LEGISLATIVE COUNCIL

Tuesday 7 April 1987

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

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Health, for the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—
Motor Fuel Licensing Board—Report, 1985.

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

Pursuant to Statute—
Fisheries Act 1982—Regulations—Exotic Fish.
Seeds Act 1979—Regulations—Labelling.

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

Pursuant to Statute—
Boating Act 1974—Regulations—
Lake Bonney Bathing Zone.
Loxton Swimming Zone.

QUESTIONS

AIDS

The Hon. M.B. CAMERON: I seek leave to make a statement prior to directing to the Minister of Health a question on the subject of AIDS.

Leave granted.

The Hon. M.B. CAMERON: Clearly, AIDS is now a widely discussed public issue—and that is the way that it should be. However, there are some areas where it is also clear that the Minister, and perhaps this Parliament, must make some decisions. I have already asked two questions on this issue which, for some reason, sent the Minister into a bit of a tailspin at the time. The first, and very important question, was on the subject of health workers in public hospitals and other institutions being given information when a person who is AIDS antibody positive presents for treatment. The failure to provide and receive information extends, I am informed, as far as hospitals, which, in a voluntary capacity, help the AIDS Clinic, sending patients to the Royal Adelaide Hospital without disclosing to the health workers at that hospital that the patients are in fact AIDS antibody positive. Today in the *Advertiser* Mr Lehonde Hoare, the President of the AMA in South Australia, said:

> Health authorities ought to be considering AIDS blood tests for pregnant women and for all patients before they are admitted to hospital.
>
> AIDS is a lethal communicable disease and there are sound medical principles for dealing with such conditions.
>
> Testing all patients before their admission to hospital would limit mutual exposure of health professionals to AIDS and provide health professionals with important information that was necessary for medical treatment.

According to the people with whom I have spoken today, it is imperative for the safety of health workers that there be full and frank disclosure of the condition of any person who is AIDS antibody positive who presents for treatment. People have said that they do not believe that at this stage it is sufficient for the Minister to leave that decision in the hands of the AIDS task force people here. Clearly, there is now widespread concern in the medical profession and amongst health workers as a whole.

The second problem that I want to raise concerns the matter of AIDS testing in prisons. Professor David Penington, of the National AIDS Task Force—the man often quoted by the Minister and other people—has said:

> State Governments should legislate to make AIDS screening compulsory for prisoners.
>
> State Governments should act within the next few months and provide quarantined cells for prisoners found carrying AIDS antibodies.

Over the weekend I was contacted by a journalist as there appeared to be information that a third prisoner, who had been in the prison for 12 months, had been tested and found to be AIDS antibody positive. My questions are:

1. Will the Minister ensure that health workers are notified of their patients' conditions where the patients are AIDS antibody positive after tests?

2. Does the Minister intend to follow the advice of Professor Penington regarding AIDS screening for prisoners and quarantined cells?

The Hon. J.R. CORNWALL: These questions were raised with me over the weekend. I have already responded to them, but I am happy to do so again. First, with regard to health workers in hospitals, the question of the whole team, in particular surgeons, in the operating theatre has been raised with me. I regularly meet with a group of eminent doctors, and at our last meeting the question of notification between referring doctors of patients known to be AIDS positive was raised with me. That should not be confused with notification in the strictly legal sense. Whether or not category C AIDS (that is, the carrier state in the absence of clinical disease) ought to be notifiable is a quite separate question and must be addressed as a separate question.

The question of surgeons, nurses, anaesthetists and other members of the team is one of several which I asked the profession, under the aegis of the AMA, to addresss with Dr Scott Cameron, the head of the South Australian AIDS Advisory Committee, which is the South Australian equivalent of the national task force. Of course, Dr Cameron is also the head of the Communicable Diseases Control Unit within the Health Commission. That question is being addressed by that group, along with a number of other questions, including the desirability or practicability of blood testing women who are in the early stage of pregnancy. Whether that should be a routine test, whether it should be a voluntary test, or whether it should ultimately be a compulsory test are all matters that are being addressed. When that working group has reached some decisions it will make recommendations to the Health Commission, which in turn will make its recommendations to me.

At this stage, on the face of it, there seem to be a number of issues which may best be addressed by the code of ethics of the AMA. Whether or not it is desirable to make these things compulsory at law is something on which I will take advice. The initial response seems to be that it may well be possible to address the question of medical records with respect to AIDS positive people through the code of ethics of the AMA, but I will take advice.

In relation to prisoners with AIDS, the latest information to hand is that three prisoners have been detected as being AIDS positive. AIDS testing in prison is done on a voluntary basis. Given that there are about 180 people in South Australia who have been classified as AIDS positive (and that includes 50 patients who have category B AIDS), it is hardly surprising that, in a high risk group like prisoners, there are a number of AIDS carriers. A relatively high number of prisoners are incarcerated either because of their drug problems, or because of AIDS related crimes. I repeat that in those circumstances it would hardly come as a

revelation to discover that some of those prisoners, albeit a relatively low number, are AIDS carriers.

A number of questions arise and I would be interested to hear the Hon. Mr Cameron's responses to them. Such questions include whether testing ought to be voluntary or compulsory; whether AIDS positive prisoners ought to be segregated; and what should be done about institutional sex. It is a well-known fact that, in the prison system, despite the most strenuous attempts of the authorities, some institutional sex does occur. It is not necessarily the practice of homosexuality. A good deal of male to male sex occurs in prison systems generally among males who, once they return to the wider community, are heterosexual in their sexual practices. There must be legitimate community concern to stop the spread of AIDS in prisons because inevitably, whether those prisoners are short, medium or long term, the overwhelming majority of them will return to the community. That question must be addressed; but how does one address it? Should condoms be issued in prisons? The legal position is that any sexual practice—certainly homosexual practice—in the prison system is illegal. Therefore, the issuing of condoms could not happen without in some way, as I am advised, changing the existing law. I have not reached a decision in that matter currently.

The same could be said of intravenous drug use. All of the evidence is that the level of intravenous drug use in the South Australian prison system is very low indeed. It is not comparable in any way with the level of intravenous drug use in the New South Wales prison system. Nevertheless, there are occasions when it does happen and when that happens it is likely that a number of prisoners, so I am informed, share the one hypodermic needle and syringe. What does one do? What would Mr Cameron's response be to a proposition which would mean the distribution in prisons of sterile needles and syringes? It is a very difficult and vexed question. At this time I do not have a view. However, these and other issues have been referred to a working group.

As Minister of Health, I am responsible ultimately for the provision of health services in the prison system and, more recently, for the first time in this State, for the provision of drug and alcohol treatment and rehabilitation programs, so that in one way or another these matters ultimately come back and stop on my desk. I have established a working group to look particularly at the question of control of AIDS in prisons and that group will report to me, as will the doctors group, in the near future. When I receive that report also I will confer with my colleague Frank Blevins, the Minister of Correctional Services, discuss the matters further and produce a policy which will be canvassed with Cabinet.

There is no question that the time has come when the support of the entire community is needed to control AIDS in this State. To date we have been able to maintain a relative position of considerable advantage *vis-a-vis* the rest of the country. As I said earlier today at a press conference with Neal Blewett, in South Australia the figures show that to date there have been 179 AIDS positives, which comprise 50 category B and 129 category C AIDS cases; five category A cases currently; and two deaths which could be attributed to patients who actually contracted the virus in South Australia.

However, I would have to point out that in the first six months of last year we identified 30 new sero-positives—AIDS positives or carriers. That took six months. But, 30 were identified this year in the first three months. Therefore, the evidence to date is that, although the incidence is still relatively very low *vis-a-vis* the incidence in other States, nevertheless, as we expected and predicted, there has been a doubling of the rate of infection over the past 12 months. As I have said on many occasions in this place, it will be essential that we have the support of the whole community and that we return to a bipartisan approach in this Parliament.

The only cure that we have for AIDS at present is prevention. There is no vaccine; there is no vaccine in immediate prospect; there is no treatment at this time and there may never be a treatment. So in those circumstances it is absolutely imperative that all the groups in the community—in the South Australian community at large—and all members of this Parliament must reach an agreed position with respect to AIDS control and do whatever is necessary to ensure that we control it at somewhere near its present level of incidence.

MINISTERIAL STATEMENT: THEBARTON DEVELOPMENT CORPORATION

The Hon. BARBARA WIESE (Minister of Local Government): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: There has been concern expressed recently both in the community and also in Parliament about the establishment of the Thebarton Development Corporation. I am mindful that this discussion is taking place in the context of the forthcoming local government elections. To ensure that judgments are made on the basis of fact, I am making this statement as an interim report on this issue. Confusion has arisen concerning the Local Government Act's use of the term 'scheme' in relation to two applications by the Corporation of the Town of Thebarton to undertake certain activities, to which I have given ministerial approval.

The first scheme which I have approved was a scheme of development under section 382d to enable the council to acquire land for redevelopment within an area inside the township. The area is bounded by South Road, Rose Street, Railway Terrace and Hughes Street. This scheme of development has received approval subject to the normal planning approvals that may be required for various development proposals within the scheme as a whole.

The second application was for an approval under section 383a for a scheme to allow the council to undertake an activity which is not otherwise provided for in the Local Government Act. This section of the Act is new and is aimed at providing councils with more flexibility in serving their communities. The Local Government Act lists all the activities that councils are permitted to do.

Section 383a enables councils to seek the Minister's approval for activities which are not specifically empowered by the Act. It is intended to remove unnecessary barriers which may stand in the way of beneficial activity in local communities. In this case, Thebarton council sought approval to set up a company to assist and promote the development of the township. It was envisaged that the proposed company was to act as a consultancy in facilitating development. It was also to be under the control and direction of the council. On this basis, approval was given for the council to establish the Thebarton Development Corporation. The terms of the approval were as follows:

The Corporation of the Town of Thebarton ('the corporation') will, subject to the provisions of the Associations Incorporation Act or the Companies (South Australia) Code, constitute a body corporate which subject to the general direction and control of the Corporation of the Town of Thebarton will have the following objectives:

(*a*) to undertake in relation to the redevelopment of the town, the preparation of schemes under section 382d of the Local Government Act 1934 and the subsequent implementation and management of such schemes;
(*b*) to undertake such activities as are required to stimulate the social, economic and environmental redevelopment of the town;
(*c*) to actively seek the establishment or relocation to the town of employment intensive enterprises;
(*d*) to facilitate the establishment of organisations that foster and promote the economic development of the town;
(*e*) to provide or participate in arrangements for the provision of services and facilities in the town;
(*f*) to foster and undertake development of the built form as part of a continuing program to enhance the image of Thebarton.

The scheme will benefit the residents of the area of the corporation by encouraging the economic development of the area and thereby improving its social, physical and commercial environment. The scheme will be financed from the revenue of the corporation, grants and subsidies received and income earned from undertakings entered into by the proposed body corporate. They were the terms of the approval that I gave.

Since my approval was given some members of the Thebarton council have raised concerns about the accountability of the Thebarton Development Corporation to the council. I am mindful that this concern has been raised during the local government elections and that the council unanimously supported the establishment of the company. I am advised also that the memorandum and articles of association of the company and the deed of trust were also unanimously endorsed by the council. However, following press reports on the matter officers of the Department of Local Government contacted the council to discuss the issue and to ensure that the company was being established in compliance with my approval.

The Hon. Trevor Griffin subsequently asked questions in this Council concerning the relationship between Thebarton council and the company and its powers. Since section 383a schemes are new, and this is the first time that approval has been given to establish a company, it is especially important that the most appropriate relationship between the council and the company be achieved. Therefore, legal opinion has been sought as the matters to be considered relate to legal interpretation and company law. Legal advice will be available within two weeks. In the meantime my officers and the Mayor and Chief Executive Officer of Thebarton council have agreed that the council will not proceed further to activate the company until I have received legal advice and I am able to be satisfied that the terms of my approval have been complied with.

MURRAY PRINCESS

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the *Murray Princess.*

Leave granted.

The Hon. L.H. DAVIS: The Minister is aware that one of the most unique and popular tourist attractions in South Australia is the cruise on the Murray River offered by Murray River Developments. The Managing Director of that company, Captain Keith Veenstra, is well known for his initiative and enthusiasm in promoting the scenic beauty of Australia's longest and greatest river. In July 1986 the third Murray River Developments boat was launched named the *Murray Princess* at a cost of $4.5 million and with a capacity of 120 passengers. Passengers board at Renmark on Sunday afternoon and cruise the Murray River until Friday night, disembarking on Saturday morning—in other words, a five day/six night cruise.

However, Captain Veenstra is concerned that silting of the Murray River near lock four is jeopardising the goodwill and success of his company and its cruises. Because of the silting problem, the *Murray River Pioneer* can only travel from Renmark to Berri—a distance of about 10 miles—and then go back past Renmark as far as Higgins Cutting, 30 miles upstream from Renmark. The boat cannot go to Loxton, 26 miles from Berri, and then on to Overland Corner and Waikerie, which is a particularly beautiful part of the river. With a cruising speed of seven knots, quite clearly the company has to kill a lot of time on a five day cruise because of its inability to proceed very far past Berri because of the lack of a navigable channel.

I received a copy of a letter from Captain Veenstra sent to interested parties in the Riverland and in the tourist industry. I will quote from that letter in part as follows:

> In our promotion activities all over Australia and overseas, we are obliged to give intended passengers as much information as possible. They demand to know what they get for their money. Apart from comfort, food, etc., we must give them a full itinerary. An itinerary that brings them back in the middle of the week to their point of departure is not acceptable. In the period that we cannot travel past lock four, we in fact pass through Renmark midweek and spend the remainder of the week upstream from Renmark. Unfortunately there is not enough navigable water upstream for the full week. The result is that people, when told of this problem, decline to go. If we do not tell them, we get complaints. Promotions are expensive and the company would spend approximately $250 000 per year just for the *Murray Princess* alone. Our company is represented in Adelaide, Melbourne, Sydney, Brisbane, Perth and Hobart. The company also has travelling salesmen visiting major Australian country centres.
>
> Apart from this we are represented in New Zealand, Berlin, Frankfurt, London, Los Angeles, New York, etc. Our promotion should be truthful, accurate and interesting. Because of our navigation problem we cannot be accurate and at times appear not to be truthful. If no solution is arrived at and it is not possible to have a constant itinerary, the future of the *Murray Princess* operating in the Riverland will be in doubt. Although Murray River Developments prefers to stay in the Riverland, this may not be possible. Another venue will have to be found with a more reliable itinerary, where we can go as our brochure states, the whole year. It appears that many people do not understand our predicament and think that we are difficult. Please understand this is not the case and our problem is most serious.

The company has complained for many years to this Government about the problem and pleas have been made to the Government for assistance with dredging, but so far nothing has been done. My questions to the Minister are as follows:

1. Is the Minister aware that the future of the *Murray Princess* in South Australia may be in doubt unless the silting problem is rapidly overcome?

2. Does the Minister accept that the failure of the Government to act in this matter, notwithstanding representations over several years, constitutes a serious slight to the tourism industry in South Australia and has placed Murray River Developments in an embarrassing position when promoting cruises on the *Murray Princess*?

The Hon. BARBARA WIESE: First, I would say that the Government fully supports the tourism ventures of Captain Veenstra and his company. There is no doubt at all that it plays a very important role in South Australian tourism and is one of our biggest tourism operators. It is estimated that it contributes something like $5 million to our economy every year through its tourism venture, and about $2 million of that goes to the Riverland region of South Australia. So,

indeed, it is a very important tourism venture in this State, and the Government certainly acknowledges that.

I would also like to acknowledge the efforts made by the company in promoting its own product, and it also adds to the overall image of South Australia as a tourism destination. It provides some $250 000 a year, according to the company, on promotion around the world and I am aware that it sends representatives to many of the tourism trade fairs both within Australia and internationally. So, it assists the whole State in lifting the profile of South Australia as a tourism destination, and certainly its riverboats play a very important role in helping us to highlight the Murray River as an important tourist destination in South Australia.

The matter of dredging and desnagging in the Murray River has been a perennial problem which I also acknowledge. It is usually around this time of the year that the company becomes very concerned about the problems within the Murray River, because the river levels are naturally falling and it becomes more difficult for its boats to navigate the channels of the river. In the past two years, since I have been involved in the tourism portfolio, the Government has provided money to ease the problems within the river and to rid the river system of the snags which were getting in the way of Captain Veenstra's boats, and another application has been made in view of this year's concern about the river levels falling and the problems that are now developing. That matter is currently under consideration by the Government and I would anticipate that we will help this year as we have in the past.

ON-THE-SPOT TOBACCO FINES

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of on-the-spot fines for tobacco consumption.

Leave granted.

The Hon. K.T. GRIFFIN: I have previously raised questions about the $200 on-the-spot fines which ordinary citizens are attracting in consequence of having purchased tobacco products from the shop of Mr Stokes without having a consumption licence and on the assumption that those products will be consumed.

When I last raised this matter, on 24 February 1987, I referred to the prospect of a High Court challenge by Mr Stokes to the validity of the Government's legislative scheme. I also referred to the fact that a number of people have contacted me to say that they are bewildered by the notice of an on-the-spot fine and do not know what to do. Many of them are pensioners and do not have the money to pay the $200 fine anyway; nor do they have the money to pay a lawyer to go to court for them.

On 24 February, in answer to a suggestion that I made that people who have received the on-the-spot fine should be able to postpone payment until after the High Court challenge has been resolved, the Attorney-General said that that sounded like a good idea and that he would refer the matter to the Premier and let me know the official position. After six weeks, we still do not have an answer, and I have continued to receive a string of inquiries from people who say that they have received a notice but have not been near Mr Stokes' shop, from people who say that they are not consumers, and from others saying that they cannot afford the fine and asking what can be done. My questions to the Attorney are:

1. Will the Government be taking people to court to enforce the payment of the $200 on-the-spot fine or the more significant maximum penalty of $10 000 before the High Court challenge is resolved?

2. Can those who have received the notices safely presume that no payment is required at the moment?

3. If payment may be deferred until after the High Court challenge, will the Government take steps to inform those who have incurred on-the-spot fines of that option?

The Hon. C.J. SUMNER: This is a matter for the Commissioner for Stamps, who is under the jurisdiction of the Premier. Therefore, I will refer the honourable member's question to the Premier and bring back a reply.

POLICE HARASSMENT

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question relating to police harassment.

Leave granted.

The Hon. I. GILFILLAN: I have received a letter from an Adelaide solicitor, Mr Michael Sykes, in relation to an issue in which a Mr William James and a Mr Grey were involved, which states, in part:

As you know, on the *7.30 Report* on Monday 23 March 1987—

which I am sure many members would have seen—

Mr James, a quaker, retired J.P. and retired Assistant Manager of the Housing Trust—a perfectly respectable concerned citizen—described how he left his family and home on 10 March 1987 to accompany Mr Grey in his every movement to witness alleged harassment by police investigating breaches of a restraining order.

In that program, Mr James broke down and wept after describing the assault and unlawful imprisonment by police at the home of Mr Grey on 20 March 1987 and a further incident of harassment and insulting behaviour by police on 22 March 1987. He gave the number of one of the police officers as number 411 of Unley.

Inquiries were subsequently made by me [Mr Sykes] of the Police Department. I ascertained that there was a warrant for the arrest of Mr Grey alleging a breach of the restraining order. Mr Grey voluntarily attended police headquarters with me and appeared in court. The matter was remanded for mention and Mr Grey was released on bail.

At 10.30 p.m. on 3 April 1987, Mr James and his wife were at Mr Grey's house collecting his belongings in his absence. Four police cars arrived at the premises and police officers came to the front door demanding entry stating that Gerald Grey was wanted regarding an alleged breach of a restraining order there that evening. Mr James refused them entry. They claimed they had a warrant to enter the premises but refused to produce it. They threatened to break in, terrifying Mrs James in the process.

On the nights of 4 and 5 April, according to neighbours, police again attended. On Monday 6 April 1987 I made inquiries with the Police Department speaking first to Sergeant Walker of Unley Police and secondly to Superintendent John White. Both informed me that there was no warrant for Mr Grey's arrest and the police officers who had attended on 3 April 1987 must have done so in ignorance of the fact that Mr Grey had appeared in the Adelaide Magistrates Court in answer to the warrant.

I now refer briefly to a precis of events—bearing in mind that the excuse given (to which I have just referred) was that the police officers were ignorant of what had occurred previously. This precis is a brief summary of incidents relating to Mr James's concern for and protection of Mr Grey, beginning on 3 September last year. These incidents occurred at the house of Mr Gerald Grey at 3 Leah Street, Forestville. It is as follows:

3 September 1986—Two Police Officers visited the house.

22 September 1986—Dog unlawfully abducted from premises but later under pressure it was returned.

3 October 1986—Two cars of police involved.

12 November 1986—At least 4 cars with plainclothed and uniformed police chasing Grey around Leah Street. Safe refuge provided by local storekeeper.

14 November 1986—One police car involved.

28 November 1986—One police car involved. Neighbour gave Grey protection at my request.

23 December 1986—Two police cars involved. Neighbour threatened with a few nights in a cell if

he became involved in trying to help Grey.

5 January 1987—Two police officers involved.

14 March 1987—Three police cars involved, with a fourth which followed Grey.

18 March 1987—Guard dog continually alerted us throughout the evening to probable police presence.

20 March 1987—Five police cars involved and possibly six, including plainclothed police. W. James assaulted.

21 March 1987—Unley police denied any involvement on 20 March. Police HQ said one vehicle only was 'tasking' in the area.

22 March 1987—Three carloads of police asking not for Grey, but for Mr James, stating he is a dickhead, a coward, a terrorizer of old ladies, and should be in Glenside.

23 March 1987—Three cars of police involved.

27 March 1987—Two cars of police involved.

31 March 1987—Grey informed by Mr Sykes, solicitor, that warrant had been issued for arrest of Grey for breaching order of restraint.

4 April 1987—Acting on Mr Sykes' advice Grey surrendered himself to police; placed in custody and bailed to appear at a later date.

4 April 1987—Four cars of police involved alleging they had a search warrant and a warrant to arrest Grey, demanded entry, did not produce warrant. Threatened to break in. Only Mr and Mrs James on premises, packing household items, and Mrs James was terrified.

This is not a happy chapter of activities by the police. Mr Sykes—

An honourable member interjecting:

The Hon. I. GILFILLAN: I am sorry, but there are times when I am involuntarily prompted to give an opinion. Mr Sykes further stated in his letter of 7 April:

The most extraordinary thing is that out of 18 visits by police, accompanied by police harassment and assault, there has been only one allegation of a breach of a restraining order by Mr Grey—and that was at a time when Mr James was purposefully staying by his side to be a witness to harassment against Mr Grey.

In view of these events, I ask the Attorney (and for referral where appropriate to the Chief Secretary):

1. Has the allegation of assault and unlawful imprisonment, as identified in the *7.30 Report* by Mr James, been investigated? If not, will the Minister ensure that it is?

2. Can the Attorney discover on what pretext the police attended on 3 April 1987 as well as on 4 and 5 April 1987?

3. Why have Mr Grey and Mr James been subjected to so much police attention since 3 September 1986?

The Hon. C.J. SUMNER: I am not sure whether the honourable member has constituted himself as a police complaints authority in recent times. It is probably worth while pointing out to the Council that, as a result of actions taken by the earlier Bannon Government, there is now a Police Complaints Authority, to which the honourable member has recourse in relation to complaints made about police behaviour in any case. But, of course, the honourable member has chosen not to take that course of action—which is not surprising for him.

The Hon. I. Gilfillan: You've no idea of the history of the case. Stop making aspersions without the facts.

The Hon. C.J. SUMNER: I have not made any statements at all: all I have said is that the honourable member could have referred the matter to the Police Complaints Authority, but as I understand it he has not done that and has chosen to raise the matter in Parliament. As a member of Parliament, he is entitled to raise matters in Parliament; that is a matter for his own judgment and conscience. I suppose from his point of view the amount of publicity that he can get from a particular issue also clouds or affects his decision whether to raise a matter in Parliament. As a member of Parliament, the honourable member is entitled to do that.

In that context, the point I make is that complaints against the activities of police officers in the sorts of circumstances which the honourable member has outlined can be taken to the Police Complaints Tribunal. I merely make that point for whatever future use the honourable member may wish to make of it.

As to the specific matters raised by the honourable member, in which I might add there were a number of assertions and opinions about the actions of police which obviously would need to be verified before being accepted, I will refer them to the Minister of Emergency Services and bring back a reply.

CASINO

The Hon. G.L. BRUCE: I seek leave to make a short explanation before asking the Attorney-General, representing the Premier, a question about the casino.

Leave granted.

The Hon. G.L. BRUCE: Last week a pamphlet, which I understand all members received, was circulated through the post. The pamphlet, called 'The House Take', was circulated by the Liquor Trades Union and it contained some allegations about the casino. Accompanying that pamphlet was a press release which was from Mr John Drumm, the Acting Secretary of the Liquor Trades Union, and it stated:

Aitco Pty Ltd, operator of the Adelaide Casino, is being prosecuted by the Liquor Trades Union for breaches of the Casino Agreement. This agreement fixes the wages and conditions of over 900 of the casino's employees. Also, the union is helping with claims in the Industrial Court that seek recovery of moneys owing to its members.

John Drumm, the union's Acting Secretary, said that the union intends taking further prosecutions against the casino for other breaches, and that the union will be supporting members who wish to claim their full entitlements. He said that one of the claims already made could result in hundreds of thousands of dollars if all back-payments are made.

Mr Drumm said that the casino management had brought some unsavoury work practices into South Australia, and were still introducing others. He also accused the casino of avoiding consultation with the union before repeatedly changing shift starting times, and of being generally high-handed in dealings with employees.

He said that morale amongst employees was abysmally low, with absenteesim having been as high as 25 per cent and over 600 LTU members having quit since the casino opened. Mr Drumm said the union had embarked upon an information campaign with its members [and the public] in order to remind them of the growing number of problems that they face, and the need for solidarity.

