for that and that the existing arrangements in relation to duty free cigarettes will be significantly changed by the Government's legislation. I ask the Attorney-General for a response to that.

The Hon. C.J. SUMNER: I understand that most of the retailers at the airport do pay a fee—

The Hon. R.I. Lucas: A tobacco franchise fee?

The Hon. C.J. SUMNER: Yes. If that is not the case, the issue may need to be given attention.

The Hon. R.I. LUCAS: I am not an expert in this area but the question has been raised with me that there is a problem in relation to that area and that it has not been covered by the legislation. Therefore, I leave it to the Attorney and his advisers.

The Hon. C.J. SUMNER: I thank the honourable member for bringing this matter to Parliament's attention. I understand it can be resolved by an exemption under the regulations. The ever creative Parliamentary Counsel has provided this advice.

The Hon. L.H. DAVIS: I draw to the Attorney's attention that such a question was asked in another place and the answer given was somewhat different. The Hon. Mr Golsdworthy gave an example of a person using the international airport as a place to buy cigarettes. The Premier said in response:

> It will be all right as long as they do not smoke them, otherwise they would be liable to the laws of the State.

We have a situation applying both to people (residents of South Australia) leaving the country and to people who are not residents coming in and buying what could be said to be duty free products and who could be caught under the legislation. The suggestion made in another place is that they would be trapped.

The Hon. C.J. SUMNER: That is not inconsistent with what I said. If they are currently licensed, there is no problem. I said in reply to the previous question that if they are licensed—and we thought that most of them had been, at least until the present time—there is not a problem. If they are not licensed, what the honourable member says is correct and what I said is correct, namely, that the problem would have to be addressed and it can be addressed, as I am advised by Parliamentary Counsel, by an exemption under the regulations.

Clause passed.

Clauses 5 to 7 passed.

Clause 8—'Unlawful consumption of tobacco products.'

The Hon. L.H. DAVIS: It seems extraordinary that, for an offence breaching the provisions of this clause involving a person consuming a tobacco product without holding a consumption licence, the penalty is $200—that will be for one packet of cigarettes—yet a person holding what could be the equivalent of 10 packets of marijuana—less than 100 grams of marijuana—would be pinged for only $50. Does the Attorney care to respond to that observation?

The Hon. C.J. SUMNER: The two are not comparable situations. Smoking marijuana is illegal *per se*. It is not regular—there is no revenue; we cannot get revenue from it because it is not legal. If the honourable member wants to make marijuana smoking legal and tax it, he would probably do all right.

The honourable member is comparing chalk with cheese. This is a different situation; smoking is legal. What we want to do, because of the health disadvantages of smoking, is to ensure that those who smoke cigarettes pay a consumption licence if they get the cigarettes from a non-licensed trader.

The Hon. L.H. DAVIS: The penalty attaching to the legislation is for the consumption of the tobacco product. The purchase of the tobacco product *per se* if the legislation has been properly complied with is not the problem, the consumption of the product will attract the penalty. Therefore, we have a situation where someone may purchase the tobacco product and will not have committed an offence at that point, and will only have committed an offence at the point of consumption. I am interested to know how the Government sees its ability to police that difficulty—of how it actually apprehends people not at the point of purchase but at the point of consumption. Has the Government considered how it will police the measure? How much does it estimate it will cost to police it?

The Hon. C.J. SUMNER: The honourable member raises a question of enforcement. There are no powers in the legislation to enter people's homes and the like; that is not contemplated. The enforcement of it will be carried out principally at the site of a non-licensed trader.

Clause passed.

Clauses 9 to 14 passed.

Clause 15—'Declarations to be obtained from purchasers.'

The Hon. I. GILFILLAN: I move:

Page 10, after line 39—Insert subclause as follows:

(4) A purchaser of a tobacco product who is requested by an unlicensed tobacco merchant, or a person acting on behalf of an unlicensed tobacco merchant, to sign a declaration in a form prescribed by schedule 1 and who takes the tobacco product from the tobacco merchant's premises without signing such a declaration is guilty of an offence.