That pamphlet was enclosed. My questions to the Premier are: first, is he aware of the Liquor Trades Union's claim of excessive absenteeism and continuing resignations at the Adelaide Casino brought about by mismanagement that also results in breaches of their industrial agreement and underpayment of moneys owing to Liquor Trades Union members; and, secondly, can he tell us whether the State would benefit indirectly from such alleged underpayments?

The Hon. C.J. SUMNER: Although the casino operates under the terms of an Act of the South Australian Parliament, the operator of the casino (Aitco) is a private company and the Government is not directly involved in the operation of the casino. If there are issues of an industrial nature relating to the matters raised by the honourable member, whether they be breaches of an industrial award or otherwise, obviously that is a matter for those who allege that breaches have occurred to negotiate with the employer (in this case, the private company, Aitco), which has been given the obligation to run the casino by the holder of the casino licence, the Lotteries Commission. The operator of the casino is a private company. Employees of the casino

are employed by that private company. If industrial issues have arisen with respect to the employees and that company, then they ought to be dealt with in the normal way in relation to industrial matters, presumably in this case by the Liquor Trades Union taking those matters up with those employees. I do not know whether the Premier is aware of the matters raised by the honourable member, but I will refer that part of the question to the Premier, in case he has anything further to add to what I have already said about the matter.

With respect to the second question, I do not believe that the State would benefit from the circumstances that have been outlined by the honourable member, because in a number of areas taxes are imposed by Governments on a number of business activities. In this State there is a tax with respect to betting and there is a tax, in effect, on the operations of the casino. Other taxes are imposed, of which I am sure members are aware. I believe that the State tax should be seen in that light and not as a matter that is somehow or other mixed up with this industrial issue which ought to be dealt with by the employees through their representative (the union) and the employer. However, I will take up the first part of the question with the Premier to see whether he can add anything further to what I have said.

COUNCIL ELECTIONS

The Hon. J.C. IRWIN: I seek leave to make a short explanation before asking the Minister of Local Government a question about council elections.

Leave granted.

The Hon. J.C. IRWIN: Recently, I attended the Mid North regional meeting of local government at which, under agenda item No. 11.1, they discussed the advisory role to councils of the Department of Local Government and the lack of depth of experienced staff. The Deputy Director of the Department of Local Government pointed out why the various staff changes had occurred over the past 12 months or so and that there were plans for experienced local government people to be placed on the department's staff in the future, but he was unable to explain the treatment being given to one Barossa council.

For some time the Local Government Commission has been examining ward boundaries for this council and, so far as nominations for council elections were concerned, this council was ready to proceed on the new boundaries. Although at that stage those details were not known, if they were pronounced council was ready to proceed.

The Hon. Barbara Wiese interjecting:

The Hon. J.C. IRWIN: It is Angaston. They had given their submissions relating to boundaries to the commission in December 1986 and I understand that, following the meeting of the commission, which was held in March, no decision was indicated to the council regarding its new boundaries for the new elections, so it had no option but to proceed to close nominations on the old boundaries. My questions to the Minister are: first, does the Minister understand the confusion that this situation causes in local government areas; secondly, as the commission has not made a public determination of the new ward boundaries to be used, does this mean that this council for another two years will act on its old boundaries (and this may well apply to other councils in South Australia); and, thirdly, if this is not the case, what plans does the Minister have in relation to having elections on the new ward boundaries as soon as possible?

The Hon. BARBARA WIESE: This is something that will arise from time to time when individual councils, whether it is as a result of the usual process of periodic review of ward boundaries and other council matters, bring forward a report which happens to coincide with a pre-election period for local government. I do not think that that can be avoided, because during the year this is work which periodically takes place as a matter of course.

The Local Government Advisory Commission is only in position to act as quickly as it is able in line with the number of applications for review or amalgamation or whatever it might be that it receives. It is quite late in the day, I would suggest, for a council to present a proposal to the Local Government Advisory Commission if it is very keen to have new boundaries in place prior to the next local government elections. It does not give the commission very long to consider the options, given its workload, and to have its recommendations in place by March if an application is put forward in December. It may be that the council was not in a position to provide a submission to the commission earlier than December 1986, but in that case I suppose that it is just bad luck that new boundaries will not be in place before the next election. I assure the honourable member that the Local Government Advisory Commission deals with submissions as quickly as it can. It is mindful of the need to settle these issues as quickly as possible so that local people are satisfied that their decisions are being put into effect. It is just one of those things that from time to time decisions such as this will not be made in time for new boundaries to be put in place prior to a local government election.

PROPERTY RATIONALISATION

The Hon. CAROLYN PICKLES: I seek leave to make a brief statement before asking a question of the Minister of Health on property rationalisation policy.

Leave granted.

The Hon. CAROLYN PICKLES: At the last State election the Opposition mounted a fierce campaign on its favourite policy of privatisation. We all know the result of that particular campaign: the decimation of the Liberal Party.

The Hon. K.T. Griffin: It seems that you have taken it up.

The Hon. CAROLYN PICKLES: I will talk about your policy later. In recent weeks the Opposition has mounted an extraordinary campaign in an attempt to link its privatisation policy with the Government's property rationalisation policy. The two are not the same. The Opposition has also attempted to sell this line to the Public Service Association, and has tried to imply that the PSA funds pro-Labor campaigns and is not honest in its own internal policy on this issue. I ask the Minister: is he aware of the peculiar Opposition campaign to discredit the Government's property rationalisation policy? Can he explain the difference between property rationalisation and the Liberal Party's destructive, cynical policy of privatisation?

The Hon. J.R. CORNWALL: I am very happy to respond to the extraordinary nonsense which the Opposition has been touting concerning the Government's corporate and commercial approach to good management.

The Hon. Peter Dunn: Tell us the difference.

The Hon. J.R. CORNWALL: I will.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I will do it by example, as well. Immediately prior to the last election one of the enter-

prises highest on the Liberal Party hit list was the Central Linen Service. At the time the Government, through the application of sound commercial principles, turned the operation of the Central Linen Service around. The Government inherited something which the Liberal Government had allowed to run down disgracefully.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: The Government has been through an exercise that completely turned the operation of the Central Linen Service around. It is now a commercially successful operation, so much so that one of its private competitors some months ago approached the Government asking it to take over that segment of his business, which was done. The Central Linen Service is a very efficient service. It has been completely re-equipped and is one of the jewels in the crown.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Having got the Central Linen Service onto a sound commercial footing, the Government then turned its attention to the State Clothing Corporation in Whyalla. It was well known that, for something like a decade, the State Clothing Corporation was regarded by successive Governments as not capable of running at a profit. In fact, it was a charge against the Central Linen Service which, in effect, amounted to about a quarter of a million dollars every year.

In order to keep the State Clothing Corporation going, the Central Linen Service, when I inherited the mess, had to deal with that corporation, which in practice amounted to a quarter of a million dollars. Following a reassessment of management and marketing practices and general commercial practices at the State Clothing Corporation, it has been turned around into profitability. It is subcontracting with a national textile manufacturer. It is beginning to explore markets around Australia and is now moving, I am happy to say, into a position of profitability. Furthermore, because the Government has been able to turn it around through sound commercial management practices, it has ensured that there will be continuing employment for every person who works at the State Clothing Corporation in Whyalla.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I wish that this was being televised because the behaviour of Opposition members is absolutely disgraceful.

The PRESIDENT: Order! That is my concern.

The Hon. J.R. CORNWALL: It is also mine. I understand that earlier in another place the desperate Leader of the Opposition himself was on his feet complaining that, as part of the property rationalisation process, the Government was allegedly going to—

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: The default Leader. I understand that the member for Coles is the only realistic contender. There was some sort of story touted by the Leader of the Opposition for the time being that the Government was to close the spinal injuries unit at the Morris wards at Hampstead. At this stage that is no more than a furphy. The Government bought the Payneham Rehabilitation Centre in a very good deal. The State Government paid the Federal Government $3.25 million for the Payneham Rehabilitation Centre. Various valuations—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! Mr Davis, repeated interjections are out of order.

The Hon. J.R. CORNWALL: Various valuations place the real market value of the Payneham Rehabilitation Centre at around $5 million so the Government bought it at $1.75 million below market price. That opens up a whole range of exciting possibilities. One of the many which has been discussed (it has not gone past the point of discussion at this stage) is the possibility of a brand new purpose-built facility for spinal rehabilitation on the Payneham site.

If it were to come about (and it would come about only after negotiations with long-term patients, staff, unions and all other interested parties, just as we did with the Queen Victoria Hospital and ACH), instead of the very, very rundown facilities which the present spinal unit comprises—and the spinal unit at Hampstead is a very run-down facility in physical terms—

Members interjecting:

The Hon. J.R. CORNWALL: One of the many possibilities that arises because of this advantageous deal we achieved over the Payneham Rehabilitation Centre is a brand new facility, purpose built, and at the same time if that were negotiated successfully and that part of the Hampstead property was sold not only would we have a brand new facility to replace the very run-down existing facility but also we would walk away with a substantial amount of money over and above the cost. I believe that that is called sensible commercial management. It is interesting that the chorus has died down.

It would not happen, let me tell the Council, unless we reached the significant agreement of all of the interested parties. It is very early days. There are at least half a dozen other propositions, all of them quite exciting, for the multiple use of the Payneham Rehabilitation Centre. It is called good management; it is called the application of corporate principles and good business management, and it is certainly consistent with social democratic principles.

There are also many other possibilities. There is a voluntary organisation, for example, which has non-income earning property with a total value somewhere in excess of $20 million. If that money were to be invested and to be income producing, there would be an immediate boost to the budget in the area in which that organisation operates—recurrent moneys—of something in excess of $1 million a year. That is the sort of good management that is absolutely essential in the late 1980s. It has nothing to do—

The Hon. R.J. Ritson: Selling off the assets.

The Hon. J.R. CORNWALL: Well, the Hon. Dr Ritson says 'Selling off the assets.' That is the sort of mentality that says that we must keep all these assets for some future generation while we leave—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —desperate needs unmet in some areas. That is quite ridiculous. We will certainly not sit on assets for some generations miles away down the track when, by sensibly realising on non-income producing assets, we can invest sensibly and by doing that we can not only inject relatively large amounts of money into the capital works program but also, of course, ensure that money from some sectors is invested to produce income.

Members interjecting:

The Hon. J.R. CORNWALL: You really are the worst behaved lot it has ever been my misfortune to come across. An absolute rabble!

The PRESIDENT: There is only 20 seconds of Question Time left.

The Hon. J.R. CORNWALL: Quite frankly, I could go on further. I could tell the Council about the cost of recycling the fabric of the Royal Adelaide Hospital—$14

million for an operating complex alone—and about recycling the fabric of the Queen Elizabeth Hospital over the next decade at an estimated $49 million—and this lot expect us to sit on non-income earning property whether it is commercial, residential or broad acres. When we get into commercialisation, they protest: they scream like stuck pigs. May I conclude my remarks by saying—

Members interjecting:

The Hon. J.R. CORNWALL: —over the rabble, if I can be heard, that they not only squeal like stuck pigs but also act like them.

The PRESIDENT: Order! I call on the business of the day.

QUESTIONS ON NOTICE

INTO THE 90s

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

1. What is the estimated cost to Government of implementing the total packages of proposals known as *Into the 90's*?
2. What is the estimated cost of each individual component of this package?
3. In the light of recent budget cuts what is the current Government attitude to these proposals?

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

1. $72.4 million per annum once fully implemented.
2. Proposal 1. One extra teacher/100 students over five years by adjusting formula.

Estimated cost: $40.3 million per annum.

Proposal 2: Increase non-contact time from 8 per cent to 20 per cent over five years.

Estimated cost: $21.12 million per annum.

Proposal 3: Extra 400 ancillary staff.

Estimated cost: $8 million per annum.

Proposals 4 and 5: Additional supply grant.

Estimated cost: $3 million per annum.

3. The *Into the 90s* campaign assumes that additional resources can be allocated to primary schools by directing resources away from secondary schools which are experiencing enrolment decline. Departmental estimates indicate that only a minor portion of the *Into the 90s* demand could be met in this way.

SACOTA

The Hon. DIANA LAIDLAW (on notice) asked the Minister of Community Welfare: In respect of the consultants' report on the role and function of SACOTA—

1. Why were the recommendations on the relationship between SACOTA and the South Australian Consultative Council of Pensioners and Retired Persons Associations rejected in favour of incorporating the consultative council under the Commissioner for the Ageing?
2. Does this decision suggest the Minister is not satisfied with the progress that SACOTA has made in implementing the consultants' recommendations?

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

1. Following the release of the consultants' report on the role and function of SACOTA, the Chairman of the South Australian Consultative Council of Pensioners and Retired Persons Association wrote to the Minister of Community Welfare on 23 October 1986, and stated that at its general meeting of 17 October 1986, members expressed concern at some of the recommendations of the role and function study and noted that the study 'failed to take into consideration that:

(a) The consultative council is an incorporated organisation and is an independent body without responsibility to any other organisations other than those which are its constituent members.

(b) It is not nor does it intend to be a member of SACOTA.

(c) SACOTA is a member of the consultative council.

On 23 January 1987, the Minister met with a delegation which included the Chairman and Deputy Chairman of the consultative council and agreed to incorporate them under section 7 (2) of the Commissioner for the Ageing Act.

2. No.

OPTICIANS ACT AMENDMENT BILL (No. 2)

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

That the select committee on the Bill have power to sit during the recess and report on the first day of the next session.

Motion carried.

SUPPLY BILL (No. 1)

Adjourned debate on second reading.

(Continued from 2 April. Page 3746.)

The Hon. R.I. LUCAS: I support the second reading and intend to speak to clauses 3 and 4 of the Bill. The contributions made by respective members in this Chamber have been both interesting and informative. The Hon. Terry Roberts covered such diverse matters as a sound manufacturing base in the economy, the need for international competitiveness, problems in relation to industrial supplies officers in this State and other States and the question of privatisation of Woods and Forests, and what he said was interesting. I want to touch on some of the matters that he raised. Some matters touched on by other members included the rural crisis, tariffs, emergency services at the Royal Adelaide Hospital, ministerial staffing policies, housing policies and the Alcohol and Drug Rehabilitation Centre at Joslin.

The Hon. C.M. Hill: All relative to the Bill.

The Hon. R. I. LUCAS: Exactly. If one looks at clauses 3 and 4 of the Bill, no doubt exists that all these matters and the many others addressed by members on both sides have been relevant to the Supply Bill.

I want to address the question of privatisation, commercialisation or whatever it is. At the last State election, as members will be well aware, the privatisation policies of the State Liberal Party were a matter of some controversy during that period. The State Liberal Party laid down a comprehensive privatisation policy which was seriously misrepresented by the Government, in particular by the Premier and other Ministers, by the Public Service Association and other unions in South Australia. That is history now. Quite clearly, the Labor Party, the democratic socialists of the left, centre left, centre right or whatever faction, came together as one unit to oppose privatisation in South Australia. Whilst I believe they abused or misrepresented the policies of the State Liberal Party, nevertheless they

strongly opposed privatisation or the sensible use of Government resources and assets. If that is to be the consistent view of a political Party, whilst one might disagree with that, one must at least accept that, as a Party of democratic socialists of different factions, that is the view of the State Labor Party.

I do not believe that members in this Chamber or the South Australian voting public can accept the situation where a Government of democratic socialists can say one thing at election time and then proceed, for the next 15 to 16 months, to be utter hypocrites in Government in relation to the sorts of policies they have adopted during that period of Government and, I suggest, are going to adopt over the next two or three years leading up to the next State election.

The State Labor Government has given us lots of euphemisms for privatisation. Of course the State Labor Government can not accept the term 'privatisation' because it was the term used by the conservative Parties overseas and by the State Liberal Party. What does one do if one wants to adopt the same policy but does not want to be seen to be adopting the same policy? One creates a different word. We have had since then a pathetic attempt from the Premier, and this afternoon in Question Time from the Minister of Health as well as other Government representatives, to pass off privatisation policies under other names such as 'commercialisation'. That is different from privatisation. Today we had a couple more doozies from the Minister of Health. Instead of 'commercialisation' the State Government now calls it 'sensible property rationalisation'. If that is not good enough, we will call it 'sensible commercial and corporate management of Government resources and assets'.

The Government cannot fool members in this Chamber or the community at large by changing the name 'privatisation' to 'commercialisation' or 'sensible property rationalisation'. When pressed on the matter last week, the Premier got himself into an awful corner in trying to explain the difference between 'privatisation' and 'commercialisation'. The Premier said:

> I am certainly not reluctant to use the word 'privatisation'—I use it frequently in order to say that I do not accept the concept. I am using it in the sense that it was used by the Opposition before the election in 1985, which refers to the selling of Government assets, whether in whole or in part, in order to make some one-off advantage, which then is dissipated somewhere else into the Government system.
>
> This Government rejects that and continues to do so. I draw a distinction between that and what I believe is a quite proper use of Government resources, intellectual property and facilities to make money from the Government and, therefore, the community. That is commercialisation. That is what we intend to do.

Ms President, what an absolute and pathetic farce from the Premier, the Leader of the democrat socialists here in South Australia! Let us look at the Premier's definition of privatisation, the definition he rejects. In part it says, 'It refers to the selling of Government assets, whether in whole or in part.' When the Minister of Health this afternoon talked about sensible property rationalisation, what he indicated was the selling off of Government assets—that is, either Government land or buildings. He talked about the possibilities in the health arena, for example, the Morris Hospital site, and, contrary to what the Minister of Health has said, if one speaks to one of the tenants of the wards at Morris Hospital site, they have been told that the Government is actively pursuing purchase of that site. Of course, that has occurred in a whole range of other areas in the health portfolio.

In education, the Government has conceded that it will sell off the Wattle Park teachers site, and Premier Bannon, in seeking to distinguish between privatisation and sensible property rationalisation, said, 'It referred to the selling of Government assets to make some one-off advantage which then is dissipated somewhere else into the Government system.' I have been pressing the Premier and the Minister of Education to give some commitment that the $1 million to $1.5 million, which will be realised from the sale of the Wattle Park teachers centre, will be used within the education portfolio, but there is not and will not be a commitment from the Government from the proceeds of the sale of that site to be used within education. State Treasury officers want to get the first $1 million from the sale of that site for consolidated revenue.

How do the Minister of Health, the Premier and the Attorney-General argue that what the Government is doing in relation to the sale of properties and assets within education, health and a whole range of other areas, is not exactly what the Premier said, and that is 'the selling of Government assets': the assets here are the land and buildings—'whether in whole or part'—the whole of the Wattle Park teachers centre, in part the Morris Hospital site, for example—'in order to make some one-off advantage which is then dissipated somewhere else into the Government system'. The Treasury wants the money from the Wattle Park teachers centre to go into consolidated revenue; it does not want the money to go into education.

That is the definition used by the Premier, the Leader of the State Labor Party in South Australia, as to what privatisation is, and therefore that is not what he is talking about. He is talking about something different. He is talking about sensible property rationalisation. he is talking about commercialisation. Ms President, it is an absolute farce, as any logical interpretation of what the Premier and the representatives of the Government, such as the Minister of Health, have been trying to say through the past two to three weeks will reveal. It is an absolute joke in the Parliament! It is being laughed at by all political commentators in South Australia. They know full well that the Government now reluctantly sees the correctness, at least in part, of the policies of the State Liberal Party at the last State election and is now pursuing those policies but does not want to admit to that and now is wanting to call privatisation by some other term.

The Hon. Mr Roberts touched on the commercialisation debate, in particular in the Woods and Forests area. The Hon. Mr Roberts is a member of a faction within the Labor Party that perhaps is not privy to all discussions that are going on at the top level within the Government, as I am sure you, Ms President, will realise. When the Hon. Terry Roberts was speaking on the Supply Bill last week, he might not have known what his leadership group was getting up to or perhaps he was aware of what it was getting up to and was laying down the position of the Left within the State Labor Caucus—a position of opposition.

The Hon. T.G. Roberts: Right the second time.

The Hon. R.I. LUCAS: The Hon. Mr Roberts says, 'Right the second time.' That is good to hear. He is laying down a position of opposition to what he now knows the leadership clique within the State Labor Party is getting up to. Let us look at what he said in this debate:

> I will touch on Woods and Forests as an anecdotal illustration of a company structure—
>
> **The Hon. M.B. Cameron:** There are no plans to change Woods and Forests anyway.
>
> **The Hon. T.G. ROBERTS:** I have heard some of those stories before. There are probably areas of Woods and Forests that might come in for closer scrutiny by some of the private organisations that operate down there.
>
> **The Hon. C.M. Hill:** Is it part of the Government's privatisation policy?
>
> **The Hon. T.G. ROBERTS:** No, there has been no privatisation in the Woods and Forests Department. In fact, it has gone the other way. By negotiation, but not by stealth, further expansion

of Government activity in that area has occurred and has been very successful.

The Hon. M.B. Cameron: I think you had better talk to the Minister.

What a very prescient interjection from the Hon. Mr Cameron. What do we find in relation to what the State Labor Government is doing to Woods and Forests and for another sacred cow for the Left in South Australia, the South Australian Oil and Gas Corporation. I quote from an article in the *Advertiser* on 2 April 1987, which states:

The Premier, Mr Bannon—

not a member of the Left faction within the State Labor Caucus as you, Ms President, would well know—

revealed yesterday that the Government had set up a special group to examine the 'commercialisation' of Government activities, inlcuding its share of the Cooper Basin.

What was the major criticism of the State Liberal Party policy at the last State election? It was the privatisation policy, the proposal to sell off a minority shareholding in the South Australian Oil and Gas Corporation of some 49 per cent. We had the Premier and Government representatives wailing at the wall that this was the selling off of Government assets. But after the election a committee is established by State Cabinet to have a look at that and also the Woods and Forests area. The article continues:

The Government had also hired the services of a leading Sydney banker and broker, Dominguez Barry Samuel Montagu Limited to examine a whole range of opportunities in South Australia. The Premier said that SA Oil and Gas Corporation 'could well be part of those opportunities'. Mr Bannon would not rule out the possibility of private funds being invested in the Government's Cooper Basin operations. 'What I am interested in is getting maximum returns from Government assets.' Mr Bannon said this could mean public participation in the SAOG operations. Asked whether private investment could be encouraged in SAOG, he said, 'Theoretically, yes. But whatever happens we are not going to privatise the operation.

Ms President, how on earth do you explain that last statement from the Premier. Yet he concedes that this could mean public participation in the SAOG operations. The article continues:

Earlier, in the House of Assembly, Mr Bannon, in reply to a question from the Opposition Leader, Mr Olsen, said the Government had a group led by the head of the Woods and Forests Department, Mr Peter South—

and this will be of interest to the Hon. Mr Roberts—

looking at the commercialisation of Government activities. It means identifying those skills, services, intellectual property and other resources that the Government has and trying to make some money out of them by ensuring we can use them for profit for the State, he said.

I will not go through the rest of that statement from the Premier: it simply paints him further and further into the very sticky corner into which he has got himself, as well as his leadership group within the Labor Party, on the matter of the privatisation and commercialisation policy of the State Labor Government. As I have said, it is interesting to note the interjection from the Hon. Mr Roberts, a leading member of the left faction, the executive group, the ruling management committee within the left faction of the State Labor Party, together with other members such as the Hon. Mr Weatherill, the Hon. Carolyn Pickles and the Hon. Anne Levy, and others, in the State Labor Party—leading members of a group who take an opposing view to that held by the State Government in relation to privatisation and commercialisation. The Hon. Terry Roberts said that he was aware of what was going on and that he was laying down his position in relation to various proposals made by Premier Bannon and other leading lights in the State Labor Party. One can only hope that others in the State Labor Party will be prepared to state their position in relation to the hypocrisy of the State Labor Government, and members such as the Minister of Health and the Premier, in relation to what they are trying to pass off as 'sensible property rationalisation'.

I do not intend to spend any great time in this debate referring to the hypocrisy involved in relation to the Amdel proposition, listed for debate here this afternoon. In trying to justify the privatisation policies in relation to the portfolios for which he is responsible, the Minister of Health this afternoon did not mention Amdel: that is because he knows that he has no justification. He has no response, and neither does the Government.

The Hon. C.M. Hill: He has been caught out on it.

The Hon. R.I. LUCAS: He has been caught out, and that is the reason why.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: He was unprepared to do so. He has been politically compromised. We know that his principles have been politically compromised. The Minister has no response to the hypocrisy of his Government in relation to privatisation, and he knows, as someone with at least a small modicum of intelligence, that there is no way that one can pass off any distinction at all between privatisation and what he tends to describe as 'sensible property rationalisation'. The Minister has only to consider the Premier's definition of 'privatisation' to understand that there is no distinction between what the Premier defines as privatisation and what the Minister has attempted to pass off as being 'sensible property rationalisation'.

In concluding my remarks on the Supply Bill, I indicate that, in response to some of the statements that were made by the Hon. Terry Roberts on privatisation, and on the Woods and Forests Department in particular, some major problems are brewing within the State Labor Party between the varying factions in relation to the hypocritical U-turn made by the State Labor Government on these policies which, of course, will impinge on Supply and Appropriation debates in this Chamber now and in the near future. With those few words, I indicate my support for the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): This Bill, believe it or not, is the regular Supply Bill, which appropriates moneys for the Government for the early part of the forthcoming financial year, at no greater rate than for the current financial year. However, in listening to debate one could be forgiven for thinking that that is not what the Bill is all about. The Bill contains some four clauses in the customary form and all it does is to appropriate funds for the early part of the 1987-88 financial year. In listening to the debate, I gained the impression that it was more akin to an Address in Reply debate than anything else. Honourable members, in a manner which in my view was not relevant to this Bill, ranged over many issues that were not part of the Bill.

The Hon. R.I. Lucas: You are reflecting on the Chair.