Penalty: $2 000.

Although this amendment is on file in the Attorney-General's name, I do not have any sense of propriety about it. I feel it helps the situation which perplexed me, that the original Bill appeared almost to be impossible of achieving a conviction. I believe that the amendment enables those who are actually charged with the responsibility of implementing something of consequence from this Bill to have a chance of securing a successful prosecution.

I take this opportunity to say that I hope that the measure, as it appears in its final draft, will be a sufficient deterrent to stop the avoidance of paying a fair State tax on tobacco. I hope that this measure acts as a sufficiently substantial deterrent so that consumers will be persuaded not to purchase from these outlets and that the outlets will find it more profitable to comply with the reasonable standards that other retailers comply with.

The Hon. C.J. SUMNER: This problem, related to enforcement, was identified on the last occasion when the matter was debated and when a similar proposition was suggested by the Hon. Mr Gilfillan, and the Government does not object to it.

The Hon. R.I. LUCAS: The amendment requires the purchaser to sign a declaration form, and if one takes a tobacco product from a store without having signed the form, one is guilty of an offence. I ask the Hon. Mr Gilfillan, what happens if I, the customer, signs the form but refuse to give it up and walk off the premises?

The Hon. I. GILFILLAN: I assume that if you have the form with you, signed, and someone challenges you on the ground that you have breached this provision, then you would have your defence in your hand. From the draft of the form that I have seen I think there is a place for the date and a signature. I do not have the draft with me, but I have seen the prototypes for the schedule.

The Hon. R.I. LUCAS: I want to place on record that I consider that this does not resolve the problem. As a customer, I could go into a store, sign the form before I take the product off the premises, and thus comply with the requirements of this provision, but there would be no compulsion on me to hand over the form or to show it to anybody; I could walk off the premises with the tobacco product and with the declaration form. There is no further provision in that respect at all; thus we are back in the same situation that we were in before. So, in relation to this amendment of the Democrats supported by the Government, I see a loophole, again—a further instance of what I see as being significant problem areas with the legislation. If the Government and the Democrats pass this provision, so be it, but in my view it does not close the loophole at all.

The Hon. I. GILFILLAN: I think there is one other advantage of the amendment, namely, that there is an obligation on the unlicensed tobacco merchant to return to the Commissioner all declarations obtained by the merchant.

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: He or she can, but then that obviously means that the customer has committed an offence, of which that person will be guilty when he/she leaves the premises.

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: Yes, because they will not have a prescribed form.

The Hon. R.I. Lucas: The honourable member should remember that he asked a question on Wednesday night as to whether the merchant could compel the person to do something, the answer to which, basically, was 'No'. It is only if an inspector comes along; the inspector has all the powers to do that.

The Hon. I. GILFILLAN: I am just making it plain that, under this amendment, the purchaser will commit an offence if he or she leaves premises with a tobacco product without having signed the prescribed form.

The Hon. R.I. Lucas: One can sign it on the premises and then go off with it.

The Hon. I. GILFILLAN: I am not all that fussed about it. The tobacco merchant who will have to send in his forms will be pretty keen to get his hands on them. Frankly, I think the honourable member's criticism is irrelevant.

The Hon. C.J. SUMNER: I agree with Mr Gilfillan.

Amendment carried; clause as amended passed.

Clauses 16 to 20 passed.

Clause 21—'Appeals.'

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

Page 12, lines 27 and 28—Leave out subclause (2) and insert subclauses as follows:

'(2) The Senior Judge may appoint one or more District Court judges to be members of the Tribunal.

(2a) The Tribunal will be constituted of a single judge for the purpose of hearing and determining an appeal and, as so constituted, the Tribunal may hear and determine separate appeals simultaneously.'

This amendment deals with appeal procedures and enables the Senior Judge of the District Court to appoint any District Court judge to constitute the tribunal.

Amendment carried; clause as amended passed.

Remaining clauses (22 to 33), schedules, preamble and title passed.

Bill read a third time and passed.

[Sitting suspended from 6.19 to 8.10 p.m.]

WORKERS REHABILITATION AND COMPENSATION BILL

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

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

At 8.10 p.m. the following recommendations of the conference were reported to the Council:

As to Amendments Nos 1 and 2:

That the House of Assembly do not further insist on its amendments but make the following amendments in lieu thereof:

New Clause—Page 12, after line 34, insert new clause as follows:

12a. The following section is inserted after section 96 of the principal Act.

97. The tribunal may grant an application to be licensed or registered under this Act notwithstanding that the applicant has not passed the examinations or obtained the educational qualifications required by this Act if, in the opinion of the tribunal, the educational qualifications that the applicant does have are sufficient to justify granting the application.

and that the Legislative Council agree thereto.

As to Amendment No. 3:

That the Legislative Council do not further insist on its disagreement.

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

Consideration in Committee of the recommendations of the conference.

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

That the recommendations of the conference be agreed to.

The major issue in dispute here was how persons without qualifications prescribed in the regulations could be permitted to be licensed in South Australia as a land agent, valuer, etc., if they had qualifications that were satisfactory or equivalent to those in our regulations, but who did not technically fall within one of the categories in the regulations because they had obtained them overseas or interstate. This agreement now enables the Commercial Tribunal to grant an application if it is satisfied that a person has educational qualifications that are sufficient to justify granting the application, even though they may not technically be in the regulations. Obviously, the great majority of people who apply will have a qualification that is in the regulations and there will not be any difficulty, but it is to cover the exceptional case.

The Hon. K.T. GRIFFIN: I support the motion. The way in which we have now dealt with this is preferable to regulations and the conference was able to resolve that without any difficulty. I am satisfied that, now that the jurisdiction is with the tribunal, we do not have to worry about what may or may not be prescribed in regulations. I think it is a good resolution of the problem.

Motion carried.

INDUSTRIAL CODE AMENDMENT BILL

At 8.19 p.m. the following recommendations of the conference were reported to the Council:

As to the Amendment:

That the Legislative Council do not further insist on its amendment but make the following amendment in lieu thereof:

Page 1, after line 12—insert new clause as follows:

1a (1) This Act (except for sections 2, 3, 4 and 5) shall come into operation on assent.

(2) Sections 2, 3, 4 and 5 of this Act shall come into operation on 1 June 1987.

and that the House of Assembly agree thereto.

Consequential amendment:

Page 1, after line 16—Insert new clause 3a as follows:

3a. Section 194 of the principal Act is amended—

(a) by striking out paragraph *(a)* of subsection (1) and substituting the following paragraph:

(a) Between 12.30 p.m. on any Saturday and midnight on the following Sunday when the ensuing Monday is not a public holiday;;

and

(b) by striking out from paragraph *(b)* of subsection (1) 'twelve o'clock noon' and substituting '12.30 p.m.'

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

I indicate to the Committee that in my view a reasonable compromise was reached.

The Hon. M.B. CAMERON: I wish to support the compromise reached at the conference. It means that hot bread shops will be able to open until 12.30 p.m. on Saturday (just after lunch) and then will have to cease baking, but no other baking will be done (except in the areas that are now able to bake) for the next five months, after which time there will be full deregulation.

The Hon. C.M. Hill: Five months and three weeks.

The Hon. M.B. CAMERON: Yes. We did very well indeed. It was pointed out to us that a number of people are illegally operating hot bread shops until lunch time on Saturdays, and a very difficult situation had arisen. It will not be totally satisfactory for country bakers; nevertheless, it still gives them the full day on Sunday, when the majority of their bread is sold, as I understand and am informed by the shadow Minister. Therefore, we have achieved some little respite for these people in order that they might reorganise their jobs, their business and their capital. I hope that it is of some assistance to them. I would have preferred the original concept. However, the compromise is satisfactory and I trust that the Committee will support it. After 1 June there will be full deregulation and one can bake bread at any time—seven days a week, 24 hours a day.