The Hon. C.J. SUMNER: I am not sure about that. I am merely making the point that it turned out to be an Address in Reply debate. Surely in the Supply debate the matters raised ought to be relevant to the appropriation of funds for the early part of next financial year. It is not a general grievance debate. The House of Assembly has a grievance debate on the Supply Bill, but that is not part of the Standing Orders of this Chamber. Despite objections from me, members from time to time seemed to want to treat the matter, in my view improperly, as a broad ranging Address in Reply debate. I do not intend to do that, but some comments were made to which I should respond.

The Hon. Mr Hill made certain claims about the growth in staff numbers in ministerial offices. He also sought information about the purchase of the Centralia Hotel and its relationship to the development of the Living Arts Centre. The facts are that both contract staff and public servants are employed in ministerial offices. Under the previous Government a total of 89 public servants and 34 contract staff were employed in 13 ministerial offices. Four extra portfolios have been created since that time, namely, Technology, Employment, Youth Affairs and Children's Services. An extra seven public servants and 4.5 contract staff have been employed. It is idle, therefore, to suggest that there have been huge increases in the number of staff employed in ministerial offices.

The Centralia Hotel was purchased for about $.7 million. Far from representing a drain on the arts budget, the Government intends to negotiate some commercial development on part of its landholding in the area and so help to offset the cost of developing the remainder for purposes of the arts

The Hon. Mr Davis offered the Council an expanded version of his economic index, which purports to show how badly South Australia is faring compared to the other States. This is a somewhat extraordinary amalgam of indicators: some taken at a given point of time, some measuring change over a 12 month period, some measuring performance in a quarter, some comparing one period with a corresponding period in the previous year (but not the same period in each case), one measuring expectations rather than actual performance, and very few of them consistent with any other. There is room for some scepticism, allow me to say, concerning the objectivity with which the index has been compiled. Tasmania gets six points for a 4 per cent decline in the number of private sector dwelling approvals and a further three points for a 33 per cent decline in registrations of new motor vehicles. South Australia gets three points for a 6 per cent growth in employment and one point for a 4 per cent growth in retail sales. It would appear that the decline in Tasmania is to be preferred to growth in South Australia.

The Hon. Mr Irwin spoke at some length about the problems that are being faced by primary producers and in particular about the need for the cost of inputs to the primary production process to be reduced to enable Australian farmers to remain competitive. The Government has no quarrel with this general thesis. It is probably worthwhile pointing out that not all rural producers are currently in difficulty because of depressed commodity prices, but there is no doubt that some are. Our farmers are very much at the mercy of international forces beyond their capacity to control, and they deserve every consideration in dealing with the effects of these forces. It will also be necessary for the whole community to accept voluntarily their share of the sacrifices necessary to retain our international competitiveness. If this does not occur, the time will soon come when those sacrifices will be forced upon us by trading partners no longer prepared to subsidise our standard of living.

The Government appreciates also the commonsense approach by the Hon. Mr Irwin to the problem of farmers obliged to leave the industry. In this respect farming is no different from any other industry. Unfortunately, in some economic circumstances, it is inevitable that there will be casualties amongst the marginal producers. This is particularly distressing for primary producers who invariably value farming as a way of life and who tend to cling tenaciously to their farms when a more pragmatic approach would leave them with more equity to invest elsewhere and a better chance to re-establish themselves. The Hon. Mr Irwin was, however, rather too sweeping in his condemnation of State Governments and the taxes and charges which they impose on primary producers. Many of the levies imposed by the South Australian Government incorporate concessions for farmers. For example, primary production land is exempt from land tax; diesel fuel used off-road is exempt from the fuel franchise levy; the pay-roll tax exemption level is such that few, if any, farmers would be liable, while the cost of supplying water and power to the more distant country areas has long been subsidised by other consumers. Where it has the power to act, the State Government has been sympathetic to the interests of primary producers.

The Hon. Mr Irwin's remarks concerning deferred annuities were particularly disappointing in the light of his comments earlier, when the Government could see some merit in what he was saying. His comments on deferred annuities were particularly disappointing in the context of his general call for restraint in Government charges. The whole point of the deferred annuities arrangement was to hold down taxes and charges by reducing borrowing costs to the absolute minimum. The annual amount which must be brought to account to meet the deferred obligations is less than the cost of conventional borrowing and so the taxpayer benefits. To suggest, as the Hon. Mr Irwin did, that the true costs of the arrangement are being suppressed by not bringing accrued obligations to account is to insult the intelligence of the Government and its advisers and to malign the professionalism of its accountants and auditors.

It is ironical, however, that the heartfelt pleas of the Hon. Mr Irwin for restraint in Government outlays, not least in the welfare area, were followed immediately by stringent criticisms from the Hon. Ms Laidlaw because the Government was not employing enough social workers. Nothing could have better illustrated the Government's dilemma or the Opposition's inconsistency. Like the Hon. Mr Irwin, we appreciate the need for restraint in order to get interest rates down and create the conditions in which the private sector can prosper. However, the moment that any Government service falls short of community expectations, the Opposition joins the chorus of protest. I urge the Hon. Mr Irwin to devote time to educating his colleagues about the need for restraint in Government spending so that the economies which we will inevitably be required to make are accepted in good faith and not seized upon as an opportunity for political point scoring.

The Hon. Mr Dunn also spoke about the plight of the farmers, particularly those on Eyre Peninsula. However, after speaking out strongly against the burden which tariff protection for our manufacturing industry places on the primary producer, he then argued for a return to the Playford era, when the motor vehicle and white goods industries in this State were built up behind high tariff barriers. I am afraid he must make a choice. Either he can have lower tariffs in the interests of the Eyre Peninsula farmers or he can have higher tariffs so that rationalisation of the motor vehicle and white goods industries is not necessary. He cannot have both. Nor should he be allowed to say in the space of two minutes that tariffs in this country are too high but he is in favour of the EEC subsidising inefficient farmers. Both policies are detrimental to his constituents, yet he favours that which provides jobs in other countries but not that which provides jobs in Australia.

Rather than acknowledging the probability of some farmers having to leave the industry, as the Hon. Mr Irwin does, the Hon. Mr Dunn suggests that the Government should subsidise farmers so that the most productive remain on the land. The most productive are, of course, the ones who

need subsidies least. It is the marginal producer who needs subsidies. A policy of subsidising marginal producers (whether in Australia, Europe or North America) merely depresses prices, raises costs of production and makes life much more difficult for the cost efficient producers.

It seems to me that members opposite in the rural sector cannot have it all ways. I do not believe that that was the case with the Hon. Mr Irwin, but it seems that the Hon. Mr Dunn wanted to have it all ways without really giving any attention to the inconsistencies in his propositions and the ultimate decisions that have to be made with respect to some rural industries which are in difficulty because of the price of their commodities. I trust that that answers most of the questions which were posed.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Issue and application of $645 million.'

The Hon. C.M. HILL: I have one or two questions which arise as a result of the replies given by the Attorney-General in relation to queries that I raised in the second reading debate. First, in relation to the Centralia Hotel, on 10 March I asked:

> I would like to know what the acquisition price was for that property, whether settlement has been made, and whether there was any reason for it not being mentioned in the explanation by the Minister of this Supply Bill.

The Hon. C.J. Sumner: Why should it be?

The Hon. C.M. HILL: In this forum I am entitled to ask questions if the expenditure of public money is involved; that cannot be denied. A few moments ago, in his reply I heard the Minister give an answer relative to the Centralia Hotel that the acquisition price was about $0.7 million. I want to pursue the other questions that I asked. It might interest the Minister to know that there are lots of queries in the public area.

The Hon. C.J. Sumner: You can put the questions on notice.

The Hon. C.M. HILL: I will, if you are not going to act as you should act on behalf of the Treasurer and answer queries by members. We know what happens when we put questions on notice in this place.

The Hon. J. C. Burdett: We don't get answers.

The Hon. C.M. HILL: We do not get answers. Questions were asked today which have been on notice for four months. It is a shocking state of affairs. A Government should almost resign if it cannot give members of Parliament answers to questions which are on notice.

The Hon. C.J. Sumner: You weren't too good on your questions.

The Hon. C.M. HILL: That is not true. If you only knew the way in which the Tonkin Government went to great lengths to get answers to questions on notice ready for Parliament—

The ACTING CHAIRPERSON (Hon. Carolyn Pickles): Could you please confine your remarks to the question before the Chair, Mr Hill? We are dealing with clause 3.

The Hon. C.M. HILL: I will certainly confine my remarks to the question and I will be as brief as I possibly can. I mentioned before I was interrupted that members of the arts community have queries about the Centralia Hotel deal. At least I have managed to extract the price, which the Government has admitted is approximately $.7 million. That in itself raises some questions. What sort of contract has the Government entered into where there is a consideration of approximately $700 000? There either is or there is not.

It has been questioned that settlement has not been made yet and that it will not occur until 30 June, and that the Government has entered into all sorts of side transactions in regard to the matter, one being the provision of some sort of new bar facility on the ground floor of the hotel for the lessee's use, not the arts community's use. I can only presume that the lessee is the vendor. This new facility will allow him to go on for a period with some kind of modern tavern accommodation. All this may or may not be true, but this is the place where the truth must come out. I asked this question on 10 March, and I ask it again. I would like to know the exact price, to start with.

The Hon. C.J. Sumner: What has this got to do with the budget next year? Nothing!

The Hon. C.M. HILL: When the budget was brought in, the Minister indicated that portion of the money was needed for capital works and capital purchases and, quite properly, he named a couple of items. He forgot all about the Centralia Hotel.

The Hon. C.J. Sumner: But this Bill deals with next year.

The Hon. C.M. HILL: It does not deal with next year.

The Hon. C.J. Sumner: Yes, that is what the Bill does. Haven't you read the Bill?

The Hon. C.M. HILL: When is the Government to make settlement? The Minister does not even know that.

The Hon. C.J. Sumner: That's not the point.

The Hon. C.M. HILL: It is the point because, if settlement is on 30 June, it is this financial year. I come back to my point regarding the Centralia Hotel. Can Parliament be told with the honesty that it should be able to expect from any Government what the purchase price is, when settlement is due, whether there are any other conditions which have been covered up so far and not made public such as the possible construction of a new front bar or tavern style accommodation, and what kind of arrangements in regard to leases have been proposed or contracted? Let the public know about this. The Government should not hide it. It should not be afraid of it. Many people in the arts world are saying that the huge freehold property of Fowlers is ready for renovation and alteration as a living arts centre. Why in the name of goodness is the Government going on in this period of stringent capital outflow with a purchase such as the Centralia Hotel?

I mentioned in my second reading speech, but the Minister has not touched on it in his reply, that the public artistic community has raised queries about the purchase of land in Hindley Street.

The ACTING CHAIRPERSON (Hon. Carolyn Pickles): Order! I ask the honourable member to confine his remarks to the clause under debate and to make his contribution as brief as possible.

The Hon. C.J. Sumner: It has nothing to do with this Bill.

The Hon. C.M. HILL: It is not true to say that it has nothing to do with the Bill. That is a most irresponsible comment from the Leader of this Chamber. He should read his own speech when he introduced the Bill. The arts people are saying that he is also buying up land in Hindley Street—

Members interjecting:

The ACTING CHAIRPERSON: Order!

The Hon. C.M. HILL: —with money that is being appropriated—

The ACTING CHAIRPERSON: Order! The Hon. Mr Hill will confine his remarks to clause 3.

The Hon. C.M. HILL: This money will be appropriated by the passing of this Bill. How will it be spent?

The Hon. C.J. Sumner: No, it's not; that's not right. You don't know what you're talking about.

The Hon. C.M. HILL: This money will be appropriated by the passing of this Bill. Does the Minister have the effrontery to query that statement?

The Hon. C.J. Sumner: Yes. You don't know what you're talking about.

The Hon. C.M. HILL: Well, the Minister had a bad cold last week and he is in some other bad way this week.

The Hon. C.J. Sumner: The only bad way that I am in is having to sit here and listen to you talking about something that is not even in the Bill.

The Hon. C.M. HILL: The Minister will soon be accused of being so proud in Government that he is developing an ego and does not want to deal with questions of any kind. As a member of this Chamber I want those answers somehow or other. If I cannot get them verbally, I want them by letter, and I know that I am entitled to them. I turn to another matter that I mentioned in my second reading speech but which I did not hear the Minister touch on at all. He might have and I missed it, but I tried to listen. That matter is the development of the proposed drug and alcohol scheme at Joslin.

The ACTING CHAIRPERSON: Order! The honourable member is straying rather far from the clause in question.

The Hon. C.M. HILL: When the Minister introduced this Bill into the Council, he said on 26 February on page 3189 of *Hansard* (if this is not relative to the Bill, I do not know what is)—these are his very words—

The Hon. R.I. Lucas: The Minister said this?

The Hon. C.M. HILL: I will quote from the Minister's speech as follows, '... extra expenditure of $5 million by the Health Commission, principally for the purchase of the Payneham Rehabilitation Centre...'. That is from his speech; I wrote it down five minutes ago. What attracted me to it was that I thought I heard the Minister of Health in answer to a Dorothy Dix question asked today by you, Madam Chair, that the Government has just bought the Payneham Rehabilitation Centre for a figure of, I think, $3.5 million and that it was a real good bargain. As I recall the figure, he said that that is about $1.4 million less than the market value of $5 million; yet when the Hon. Mr Sumner introduced this Bill, he said that extra expenditure of $5 million was wanted out of this money being appropriated today for that purpose. That should also be looked into. Dealing with the Payneham Rehabilitation Centre, in my speech I asked whether the Government could switch its plans to develop the alcohol and drug centre at Joslin to the Payneham Rehabilitation Centre site.

The Hon. C.J. Sumner: Ask the Minister of Health.

The Hon. C.M. HILL: Well, the Minister is handling this Bill. Questions were asked by all members of all Ministers quite properly, and in this debate and now the Minister is trying to hedge and push the responsibility on to his colleague. The Attorney-General should have the answers and, if he has forgotten them or if his staff has forgotten them or if he has cut them out with his red pencil, I ask him to give me an answer by letter to the questions I asked regarding Joslin. Approximately 200 concerned families live around the Joslin site. They do not object to the site being used as the centre, as it has been in the past, but they do object to the huge development plans that the Minister has in train for it. I know that because I took a deputation from them into the Minister's office and they expressed very grave concern.

It seems to me that it should be possible for the new drug and alcohol centre to be built at Payneham because the Minister of Health today said that there is room for expansion there. He hailed it as a wonderful purchase which provides the opportunity for development of various areas in the provision of health treatment. I would like an answer to those two questions because constituents, particularly in regard to the Centralia Hotel, are asking me questions. They rang up every day last week and asked whether the Minister had replied and I said that he had not and that I am waiting patiently. They will not be satisfied by the answer that the Minister has given today so I ask him to give the detail in a reply by letter to me in the near future to the questions which I asked in the second reading stage.

The Hon. C.J. SUMNER: The Hon. Mr Hill's performance probably corroborates what I said in reply about the nature of this debate. I do not suppose there is much to be gained by rehashing this topic. The honourable member seems to think that this is an Address in Reply debate, but we are talking about the appropriation of moneys for the first part of next year. That is what this Bill embraces, and I would have thought that the honourable member would direct his attention to that matter.

However, he has asked questions and I will refer them to the appropriate Ministers and respond to the honourable member by letter. If the honourable member wanted, he could easily have asked the questions on notice of the appropriate Minister in the Council, but he chose to use this vehicle for his questions. Regarding the Living Arts Centre, I should say that the whole purpose of the purchase of the Centralia Hotel, as I said, is to reduce the drain on arts resources and provide greater viability for the centre. I would have thought that that would be obvious to the honourable member.

Clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

PUBLIC AND ENVIRONMENTAL HEALTH BILL

(Continued from 2 April. Page 3787.)

Bill recommitted.

Clause 21—'Pollution of water'—reconsidered.

The Hon. J.R. CORNWALL: I would like to respond to some of the concerns expressed by the Hon. Mr Elliott and one or two other matters in relation to the operation of this clause. The clause, as I am sure members will recall, deals with the pollution of water supplies and is, as I stressed on a number of occasions during the debate last week, central to the effective operation of the Bill. I made the point, and I make it again, that any public health legislation which did not give the public health authority the power to ensure the potability and purity of the water supply would be so manifestly defective that it could not be in the real sense called a piece of public health legislation at all. Under clause 3 pollution is defined as follows:

> 'Pollution', in relation to water, connotes a degree of impurity that renders the water unfit for human consumption.

Therein, of course, lies the key. Clause 21 (1) makes it an offence for a person to pollute a water supply. I have been advised that, in order to prove that an offence has been committed under clause 21 (1), health authorities would have to demonstrate that a person's actions taken on their own had caused pollution. Thus, pouring a drum of toxic chemical into a water supply would clearly be an action that constituted pollution of that water supply. However, where a person was undertaking a quite legitimate activity, such as running a dairy farm, that person could not, simply because that activity might be contributing to a problem with faecal pollution, be guilty of an offence under this clause. This is so because our hypothetical dairy farmer's activity taken on its own could not be shown to be causing the pollution.

However, I must stress to members that I have received very unequivocal legal advice that a court would interpret clause 21 as being capable of application only to actions by individual persons and not capable of application to the collective actions of a group of people. Thus I can confidently assure members that this clause cannot be used as a means of putting a blanket prohibition on such activities as, for example, dairy farming simply because the collective activities of a large number of individual dairy farmers might happen to be contributing to a faecal pollution problem in the water supply.

The operation of clause 21 (2) would be affected similarly; that is, any notice issued to the hypothetical farmer requiring him or her to cease activity would also fail, because it could not be demonstrated to the court's satisfaction that the activity taken on its own had caused the pollution that was the subject of complaint. I hope that I have been able to demonstrate to members that this clause is not a useful instrument through which to exercise *de facto* planning controls. I have no doubt that, if a particular type of activity was found to be contributing significantly to the pollution of our water supply, the Government of the day, whatever its political persuasion, would feel justified in utilising the existing planning and land use legislation to place restrictions or prohibitions upon that activity so that it could ensure that the water supply was safe and of an acceptable quality. In such an eventuality, I am equally sure there would be a great clamour amongst those whose livelihood was affected demanding proper and reasonable compensation for any financial burden or hardship that the Government's actions might impose.

Clause 21, in the State's proposed major public health legislation, refers to individuals polluting water supplies. That is quite distinct from an activity such as farming carried out, whether by an individual or a class of individuals, which happens to pollute a water supply. In the latter event, quite obviously the planning and land use legislation would be invoked. There are precedents and, of course, there would have to be consideration of resettlement, of acquiring properties and all that that connotes. That has been done. The Hon. Des Corcoran, when Minister of Water Resources back in the early 1970s, bought a very large tract of land in the Chain of Ponds area and closed down the township and some of the farming activities that went on in the periphery of the township. That is what the planning and land use legislation is for. That is not what this public health legislation is about. Yet again I assure the Hon. Mr Elliott and anyone else who has been concerned that they have nothing to fear in clause 21 being used as a *de facto* planning instrument.

The Hon. M.J. ELLIOTT: I thank the Minister for his assurances. I was still earlier today of two minds whether or not to proceed with our amendment. The advice I was getting was that this provision probably should be all right, and certainly when I was trying to draft something better I struck a wall. It is true that similar clauses have existed in legislation for a very long time. Since this whole legislation was being opened up and rewritten, just because it had been there for a long time did not mean we had to keep it going. We had a clause about the use of spittoons once, but we did not continue with them. The age of a provision does not mean that it is good or bad or that it will continue to be applied properly. I take the assurance of the Minister and others that this clause will not be used in the way that I feared it might have been.

The Hon. M.B. CAMERON: This was an area of concern to the Opposition and it was rightly raised by the Hon. Mr Elliott. Until then I had not noticed the potential for abuse in this clause. I also know that we have some of the best parliamentary draftsmen in Australia. The Hon. Mr Elliott has been dealing with them at some length. If he and they together have not been able to come up with some suitable wording that would put all this beyond absolute doubt, far be it from me to start suggesting any potential alternatives. I am aware that it was in the old Act and, standing aside from the other night when we were perhaps a little tired, one realises that it really is aimed at individual farmers doing something absolutely stupid, such as having a 44 gallon drum without a top on it and full of some chemical sitting alongside his shed. That activity would have the potential to pollute any reservoir down the valley.

When it comes to an individual farmer's activities and pursuits, it would be difficult for the authorities to take that step under this Bill. If any steps are to be taken it would be more appropriate to be taken under the Planning Act.

There are some elements of the Hon. Mr Burdett's amendment now on file to give me further assurances that stocking rates will not become part of this Bill. I am not sure whether that amendment is directed to clause 21, but I imagine it will be as it would ensure that such regulations could not be drawn up on stocking rates. As the Minister said, that should be done under the Planning Act. As there is no amendment on which to decide, I indicate that we are not unhappy with that position at this stage.

Clause passed.

Clause 31—'Power of commission, in the interests of public health, to detain persons suffering from diseases'—reconsidered.

The Hon. J.R. CORNWALL: I move:

Page 12—
New subclause (7)—
Leave out 'unless the person objects'.
After new subclause (7)—Insert new subclause as follows:
(8) An examination under subsection (7) is not to proceed if the person objects to being examined.

This clause was the subject of considerable debate during the Committee stage last Thursday night at a time when some of us, as the Hon. Mr Cameron said, were rather tired, although not emotional. Rather than going on with legislation by exhaustion we ultimately decided to pass over some of the later clauses and came back to them today at a much more civilised hour. During the debate on the proposed new subclause (7) moved by the Hon. Mr Elliott and providing for regular examinations of persons held in quarantine, an amendment was inserted to allow persons to object to an examination under that subclause. There was something of an amalgum in transit of Mr Elliott and Mr Lucas and some of the forces of reason.

On further consideration of the amendment it appears perferable to insert a separate subclause to prevent an examination occurring if the person objects to it. With the amendment as presently drafted, an argument exists that the objection relates to the operation of the subclause in toto and not to a particular examination. It was expected that this clause would have to be recommitted and I believe that the amendments that I have placed on file take care of any of the difficulties raised in debate last week.

The Hon. R.I. LUCAS: As one of a couple of members who spoke on this provision in the Committee stage, I had not realised that the Minister was moving a further amendment to this provision and have only just caught up with it. I still do not understand clearly the distinction between this and the compromise we made the other night to include 'unless the person objects' in subclause (7). Will the Minister quickly go over the reason why the compromise from the other night was unacceptable and why we are now to insert new subclause (8)?

The Hon. J.R. CORNWALL: As the amendment is presently drafted, I am advised an argument exists that the objection relates to the operation of the subclause in toto and not a particular examination, so the further amendment is to clarify the application of the clause. As the amendment is now amended, it will apply to a particular examination and not to be the generality.

The Hon. R.I. LUCAS: I think I understand and that it is in accord with what we saw as the compromise that we agreed to the other night. On that basis, I indicate that I support the replacement amendment of the Minister of Health.

The Hon. M.J. ELLIOTT: I am completely satisfied with this. I think commonsense has prevailed and what we have here should allay all the fears that people have.

Amendment carried; clause as amended passed.

Clause 35—'Action to prevent the spread of infections'—reconsidered.

The Hon. J.R. CORNWALL: I move:

Page 14, lines 39 and 40—Leave out 'an infectious' and insert 'a controlled notifiable'.

This amendment is consistent with other amendments to replace all references to infectious diseases with references to controlled notifiable diseases. It is self-explanatory.

Amendment carried; clause as amended passed.

Clause 44—'Regulations'—reconsidered.

The Hon. M.B. CAMERON: A number of matters in this clause were the subject of some debate the other evening. I did have a further amendment to clause 37 which indicated that reasonable notice should be given. That matter has now been cleared up to my satisfaction and I do not intend to proceed with that amendment because, as I understand it, reasonable notice on entering a massage parlour would be a knock on the door. This matter is now the subject of an amendment by the Minister of Health that is the same as I intended to move the other night.

The Hon. J.R. CORNWALL: I move:

Page 18, lines 25 to 32—Leave out paragraph *(h)*.

Had I not moved this amendment, the Hon. Mr Cameron would have. It was subject to some discussion last Thursday night but was deferred at that time in order to allow consideration to be given to transferring the paragraph to which the amendment relates to the Building Act 1971. It has in fact been decided that it would be reasonable to include this matter in the Building Act. A consequential amendment, which is on file, has therefore been prepared to the Statutes Amendment (Public and Environmental Health) Bill which we will be debating in a moment. By doing that, we will be able to amend the Building Act. Paragraph *(h)* on page 18 of this Bill may therefore be deleted, and I seek the support of the Committee to do that.

Amendment carried.

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

Page 19, after line 14—Insert new subclause as follows:

(3a) A regulation may not be made under subsection 2 *(d)* unless the Governor is satisfied—

(a) that the regulation is reasonably necessary to prevent the transmission of disease from the animals to persons or to prevent insanitary conditions;

and

(b) that there has been reasonable consultation with the persons who would be directly affected by the regulation, or with their representatives.

As this Bill stands, I was concerned about the wide nature of the regulation making power with regard to the keeping of animals which was first in clause 44 (1) *(d)* and is spelt out in clause 44 (3) where it specified the things which might be stipulated with regard to the keeping of animals, in particular the maximum number of animals that may be kept per unit area. My concern was that these powers were not confined to health matters so that there could be a limitation on stocking rates of sheep that may not be related to health at all.

After the Committee sat on Thursday night, I spoke briefly to the Minister, who was most cooperative and who enabled me to have conferences with officers from his department. Those conferences proceeded in a most amicable manner, and the amendment which I propose does what I have just indicated: it retains all the powers that the Minister wanted but confines the ability to make the regulations to cases where it is necessary in the interests of human health. No-one can ask for more than that. I fully recognise the need to have powers to regulate the keeping of animals where the method of keeping them infringes upon human interests. Where there may be a transmission of the disease to human beings, and with regard to insanitary conditions, I suppose that, in a sense that is one of the things that this Bill is all about. I understand that the Health Commission is satisfied with this proposal. I thank the Minister's officers for their cooperation.

The Hon. J.R. CORNWALL: This amendment has been the subject of a considerable degree of very positive negotiation since last Thursday evening, and I thank the honourable member for his cooperation and commonsense. I indicate that we have no difficulty in supporting the amendment which is now moved.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

STATUTES AMENDMENT (PUBLIC AND ENVIRONMENTAL HEALTH) BILL

(Second reading debate adjourned on 11 March. Page 3315.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

New part IA.

The Hon. J.R. CORNWALL: I move:

Page 1, after line 21—Insert new part as follows:

PART IA

AMENDMENT OF BUILDING ACT 1971

3a. The following section is inserted immediately after section 61 of the principal Act:

61a. Notwithstanding the other provisions of this Act, the regulations may—

(a) prohibit the construction of buildings of a specified class in a part of the State that is not within an area unless—

(i) plans of the proposed building have been submitted for approval by the South Australian Health Commission;

and

(ii) the South Australian Health Commission has signified that it is satisfied that adequate provision has been made for sanitation and for ventilation of the building;

and

(b) prescribe a penalty not exceeding $1 000 for non-compliance with the regulation.

As I indicated previously, this is part of the amendments which have been agreed to, in negotiation with Mr Burdett in particular. Members will recall, I am sure, that clause 44 of the Public and Environmental Health Bill—which we have just finished debating—referred specifically to animals and to buildings in areas out of hundreds and therefore not subject to the normal planning processes through local government. It has been decided as part of the discussions and negotiations that this is the preferred way—to have regulations apply to certain classes of buildings. This will ensure that public health requirements are met.

New part inserted.

Clause 4—'Cremation may be established.'

The Hon. J.R. CORNWALL: In the general examination of this Bill and its impact, the question was raised with me as to what effect the amendment of the Cremation Act 1891 has *apropos* the recommendations of the Select Committee on Disposal of Human Remains. The simple answer to that, I am advised, is that it maintains the *status quo*; however, it is without prejudice, of course, to any amendments that may be introduced in Parliament as a result of the Government's consideration of the select committee's report. Therefore, I commend to the Committee this amendment of the Cremation Act.

Clause 4 passed.

Clauses 5 to 10 passed.

Clause 11—'Employment of diseased persons in handling food and drugs.'

The Hon. M.B. CAMERON: I just ask the Minister whether the reference to 'notifiable disease' in this clause should read 'controlled notifiable disease'.

The Hon. J.R. CORNWALL: Yes, it should read 'controlled notifiable disease,' and I thank the honourable member for pointing that out. I seek to amend the clause accordingly. I move:

Page 2, line 40—Insert 'controlled' before 'notifiable'.

Amendment carried; clause as amended passed.

Clauses 12 to 16 passed.

Clause 17—'Power to declare houses unfit for habitation.'

The Hon. M.B. CAMERON: I am not sure whether this is necessary, but I indicate that the Public and Environmental Health Bill was amended to refer to 'local council', and I wonder whether this clause should be similarly amended, that is, by placing the word 'local' before the word 'council' wherever it appears.

The Hon. J.R. CORNWALL: My advice is that it is not necessary in this Bill. The reason for doing that in the Public and Environmental Health Bill was that local government did not want any confusion as between the Public and Environmental Health Council ('Council' with a big 'C') and local councils, with a small 'c'. I think in the context of this legislation, where we are replacing 'local board' with 'council', it is most unlikely that there would be any confusion. However, I am not at all fussed about this and if the honourable member wants to insert the word 'local' before the word 'council' I will be delighted to cooperate, but I do not think it is necessary.

Clause passed.

Remaining clauses (18 to 44) passed.

Title.

The Hon. J.R. CORNWALL: I move:

Page 1, line 6—After 'to amend' insert 'the Building Act 1971,'.

Amendment carried; title as amended passed.

Bill read a third time and passed.

SUBORDINATE LEGISLATION ACT AMENDMENT BILL

In Committee.

(Continued from 2 April. Page 3757.)

Clauses 2 and 3 passed.

Clause 4—'Insertion of new part IIIA.'

The Hon. K.T. GRIFFIN: During the second reading debate I raised a few questions relating to this clause and the Attorney-General gave some responses to my queries. I want to take the opportunity to raise a few further questions for clarification, particularly in relation to the sorts of regulations which are to be prescribed out under proposed new section 16a *(f)*. As I said during the second reading debate, really it gives Government an opportunity to prescribe out a whole range of regulations and I believe that the better course is to have the new regulations enacted. If it in fact seems appropriate that those regulations might continue, perhaps taking the opportunity to upgrade them, particularly if they are old. When regulations are likely to be prescribed out, is it proposed that a whole bundle of regulations will be incorporated in one regulation so that the disallowance process, in applying to that bundle, will have to deal with either acceptance or disallowance of the regulation as a whole, or will they be proposed in separate sets of regulations according to the legislation under which the original regulations were promulgated?

The Hon. C.J. SUMNER: That matter has not really been considered. I am not sure that I can add anything further to what I said in my second reading reply. Really, it is a safety net clause and I do not anticipate that it will be used often, but I think, in the undertaking upon which we are embarked, there will be some difficulties and, unless we have some flexibility to deal with those difficulties, we could find ourselves in a lot of trouble and going through a lot of bureaucratic activity in relation to deregulation. I think that that difficulty should be avoided.

The Hon. K.T. GRIFFIN: I acknowledge the need for some flexibility, but really I was trying to address the problem in which Parliament will find itself if in fact regulations under a variety of Acts which are to be continued are all brought up in the one regulation under paragraph *(f)* in proposed new section 16a. It seems that it would be a much better procedure, if any old regulations are to be continued, that they be the subject of a regulation under paragraph *(f)*, not all in one bundle so that there are 50 regulations in one regulation, and either it is disallowed as a whole or it goes through, but rather that they be the subject of different regulations so that each issue can be addressed separately be each House of Parliament under the Subordinate Legislation Act with respect to possible disallowance.

The Hon. C.J. SUMNER: I understand what the honourable member is saying. As I have said, I have not considered it, but I will take his comments into account when and if the occasion arises.

Clause passed.

Title passed.

Bill read a third time and passed.

WRONGS ACT AMENDMENT BILL (No. 1) (1987)

Adjourned debate on second reading.

(Continued from 19 March. Page 3533.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, which seeks to enact a provision regulating the liability of occupiers. The area of the law relating to liability of occupiers is one which has been developed over the past century or two and it focuses on the liability by occupiers of property to invitees, to licensees and to trespassers. Over that long period of time it has been the subject of development by the courts and by the courts finding rules which might be applied universally to this question of liability, but over those years the courts have had to develop exceptions, to develop modifications to the rules and to adopt legal fictions to accommodate some of the broad rules.

The first consideration of the reform of this area of the law is contained in the twenty-fourth report of the Law Reform Committee of South Australia, which report was

published in 1973. It made some recommendations with respect to invitees and to licensees.

The Law Reform Committee considered the matter further in relation to the liability of owners or occupiers to trespassers, and it is as a result of those reports and the fact that in Victoria the Occupiers Liability Act was passed in 1983 that this matter has been brought before the Council. I suppose that the reason why nothing was brought to the Parliament as a result of the 1973 Law Reform Committee report was the complexity of the issue. When I was Attorney-General it was one of those issues that I believed ought to be the subject of legislation, but for those within Government departments it always seemed to be an issue which was put to one side because it was difficult to resolve. I am pleased that now there is something before the Council which reflects a quite significant reform of the law relating to the liability of owners and occupiers.

As I say, the law presently divides into categories those who enter premises. The person who enters land with the consent of the occupier in pursuance of a common material interest, which is usually financial, is an invitee. A person who enters land with the consent of the occupier but who does not share that common material interest with the occupier is a licensee. Then there is a trespasser and the last category comprises children who enter land as trespassers. The duty of care owed by the occupier to persons in each of these categories varies according to the category. The duty owed to an invitee because of the common material interest is higher than that owed to a licensee. The duty to a child who enters land as a trespasser is higher than the duty owed to an adult trespasser.

While the courts have long ruled that an occupier or an owner owes no duty to a trespasser save to refrain from intentional or reckless, that is, deliberate harm, there are circumstances where an occupier has a liability to a trespasser. One of those which is obvious is the setting of a mantrap which is a deliberate act on the part of an owner or occupier or where an owner or occupier is aware that trespassers periodically come on to land where there is a situation of danger such as an open mine shaft, does nothing to place warnings around that shaft and, as a result, a person suffers injury from falling into the shaft.

The principles set out in this Bill to reform the law are generally acceptable. They are very much in line with what is in the Victorian Occupiers Liability Act. The liability of the owner or occupier is to be determined according to the principles of the law of negligence and, in determining the standard of care to be exercised by the occupier of premises, the court is to take into account a number of factors. They include the nature and extent of the premises; the nature and extent of the danger arising from the state or condition of the premises; the circumstances in which the person alleged to have suffered injury, damage or loss or the property of that person became exposed to that danger; the age of the person alleged to have suffered injury, damage or loss and the ability of that person to appreciate the danger; the extent if at all to which the occupier was aware or ought to have been aware of the danger and the entry of persons on to the premises; the measures if any taken to eliminate, reduce or warn against the danger; the extent if at all to which it would have been reasonable and practicable for the occupier to take measures to eliminate, reduce or warn against the danger; and any other matter that the court thinks relevant.

The Bill specifically provides that an occupier owes no duty of care to a trespasser unless the presence of trespassers on the premises and their consequent exposure to danger were reasonably foreseeable, and the nature or extent of the danger was such that measures that were not in fact taken should have been taken for their protection. To some extent that reflects the law at present although the law does not specifically embody the principles of negligence as the basis upon which liability will arise. An occupier does not owe a duty to a trespasser in circumstances where neither the danger could be foreseeable nor the presence of trespassers on the premises was reasonably foreseeable.

The United Farmers and Stockowners, to which I sent this Bill because of its interest over the rural areas of the State, was reasonably happy with the Bill. The only concern expressed was about the need for the court to consider the age of the person in determining the standard of care. I can understand the difficulty which that association has with that but I do not really think that that is an objection which ought to alter the course of the Bill.

Upon reflection, one must take into account the age of the person, whether he be invitee, licensee or trespasser, in determining the standard of care which is owed and the extent to which the presence on the premises of a person, say, a young child, is known to or foreseen by the owner or occupier. I can envisage circumstances in which an invitee or a licensee brings children on to a property on which a warning sign on a particular hazard may be adequate for adults but may be totally inadequate for young children. In those circumstances, the knowledge that young children may be around a hazard is something which the owner or occupier must take into consideration in determining the extent to which they protect young children from a situation of danger.

The Master Builders Association raised some questions about the Bill, particularly the liability to trespassers. That association is particularly concerned about building sites. The owner and the builder who might occupy premises for the purposes of building may know that, from time to time, persons trespass on those properties. With dwellings, most if not all people know that it is a constant source of concern for builders over weekends when members of the public regard such sites as available to satisfy their curiosity, and are genuinely concerned to see what is happening in relation to a particular dwelling, either just as a matter of interest or to get ideas for their own home. Trespassing on home sites is frequent, and one could say that in those circumstances it is foreseeable. The Master Builders Association is concerned that, in those circumstances, higher standards of care will be owed by the builder to the trespasser than in other circumstances where trespassing may occur.

I would not like to see that this Bill in any way alters the *status quo* as it affects builders in those circumstances. I suspect that the present law already accommodates that position and places some liability upon builders who may be occupiers, but I would like the Attorney-General to address that issue and provide a response.

The Master Builders Association also writes as a building owner, suggesting that it is typical of many building owners whose buildings comply with regulations under the Building Act. It says that its building contains two fire isolated stairwells that are used regularly by staff and members of the Master Builders Association, by tenants and their staff, and by visitors to the Master Builders Association and to tenants. The various officers of the association are fully aware of the danger inherent in the use of stairs in those stairwells and of the entry of persons onto those premises. They are also aware that a person could stumble, trip, overbalance or climb a railing and jump and as a result suffer a serious and possibly debilitating injury while using the stairs. Older people are more susceptible to stumbling

or tripping in those circumstances and suffering injury than younger people.

Because the Master Builders Association and other building owners might be aware of that use, they raise the question whether they are therefore liable in negligence. Under public liability rules there would, I suggest, be a significant question mark about the liability of the owner and occupier in those circumstances, provided, of course, there was an adequate notice which drew attention to any situation of potential danger. The problem also extends to multistorey residential buildings and particularly those which might be used by younger children. There is then the question of liability where, in the knowledge that there are young children on the premises, the staircase may be adequately fenced for normal behaviour but inadequately fenced for unusual behaviour. Then there is the question of liability which could arise as a result of a child climbing the fence or protective railing and suffering loss and injury as a result.

There are other issues which the Master Builders Association refers to in the context of this Bill to which I will refer also in my consideration of the Bill because they are issues which are not necessarily related to buildings. The definition of 'premises' refers to a vehicle, including an aircraft or a ship, boat or vessel. It is not adequately explained in the second reading explanation why a vehicle should be included in the definition of premises. One could envisage an on-site caravan in a caravan park which in those circumstances was a vehicle but which may be permanently on the caravan park.

On the other hand, if premises, for the purpose of this Bill, includes a vehicle which is out on the road, what then is the relationship between this Bill and the liability which it creates for a person who may be in a vehicle on the road as an invitee or licensee of an owner of the vehicle as opposed to the ordinary laws of negligence which apply in relation to the Motor Vehicles Act and its application to third party insurance? What is the liability of an owner of a vehicle who, being aware that the vehicle may be stolen, leaves his or her key in the ignition and the vehicle is stolen? In those circumstances the person who is in the vehicle is a trespasser. What then is the liability to the trespasser where the brakes may have a peculiar characteristic, which, while being known to the owner and regular user of the vehicle and therefore not making it unsafe, is not known to the trespasser, and the trespasser crashes the vehicle as a result? The whole concept of the inclusion of vehicles is fraught with some difficulty and I would like the Attorney to address the reasons why it has been included in the Bill.

The other question, I suppose, relates to an aircraft which operates under Commonwealth law. What is the capacity of the State to affect the laws relating to liability for a person who might be a passenger in an aircraft? What about a ship or boat which is operating outside coastal waters? Why, in any event, should a vessel, that is, a boat or ship, be included within the definition or premises? Maybe it extends to a houseboat and to liability which then occurs as a result of entry to a houseboat which may be moored to a river bank. But what about the liability when that boat moves out into the stream or onto the lake? Maybe identical principles are applied to determine liability for negligence, but nevertheless it raises the question about the compatibility of the ordinary laws of negligence and the laws of negligence and the factors which the court must take into account in determining the liability in relation to some injury or loss which occurs as a result of a vehicle being 'premises'.

Under the general law, occupiers liability can be excluded by notice, excluded by contract and to some extent excluded or at least limited by notice. I suppose that ought to be considered because, in relation to a situation of danger, I would have thought that, if there is a sign which says 'Caution' and gives some identification of the danger, provided the person who might subsequently suffer loss or injury is literate and it can be said that that notice has been drawn to the attention of the injured person, the liability is excluded.

The liability in respect of the long line of parking station cases, I suppose, relates more to contract than anything else but, even for people using walkways and entering premises in the absence of a contract, it seems to me that the right to enter those premises might be limited or at least excluded by an appropriately worded warning notice at the entrance to those premises indicating that liability is excluded. That is not addressed, because the Bill deals only with matters of contract.

The only other area that needs to be addressed is in relation to new section 17c (5). The point has been made to me that, where a higher duty of care is not spelt out in a statute but is in the case law propounded by the courts, in those circumstances the Bill would not require the higher duty of care to be maintained by the owner or occupier. Whilst the Factories Act is no longer law, as I understand it the old Factories Act, which dealt with the fencing of machinery and moving parts, did not make the liability absolute but subsequently the courts did, by interpretation and case law, make the liability absolute. In those circumstances it would seem that that higher duty of care ought to apply. There may be other cases where there is such higher duty of care imposed by case law which embellishes or adds to the statute law. Maybe that ought to be considered.

Those matters need to be addressed. Subject to the Attorney-General's reply on those matters, it may be appropriate to consider amendments, but to enable the matter to go through to the Committee stage I support the second reading and indicate that in any event the principle proposed by the Bill is one with which we agree.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member and the Opposition for their support of the Bill. I seek leave to continue my remarks later, I wish to obtain answers to the honourable member's questions.

Leave granted; debate adjourned.

BAIL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 April. Page 3685.)

The Hon. K.T. GRIFFIN: The Opposition generally supports the second reading of this Bill, which does a number of things. Without wishing to repeat the Minister's second reading explanation, I think it is important in the circumstances of this Bill to identify what I see to be major amendments proposed by the Bill. It follows from a review of the operation of the Bail Act by the Office of Crime Statistics, whose views are promulgated in a research bulletin published in July 1986. The Bill ensures that a person who has been detained and is allowed to be detained by the police for a maximum period under the Summary Offences Act is not eligible for bail until that period of detention has expired. The Opposition has no difficulty with that. The

Bill also provides for certain procedural aspects of bail to be dealt with by regulation, but that will not affect the substantive provisions of the Bail Act. Again, I see no difficulty with that, as it is only procedures that are to be dealt with by regulation. Everyone will know that I have strong views about regulation-making powers and what should be included in regulations and what should be in the statutes. It is appropriate in these circumstances that procedures be accommodated in regulations.

Bail authorities will be able to consider home detention with the consent of the Crown. The principle of that is not opposed, but there are some issues that I want to address later. The Bill also provides that a person on bail will be allowed to leave the State with the permission of a judge, justice or member of the Police Force of or above the rank of sergeant or, where under supervision, by an officer of the Department of Correctional Services or the Department of Community Welfare. Again, there are some difficulties with that, particularly in relation to the authority of officers of the Department of Community Welfare and the Department of Correctional Services, but I will address that later.

The Bill also provides that a person applying for bail after being committed for trial may apply to the committing court for bail. Presently it has to go to the court where the matter is to be heard. I have no difficulty with the proposed amendment. Where a person is released on conditional bail and the condition is not fulfilled, the person on bail is to be brought back to the court automatically for a review of the unfulfilled condition not more than five working days after it was imposed. Again there is no difficulty with that.

I recognise that, particularly in relation to financial conditions, those who are charged with offences but have been granted bail on condition may languish in gaol pending the trial because the financial condition cannot be satisfied, although there is no risk that the person will abscond if there is no such financial condition. In order to ensure that that condition is reviewed, I support the automatic referral back to the bail authority for review of that unfulfilled condition.

A magistrate's review of a decision of a bail authority will be provided with the leave of the Supreme Court. Again I have no difficulty with that. Where there is a review of bail the Crown can file a notice of discontinuance before a period of 72 hours has expired if it does not intend to proceed with the review. Again there is no difficulty with that, although I have difficulty with one aspect of that part of the Bill which provides for automatic release if the review has not been completed within 72 hours. I will deal with that in a few minutes.

The Bill spells out a guarantor's obligations and creates an offence where the guarantor has reasonable cause to believe that a person who is the subject of any bail guarantee is in breach of a condition of that bail and does not notify the authorities of that suspected breach. Again that is an important provision. A guarantor (or the old surety) must have some obligations. If it comes to the notice of the guarantor that a condition has been broken, there has to be an obligation on the guarantor to draw it to the attention of the authorities. It is relieving the guarantors of obligations that they owe to the community as much as to the courts and to the alleged offender if all that is at stake is a financial guarantee which might be then acted upon by the authorities. So, I support that provision.

The Bill also provides for any consent required to be given by the Crown to be given by a member of the Police Force. That will obviously short circuit some of the administrative difficulties in dealing with bail applications brought on at short notice, and I support that provision.

The Bill extends from six months to one year the period within which an offence under the principal Act can be prosecuted. I would like the Attorney-General to give some information as to the reason why that is being extended. I am always reticent to endorse extensions of time within which proceedings may be issued. I think that the citizen has a right to expect that, if an offence has been committed, the matter will be pursued within a reasonable period of time. Six months has over many years been regarded as reasonable and, although we have seen longer periods of time creeping into legislation and we have generally drawn attention to the longer period, I think there have to be good reasons why an extension from six months to 12 months, for example, has to be moved in amending legislation.

As I say, Madam President, most of the provisions of the Bill are not controversial and the Opposition supports them. Quite obviously, the passing of the Bill will result in a number of people presently in gaol on bail being able to reside in the community whilst awaiting trial, provided, of course, that there is no risk to the community as a result of the person who is alleged to have offended being released into the public arena. We have had a number of cases where people on bail have committed further offences and, because of that, I think that the courts and the bail authorities need to be diligent in assessing the degree of risk that is likely to occur to the community or to any individual in the community from the release of that alleged offender on bail.

Relevant to that is the question whether the authorities—the Crown and the police in particular—do adequately take into consideration the views of alleged victims in determining the conditions which might apply to bail. I do not suggest for one minute that the victims or alleged victims ought to have a power of veto in relation to bail, but I do think that they need to be consulted wherever that is possible and practicable, and their views ought to be addressed to the court or to the other bail authority to ensure that not only are the interests of the alleged offender taken into consideration but also the potential danger to the alleged victim through any person being released on bail or through any person having inadequate conditions attached to their bail order.

The Hon. Diana Laidlaw: Would it be restricted to victimless crimes?

The Hon. K.T. GRIFFIN: It is possible that that could occur. It depends on the definition of 'victimless crime'. Even a burglary is not a victimless crime.

The Hon. Diana Laidlaw: A crime against the person.

The Hon. K.T. GRIFFIN: Against the person, it could be, but even threats to the individual through burglary, breaking and entering and those sorts of offences might have to be taken into consideration. It is possible that the need to consult could be limited to those offences which related to offences against the person, because I think it is an important issue and, unfortunately, I do have a number of instances where that has not occurred or has not occurred adequately. The issue ought to be addressed and the Attorney ought to be able to give us some indication as to what are the current procedures for ensuring as much as it is possible to do so that the consultation is occurring and the views of the victim are communicated to the bail authority.

Turning now to home detention whilst on bail, where a person is under home detention whilst on bail which, of course, can only be granted with the consent of the Crown, the alleged offender can leave the place of residence for the purposes of remunerated employment, necessary medical or dental treatment, for averting or minimising a serious risk of death or injury or for any other purpose approved by an officer of the Department of Correctional Services or

an officer of the Department for Community Welfare. If approval is to be given by one of those officers in particular—that is, a Correctional Services officer or a Community Welfare officer—I think there ought to be an express provision that that approval be notified to the bail authority and the police immediately the condition has been varied. There is no provision for notice of that variation to be given at the present time.

The Bill also provides that, if a person on bail desires to leave the State for any reason, then permission is to be given by a judge or justice or a member of the Police Force of or above the rank of sergeant or, if under supervision, by an officer of the Department of Correctional Services or the Department for Community Welfare. If the alleged offender wants to leave the State, I do not believe it is appropriate that the approval for that ought to be given only by an officer of one of the two departments. It may be appropriate for a senior police officer to give the approval, but I even have reservations about that, because leaving the State means that a person leaves this jurisdiction. If that person decides not to return to South Australia, considerable costs are involved in finding the person and seeking extradition. In many instances, the costs are high and police do not proceed with extradition. So, authority to leave the State is a serious and important power and I do not think it ought to be exercised by departmental officers, who may be subject to undue pressure because of their closer association with the alleged offender than, say, a police officer and more particularly a court or justice. I think that that power in the departmental officers ought to be removed from the Bill.

Where a person is on home detention, an officer of the Department of Correctional Services or the Department for Community Welfare or a member of the Police Force can enter the residence at any time to check that the person on bail is there. That is understandable, and I support that quite strongly, because part of the whole scheme of home detention is the granting of a privilege for a person to live in his or her home whilst awaiting trial. The conditions are better than prison conditions and the opportunity to live a more adequate lifestyle is certainly more evident at home than in a prison, so the power to enter the home is important.

However, one of the difficulties I would foresee is that, if the person is attending remunerated employment, there is no power for the police or one of the departmental officers to check that the person is in fact at work. Whilst I am not proposing amendments to give that power, I would like the Attorney-General in replying to give consideration to ways in which that can be monitored. I know it has to be discreet; I know it can create problems for the alleged offender if a police officer turns up at the place of employment; but on the other hand, if the privilege of home detention and engaging in remunerated employment is to continue and to be available, then there have to be some restrictions on a person's rights and there have to be ways by which the terms and conditions are to be monitored.

Clause 11 of the Bill contains a provision which has caused concern in the past. A deferral of release on bail can occur where a decision of a bail authority is to be reviewed. The period of deferral ends, according to the Bill, when the review is completed or when a member of the Police Force files with the bail authority a notice that the Crown does not desire to proceed with the review or 72 hours has elapsed, whichever first occurs.

The problem which occurred last year was that an alleged offender was granted bail; the Crown appealed; and Mr Justice White in the Supreme Court wanted some further information before making a decision and adjourned the matter for, I think, a week. In the circumstances of that matter, the alleged offender could have walked away after 72 hours from the date of the granting of bail, even though the review by the Supreme Court had not been completed. It was fortuitous that the police had other offences for which the person could be arrested and put back in gaol, and therefore the deferral of the bail review could not result in automatic release. I think this part of the Bill needs to be changed so that the application for review is to be made within 72 hours, and, if the court orders that the release should not occur until the review is completed, that ought to be within the authority of the court.

As I indicated earlier, the only other issue is that of victims, and it is appropriate that I raise the matter of the need for victims to be consulted about bail conditions, particularly in circumstances where offences against a person are charged. In those circumstances, the victims ought to play a fairly important role in advising the bail authority considering whether or not bail should be granted what conditions, if any, ought to be applied. Subject to a forthcoming response on those matters, I am prepared to indicate that the Opposition will support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank members opposite for their support. I seek leave to conclude my remarks later to enable a response to the questions that have been raised.