The Hon. M.J. ELLIOTT: Although I had reservations in this place about proceeding with the whole Bill at this time, since it was quite obvious that both Houses had agreed to the deregulation of baking hours, the agreement we have reached does protect country bakers, giving them a chance to rearrange their assets. The same applies to those involved in the delivery of bread from country bakeries to the city. This affords them sufficient protection and is a reasonable compromise.

Motion carried.

SITTINGS AND BUSINESS

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

That the Council at its rising do adjourn until Thursday 12 February 1987 at 2.15 p.m.

In moving this motion I take the opportunity of thanking honourable members for their attention to the Bills in this last very busy week of Parliament. I thank members for their cooperation in ensuring that the business has been dealt with as expeditiously as possible, and that occurred with only one or two relatively minor hiccoughs during the course of the week.

The Hon. M.B. Cameron: It was all your fault.

The Hon. C.J. SUMNER: Now that the business is finished, the next thing we have to face is the Christmas festivities and it would be quite wrong to be churlish about the situation: the Hon. Mr Cameron has now confessed that it has been all his fault. Seriously, I would like to thank all members for the attention and cooperation which, in this quite difficult week, has been very good, and I can assure the Council that the Government appreciates it.

Also, I would like to thank all the staff of Parliament House who, I know, must find these last weeks of sittings somewhat odd. I know that members' families find them somewhat odd as well but, nevertheless, we do thank everyone on the Parliament House staff for their contributions, in particular during the past two weeks and also throughout the year. I take this opportunity of wishing them all a Merry Christmas and a happy and prosperous New Year.

With respect to the Hon. Mr Hill, I should single him out for special mention as having his 21st anniversary as a member of Parliament. I was not here to compare his present behaviour with his behaviour when he first came into Parliament, but I can say that this week it has been exemplary. Madam President, unfortunately most members and staff were not able to enjoy the late night festivities which some others were able to enjoy last evening because of our diligent attention to the business of the Council. To correct that omission I can indicate to members and others who wish to attend that I would like to invite them to my room for a post session convivial drink for anyone who is able to spare the time before returning home. Madam President, thank you to everyone for their cooperation and, in particular, to all the staff for contributing in what was a difficult week but nevertheless a successful one in terms of processing the business of the Council.

The Hon. M.B. CAMERON (Leader of the Opposition): I would like to second the motion and, in doing so, I want to thank the staff for the work they have done, particularly the table staff, who have done a tremendous job, especially over the past couple of days. I understand that some of the staff were still here at 6.30 this morning working on various pieces of legislation to try to ensure that we could finish tonight. Everyone appreciates the way that they feel now, and members on this side of the Council appreciate that.

We have tried to be as quick as possible with all the things we have done, as members would know. Also I would like to say 'thank-you' to *Hansard* for the excellent work it does. I do not know how *Hansard* reporters get down some of the things that are said. Indeed, at times we wish they did not get them down, but they seem to put down everything we say. The messengers have been excellent. They provide superb service to members, and the messengers on this side of the Parliament are an excellent bunch and are very friendly and very helpful.

I want to say a special 'Happy Christmas' to my little mate over there—who was so nice about me yesterday. We are already exchanging dates for the holidays, so that we can keep the radios going while each of us is away.

The Hon. J.R. Cornwall: Breakfast radio will be in recess!

The Hon. M.B. CAMERON: Totally in recess—I agree with that, and my little mate will be able to leave his radio at home and run along the beach happily, without having to worry about trying to keep up with what is happening. Anyway, jocularity aside, I wish all members a very happy Christmas and a prosperous New Year, and I look forward to seeing everyone back here in January.

The Hon. I. GILFILLAN: On behalf of the Democrats, I would also like to extend my thanks to the Clerks of this place for the excellent and extraordinarily diligent work that they put in to keep this place working. I would like to mention, in particular, Barry Serjeant. I apologise for not being able to attend the function that was organised to bid him farewell. I want to wish him all the best in what I am sure will be a very challenging and exciting life ahead.

The Hon. C.M. Hill: He is now convinced that he made the right decision!