Leave granted; debate adjourned.

CORONERS ACT AMENDMENT BILL (No. 1) (1987)

Adjourned debate on second reading.
(Continued from 1 April. Page 3687.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading. The Bill provides for a Coroner to reopen an inquest at any time, and provides that the Attorney-General may direct the Coroner to reopen an inquest. In addition, the Supreme Court is given power, on the application of the Attorney-General or a person with a sufficient interest in the finding made at an inquest, to make an order that the Coroner's finding be set aside.

This is designed to give persons who may be prejudiced as a result of the Coroner's finding an opportunity to have a matter reviewed if they believe that the Coroner's finding is not appropriate. This happens on occasions: a Coroner's inquest is not a hearing which determines innocence or guilt and is not directed towards any particular person as a defendent, but rather is designed to try to explore all the background of a death, a fire or some other object of an inquest.

On the basis of information that is available it is up to the Coroner to make a finding. In some instances that can be very prejudicial to an individual, particularly if it reflects on an individual's professional competence or on something which should or should not have been done by a person, in relation to, say, a fire. In circumstances where that prejudice occurs, the individual has no right of redress. It is very much like making statements about an individual under parliamentary privilege, and identifying that individual: the individual does not have an opportunity to reply to those allegations made under parliamentary privilege, and the allegations are therefore absolutely privileged so far as defamation is concerned.

The same, I suppose, happens in relation to Coroner's inquests. The Coroner's findings in relation to defamation

are absolutely privileged. There is no right for one to put an alternative point of view, and the normal practice in the community is to report the findings without giving a person who might have been maligned or criticised an opportunity to respond and for such responses to be given equal prominence. Therefore, I think the Bill is a good step, in that it is designed to give individuals in the community some protection of their position and a redress of their rights. The Opposition supports the Bill.

The Hon. R.J. RITSON: I also support this Bill. It provides for the possibility of correcting adverse consequences where a mistake has been made in the Coroner's Court. I have a particular case in mind. I will not detail the whole matter, but in this case allegations were made that a certain patient died of overtransfusion. The findings supported that view and a number of remarks were made which caused certain administrative actions to be taken against the doctor involved, who suffered grave damage to his reputation and grave financial loss.

In this case, none of the medical experts that I talked to could understand how it would be possible to overlook one vital piece of evidence that was staring out at one in the case notes, namely, the steadily rising haemoglobin, that is, an increased concentration of the blood. All the people with whom I have discussed this matter are firmly of the view that the death was caused by leakage of fluid into the tissues due to an overwhelming infection, or a form of toxic shock. But, in the event, as I say, administrative decisions were taken which caused grave damage to the reputation and to the income of the doctor concerned. Ultimately, the matter was looked at by Crown Law and the Medical Board which decided that there was no case against the doctor, either in terms of law or in terms of ethics or professional competence.

It is said that the worst thing that can happen to a person is to be convicted of a crime and that the second worst thing is to be acquitted of a crime. However, I think that, to be accused of a crime in newspapers and by innuendo and to have no hearing and no further action taken except administrative punishment, as it were, with no way of arguing one's own point of view about the things that are said is a denial of natural justice. I am pleased that the Government has introduced this Bill, and I commend the second reading of it to the Council.

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

[*Sitting suspended from 6 to 7.45 p.m.*]

POTATO INDUSTRY TRUST FUND COMMITTEE BILL

Adjourned debate on second reading.
(Continued from 31 March. Page 3599.)

The Hon. M.J. ELLIOTT: The question of the potato industry returns to the Council something like 12 months after the passage of the Bill which demolished the Potato Board. This Bill includes a proposal by the Minister regarding the handling of funds. I tried to address this question 12 months ago when the abolition of the Potato Board occurred. I made quite clear at that time that I believed that the operation of the fund should be in the hands of the industry. The Minister did not accept that point of view then and it seems that he still does not want to accept it. By the structure of this Bill, it is obvious that the Minister is looking to have an advisory committee which will not say anything different from what he thinks.

I will move amendments to clause 3 to the effect that four members of the board will directly represent potato growers. By that I mean that they will be nominated by the potato growers and it will not be the case that the Minister chooses those members. It is clear that all the Minister wants is a tame, pussy cat board. That is typical of the general thrust of the Government at the moment in that the Ministers are taking absolute control. The Government does not believe in going out to the people and getting real advice. The only exception has been the Retirement Villages Bill. In almost every other Bill that has come before the Parliament in the last 14 months, the accusation of insufficient consultation with the community has been upheld. This Bill repeats that mistake. Although I now know that it was wrong, I believed when the Labor Government first came into power that it was a Government of the people and would encourage them to have as much input as possible. As shown by the composition of the board, that is quite clearly not the case.

At one stage, after consultation with the industry, the Minister agreed to allow the Combined Potato Industry Council to nominate three people from each of three regions from whom the Minister would choose the people he wanted on the board. The Minister has reneged on that. I have copies of letters which quite clearly show that he accepted that as a principle a short while ago; yet he has reneged now. I can only presume that the Minister decided that he did not like the names put forward by the industry and that he had other names in mind. He has gone back on his word.

I do not think that his word is worth much and, if the Minister does not accept the advice of the potato growers, his standing in the agricultural community will be a damn sight lower than it is already. I implore the Minister to consider most seriously the amendments proposed by me and by the Liberals. They give the nomination of the majority of board members back to the potato industry.

Given that the potato industry provided the funds to set up the Potato Board, when the Potato Board is abolished those assets will quite rightly belong to the potato growers. I am concerned about the way in which the potato industry trust fund might be operated. The assets of the board total about $1 million. Allowing for inflation, if the trust fund tries to operate only on the surplus over and above inflation, that is, the difference between interest and the inflationary figure, the board will have about $50 000 a year to spend. Therefore, from $1 million worth of assets it will have a trivial amount to spend. I suggest that, by the time administration costs are met and other sundry items are paid for, the potato industry will have very little money left for promotional and other purposes.

I implore the Minister to consider seriously the long-term future of this fund. Obviously, there must be some sort of top-up mechanism aside from simply relying on interest payments, otherwise the great bulk of money will not be effectively available for the use for which it was originally intended. I understand that the industry is rather interested in some form of levy whereby the fund would continue to be topped up. I doubt whether the industry would be interested if the committee was structured as the Minister currently proposes. I will oppose this Bill if the Government does not accept the amendments proposed by either the Democrats or the Liberals in relation to clause 3.

The Hon. J.R. CORNWALL (Minister of Health): Let me make clear at the outset that we appear to be on a collision course in relation to this Bill. My clear instruction

from the Minister of Agriculture is that he believes and will insist that there be only three grower members on the trust fund committee. On a committee of seven members there will be three grower members, three members with technical expertise and an independent Chair. As proposed, these grower members would not have the majority. The Minister believes that this is necessary to ensure that the financial and marketing skills required to make sure that the trust fund is utilised for the overall interests of the potato industry are not overridden by the narrow interests of growers. I must make clear that the Minister and the Government will not accept majority grower representation as proposed.

The Minister has told me that he wishes to appoint grower members who are acceptable to him and not to be restricted by grower members nominated from specific regional areas as suggested by one of the amendments. The trust fund should in our submission be managed by skilled financial managers and not by representative growers. We do not believe that they ought to have the majority. The other amendments are only minor and I do not believe that we have any real argument with them.

In summary, our view is that there should be no amendment to clause 3 for the reasons that I have outlined. If the Bill is rejected it is, although not desirable, possible to form a committee under the powers of the Minister rather than by legislation. That would be regrettable, but it would seem to me at this stage, as I said at the outset, that we are on a collision course unless some middle ground can be found. I give notice in advance that we will not be able to accept the amendment to clause 3.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Establishment of the Potato Industry Trust Fund Committee.'

The Hon. PETER DUNN: I move:

Page 1, line 22—Leave out paragraph *(a)* and insert new paragraph as follows:

'*(a)* four will be commercial potato growers nominated by the Potato Section of the Horticultural Association of South Australia Incorporated;'

These amendments are, as I indicated in my second reading speech, designed to make this Bill work considerably better than it will bearing in mind they way in which it is currently worded. I refer to the remarkable statement by the Minister of Agriculture that the fund ought to be controlled by a financial expert from the Department of Agriculture, which leaves me foundering a little. It is rather like my saying that the bank manager should control all the Minister's operations. It is a remarkable statement. I cannot understand how the Minister comes to that conclusion, but obviously he has that in the back of his mind, as the Bill gives him the preponderance of members on the committee—he has the majority.

Furthermore, the Minister has three grower members on the committee, which does not even divide into the State. We have four distinct growing areas in the State, and I would have thought it quite reasonable to have one grower representative from each of those areas. If the Minister wants to have control of it and decides to reject the Bill, he will have control of it, and at that point be it on his head if he incurs the wrath of the potato industry. I am quite sure that that will happen.

Those funds are not his, as was pointed out in the second reading debate. Those funds have come from potato growers only. They have contributed to them over a number of years. They have set them aside for the promotion of research and for the promotion of the industry as a whole. It would certainly be most unfair—

The Hon. Diana Laidlaw: Or unjust.

The Hon. PETER DUNN: —or unjust if the Minister does not accept these amendments. My amendments to clause 3 make it quite clear that four commercial potato growers will be nominated by the Potato Section of the Horticultural Association, and they will come from the River and Lakes branch, the South-East, the Adelaide Hills and the Adelaide Plains—those four very distinct areas in the State in which we grow potatoes.

The Hon. M.J. ELLIOTT: I really fail to see why the Minister even bothered to bring the Bill into this Chamber. Everything that he has done here could have been done at his own whim, because the Advisory Fund Committee, which it is all about, will be appointed by the Minister, who is not even taking any real advice on any of them. It is quite clear from the Minister's behaviour that he has now declined to take advice from the potato industry itself. So, this Bill is an absolute farce! I do not even know why we are spending our time here unless we actually get something sensible out of it at the end.

If the Minister is to be so obstinate as to reject perfectly reasonable amendments, he is signing his own warrant in relation to his continuing as a Minister is concerned. He is already having enough trouble with the agricultural community without doing stupid things like that. I would expect him to sit down and have a good think about it. I move:

Page 1—Line 22—Leave out paragraph *(a)* and insert new paragraph as follows:

(a) four will be commercial potato growers selected by the Minister from the four panels nominated by the Potato Section of the Horticultural Association of South Australia Incorporated pursuant to subsection (2a);.

I, too, am suggesting that four commercial potato growers should be on the Trust Fund Committee. It does seem a very strange idea, that a majority of people on such a committee should be those who actually put the money into it in the first place. It is a very novel idea that a majority would suggest how their own money should be spent. It is obviously too novel for the Minister.

The Hon. I Gilfillan interjecting:

The Hon. M.J. ELLIOTT: No. I would not do that. The difference is my suggestion that there might be panels. In fact, I have done that to actually allow the Minister a little bit of room in which to move. There had been correspondence between the Minister and what was then the Combined Potato Industry Committee but which is now called the Potato Section of the Horticultural Association. The letter from the Minister, dated 6 November 1986, states:

Thank you for your letter of 9 October 1986 regarding the appointment of grower representatives to the proposed Potato Industry Trust fund Committee.

I agree that there is merit in your proposal that the three grower representatives on the committee each represent one of the following areas: Adelaide Plains/River; Adelaide Hills; and Upper and Lower South East.

When I come to appoint the three grower representatives to the committee. I would be pleased to have received from you a list of the names of, say, three growers from each of these three areas. The means by which the Combined Potato Industry Committee choose to select these growers names will be at the discretion of that committee. However, since the successful operation of the committee is ultimately my responsibility, when I appoint grower members to the Potato Industry Trust Fund Committee, I must reserve the right to make appointments which I see as being in the overall interests of the potato industry in this State.

So, to start off with, the Minister has at least conceded the concept of regions relating to the various parts of the South Australian potato industry. He has conceded that there could be three nominations from each area, but then at the end of it he says, 'If I don't like the names provided I will totally disregard them.' The Horticultural Association wrote

letters to the various regions, held public meetings and proper democratic elections to find representatives for each of the areas, and they sent in those names. Quite obviously, at that stage the Minister decided that he did not like any of the names submitted and he went looking for others, and in fact I believe that the Minister has already approached other people to go onto the board. For instance, an old uni mate, with whom he studied and whom he knows very well, has already been approached; there is one fellow from the South-East, and he already has one fellow from the Lakes District lined up to go on this committee. So, the Minister has people, apart from the nominees, lined up. I presume that the Minister had hoped that they would be among the nominees, and since they were not he has decided to totally disregard the list. That puts the Minister—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: I cannot imagine why it has occurred. I believe it is simply on the buddy system; jobs for your friends, jobs for the boys. That is absolutely appalling and it is the sort of thing that will bring down that Minister. I like the Liberals' amendment in relation to having one person from each area, but I have moved my amendment because I want to offer a position that the Minister can accept, a position which in fact he seemed to accept in December last year. For that reason I will promote the amendment as being something of a compromise between what the growers would consider is an ideal situation and what the Minister is putting forward. I hope that the Minister has sufficient flexibility to accept my amendment.

The Hon. M.B. CAMERON: I must say that I am relaxed about which amendment the Committee might adopt, although Mr Dunn's amendment is preferable because it gives very clear weight to the view of the potato industry, that is, a direct nomination, which proposition I would certainly be prepared to accept. Notwithstanding, I would be very concerned if neither amendment was accepted, because, as I recall when the Potato Board abolition Bill was passed in this Chamber, all members of this place were clearly of the understanding that the funds involved belonged to the growers and would be used for them and that the growers' rights to those funds would be clearly recognised. In fact I made that point very strongly at that time.

The Hon. M.J. Elliott: And you sold out on the potato growers.

The Hon. M.B. CAMERON: You can say what you like, but it was a clear undertaking from a Minister which I would normally accept. I said that I understood that the Minister had made it clear that the funds belonged to the growers and that the Government had no intention to use those funds for purposes other than the growers' promotion and research of potatoes. I said at that stage that the Council had shown a large degree of trust to the Minister, and I used those words 'trust to the Minister' very carefully, and that if the growers got to the point that they make it clear that their organisation (as indicated by the Hon. Mr Elliott) is the proper organisation to provide membership of the trust funds then that should happen. I went on to say that it is important that the Minister ensures that that process is carried out in a manner that protects the interests of the growers, as the funds have been contributed not by Government but by the growers. The Hon. Barbara Wiese (Minister of Local Government) gave that undertaking on behalf of the Minister of Agriculture. She said:

I have great pleasure in being able to confirm and reassure members of this Council that the points that have been made by the Hon. Mr Cameron represent the Government's position on this issue. I recognise that the Council is placing considerable trust in the Minister in this matter. He is not unaware of that, and I think I can assure the Council on behalf of the Minister of Agriculture that he will use that trust wisely and that the points the honourable member has made and the assurances that he seeks can be guaranteed.

I think that it is important that the assurances be guaranteed. So, frankly, I cannot see why the Minister has a problem, because, clearly, if the growers in this State indicate that they wish to be represented by certain people from certain regions, then it is no longer a problem, because they are their funds.

I think it would be sensible for the Minister to accept either amendment and my preference is for that of the Hon. Mr Dunn, because I believe that the growers have a direct input and that was a guarantee which was given. I believe that that should now be accepted by the Minister.

The Hon. R.J. RITSON: I express my feeling of hurt and disappointment in the turn that this matter has taken. I recall that when the matter was before the Council, after certain representations were made late in the day to members of Parliament concerning discussions held in corridors, I was informed that the Minister was about to give this assurance. As a result I changed my vote and supported the proposition put forward by the Democrats. I agree with everything that the Hon. Mr Cameron has said. I am deeply hurt and I have a feeling of betrayal in that the Minister, after apparently speaking so sincerely on the occasion of the passage of the previous legislation, is taking this course. I can only say that that is the last time I will believe a Labor ministerial assurance.

The CHAIRPERSON: There are two amendments to clause 3, line 22, both of which aim to replace paragraph *(a)* with some other wording. I will first put the question that paragraph *(a)* stand part of the clause.

The Committee divided on the question:

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

Noes (10)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn (teller), M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. M.S. Feleppa. No—The Hon. C.M. Hill.

Majority of 2 for the Noes.

Question thus negatived.

The Committee divided on the Hon. Peter Dunn's amendment:

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

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

Pair—Aye—The Hon. C.M. Hill. No—The Hon. M.S. Feleppa.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. M.J. Elliott's amendment carried.

The Hon. PETER DUNN: I move:

Page 1, lines 30 and 31—Leave out paragraph *(e)*.

Amendment carried.

The Hon. PETER DUNN: I will not move my foreshadowed amendment to insert a new subclause after line 31, as it is consequential on a previous amendment that was negatived.

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

Page 1, after line 31—Insert new subclauses as follows:

(2a) The Potato Section must nominate—

(a) a panel of three commercial potato growers to represent the interests of potato growers who constitute the River and Lakes branch of the Potato Section;

(b) a panel of three commercial potato growers to represent the interests of potato growers who constitute the South-East branch of the Potato Section;

(c) a panel of three commercial potato growers to represent the interests of potato growers who constitute the Adelaide Hills branch of the Potato Section;

and

(d) a panel of three commercial potato growers to represent the interests of potato growers who constitute the Adelaide Plains branch of the Potato Section.

(2b) The Minister must select one member from each of the panels nominated pursuant to subsection (2a).

This amendment is consequential on that on which we voted a short time ago. Earlier I designated that there would be four areas, and those four areas are the four major regions of potato production in South Australia. They are approximately equivalent in relation to the number of growers represented in each area, and for that reason I chose them. I understand that they are divisions that already exist in the Potato Section of the Horticultural Association of South Australia.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

New clauses 5a and 5b.

The Hon. PETER DUNN: I move:

Page 2, after line 12—Insert new clauses as follow:

5a. The Minister must cause a statement of the administration of the assets of the South Australian Potato Board pursuant to section 26 of the Potato Marketing Act 1948, that has been audited by an auditor registered under the Companies (South Australia) Code to be laid before both Houses of Parliament within 12 sitting days after the commencement of this Act.

5b (1) The Minister must, at the expiration of five years after the commencement of this Act, cause a report of the administration of this Act during that period to be laid before both Houses of Parliament.

(2) The report must include a statement of the accounts of the fund for that period audited by an auditor registered under the Companies (South Australia) Code.

This amendment ensures that the handling of funds is in order. It is right and proper that the Parliament should receive a report on an annual basis. This has been common in the past, and many industries do it. Any industry that has funds in excess of $1 million should certainly be reporting back to this Chamber. In fact, the Hon. Mr Lucas on many occasions has asked that these reports be submitted on time because in the past some industries that have had this requirement in their legislation have not carried it out. I believe that it is only right and proper, where public funds are being handled, that this provision be in the legislation.

The Hon. I. GILFILLAN: The Democrats support the amendments.

New clauses inserted.

Clause 6 and title passed.

Bill read a third time and passed.

WATERWORKS ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's alternative amendment to the Legislative Council's amendment:

Page 2—After clause 7 insert new clause as follows:

8. *Insertion of new s. 109a*—The following section is inserted in Part VIII of the principal Act after section 109:

109a. (1) Where a person, who has applied to the Minister for the extension of a main pipe or the connection of land to a main pipe (being work for which the amount prescribed by this Act is the cost of the work estimated by the Minister) is dissatisfied with the Minister's estimate, the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(2) Where—

(a) a person has applied to the Minister for the extension of a main pipe to land that the applicant has divided, or proposes to divide, or for the connection of such land to a main pipe;

(b) the regulations do not prescribe the amount, or the basis for determining the amount, payable for that work;

and

(c) the applicant is dissatisfied with the amount that the Minister wishes to charge for that work,

the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(3) Subsections (1) and (2) do not authorise the connection of the new work to the waterworks.

(4) The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

(5) The Minister will, at the request of the applicant, provide the applicant with plans and specifications of the proposed work.

(6) The applicant must pay the reasonable costs of the Minister for—

(a) designing the work;

(b) providing the necessary plans and specifications;

(c) connecting the work to the waterworks;

and

(d) supervising and inspecting the work,

but the applicant is not liable for any other charge or fee under this Act in respect of the work.

The Hon.J.R. CORNWALL: I move:

That the Legislative Council do not insist on its amendments.

In lieu thereof I will move the amendment which is standing in my name and which has now been circulated.

The CHAIRPERSON: We can agree with the amendment made by the House of Assembly or disagree with that and insist on our own amendments, or we can order the Bill to be laid aside. Those are the only three alternatives.

The Hon. J.R. CORNWALL: I think that we have probably reached a position where we can resolve this matter. The so called amendments which were circulated in my name it now transpires under the Standing Orders are a very handy guide—a form guide, if you like—to the amendments which were actually inserted in the House of Assembly. It is my understanding that they should accommodate the amendments which were moved in this place originally. The important thing that they do, however (and I made much of this during the debate, as I am sure members will recall), is that they leave live connections in the hands of the E&WS Department.

The CHAIRPERSON: What is on the sheet as proposed by the Minister is, in fact, the alternative amendment which was made by the House of Assembly.

The Hon. J.R. CORNWALL: Yes, but I am not moving it; I am simply speaking to it. I have taken the piece off the top which says 'Amendments moved by the Minister', and I am now asking members to use it simply as a guide so that they have before them precisely the amendment that was inserted in the Lower House, I am now explaining it very briefly. It satisfies both sides.

The CHAIRPERSON: It is a question of agreeing to the House of Assembly's amendments: that the Council not insist on its amendment but agree with the House of Assembly's amendment.

The Hon. J.R. CORNWALL: It allows for live connections. In other words, the amendment that was made in this place originally wanted to see contractors get a piece of the action. There was debate about it. One of the real reservations expressed by the Government on behalf of the department was that, under the original amendments moved in the Council, live connections would not have been left with the E&WS Department.

There was concern about that on the grounds of safety and procedure. The amendments inserted by another place take that into account and honour is satisfied both ways. Other works will be done under the careful and proper

supervision of the E&WS Department. I would appeal to the Opposition—and in particular to the Hon. Mr Dunn, who originally moved the amendments and handled the Bill for the Opposition in this place—to meet us in the middle. I think that everyone can be reasonably satisfied that we have achieved what we set out to do.

The Hon. PETER DUNN: The Opposition agrees to the amendments, which are substantially the same as those that I moved in this place. The amendments tidy up the Bill a little in that the E&WS Department will now make the live connection to the main pipe. That is right and proper because specialised equipment is required along with specialised expertise. Those amendments allow for that connection. From there on, if the person having the extension to the water main is not satisfied with the E&WS Department's charge for that service, the person may at his or her discretion ask for a private contractor to do the work to E&WS Department specifications and pay for the supervision and design work that has to be done.

That is what was in the Bill previously. The only difference now is that the E&WS Department will make the live connection. I am pleased that the Government has seen the wisdom of the amendments (which were also moved in this place during the previous debate). I am pleased that the other place has accepted the amendments (in a slightly modified form) and has returned the Bill to us for approval. We certainly agree with the amendments, which introduce a new step and allow for a wider field.

The amendments will keep the E&WS Department on its toes and private contractors will now have a part of the action, which will be to the benefit of people receiving waterworks extensions. In fact, I think it can be only to the betterment of people who are having water extended to subdivisions and those people who may be a long distance from a connection. The usual catchcry of the E&WS Department is that it has a shortage of manpower, but now private people will be able to have private contractors do this work for them and possibly at a cheaper rate. I support the motion.

The Hon. J.C. IRWIN: I will not delay the Committee any further. I direct the Minister's attention to the rather extreme use of the language in proposed new section 109a (4), as follows:

The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

Is that extreme drafting language? I guess I can understand that 'the Minister' means the E&WS Department, but is that normal drafting technique?

The Hon. J.R. CORNWALL: That wording is not extraordinary. Basically, there are two options: first, the wording could refer to 'the Minister'; or, secondly, 'the Director-General'. It is a bit like regulation and proclamation. It is an argument that can and does go on in this Chamber *ad infinitum.*

The proposition on the one hand is that, if it is the Director-General, one deals at arm's length and that is not part of the process. The contervailing argument is that, if it is not the Minister in the legislation, he or she may appear in some way to shirk his or her duty. On balance it is either the Director-General—or, as it would be in this case, the Engineer-in-Chief—or the Minister. They are the two options. On balance, the other place has elected to go for the Minister. It does not mean that the Deputy Premier will personally attend on site.

Motion carried.

SEWERAGE ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's alternative amendment to the Legislative Council's amendment:

Page 2, line 5 (clause 5)—After 'repealed' insert 'and the following section is substituted':

Certain work may be carried out by owner—46. (1) Where a person, who has applied to the Minister for the extension of a sewer or the connection of land to a sewer (being work for which the amount prescribed by this Act is the cost of the work estimated by the Minister) is dissatisfied with the Minister's estimate, the applicant may, subject to the section, arrange for the work to be carried out by a competent person of his or her choice.

(2) Where—

(a) a person has applied to the Minister for the extension of a sewer to land that the applicant has divided, or proposes to divide, or for the connection of such land to a sewer;

(b) the regulations do not prescribe the amount, or the basis for determining the amount, payable for that work;

and

(c) the applicant is dissatisfied with the amount that the Minister wishes to charge for that work,

the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(3) Subsections (1) and (2) do not authorize the connection of the new work to the undertaking.

(4) The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

(5) The Minister will, at the request of the applicant, provide the applicant with plans and specifications of the proposed work.

(6) The applicant must pay the reasonable costs of the Minister for—

(*a*) designing the work;

(*b*) providing the necessary plans and specifications;

(*c*) connecting the work to the undertaking;

and

(*d*) supervising and inspecting the work,

but the applicant is not liable for any other charge or fee under this Act in respect of work.

The Hon. J. R. CORNWALL: I move:

That the Council do not insist on its amendment but accept the House of Assembly's alternative amendment.

At the outset, I point out that members should immediately disregard the amendments circulated in my name, take the top off, and use them as a complete guide to the amendments that have been moved in the other place. The remarks that I made with regard to the Waterworks Act Amendment Bill apply equally to this Bill. Honour has been satisfied. We appear to have reached a satisfactory compromise, and I seek the support of the Committee.

Motion carried.

STATE GOVERNMENT INSURANCE COMMISSION ACT AMENDMENT BILL

In Committee.

(Continued from 1 April. Page 3694.)

Clause 1—'Short title.'

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

Page 1, lines 9 and 10—Leave out ' "State Government Insurance Commission Act Amendment Act, 1987" ' and insert ' "Statutes Amendment (Workers Compensation) Act, 1987." '

I do not necessarily regard the decision on this amendment as a test case for later amendments to substantive clauses, but I seek to refer to the Statutes Amendment (Workers Compensation) Act to ensure that it encompasses both the State Government Insurance Commission Act and the

Workers Rehabilitation and Compensation Act, because the amendments relate to both Acts. It is probably appropriate that I canvass the substantive issues in relation to the amendment to clause 2 and the new clause relating to the amendment of the Workers Rehabilitation and Compensation Act.

In essence, I am seeking to ensure not only that SGIC is not the only insurer which has authority to act as a delegate of the Workers Rehabilitation and Compensation Corporation but also that any body corporate which carries on the business of insurance may be entitled to be an agent for the corporation, and that is the substance of a later amendment. This amendment will accommodate that possibility.

The Hon. I. GILFILLAN: We oppose the amendment. In the second reading debate I might have indicated some sympathy for this amendment, but we had cause to consider the ongoing involvement of private insurers and, in fact, I had two draft amendments prepared. The first was substantially along the lines of this amendment but I am not convinced that there is any justification for private insurance companies to be involved in claims handling. However, it appeared that they could be considered for ongoing contact, particularly with their own clients, acting as the first point of contact for premium collection. After discussion, I had an amendment drafted to that effect. The Insurance Council informed me that that was not acceptable, and we have given our best effort to enable the private insurance companies to have a form of continuing role, which was acceptable to us. They have declined it, and we are not prepared to support a variation.

The Hon. K. T. Griffin interjecting:

The Hon. I. GILFILLAN: The first amendment I drafted was indentical to the honourable member's amendment but the Insurance Council would be involved in claims handling and premium collecting—quite a substantial involvement. The amendment was that a body corporate could carry on the business of insurance but only in relation to the receipt of returns and levies from employers under Part V. That is the amendement to which the Insurance Council expressed objection. It believed that it was not giving it substantial involvement and was not prepared to take it on. Consequently, I will not be moving my new clause.

The amendment which the Hon. Trevor Griffin is moving and which the insurance industry will accept is one that we will not support. We believe it involves the council in claims handling and we are not prepared to support that. When we offered the alternative, namely, to be involved as premium collectors, it indicated that it was not prepared to accept that. That is why I will not be moving the amendment I have on file. I refer also to the ongoing obligation of insurance companies for injuries sustained prior to setting up the corporation, and I intend to speak to that later.

The Hon. C. J. SUMNER: The Government opposes the Hon. Mr Griffin's amendment for reasons similar to those outlined by the Hon. Mr Gilfillan. SGIC is to be used in the manner indicated by the Minister as a transitional arrangement. That will apply until such time as the corporation established under the Act is in a position to take complete control of the system. This apparently has been done in other areas such as New Zealand where similar systems have been introduced. The Government believes that, with a single body—in this case SGIC—acting as the agent for the corporation, economies of scale can flow from claims handling that would not otherwise apply. It is also possible for greater monitoring and control over the payments that might be made under the scheme if it is done through one central authority. For those reasons we oppose the amendment.

The Hon. K. T. GRIFFIN: I do not intend to divide on this clause because it is not the substantive clause. We will divide on a later clause if it is not carried on the voices. In response to the Attorney-General, I point out that the Minister in another place stated:

> If the SCIC in this transitional period of approximately four years demonstrates to the corporation that there is no point in the Workers Compensation Corporation establishing its own network to administer the scheme, then so be it.

Obviously the agenda for Government is that SGIC should do this work and retain it. What concerns me is that the Government is making the decision for the Workers Compensation and Rehabilitation Corporation rather than allowing that corporation to make its own decision. The Minister in the other place said that it should ultimately be a matter for the board of the corporation to make decisions about the way in which it operates. In fact, that decision about agency is being pre-empted, and there will not even be an authority or a power to enable the board to consider it.

So quite obviously, the Government is putting a veto on the operation of the corporation. I am disappointed that the Hon. Mr Gilfillan has not seen fit at least to give the corporation an option of considering the alternative of involving the private insurance industry in the administration of the Act. I will address that issue in more detail later.

Amendment negatived; clause passed.

Clause 2—'Powers and functions of commission.'

The Hon. K. T. GRIFFIN: I will not proceed with the first of the amendments to this clause to leave out 'principal Act' and insert 'State Government Insurance Commission Act 1970'. That has already been pre-empted. It would be convenient to deal with the next two amendments together.

The CHAIRPERSON: They are consequential. If you do not change line 14, the rest would be nonsense.

The Hon. K. T. GRIFFIN: I am happy to move them together because that makes the most sense. I therefore move:

> Line 14—Leave out 'subsection' and insert 'subsections'.
> After line 30—Insert new subsection as follows:
> '(3b) The Commission may not act as a delegate of the Workers Rehabilitation and Compensation Corporation after the thirtieth day of June 1989.'

These amendments are designed to put a sunset clause on the operation of the agency by the State Government Insurance Commission or the delegation to it. The 30th day of June 1989 is the date which I believe is appropriate for the sunset clause. That is effectively two and a bit years from now, and I think it is quite probable that within that period of time the Workers Rehabilitation and Compensation Board will have been able to set up its structures and make a decision with respect to the way in which it will operate.

The Government has said that the SGIC needs four years to set up the structure and amortise the costs, but I suggest that that is nonsense, that any staff engaged as delegate of the Workers Rehabilitation and Compensation Corporation could just as easily be transferred from the SGIC to the corporation and that there would be no difficulty in terms of compliance with awards or industrial terms and conditions of employment, as they are both statutory authorities and the terms and conditions of employment would be identical. There would be no break in continuity of service. Therefore, I think it is nonsense to suggest that the SCIC needs four years to recover its costs of establishing the structure within which this delegation occurs.

I hold the very strong view that this is all being set up by the Government to give the SGIC a most significant

foot in the door, and I suspect that in four years time, unless there is a change in government, the Labor Administration will continue with the SGIC acting as delegate of this corporation. I think that that is the agenda for this Bill, and I think it is quite contrary to the indications given by the Minister during the debate on the Workers Rehabilitation and Compensation Bill where, quite clearly, he indicated that the corporation would be in control of its own destiny. That is not what is happening here and, although employers are represented on the board of the corporation, the fact is that they will not have a say in the way in which this process is undertaken. It is quite clear that, had this issue been put before the public, and employers in particular, when the Workers Rehabilitation and Compensation Bill was being considered and it was indicated that the SGIC would be the only body involved in the administration of this Act, many employers would have been appalled by that concept and very concerned about the prospect of this occurring.

The other aspect of this matter (and this is related also to the further amendments that I will move later) is that quite obviously this gives the SGIC a very substantial leg in the door in respect of general insurance and what will happen with the SGIC as the delegate of the Workers Rehabilitation and Compensation Corporation is that there will be access to places of employment, work premises and records, and it will not be long before the SGIC uses that position to influence employers to place their other insurance with the SGIC. I see that as being a particularly serious disadvantage for the private sector, and I would certainly do anything that I could to ensure that the SGIC did not have that unfair and unreasonable advantage in respect of the balance of the general insurance industry. So, the fixing of a sunset clause will ensure that there is some review of the operation of the delegation and that in fact after that date the corporation will have to make some firm decisions. If the sunset clause is to be extended, that matter will come back to Parliament, which is the place where that sort of decision has to be made.

By that time we will know how the whole scheme is operating. I suggest that it will not be operating in a way that indicates a fully funded insurance workers compensation system and it will be running into the sort of difficulties that are occurring in Victoria. I regard this issue as being of some substance. Whilst I appreciate the indication given by the Hon. Mr Gilfillan that he will not support any of these sorts of proposals, if the amendment is not carried on the voices, I intend to call for a division.

The Hon. I. GILFILLAN: The idea of a sunset factor is not altogether without its attractions. I will comment on some of the observations made by the Hon. Mr Griffin. I believe that if, in the years ahead, there is any indication that the proceedings have just been allowed to lapse and that SGIC does have the quasi role of entirely running the corporation, the Democrats would be very sympathetic to a private member's Bill, if need be, to bring the matter before Parliament. It would be just as effective as having a sunset clause.

The Hon. K.T. Griffin: It wouldn't actually.

The Hon. I. GILFILLAN: Well, I believe it would.

The Hon K.T. Griffin interjecting:

The Hon. I. GILFILLAN: There is no way that you will now get the support of both Houses for this amendment—let us be realistic about it.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: You still have the capacity to put pressure on the Government by other means. As I said in the second reading debate, I believe that a serious attempt is being made to get this corporation under way and eventually to have it stand on its own feet. I would like to put into *Hansard* (and I hope that this will elicit a response from the Attorney-General) that it is the intention that the corporation's business (and I may have to repeat this, because I want a response to it) will be on its own letterhead: there will be no SGIC identification. In fact, the operations will be weaned away from the SGIC and my understanding is that the operation, as far as possible, bearing in mind the economies and the seconding of personnel, will be a separate entity.

When the Attorney-General listens to what I am saying, I would like him to be able to reaffirm that this is in fact the intention of the Government, because it is not fair that the SGIC should have the advantage of being ostensibly the provider of the workers rehabilitation and compensation legislation. That is definitely not the intention that the Democrats supported and we are most anxious to see that it does not lapse into that sort of activity. I do not believe that that is the intention of the Government.

I feel that the other points raised by the Hon. Mr Griffin in relation to that matter deserve some comment also, but I ask the Attorney-General to respond to my question in *Hansard*, otherwise I may have to go through it again. I believe it is appropriate that the corporation use other than SGIC as the shop window. In my view there is no reason why State Bank facilities or Australia Post could not be available for the rural area in particular.

The Hon. K.T. Griffin: What about the private sector?

The Hon. I. GILFILLAN: The private sector has done its dash. I have offered it the opportunity to be involved as premium collectors and it said, 'No way'. I do not want to get trapped into the chaos of about 15 people in there for every bit that they can squeeze out of the system. Those people have not proved themselves to be particularly amiable to the cause of getting a reformed rehabilitation and compensation legislation, so they are off. I have done my best to give them a leg in and they have turned my offer down.

Since they have said that they do not want to have any part of that, I believe it is also very important that SGIC does not capitalise on an unfair advantage. I understand that the Government is prepared to say categorically that the SGIC will not use its letterhead—it will be a corporation, a separate entity, and the contact with the employers will be done quite clearly in the name of the corporation. That is what I would like the Attorney-General to reaffirm.

As a matter of fact, the corporation already has the power to involve the private insurance companies as premium collectors, or in some way, if it chooses to do so and if they see on reflection that it is to their advantage to have personal contact and it has made that known to the corporation, that may well happen further down the track.

The big trap in the Hon. Mr Griffin's amendment is that if it goes into legislation a succeeding Government can, without presenting legislation to Parliament, transfer the operations of the corporation from wherever it happens to be back to the private sector. To me, that is as much a trap as this red herring that is being drawn across the trail that it is all a front for SGIC. We have no sympathy with that side of this amendment and in any case, as I have said before, it is our intention to oppose it.

We are accepting in good faith that it is the Government's intention to set up the corporation as a separate entity and that this is only an interim stage in which SGIC will be involved. Some of its people may be involved for a period going on beyond four years. It will have to go to the expense of setting up extensive and expensive computing facilities

and so it is entitled to have a reasonable period of time to work that through. Therefore, I ask the Attorney to confirm that it is the Government's intention that the corporation, when it is operating and dealing with employers, will be dealing entirely as its own identifiable entity, that it will not be carrying SGIC letterhead or identification but operating as its own clearly identifiable self.

The Hon. C.J. SUMNER: The Government opposes the Hon. Mr Griffin's amendment, which would limit the SGIC agency to a period of 1¾ years and thereafter enable private insurers to act as agent of the corporation. I believe that the honourable member's period is unrealistic. There will be costs in establishing the new system, and it would not be in SGIC's commercial interests to take on the agency for such a limited period. The period in the Bill is slightly in excess of four years. This is the minimum period that is commercially viable. It will allow SGIC to amortise its establishment costs over a reasonable period.

The question the Hon. Mr Gilfillan raises is one that perhaps I am not in the position to answer with the certainty or definiteness that he wants. I am advised that officers of the Department of Labour have had discussions with the Insurance Council of Australia and that the question of the means whereby SGIC will conduct the agency, that is, in terms of letterheads and the like, will be the subject of correspondence from the Insurance Council to the corporation, and that the corporation will then determine how the delegation will be exercised by SGIC. So, the point that the honourable member makes is known obviously to the Insurance Council of Australia, and it will make its views known to the corporation, which will make a decision on it.

The Hon. I. GILFILLAN: I seek clarification. I understand that the Attorney is saying that, in regard to the use of identifiable stationery (using a simple example), there will be consultation between the private insurers and SGIC and the corporation as to what will be appropriate letterhead material.

The Hon. C.J. SUMNER: That is not so. The Insurance Council of Australia will put to the corporation the point of view that SGIC should operate this, in effect, as a separate entity with separate letterhead as an agent of the corporation. But the question of the letterhead has not been finally resolved, as I understand it, and that is a decision for the corporation to make. The Insurance Council of Australia is putting to the corporation that, in fairness, for the reasons the honourable member has outlined, the operation should be conducted, in effect, under a separate banner from SGIC's normal operations. That will be a matter for the corporation to determine, according to my advice.

The Hon. K.T. GRIFFIN: We can already see that the Government is slipping out from underneath any understanding that the Hon. Mr Gilfillan may have had about the way in which this was going to operate. I think it is naive to think that the private sector will get a look in, anyway. The question of letterhead is peripheral to the whole issue. Whether or not there is one particular letterhead or some other letterhead is largely irrelevant to the issue as to whether SGIC, in conducting the agency, will have what will be a most signficant advantage in gaining access to employers, and quite obviously it will.

In reality the SGIC, operating under this Bill and as a delegate of the corporation, has to be identified as a delegate. For all practical purposes it will be the SGIC that will identify itself as collecting or negotiating on behalf of the corporation. That is the simple fact of the matter. No amount of words about what will be on the letterhead and whether it will be a separate operation from SGIC's other operation will really solve the central problem of this proposal. I would have thought that if the corporation was going to be able to make some decisions about letterhead and those other related matters, it ought also to be able to make its own decision as to whether it has the SGIC or the private sector, or any combination of both.

Although we are talking about a sunset clause, it is related to the issue of delegation, and I would have thought that to give the corporation an opportunity to consider alternatives was in the interests of employers as much as anything else. It is not in the interests of employers to have this very narrow proposition for the SGIC to act as the sole delegate foisted on them.

The Hon. I. GILFILLAN: My understanding, from discussions with the Insurance Council, is that it is certainly not unanimous that it wants to continue or to have any involvement at all with workers compensation. It is not as if there is a great eagerness from the private sector to continue to be involved at all. My understanding is that section 14 of the Act virtually empowers the Minister to have control of what the corporation decides. It is of concern to me that, if we include in the Act that the option is to revert to substantial private sector involvement, a future Government could very dramatically and substantially change the character of the corporation's operations virtually through ministerial fiat.

The Hon. K.T. Griffin: There is no power for the Minister to give directions.

The Hon. I. GILFILLAN: I understand that section 14 gives him a fairly strong influence. I have made it plain that the Democrats are not persuaded that the amendments are worthwhile. We made an effort to offer what we thought was a reasonable opportunity to the private sector that wished to continue to have that person contact with its clients, and through its local representative it indicated to us that it was not interested in that. Therefore, I feel that that is the end of that aspect of it. However, I would like to make it plain that we have very serious misgivings about the ongoing involvement and identification of the SGIC. It worries me that the Attorney-General is not able, as far as I can gather, to indicate that the Government would prefer that the corporation, as soon as possible, establish its separate identity.

It is a comfort to hear that the corporation is to be entrusted with making those decisions as it is, in our opinion, the most appropriate body to make them. I feel that a fresh impression has come into the debate. The speeches given by the Minister of Labour in another place seem to indicate a suddenly uncovered enthusiasm for SGIC to continue. I am strongly opposed to that. I think that that contravenes the intention of the corporation. It is designed to be a separate entity from an insurance company. There is a big risk in leaving it tangled up with an insurance company, and I would be very disappointed if the Government did not pursue the eventual aim of having a corporation completely separate from the SGIC. Will the Attorney indicate whether the Government has a position and whether it would prefer to see the corporation as a separately identifiable entity, regardless of what the corporation might decide.

The Hon. C.J. Sumner: Is the member talking about the transitional period, or the final situation?

The Hon. I. GILFILLAN: I would like an indication of the position at whatever the Government sees fit: if it is through the transitional period that it sees it as a separate entity, that is fine. However, my understanding is that the SGIC is prepared to operate this as a separately identifiable entity.

The Hon. C.J. SUMNER: It was envisaged that the corporation would take over the control and running of the scheme. What we are doing here is facilitating a transitional arrangement. I suppose it is always possible that when the time comes the corporation may take a different view. The Government's position is as I have outlined.

The Hon. I. Gilfillan: What?

The Hon. C.J. SUMNER: That it was always envisaged that the corporation would operate it as a separate entity.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: In the transitional period, or ultimately?

The Hon. I. Gilfillan: Ultimately.

The Hon. C.J. SUMNER: Ultimately it depends on whether the thing is completely operated by the corporation or whether SGIC is still involved.

The Hon. I. GILFILLAN: My final remark on this matter is that I despair because a corporation is not yet established. Will the Attorney indicate to the Committee why a corporation has not been appointed and when it will be appointed? It seems rather tragic timing that we are dealing with legislation relating to the corporation and its business and that after several months that corporation has not been appointed. With due respect to the Attorney, it appears, if he is expressing an accurate reflection of the Government's intention that the Minister of Labour is expressing them and actually making a decision for the Government in his speeches in the other place.

An honourable member: He is making them for the corporation, too.

The Hon. I. GILFILLAN: He may be. Will the Attorney indicate when the corporation will be announced and why it has not been announced to date?

The Hon. C.J. SUMNER: I am pleased to announce that a decision is imminent.

The Hon. I. GILFILLAN: What is imminent?

The Hon. C.J. SUMNER: I expect a decision to be made in the relatively near future. Obviously, the Government would wish to establish it as soon as possible. When the matter was debated in this Chamber last year, members insisted that the corporation be a very large organisation with representation from many different interests and, of course, that involves a good deal of consultation in order to ensure that all the requirements of the Act are met. I can tell the honourable member that an announcement is not very far away.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (11)—The Hons G.L. Bruce, J.R. Cornwall, T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

New clause 3—'Amendment of Workers Rehabilitation and Compensation Act 1986.'

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

Page 1, after line 30—Insert new clause as follows:

3. The Workers Rehabilitation and Compensation Act, 1986, is amended—

(a) by striking out the word 'or' after subparagraph (iii) of paragraph *(a)* of subsection (2) of section 17;

(b) by inserting after subparagraph (iv) of paragraph *(a)* of subsection (2) of section 17 the following word and subparagraph:

or

(v) to a body corporate that carries on the business of insurance.;

(c) by inserting after subclause (1) of clause 2 of the first schedule the following subclause:

(1a) Where—

(a) the disability is attributable to a disease; and

(b) the disability did not result in any incapacity for work before the appointed day,

this Act applies in relation to the disability.'

and

(d) by striking out from paragraph *(a)* of subclause (3) of clause 2 of the first schedule 'a compensating authoruty pays or is liable to pay' and insert 'within 3 years of the appointed day a compensating authority pays.'

This deals with the Workers Rehabilitation and Compensation Act and does essentially two things. First, it allows delegation to a body corporate that carries on the business of insurance. That has been largely dealt with.

I do not propose to canvass the arguments in favour of that now; suffice it to say that I do not believe that the sort of indications that have been given to the Hon. Mr Gilfillan really mean anything, and that the Government largely through the Minister of Labour will plough on with the intention of making this a Government run monopoly kept in the family of Government agencies—not just in the short term but in the longer term.

The second aspect of the amendment deals with transitional provisions. Concern has been expressed to me by the insurance industry about the transitional provisions. During the course of the last days prior to Christmas the transitional provisions were amended quite substantially in such a way as to have what may have been an unintended effect but which nevertheless have a significant effect on private insurers in respect of previously occurring injuries and diseases. The difficulty with the transitional provisions as they stand at the moment is that in relation to aggravated injuries the liability will continue for many years. There is no limit and I suggest that that is unreasonable and that there should be some cut off point at which the liability for undisclosed past injuries and diseases should be compensable only under the new Act.

In that context, I think it is important to read into *Hansard* a commentary on the transitional provisions so that the problem is on the record. If members bear with me for a few minutes I will have included an opinion by a Mr Gilchrist, an Adelaide lawyer, who comments as follows:

These transitional provisions can broadly be separated into two parts being—

1. Section 2 (1) of the first schedule which provides:

Subject to this clause, the repealed Act continues to apply in respect of a disability which is attributable to a trauma that occurred before the appointed day.

and

2. Section 2 (2) and (3) of the first schedule which provides:

(2) This Act applies in relation to a disability (referred to in this clause as a 'transitional disability') that is partially attributable to a trauma that occurred before the appointed day and partially attributable to a trauma that occurred on or after the appointed day, but does not affect rights (referred to in this clause as 'antecedent rights') that had accrued before this appointed day in respect of a transitional disability.

(3) The following provisions apply in relation to a transitional disability:

(a) where a compensation authority pays or is liable to pay compensation to a claimant under this Act in relation to a transitional disability, the compensation authority is subrogated to an appropriate extent, to the antecedent rights of the claimant;

(b) where the claimant has received, in pursuance of antecedent rights, damages or compensation (not being weekly payments for a period of incapacity that concluded before the appointed day), there shall be an appropriate reduction in the amount of compensation payable under this Act in respect of the disability;

(c) the extent of subrogation under paragraph (a), or a reduction in the amount of compensation under paragraph (b), shall be determined having regard to—

(i) the amount of compensation payable (apart from this subclause) under this Act in respect of the transitional disability;

(ii) the extent to which the transitional disability is attributable to a trauma that occurred before the appointed day;

and

(iii) any other factors,

and any question relating to the extent of such subrogation or reduction may be determined, on the application of an interested party, by the Industrial Court.

I will now discuss these provisions.

1. Traumas occurring before the appointed day.

Section 2 (1) of the first schedule tells us that traumas occurring before the appointed day are to be determined in accordance with the old Act. Section 125 of the new Act specifically repeals the old Act. Thus, the old Act cannot be amended after the new Act is proclaimed such that the levels of compensation under the old Act in existence at the appointed day will continue to apply in the future and cannot be increased. My only concern about section 2 (1) is that it provides the potential opportunity for work care to deflect liability back to previous insurers in the case of diseases. Trauma is defined in section 3 (1) of the new Act as follows:

' "trauma" means an event, or series of events, out of which compensible disability arises.'

Under the new Act a disability is described as follows:

'3. (1) Disability of a worker means—

(a) any physical or mental injury including—

(i) Loss or impairment of a limb, organ or part of the body, or of a physical, mental or sensory faculty;

(ii) A disease; or

(iii) disfigurement; or

(b) Where the context admits—the death of the worker, and includes a secondary disability:

"disease" includes the deterioration of a physical, mental or sensory faculty for which there is no obvious proximate cause:'

Section 113 (1) provides:

'A disability (not being noise induced hearing loss) that develops gradually or is a disease shall be deemed to have occurred when the worker first becomes totally or partially incapacitated for work by the disability.'

Under the old Act the analogous provisions are section 8 (1) and (4). Section 8 (1) provides:

'Injury means any physical or mental injury and without limiting the generality of the foregoing includes:

(a) a disease contracted by the worker in the course of his employment . . .

"disease" includes any physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development . . .'

Section 8 (4) provides:

'For the purposes of this Act, in the case of an injury that is a disease, that injury shall be deemed to have occurred on the day upon which the worker became totally or partially physically or mentally incapacitated by reason of that injury or, when that day cannot be ascertained, the day on which a legally qualified medical practitioner has certified that the worker was so incapacitated by reason of that injury . . .'

I would like you to consider the following factual situation. John Brown is employed on a process line. In June of 1985 he develops pain in his right wrist referrable to the arduous and repetitive nature of his duties as a process worker. The condition is not severely disabling but on 21 June 1985 he finds it necessary to report to the first aid clinic of his employer and is given a tube of *Deep Heat* to rub on the affected wrist. On returning to the process line he discusses the situation with his supervisor, and it is agreed that he will modify his duties to a small extent, and it is also agreed that he ought to reduce his output. In any event, the production demand on the employer has been reduced because the industry generally has suffered a downturn in trade. Accordingly, Brown is not required to work as much overtime as he had done in the past and so he manages to perform his work without difficulty. The injury is never reported or, if it is, the insurer has never pursued it as it viewed it as a 'no lost time' claim.

In February 1988 the employer tenders successfully for a new contract, placing great demands on its production line. Much overtime of the employees is required. Feeling confident that he can cope with the extra work, Brown presses on but suffers a significant relapse to his wrist condition and ultimately is forced to go off work completely. He has surgery which is unsuccessful and eventually he is terminated because of the employer's need to keep up production and replace him with someone more suitable. Brown submits a claim for compensation under the new Act to work care.