The Hon. I. GILFILLAN: We will ask him this time next year. I also thank the messengers for the courteous and efficient way that they deal with the often mundane but absolutely essential requirements of the running of this place. I particularly want to mention that very pleasant and unobtrusive attendant, Chris Schwarz, whom I have met from time to time lifting phenomenal weights in the gym; those who have ever ventured down there might like to know that he lifts the maximum weight—he goes down there and lifts the maximum 10 times. So, we are probably losing one of the Parliament's champion weightlifters. I wish him well, and I know that all those who have had contact with him would share that view. He is an extraordinarily capable and pleasant young man.

I would like to thank Margaret Hodgins, who is a very impressive person working on the staff in these premises. She has contributed marvellously to the extraordinary workload required of her. Further, I thank the research and general staff of the Library whom we all find so courteous and so very supportive. I refer to the staff that have fed us so well, to Nancy and Tim and their group of people in the dining and refreshment rooms. Also, I refer to the caretakers, who make sure that we are not robbed blind every day of the week, and to the maintenance staff, whom I see from time to time, Henry and Paul, who keep things going.

I thank Parliamentary Counsel, who often deal with people who are a little impatient, and probably unreasonably so. Their task is extraordinarily challenging, and I would like to put on record from our point of view how grateful we are for the work that they do and the conscientious way in which they approach it. *Hansard*, indeed, has been mentioned, and without *Hansard*, what a waste of time this would all be. Bearing in mind how tedious I find some of these proceedings, I do not envy them their job.

Next I refer to the media, which really is our life blood. They have deserted us at this hour of the night—and I do not blame them, but I hope that those tape recorders are working. They have followed the proceedings of this Chamber very diligently and, in the main, I think they have reported impartially and sensitively the issues that we have confronted, and I feel that we owe them a debt of gratitude.

Finally, I would like to thank you, Ms President, and my other colleagues in this place. It has been a very pleasant year. Although there have been disagreements, challenges and arguments, I feel very heartened by what I sense as being a general base of affection and respect amongst all members of this Chamber, and I would suspect—

The Hon. J.R. Cornwall: Don't overdo it.

The Hon I. GILFILLAN: It's Christmas, John, isn't it? My final remark I know will not be challenged, because I would like to give my heartfelt thanks to my colleague, the Hon. Mike Elliott, who has come in fresh from the outdoors and from teaching—and what a supportive, helpful colleague he has been, dealing with the vicissitudes, the slings and arrows of outrageous fortune to which one is exposed in this place. I wish everyone who is quiet enough to hear me a happy Christmas and merry New Year.

The PRESIDENT: I do not know that, as President, I am entitled to speak to a motion, but I intend to, anyway. I hope no-one will move dissent from my ruling. I thank all members of staff, who have certainly served us so ably throughout the year. As President this year, I have appreciated even more the work that they do, much of which is not visible to the backbench members, and I am sure they must sometimes feel that the tremendous effort they all put in is not properly appreciated by members.

I would like to assure them that I most certainly appreciate the hard work they all do, without which the workings of this Chamber would very rapidly grind to a halt. I would like to extend my thanks also not only to the staff of the Legislative Council but to all the other staff of Parliament House who do, indeed, look after us so well—including *Hansard*. I cannot see them at the moment—they may shower me with tickertape, but I am unable to see them as they go about their business.

I would also like to thank all members for having been reasonably cooperative throughout the year. I hope people have enjoyed the experience of 1986 in Parliament, as my first year in this seat—I will not say 'position'. I am pleased indeed that I have not had to throw anyone out during 1986. I do not wish to spoil anyone's Christmas but I cannot promise that the same will apply in 1987.

Seriously, I would very much like to extend best wishes for Christmas and the festive season to all members present.

Motion carried.

TOBACCO PRODUCTS (LICENSING) BILL

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

INDUSTRIAL CODE AMENDMENT BILL

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

ADJOURNMENT

At 8.46 p.m. the Council adjourned until Thursday 12 February 1987 at 2.15 p.m.