The corporation has compiled a questionnaire which adverts to previous injuries that workers have sustained during the course of their employment. Brown describes the events of 1985, and the corporation rejects his claim. They cite to him section 113 of the new Act. An officer of the corporation explains that as Brown did not first become incapacitated by reason of the injury in February of 1988 it is not a matter of concern for the corporation. The corporation refers him to section 8 (4) of the old Act.

The corporation invites Brown to pursue a claim for compensation against the insurer of his employer in 1985. The matter proceeds in the Industrial Court of South Australia which applies to section 8 (4) see *Sola v Perkins* (W106 of 1984) and determines in accordance with *Finch v State of South Australia* (W64 of 1983) that Brown first became incapacitated for work on 21 February 1985 and determines that as being the date of injury. The Industrial Court ultimately determines that Brown is entitled to arrears of compensation prior to the filing of an application in the general form. It ultimately determines that Brown is entitled to a redemptive figure pursuant to section 72 of the old Act of some $32 500 and ultimately orders that the employer, albeit its insurer, pays Brown the sum of $39 500.

I cannot be certain that Brown's claim would necessarily be dealt with in this way by the corporation. However, the existing case law suggests that it might be. If that is so, then I do not believe that this provision is particularly fair to existing underwriters. One way of solving the problem is to amend the section so as to confine it to cases where the worker has actually been off work by reason of the disease. The only protections that gives insurers is that it increases the likelihood of them knowing about a claim and have done something to resolve it and confines their involvement to more substantive injuries. This could be achieved by substituting section 2 (1), as follows:

Subject to this clause, the repealed Act continues to apply in respect of a disability that is attributable to a trauma, save where such trauma is in the nature of a disease (as defined by the repealed Act) that Act shall continue to apply only in respect of such diseases that have caused an actual or deemed total incapacity for work prior to the appointed day but otherwise this Act will apply.

It is more probable, however, that the corporation will seek contribution from the insurers in relation to diseases by treating them as transitional disabilities. The problem that this causes insurers is that the corporation may seek contribution for injuries in the nature of diseases that go back a long way. I will deal with that problem now, and the transitional provisions generally.

2. Transitional Disabilities, Traumas Occurring Before and Subsequent to the Commencement of the New Act.

These provisions are contained in subsection 2 of the transitional provisions of the first schedule as outlined above. What these provisions tell us are as follows:

(i) The worker's antecedent rights are not affected.

(ii) If the corporation pays or is liable to pay a disabled worker the corporation is subrogated to the antecedent rights of the worker.

(iii) If the worker has received benefits pursuant to his antecedent rights the liability of the corporation is reduced to such extent as is determined by the Industrial Court of South Australia.

(iv) Where the worker has not received benefits pursuant to his antecedent rights the corporation is subrogated to those rights and can seek recovery from the appropriate insurer to such extent as is determined by the Industrial Court of South Australia.

This is all rather confusing. I have my own doubts as to whether the Industrial Court has the jurisdiction to deal with disputes between the corporation and previous insurers under the old Act, and, if it has, as is to how such disputes may be determined. That, however, is not a matter of concern for present purposes. Ignoring that for the moment, what we are told is that the worker's antecedent rights are not affected, but if the corporation is liable to pay or pays compensation to the worker it is subrogated to the worker's antecedent rights.

If the worker suffers a disability in compensable circumstances after the commencement date the corporation is liable to pay compensation (see section 30 of the new Act). This suggests that the preservation of the worker's antecedent rights is for the benefit of the corporation, not for the benefit of the worker. If that is so (and we will not know until it is judicially determined), one can imagine a few workers being a little upset at the prospect of losing

their rights to a lump sum payment by reason of an aggravation after the commencement of the new Act.

What we also do not know is whether the 'antecedent rights' include the common law rights of a worker. Again, we will not know this until the matter is judicially determined, but there is considerable support for the proposition that it does. The old Act provides in section 82 (2):

> Where a worker has received or is entitled to receive compensation under this Act or under the repealed Act in respect of an injury, he shall not bring an action against the employer for damages in respect of the same injury unless he commences the action within three years from the day on which that injury occurred.

Although the worker independently has a right to pursue an action for damages at common law, it can be said by reference to this section that such rights are conferred upon him by virtue of the Workers Compensation Act itself. Additionally, part XA of the old Act, albeit by reference to that part only, defines workers compensation liability as meaning:

> *(a)* Liability of an employer arising under this Act;
> *(b)* A common law liability of an employer in respect of injury to a worker of that employer.

Furthermore, the transitional provisions deal with the right of the corporation to seek a reduction in its liability to pay compensation to a worker by reason of his antecedent rights.

One can imagine that if a worker receives a substantial common law settlement on account of future economic loss the corporation would want a reduction of its liability to pay a pension. Indeed, section 3 *(b)* of the first schedule specifically talks of damages, which must mean common law damages. Given that the clause talks about reduction and subrogation in the same breath, one would expect the same thing would apply to the corporation's right of subrogation. I have no precedent upon which to base this conclusion but I believe that the worker's common law rights are included in the concept of 'antecedent rights'. Let us then consider this fact situation.

Ralph Black is aged 33 years and is employed by Moonlight Constructions as a builder labourer. On 31 May 1987 he sustains an injury to his back in common law circumstances and has been variously assessed by appropriate medical specialists as having a 35 per cent loss of back function by reason of that injury and is certified permanently unfit to perform labouring work. He has instructed solicitors to act on his behalf. Moonlight Constructions is a small company and Black is highly regarded. In January of 1988 the existing yardman at Moonlight Constructions retires and they offer Black that position. Black's doctors feel that he ought to at least try this job in order to rehabilitate himself. Black's solicitor has indicated to him that he can expect an award of around $100 000 for damages if he can cope with his job and keep it and quite a deal more if he cannot or is terminated.

Black is quite happy to keep on working. His brother-in-law works for the same company; his long service leave is due in a couple of years; and he likes the job. He ultimately has in mind to buy a business once his settlement is completed and he has invested the proceeds for a couple of years and obtained his long service leave. In July of 1988 the management of Moonlight Constructions decides to refurbish its office area. Black's supervisor has momentarily forgotten that Black has a bad back and he is asked to help unload a large conference table. In the process of unloading the table Black feels pain in his back. He leaves work early and rings his solicitor the next morning for advice as to what to do.

Black's solicitor advises him that he may well be unwise to allege an aggravation as that might result in his existing action being absorbed under the new scheme, thereby substantially reducing his entitlement to a lump sum payment. His solicitor suggests that the circumstances in July of 1988 might well be an indication that Black was not able to cope with the work of a yardman rather than a specific trauma at that time. Given previous advice that his entitlement to common law damages might well increase if that is indeed the case, Black readily agrees that that indeed is what has occurred.

What this fact situation illustrates is that, if the antecedent rights of a worker are affected by reason of an aggravation under the new Act, it may provide a positive inducement to an injured worker to remain silent about an aggravation occurring under the new Act to the detriment of the former insurer. The greater concern insurers will have however is that the corporation seems to have an open ended right to seek contribution from previous insurers. If *Cowell v. GMH* 17 SASR Page No. 14 is applied to these provisions it may be that the corporation's right to subrogation exists long after the limitation period for the worker has expired.

In suggesting possible amendments I am faced with a dilemma. If one limits the corporation's right to subrogation to those instances where the worker has expressly declared that he will not pursue an action in relation to the former injury, the problem alluded to by the above example are removed. However, it still means that workers can pursue actions under the old Act for very old injuries and seek extensions pursuant to section 48 of the Limitations of Actions Act (1936 as amended) in pursuing common law claims in relation to such injuries. Insurers might be better served by accepting that the corporation has a complete right of subrogation to the exclusion of the worker but that that right must be excercised within a certain period of time after the appointed day, say three years. This would still permit a worker who has not sustained an aggravation after the new Act to attempt to prosecute a claim for an injury that occurred long ago. However, insurers would be protected in the knowledge that there would be a definite end to claims of contribution by the corporation. This could be achieved by inserting paragraph *(d)* in section 2 (3) as follows:

> a compensating authority must excercise its rights of subrogation within three years of the appointed day.

I believe that it was important to have incorporated in *Hansard* that opinion, which highlights some of the difficulties which the transitional provisions now create. In the light of the difficulties which were not foreshadowed by the Attorney-General when the Workers Rehabilitation and Compensation Bill was in Committee in this Chamber or during consideration at the deadlock conference, it seems to me appropriate that some steps be taken now to try to resolve those difficulties.

As I said, when the principal Act was a Bill and came into the Parliament, it provided a cut-off point for claims of two years before the appointed day. However, that was amended by the Attorney-General, who indicated that the amendment which deleted that reference to two years was designed to facilitate the operation of the transitional provisions. No-one picked up the particular difficulty at the time, and I suppose one can appreciate that because of the pressures we were under in the closing days of that part of the session prior to Christmas. However, my amendment will meet the major difficulties envisaged in the transitional provisions and, because this is an ideal opportunity to have the matters resolved before the corporation is established, I have moved the addition of this new clause.

The Hon. I. GILFILLAN: I indicate that I will be opposing the amendment. Just before I do I would like to remind the Hon. Mr Griffin that section 14 (1) *(a)* of the Workers Rehabilitation and Compensation Act 1986 provides:

> The functions of the corporation are to undertake, subject to the general direction and control of the Minister, the administration and enforcement of this Act.

It is relevant to this debate in so far as I believe, rightly or wrongly, that it does give the Minister of the day quite extraordinary influence over the corporation in all sorts of matters.

This issue is rightly raised before the Council and the transitional period is bound to be fraught with dilemma and some contest as to who has the responsibility for the ongoing consequences of injuries sustained prior to the establishment of the corporation. I understand that Victoria is having problems with this issue. Partly because of that power of the Minister, and following discussions that I have had with him, I feel some confidence (with an undertaking that I hope will be given shortly in the Council) that the Minister will indicate that he will direct, through the power given to him in the Act, that the corporation enter into appropriate discussions or negotiations to deal with this transitional period. To have a fixed three year time does not appear to me to be satisfactory. It is difficult, of course, to contemplate any specific period of time, and I consider that once again in this matter we really are pre-empting a major role that the corporation itself should be playing. That is why I say: hurry up, please, the day when the corporation is established and starts to do its job. I indicate that we will be opposing this amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment. The amendments in particular under subclauses (3) *(c)* and (3) *(d)* have the combined effect of transferring to the new system the cost of diseases which were contracted in the course of employment under the old Workers Compensation Act where the incapacitating effects were not evident until three years after the commencement of the new Act. This is quite inappropriate as it would relieve insurance companies of liabilities which were insured for under the old system and transfers them to employers under the new system.

If these amendments were to succeed, employers would have to pay twice for the same liability. However, the Government recognises the concerns of the insurance industry in relation to claims that may arise many years after the commencement of the new Act in relation to industrial diseases that have been contracted under the old system. The desire of the insurance industry to close its books on these claims is understood. Unfortunately, the question of the financial arrangements to handle these claims is a complex actuarial matter.

The Government considers that the proper approach is for the new corporation to enter into negotiations with the Insurance Council of Australia to reach an agreement that enables the corporation to take on the liability for such claims. Accordingly, the Government will direct the corporation to enter into early discussions to make suitable transitional arrangements which will enable insurance companies to close their books within a suitable period of time after the commencement of the new Act.

The Hon. K.T. GRIFFIN: I make the observation that I do not think that the undertaking to consult is adequate. The corporation can go on consulting for ever and not reach any conclusion. I think that it is important to endeavour to put something into the transitional provisions. The Hon. Mr Gilfillan has said that a three year fixed period is not adequate, but I might remind him that the period of limitation within which claims should be made is three years. There is, of course, a flexibility in any court to extend that period, but I think that the difficulty with that is that those extensions of time are not granted lightly. So, I have some concern about accepting the assurance given by the Minister. I have no difficulty accepting that consultations will be undertaken, but, on the other hand, I do have difficulty in accepting that a satisfactory conclusion to the discussion will be reached. In those circumstances, I think that the amendment ought to be made to the Bill and thus become part of the Act. I indicate that I will not divide on this amendment, if I lose it on the voices, as the Hon. Mr Gilfillan has indicated that he is not going to support it. Nevertheless. I put on record my very strong conviction that it ought to be carried.

New clause 3 negatived.

The ACTING CHAIRPERSON (Hon. G.L. Bruce): There is a further amendment on file to be put by the Hon. I. Gilfifllan.

The Hon. I. GILFILLAN: I do not intent to proceed with my amendment.

Title passed.

Bill read a third time and passed.

LIFTS AND CRANES ACT AMENDMENT BILL

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

Clause 8, Page 3, after line 8—Insert the following:

(4) An approval code of practice or the variation of an approved code of practice is subject to disallowance by Parliament.

(5) Every approved code of practice or variation must be laid before both Houses of Parliament within 14 days of notice of its approval being published in the *Gazette* if Parliament is in session or, if Parliament is not then in session, within 14 days after the commencement of the next session of Parliament.

(6) If either House of Parliament passes a resolution disallowing an approval code of practice or a variation of a code of practice then the code of practice or variation ceases to have effect.

(7) A resolution is not effective for the purposes of subsection (6) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not all fall in the same session of Parliament) after the day on which the code of practice was laid before the House.

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

That the Legislative Council do not insist on its amendments, but agree to the alternative amendment made in lieu by the House of Assembly.

The House of Assembly, in disagreeing to the Legislative Council's amendment, has inserted an alternative proposition which would mean that, when a code of practice is approved, that code of practice could be the subject of disallowance by Parliament and the approved code of practice would need to be laid before Parliament and, within the normal 14 days, could be disallowed. If Parliament passes a resolution disallowing an approved code of practice, then the code of practice or variation ceases to have effect.

The reason it is expressed in that way and not in an alternative way (which could be a regulation setting out a code of practice) is that a regulation becomes the law which has to be followed in every particular, whereas a code of practice is a more flexible arrangement which is by way of general guidelines and that is the distinction that is sought to be made by the House of Assembly's alternative amendment. It is still subject to disallowance by the Parliament, but it does not have the same force of the law of the land as would a regulation.

The Hon. K.T. GRIFFIN: The principle which is embodied in the amendment of the House of Assembly is similar to that which we sought when the Legislative Council carried an amendment ensuring that the code of practice was to be prescribed by regulation and that then would make it subject to the disallowance procedure. We wanted it subject to the disallowance procedure, because it played a significant part in the identification of a standard of care.

What the Attorney-General alludes to is the distinction between a regulation which is subject to disallowance and the code of practice which is notified in the *Gazette* and which is then subject to disallowance. I am not going to hold up the consideration of this matter. Over the recess I would like the Attorney to have a good look at the legal aspects of this, because this is a new procedure for disallowance. It is the first of which I am aware where a code of practice is notified in the *Gazette* and is then subject to disallowance after being laid on the table.

If one looks at the Travel Agents Act and the Occupational Health and Safety Act—two Bills that have been passed in this session—one sees that there is provision for codes of practice to be promulgated by regulation and there is, I know, other legislation where the same occurs. The codes of practice are incorporated in regulations and, therefore, are the law of the land. That does not mean that they cannot still be flexible, and it does not then mean that they do not have the same force or effect as codes of practice under this proposed amendment from another place.

The fact is that they are dealt with identically and under the Occupational Health and Safety Bill, which we debated

before Christmas 1986 and which had a provision for codes of practice to be incorporated in regulations, the codes of practice played the same part in the establishment of standards of care as are proposed in this Bill. Although I do not want to hold up consideration of the measure, it seems to me that it starts off a completely new procedure.

I would not like to see it take off as an accepted form of dealing with codes of practice. I would like to see some consistency in the way in which codes of practice may be incorporated in the usual way, that is, by regulation. So, whilst this amendment does recognise the issue which the Opposition raised when this Bill was first before us, it does bring up a procedure which is unique and, to that extent, we ought to be very cautious about it. It may be that there is some other way that we can deal with this in the Committee stage but, subject to any advice that the Attorney may give to the Committee, for the moment I will go along with supporting it because it adopts the principles that the Opposition wanted.

The Hon. C.J. SUMNER: I understand the point being made by the honourable member. Parliamentary Counsel has advised me that this is a similar system to that operating in the Occupational Health, Safety and Welfare Act with respect to codes of practice. The honourable member may be right with respect to travel agents but a quick perusal of the Occupational Health, Safety and Welfare Act indicates that a provision of similar effect to the one that is being sought to be inserted here exists in that Act: that is, it is not strictly a regulation but a code of practice that is subject to disallowance by the Parliament.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The honourable member says that there are others. I will examine that issue to see what is the most appropriate form for the Council to adopt, as this appears to be a procedure that might become more common.

The Hon. J.C. BURDETT: I find this procedure fascinating because I am interested in subordinate legislation. I accept what the Attorney says about the Occupational Health, Safety and Welfare Act, which I have not looked at in this regard. In regard to regulations, the Subordinate Legislation Act sets out the procedure: it sets out that regulations shall have the force of law when they are made and they can lay on the table for 14 sitting days; notice may be moved within that time or notice may be given in that time. If notice is given within that time, a motion subsequently may disallow. A thing that is fascinating about this is that it does not set out that procedure. The Bill provides:

> (5) Every approved code of practice or variation must be laid before both Houses of Parliament within 14 days...
>
> (6) If either House of Parliament passes a resolution disallowing an approved code of practice or a variation of a code of practice then the code of practice or variation ceases to have effect.

It does not set out the period within which notice of disallowance must be given. In regard to regulations, that is done in the Subordinate Legislation Act. In regard to this, it only provides:

> (6) If either House of Parliament passes a resolution...

It could, presumably, be any time.

The Hon. K.T. Griffin interjecting:

The Hon. J.C. BURDETT: I am sorry; I have not turned the page. Subclause 7 provides:

> A resolution is not effective for the purposes of subsection (6) unless passed in pursuance of a notice ... given within 14 sitting days...

So that covers that aspect. It does not specifically say that the code of practice has the force of law forthwith, which applies in regard to regulations pursuant to the Subordinate Legislation Act. While I accept what the Attorney-General has said, namely, that this is not unique and that it has happened on at least one other occasion, it is a very interesting, comparatively new venture into the field of subordinate legislation.

I would have thought that it would be better if it had been made a regulation. If we are going to adopt in future the practice of having codes of practice given the force of law subject to disallowance in this way pursuant to the special Act on each occasion, instead of in accordance with the overall legislation (namely, the Subordinate Legislation Act), I find it quite fascinating.

Another thing that occurs to me is that these codes of practice apparently do not go before the Joint Committee on Subordinate Legislation. There is no provision for them to do so; they are not covered anywhere else; and they stand on their own terms. Therefore, no-one would be able to give evidence on them, and the evidence, obviously not having been given, could not be tabled. I would want to examine in the future whether we are going to continue with this practice of a brand new form of subordinate legislation or delegated legislation in terms of a special Act, instead of in terms of the Subordinate Legislation Act.

The Hon. I. GILFILLAN: Although I am not particularly happy with the amendment, I do not intend to protest too loudly about it because I think that there are good signs that it will be looked at more closely. One of the other things that has happened in the amendment that has come back from the other place is the deletion of any obligation to consult. The fact that there is no obligation for it to be reviewed by the Joint Committee on Subordinate Legislation, which is an excellent reviewing process for regulations in the current system, strikes me as meaning that the amendment is not as innocent as it may appear to be on the surface.

Unless I am mistaken the code of practice can evolve with no consultation. There can be no process of input from any other party until it is presented to Parliament, and then we either accept or reject it *in toto*. That as I recall was really the reason for our original amendment. I am not happy with it, but it seems as though it will be considered in the recess if the Attorney follows the suggestion of the Hon. Trevor Griffin. However, I indicate that I am suspicious of it and do not like it.

The Hon. C.J. SUMNER: There is no cause for the honourable member's suspicion. Obviously in an area like this, one is not going to introduce a code of practice without consulting the people with whom—

The Hon. K.T. Griffin: That is the reason why we supported the amendment in the first place.

The Hon. C.J. SUMNER: But the amendment was defective in the sense that it listed some organisations with which one had to consult and left out a whole bunch of others. One will not be able to deal with the people whom one must consult in this context.

It is inconceivable that a code of practice would be introduced that has not been the subject of consultation. One would not introduce a code of practice dealing with the travel agent industry, or with the building industry, without consultation with the industry. It does not matter what industry one is talking about, it is ridiculous to suggest otherwise, so ridiculous it does not need to be there. I understand the points made by the Hon. Mr Griffin and the Hon. Mr Burdett and will have the matter examined with a view to establishing a procedure for future Acts of Parliament which will have some consistency in it.

Motion carried.

CROWN PROCEEDINGS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 1 April. Page 3687.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, which is designed to provide a different mechanism for serving Ministers of the Crown with subpoenas either to produce documents or to give evidence of facts known to the Minister. There is some difficulty in the present procedure, which requires such subpoenas to be served personally on the Minister. It may be difficult to achieve service if the Minister is overseas, interstate or otherwise inaccessible and it seems more appropriate that, because a subpoena served on the Minister would go through appropriate channels to the Crown Solicitor, the subpoena be delivered to the Crown Solicitor with a requirement on him or her to effect service on the Minister. In that way the Crown Solicitor will know what is going on and will be able to deal with the subpoena in consultation with the Minister and the Minister's advisers and, hopefully, more expeditiously ensure compliance with the subpoena.

Some may suspect that this will relieve Ministers of the Crown of harassment by process servers. I suppose that that may be one consequence of the Bill, but I do not think that that is particularly relevant; after all, this is not directed towards service of Ministers in their own right but towards the service of Ministers as Ministers of the Crown. I think that it is an effective alternative, provided the Crown Solicitor acts diligently and, if service cannot be arranged, the matter goes back to the court. That is provided for in the Bill. There are no time limits on the Crown Solicitor, except the concept of a reasonable time.

Hopefully, within that context a party who is concerned about delay may be able to ensure that the Minister or the Crown Solicitor has it dealt with expeditiously by the court. That is my only reservation about the drafting, whether there is a requirement to have some ultimate power within the court to order compliance if there is what appears to be undue delay. That is a matter that we have to look at in practice, although if the Attorney-General has a view on it he might care to express that during the course of his reply. Subject to that, we support the second reading.

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

LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 1 April. Page 3683.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading. The Bill seeks to provide for the establishment of a position of Master of the District Court and for Registrars of the District Court as well as Registrars of the Magistrates Court. The offices which are to be created are designed to give wider flexibility to the courts in disposing of cases. The Master of the District Court will have a primary responsibility to supervise pretrial conferences, which should assist in the resolution of matters.

That Master is to be a magistrate or legal practitioner who is eligible for appointment as a magistrate. The Registrars of both the District and the Magistrates Courts are to have responsibility to ensure that the administrative operation of their respective courts is efficient and effective. When the Department of Legal Services was restructured under a Liberal administration into the Courts Department and the Attorney-General's Department it was a decision to appoint a registrar of the subordinate jurisdictions, which gave one officer responsibility for both the District Court in its civil and criminal jurisdictions and for the courts of summary jurisdiction.

That was designed to be an administrative position which would facilitate administration within those jurisdictions. Obviously, that is found to be not particularly satisfactory, and now there will be a registrar for each jurisdiction. One question which might immediately come to mind, and on which the Attorney-General may care to comment, is what the cost may be of the appointment of an additional Master and the Registrar as compared with present costs.

If the Attorney-General has some indication as to the cost, I would appreciate receiving it. I have other questions for the Attorney-General, but I do not expect them to hold up consideration of the Bill. Proposed new section 50 (3) provides:

> Subject to the rules of court, an appeal will lie from a decision of a Master made in the exercise of a jurisdiction conferred by the rules to a District Court constituted of a judge.

The Master may have judicial powers—

The Hon. C.J. Sumner: Will have.

The Hon. K.T. GRIFFIN:—or will have judicial powers, and there is a right of appeal to a judge. If a judge of the District Court were exercising those powers, there would be a right of appeal to the Supreme Court. It is not clear to me whether proposed new section 50 (3) is likely to have the effect of limiting the right of appeal of a litigant from a decision of a judge to the Supreme Court. I would like that clarified. The other point that I would like clarified relates to the functions to be assigned to a registrar.

The second reading explanation refers to administrative functions. Perhaps proposed new section 50 (3) *(b)*—'any functions assigned to a registrar by the rules of court or by the senior judge'—should be qualified to read 'administrative functions', and the same should apply to proposed new section 50 (3) *(c)*, so that there is no doubt that the registrars will exercise only administrative functions. It seems to me that it is possible to reach a conclusion that, without the limitation imposed by the word 'administrative' on the functions which may be conferred by the senior judge or the rules of court on a Registrar of the District Court, and similarly by the Chief Magistrate on the Registrar of the Magistrates Court, it is possible to extend those functions to judicial functions. Subject to those matters being adequately resolved, the principle of the Bill is satisfactory and we support the second reading.

The Hon. C.J. SUMNER (Attorney-General): The position being formalised by the Bill is already in place in the sense that the magistrate who currently conducts pre-trial conferences in the District Court (Mr Mathwin) will become, I presume, the District Court Master. It is important to note that he will be called District Court Master to distinguish him from a Supreme Court Master, because of objection to his having the title 'Master': it was felt that that title should be reserved for the Supreme Court. The District Court did not agree with that view and it fell to the Government to make a decision with respect to the Bill before its introduction in the Parliament.

It is now, I suppose, a matter for the Parliament to make the final decision, but the Government did not feel that there was any difficulty with the distinction being made by the appellation 'District Court' or 'Supreme Court' before the word 'Master'. The County Court in Victoria has a Master. It is really an aside, but the District Court officer will be a District Court Master. He will exercise judicial

functions and will be a magistrate as well. Indeed, the current incumbent was a stipendiary magistrate. The cost is the salary of a magistrate with whatever support staff is necessary, and that has all been provided for in the budget for this financial year.

The Hon. K.T. Griffin: What about the registrars?

The Hon. C.J. SUMNER: I do not believe that there is any additional funding for registrars.

The Hon. K.T. Griffin: There'll be two instead of one.

The Hon. C.J. SUMNER: I do not think so.

The Hon. K.T. Griffin: One for the District Court and one for the Magistrates Court.

The Hon. C.J. SUMNER: That is just a matter of title. I do not think that there will be any additional staff. If it is a different situation, I will let the honourable member know. My understanding is that apart from the District Court Master (that is, the magistrate who now conducts pre-trial conferences, which was an additional resource for which provision has been made) the rest of the reorganisation will be done within existing resources, so it will be a matter of designating people already in the system.

The Hon. K.T. Griffin: What about appeal?

The Hon. C.J. SUMNER: I do not think that that is a problem. Appeal from the Master to a District Court judge is provided for and there is no limitation on the appeal as a decision of a District Court judge; it would be an appeal to the Full Supreme Court.

The Hon. K.T. Griffin: What about the registrar's administrative functions?

The Hon. C.J. SUMNER: The scheme of the restructuring is that the District Court Master will perform judicial functions and the registrar will perform administrative functions. I guess that we must rely on the senior judge to ensure that that distinction is maintained. It may well be that, if the senior judge purported to give the registrar judicial functions, is *ultra vires* to legislation anyhow.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Repeal of Part CI and substitution of new Part.'

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

Page 2, line 41—Delete 'functions' and insert 'administrative functions'.

Page 3, line 20—Delete 'functions' and insert 'administrative functions'.

I am sorry that I did not have these amendments on file. They arise as a result of the Attorney's responses and they relate to the functions assigned to a registrar of the District Court and a registrar of the magistrates courts. The amendments clarify the role of the registrar. I ask the Attorney to accept the amendments and address any difficulty before the matter is finalised in the House of Assembly. I apologise that the amendments are not in writing, but I think all members would appreciate the pressure that occurs when we are considering a number of Bills, as at present.

The Hon. C.J. SUMNER: I will not object but, if there is a difficulty after consultation with the District Court judge, I will have the matter addressed again in the House of Assembly.

Amendments carried; clause as amended passed.

Clause 5 and title passed.

Bill read a third time and passed.

EXPIATION OF OFFENCES BILL

Adjourned debate on second reading.

(Continued from 1 April. Page 3686.)

The Hon. K.T. GRIFFIN: The Opposition will not support this Bill: we will oppose it at the second reading. This Bill seeks to establish a scheme which will enable alleged offenders to expiate certain offences by payment of expiation fees. Both the offences and the expiation fees are to be prescribed by regulation. The scheme is to apply only to summary offences punishable by a fine and will not extend to offences punishable by a fine and imprisonment. The Bill does not override existing schemes such as the traffic infringement notice scheme, the STA traffic infringement notice scheme, parking bylaws and other expiation schemes administered by local government. Presumably, it does not override the scheme for on-the-spot fines for some marijuana offences.

Children under the age of 16 are not to be able to receive appropriate expiation notices. Under this Bill an expiation notice will be able to be withdrawn and a prosecution issued within 60 days of the date of issuing the notice. It should be noted that this contrasts with the on-the-spot fines for marijuana use where the expiation notice cannot be withdrawn and a prosecution initiated in lieu thereof. The Liberal Government did introduce the traffic infringement notice scheme, which was designed to relieve pressure on the courts.

That was a system which provided the flexibility offered in this Bill and was designed to relieve the pressure imposed on the courts because of the substantial number of road traffic prosecutions—prosecutions where defendants did not appear in court and where there might have been no indication that the matter was not to be defended. A substantial number of police officers were often hanging around the courts, sometimes on their days off or after being brought back from leave to deal with matters that did not come on for hearing. As a result the Liberal Government believed that a traffic infringement notice scheme of the type in operation in other States could be applied to some 60 000 road traffic prosecutions at that time and would be appropriate for introduction in South Australia. It was designed to relieve the pressure on the courts and the police and to provide for some relief to alleged offenders.

The difference between that scheme and this scheme is that the traffic notice infringement scheme came before the Parliament as a legislative scheme to deal with road traffic offences. There was ample opportunity for members of Parliament to debate the issue. As a result the then Labor Opposition took it upon itself to criticise us quite severely for the introduction of that scheme, notwithstanding that since its introduction—

The Hon. C.J. Sumner: You said it was not designed to raise money.

The Hon. K.T. GRIFFIN: It was not designed to raise money, and the Attorney-General knows that. We know what has happened since then. This Government has used it as a revenue raising exercise because on at least two occasions it has put up the traffic expiation fees.

The Hon. C.J. Sumner interjecting:

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

The Hon. K.T. GRIFFIN: There is no doubt that the courts are still under pressure and the Government says that one of the reasons for introducing the Bill is to deal with this continuing pressure. If the Government wants to relieve pressure on the courts and introduce an expiation scheme in respect of any set of offences, such as those under the Companies Code, let the Government bring in a specific scheme which can address that issue and we can then deal with the expiation scheme on a case by case basis.

The Hon. C.J. Sumner: You can still do that.

The Hon. K.T. GRIFFIN: No, you cannot. This Bill seeks to set up a scheme and apply it both to the offences and to the amount of expiation fees by regulations which, admittedly, are subject to disallowance. This issue is not as clear as it would be if a Statute were brought before the Parliament to apply an expiation scheme to a particular statute.

Of course, if the Government just wants to have this in place without reference to the regulation making power, so that it can be picked up in subsequent statutes which deal with particular offences, that is okay, but it would seem to me that that then would require some significant amendments to this Bill, and I do not believe that that ought to occur in any event. I think that a very real risk in a traffic expiation scheme framework as proposed by this Bill is that it will become a revenue raising exercise, that it will be applied to a whole mass of offences in the one set of regulations, and that there will be no opportunity effectively to disallow in part, but only to disallow in whole, or to allow the regulations in whole.

The Hon. C.J. Sumner: You can do that—

The Hon. K.T. GRIFFIN: Of course you can do that, but it may be that the Parliament feels that certain offences are suitable for expiation and others are not.

The Hon. C.J. Sumner: You can indicate that—

The Hon. K.T. GRIFFIN: Of course you can indicate that, but you can only dissallow in whole or allow in whole. This Bill seeks to allow the Government by regulation to prescribe certain offences. Admittedly, it will not apply to offences where any imprisonment is provided in the principal statute. Let us face the fact that there are offences where penalties of imprisonment are not imposed where quite substantial maximum monetary penalties are proposed. The Occupational Health and Safety Act, for example, provides some quite substantial monetary penalties, in tens of thousands of dollars, without imprisonment being proposed. If the Government is proposing expiation fees for those, as it has done with the tobacco consumption licensing scheme, which provides a maximum penalty of $10 000 and an expiation fee of $200, then I think that ought to come before the Parliament in statute rather than by regulation.

The other difficulty with expiation fees, Mr Acting President, is that a lot of ordinary people out in the community are apprehensive of going to court. Many of them cannot afford to go to court, and many are intimidated—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: No—by the legal system but, because an expiation fee has been provided, they will weigh up whether the apprehension about the legal process and the concern about costs is to be set off against the somewhat smaller expiation fee. So, rather than taking a point that they are not guilty, they will take the decision that, in the circumstances which are presented, they will pay the expiation fee. The expiation fee is an inducement to pay rather than to litigate the issue of guilty or not guilty.

In all those circumstances, the Opposition does not believe that this is a Bill which ought to be supported but, if the Government has considered certain offences to be suitable for expiation fees, then let it bring those offences to the Parliament in a statute which relates to a specific piece of legislation.

The Hon. C.J. Sumner: That is ridiculous.

The Hon. K.T. GRIFFIN: It is not ridiculous. It has been done in the traffic area; it has been done in the controlled substances legislation for marijuana, and it has been done—

The Hon. C.J. Sumner: It is like a dog's breakfast.

The Hon. K.T. GRIFFIN: It is not a dog's breakfast. You can put up a similar scheme but bring the offences to the Parliament. It is in that context that the Opposition will not support the second reading of this Bill.

The Hon. I. GILFILLAN: The Democrats have serious misgivings about the Bill as it is before us. The intention seems to be very worthy. Actually decreasing the load on the courts as a reasonably efficient method of satisfying minor offences has a lot to commend it. I believe that whatever the debate was when the Attorney referred to some shady past of the Hon. Mr Griffin in this matter is beyond our ken.

Members interjecting:

The Hon. I. GILFILLAN: I was listening with great interest to that allegation; but until it is proved beyond all doubt I believe that the Hon. Trevor Griffin to be completely impeccable and blameless in this matter, and capable of putting forward a very cogent and effective argument. It is unfortunate that we are still handicapped by an inability to amend regulations, and with this enthusiasm for reform of regulations it is a pity that, as far as I know, we have not yet addressed the matter of being able to make alterations, rather than accept or reject them. Such a procedure at least would have brought this a little closer to being a workable situation. However, looking at the Bill, it is like a sort of skeleton, really: there is no flesh on it at all. It is a nice word of intent, but it really leaves us in a position of not knowing what we are passing, as virtually everything in the Bill is to be determined by regulation, which we either accept or reject *in toto*—that is after it has had a run. There is very little to appeal. The prescribed expiation fee will be fixed by regulation; the prescribed offence will be fixed by regulation; and the differential expiation fee, which could be varied according to circumstances, may be fixed by regulation. There is virtually nothing fixed in the wretched Bill. The final clause provides:

> The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

There is nothing in this, except a platitudinous remark along the lines of 'Here is a good idea. We can save the courts some work, but leave it to us and don't you worry about it.' The Bill has no fabric and no precise detail. If it is such a great idea, there should be no burden in providing a schedule or other form of detail.

The Hon. C.J. Sumner: Vote on the second reading and we will consider your proposition; that is all you have to do.

The Hon. I. GILFILLAN: There is no time to consider that detail. I think that, unless the Government has all the details of what the offences and the expiation fees are and is prepared to give us time to properly consider those details, I do not see how we can possibly deal with this matter before the scheduled rising time.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: However, I believe that the Attorney has some remarks to make in due course in response to my second reading speech, and no doubt I will hear them a little more clearly in that situation. But I make the point that it is a pity (and I cannot emphasise this enough) that the excellent work done by the Subordinate Legislation Committee is often frustrated and is not as effective in refining what should be proper regulations, because of the Council's inability to vary them. I urge those who are reconsidering the Standing Orders, or whatever controls the way in which we deal with our regulations, to look at revising that process. As it appears before us, this Bill is a nothing; it may have been produced with the best will in the world as far as improving the system is concerned, but the Democrats do not like supporting any legislation that

does not really show its true colours and we do not know what the Government has in mind.

The Hon. J.C. BURDETT: I oppose the Bill. As the Hon. Ian Gilfillan has indicated, it is completely open-ended. There are innumerable offences under dozens of Acts which are punishable by fine and which therefore would be covered by this Bill, if enacted. The measures involved are of a very different nature: for example, to name just a few, there is the Controlled Substances Act, the Companies and Securities Code, the Workers Rehabilitation and Compensation Act, the Occupational Health, Safety and Welfare Act, the South Australian Health Commission Act, the Fisheries Act, the Community Welfare Act, and so the list goes on. They are all very different, and the nature of the expiation schemes that the Government would want to impose would be different. At present we have different procedures. Under the Motor Vehicles Act, which has been referred to, we have, for example, caught up in the Act provision for demerit points to apply where an expiation notice is involved. There is a different procedure in relation to some marijuana offences under the Controlled Substances Act. Further, there are other procedures in relation to parking offences, and so on.

It seems to me that there would be no hardship and nothing wrong with bringing back each Act to Parliament and making the appropriate amendment, as has been done in the past, because the circumstances are different. The position in relation to regulations has been referred to by the Hon. Mr Griffin and the Hon. Mr Gilfillan. As far as I can see, under this Bill there would be nothing to prevent the one regulation from providing for expiation procedures in regard to, say, five Acts. It may be that, in relation to four of the Acts, everyone agreed that it was reasonable and, in relation to the other one, that it was unreasonable. But, as far as I can see, the only choice that Parliament would have would be to allow or disallow the whole regulation.

As I understand it, an opinion of the Crown Solicitor states that not one in a set of regulations may be disallowed—the whole of the set of regulations must be allowed or disallowed. As the Hon. Ian Gilfillan has indicated, that is a very great disability, and I think that it is something which, by way of amendment to the Subordinate Legislation Act, ought to be addressed but, whether or not it is correct, that certainly has been accepted at the present time.

If we passed the Bill in its present form, that would be a disability. I suggest that there are not likely to be very many Acts which it would be intended by the Government to be brought within expiation schemes, and I can see no hardship in bringing back each Act to Parliament for amendment. An alternative which has been suggested by the Hon. Ian Gilfillan is that, if we want to put a group together, we should do it in a schedule to an Act of this kind. As has been stated, the Bill is completely open ended, and it just leaves everything to regulation. It is an enabling Bill of the worst kind, and I do not support it.

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Gilfillan made a contribution and said that he wanted to hear what I had to say in response before he made up his mind as to what he would do, but he has now disappeared.

An honourable member interjecting:

The Hon. C.J. SUMNER: He did; he said that he wanted to hear. I made some interjections which would have set him straight had be bothered to listen to them. He wanted to listen to my reply in order to make up his mind on how to vote. The reality is that the arguments presented by members opposite are quite spurious on a number of grounds. First, as to whether or not members should oppose the second reading, they do not oppose the principle of expiation notices. In the normal way, when dealing with Bills, if one accepts the principle of expiating offences, or if one accepts a principle in a Bill, then you vote for the second reading of the Bill. One then considers the matter in Committee and, if at the third reading one is dissatisfied, it is at that point that one votes against the Bill. If one accepts the principle of the expiation of offences—

The Hon. I. Gilfillan: You missed the point. The principle is that you put the offences in the Bill, but you haven't done that; you haven't got any offences in it at all.

The Hon. C.J. SUMNER: I am not missing the point. What I am saying to the honourable member is simply that, if you accept the principle of expiation notices for offences, you vote for the second reading of the Bill. If you want specific offences put in, you then consider it and, if certain offences are put in and you are happy with it at the third reading stage, then you vote for it. If at the third reading the Bill is still the same as it is now and you are not happy with it, then you vote against it. That is what we do with respect to virtually every Bill that comes before the Council. So, I believe that to knock it out at this stage of the second reading would be inconsistent with a reasonable and principled approach to the legislation.

For the life of me, I cannot understand on the basis of the arguments that have been put by all the members who have opposed the Bill why they ought to be voting against the second reading. If the Bill is in this form I would understand perfectly, in the light of what they have said (although I do not accept their arguments), why they would vote against the third reading if the Bill was not changed in Committee. However, there is no basis even on what they have said for opposing the second reading.

To my mind it is going about the legislative process in a bloody minded way. I ask the Hon. Mr Gilfillan, even if he has misgivings about the Bill, as he and other members have indicated, to at least consider that voting for the second reading would be an appropriate course of action, because no-one has opposed the principle of broadening the expiation of offences. What members have said is that they want to know to which offences it ought to apply. I do not believe that that is necessary (for reasons that I will address later), but, if that is the view of members, then in Committee, once the thing has passed the second reading, those matters can be addressed.

The Hon. Mr Gilfillan raised the question of a schedule. Obviously, once the second reading is passed it would be possible to deal with it by way of a schedule if that is what the Council wanted. To me, it is not a legitimate tactic, except for the purpose of disrupting the matter, to vote against the second reading knowing that once it gets into Committee the sorts of concerns of honourable members can be addressed.

An honourable member interjecting:

The Hon. C.J. SUMNER: You say that you may not have time to do it in this session, but I am not absolutely sure of that. In any event, it at least takes the matter some way, and it can be revived at that point when Parliament resumes. It does give the Government some indication that at least the principle of the Bill to do this is accepted, which is what I suggest—

The Hon. I. Gilfillan: You got that in the second reading speeches.

The Hon. C.J. SUMNER: I suggest that the honourable member considers that as being a reasonable way to go

about it. So, on the basis of the principle of allowing the second reading to proceed because the principle apparently is agreed to, at least in general terms, I believe it to be persuasive and to give the lie to the arguments proposed in opposition to the second reading.

Some of the arguments raised by members opposite about the substance of the Bill in any event are quite spurious. Some members have made great play of the fact that one cannot disallow part of a regulation. The Hon. Mr Burdett raises this point *ad infinitum*, as if it is a major problem. The reality is that it is not a major problem; it is hardly a problem at all.

One can disallow the whole of the regulation, if one is concerned about a particular aspect of it and, in moving for disallowance of those regulations, one can indicate in the speech of disallowance why one is concerned. You then disallow the regulation on the basis that the Government will have to examine it again and accommodate your point of view before the regulation comes back, knowing that if it does not do so the regulation will be disallowed again.

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: Of course you want the rest of it. I am not suggesting that the proposition put forward by the Hon. Mr Burdett could not be examined. All I am saying is that he exaggerates the importance of it. He has exaggerated the importance of it in the context of this debate as well. He knows as well as I do that one can disallow the whole regulation and include in your speech the areas of concern and, if the Government does not address those concerns in re-promulgating the regulation, you can disallow it again. It is not a difficulty.

Another issue is equally as great a problem. If the Parliament has power to amend the regulation, it may not be satisfactory to the Government or to the community. The Hon. Mr Burdett nods and says that that is a problem. It does not matter which way he goes about it, the problem that he is outlining is not as great as he makes it out to be. If he introduces what he wants he has problems on the other side—the obverse of it. Therefore, it is just not an argument in the context of this Bill.

If the regulations are brought down to bring this Act into effect and to prescribe the offences that it will apply to, and the Hon. Mr Burdett does not like them, then he disallows them, even though he might like some and not others. He then points out in his disallowance speech which ones he does not like. The Government then has to accommodate that in remaking the regulations. It is not a particularly difficult issue. It seems to be the one issue, since the Hon. Mr Burdett's re-election and demise from power as a shadow Minister—

The Hon. I. Gilfillan: It's a very worthy one. If he can achieve his objective it will serve a great advantage to South Australia.

The Hon. C.J. SUMNER: It will hardly serve any purpose at all. Any rational person examining the matter will have to come to the conclusion that it is not a big issue.

The Hon. Diana Laidlaw: Not to you.

The Hon. C.J. SUMNER: Not to anyone who has thought about it, except people who are perhaps obsessed by it. The objectives of disallowing regulations can still be achieved under the existing scheme. There is no question about that: the same objectives can be achieved by disallowing the whole regulation and pointing out where the problems are. If the Government does not adjust the problems that have been pointed out by the Parliament, the regulation does not get passed again. In fact, there is no problem. To use the Hon. Mr Burdett's particular little crusade as an example of why one should oppose this Bill is, as I said, quite spurious.

The Hon. I. Gilfillan: In your opinion.

The Hon. C.J. SUMNER: Well, it is spurious. It is obvious to anyone who thinks about it.

The Hon. I. Gilfillan: It is expiation by regulation.

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan is again interjecting. I put the argument to him that clearly he ought to vote for the second reading because the principle is agreed to. I am happy, in the light of what members have said (and I have no choice, anyhow) to examine the Bill during the Committee stage and, by some alternative means, to deal with the question of how we bring categories of offences into this system. I accept that. I am not happy with it because I think that the Bill as it is is satisfactory, given the controls that exist through regulations in the Parliament.

I repeat that the proposition put by the Hon. Mr Burdett about the lack of power to disallow regulations is spurious. I accept that members are not with me on that, but it still is accepted throughout the Parliament and, apparently, by the three speakers who have contributed, that in principle it is not objectionable. That being the case the appropriate thing to do is to vote for the second reading and then allow the matter to be discussed during the Committee stage. I indicate quite clearly that, those remarks having been made, I will examine the issue to try to accommodate the points of view put by members.

I will ask that the Council accede to the second reading vote on this Bill to enable it, at least, to be passed. Even if it does not proceed in this session further, at least the matter will have been agreed to and it can then be brought back in the next session in the knowledge that the principle has been agreed to. The Government can then give some attention to the details and the comments made by members with a view to producing amendments in the Committee stage that will accommodate members.

The passage of the second reading will assert the principle and enable the Government in confidence to proceed to deal with the matter during the recess with a view to preparing amendments that can be discussed in the Committee stage. Having made my reply, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

DEER KEEPERS BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Bovine tuberculosis infection, which is a communicable disease to humans, was detected in three deer herds during 1986. The prevalence of disease was almost 100 per cent. It was the first time that tuberculosis has been diagnosed in deer in Australia. Diagnostic testing is now required in other herds in the State to establish whether further infection exists in the species. Such testing is necessary to ascertain any risk of spread of disease from deer to cattle which could jeopardise the bovine tuberculosis campaign, and to establish the disease status of the farmed deer population, in order to secure the industry's future good reputation.

The Bill provides a legislative framework under which the disease status of South Australia's deer farming industry may be adequately assessed, initially with respect to bovine tuberculosis. It establishes an industry funded compensation fund to compensate owners when their stock are destroyed because of disease or suspicion of disease. It also establishes an advisory committee of industry and government members to recommend to the Minister the uses (other than for compensation) to which any excess compensation funds collected may be put.

Clauses 1 and 2 are formal. Clause 3 is an interpretation provision. For the purposes of the Bill the inspector and Chief Inspector are the persons holding those offices under the Stock Diseases Act 1934. Clause 4 provides for the annual registration of deer farms. The registration fee will be fixed by, or calculated in accordance with, the regulations. Clause 5 creates offences. It is an offence to keep deer other than at a registered deer farm; to keep deer in contravention of a condition of registration of the deer farm; or to take deer from a registered deer farm unless the deer are tagged or marked in a manner approved by the Chief Inspector.

Clause 6 establishes a compensation fund into which all registration fees will be paid. Clause 7 confers a right to compensation on the owner of any deer destroyed under the Stock Diseases Act 1934, as a result of a prescribed disease after 1 August 1986. The amount of compensation will be calculated in accordance with the regulations. Clause 8 provides that where, in the Minister's opinion, the amount standing to the credit of the fund on 30 June in any year is sufficient to meet any claims likely to be made on the fund in the ensuing 12 months, the Minister may direct that the amount of the excess be allocated to such programs for the benefit of the deer industry in the State as the Minister thinks fit.

Clause 9 establishes the Deer Compensation Fund Advisory Committee. The committee is to be comprised of five persons; the Chief Inspector, three persons who represent the interests of the deer industry, and one person holding a position in the Department of Agriculture. Clause 10 sets out the functions of the committee. They are to advise the Minister on the management of the fund, to recommend the manner in which allocations are to be made under clause 8 and to report to the Minister on matters referred for advice. Clause 11 gives inspectors powers designed to enable enforcement of the measure. Clause 12 constitutes offences under the measure, summary offence. Clause 13 gives the Governor regulation making power. The regulations may provide for exemptions from the provisions of the measures.

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

STOCK DISEASES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Section 9 of the Act allows for the appointment of a Deputy Chief Inspector of Stock. However the Act does not specify the powers of the Deputy Chief Inspector. The Chief Inspector of Stock is often absent from the normal base of operations, either on country duties, interstate or overseas. It is necessary that the powers, duties and functions of the Chief Inspector under this Act and any other Act can be carried out by the Deputy Chief Inspector in the Chief Inspector's absence. Clause 1 is formal. Clause 2 amends section 9 of the Act which deals with the appointment of inspectors and other persons for the purposes of the Act. The amendment gives the Deputy Chief Inspector in the absence of the Chief Inspector, all the powers, duties and functions of the Chief Inspector.

The Hon. PETER DUNN secured the adjournment of the debate.

CRIMINAL LAW (ENFORCEMENT OF FINES) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This brief Bill seeks to make two significant changes to the law dealing with the enforcement of fines.

A number of recent studies by the Research and Planning Unit of the Department of Correctional Services have highlighted concerns in the use made of imprisonment for persons who are in default of payment of fines.

Moreover, there is the prevailing interest of the Government to ensure that the prisons of this State are reserved only for real malefactors and perpetrators of more serious crimes. The Government is (and has been for a not inconsiderable period of time) confronted by the burgeoning problem of overcrowding in correctional institutions occasioned and exacerbated by the presence of offenders who ought not to have been there in the first instance. A Report of the Research and Planning Unit of the Department of Correctional Services, based on statistics gathered for the 1984-85 financial year, has observed:

> Intakes of fine defaulters fell steadily for the first 6 months from July 1984 to a seasonal low over the Christmas period, then began to rise again in the New Year. Overall, the numbers of fine defaulters received each month have been slightly lower than the number reported for February 1984 (224).
>
> However, despite fluctuations in actual numbers received, fine defaulters consistently represent ⅔ of the sentenced intake each month. This remarkable relationship has been observed for many years now although the reason is unclear . . .
>
> Over the 12 month period, fine defaulters accounted for 95.7 per cent of imprisonments under one month.
>
> On average, 35 fine defaulters were held in departmental Institutions each day during 1984-85. This is an extremely conservative estimate obtained by excluding offenders also on remand and those who paid out their warrants (although most of these would have spent some time in gaol before paying). This represents about 5 per cent of the daily average prison population for the year, and compares favourably with the more accurate figure of 38.5 obtained for February 1984.
>
> Month by month estimates are not available but it is likely that with an increasing daily prison population but no evidence of increasing intakes of fine defaulters or longer default period, fine defaulters represent a decreasing proportion of the average prison population, although they maintain a steady proportion of sentenced intakes.
>
> It is clear however that with 100-200 fine defaulters still imprisoned each month, the problem of imprisonment for fine default is as pressing now as in early 1984.

This echoes strongly the main findings in the unit's November 1984 report, as follows:

In February 1984 nearly 80 per cent of all sentenced intakes to Department of Correctional Services Institutions and Police prisons were admitted for fine default only. 72 per cent were for non-payment of fines only and they occupied, on average, 42 beds per night—38.5 of these in departmental Institutions.

Aborigines (36 per cent), women (8 per cent), and the 'not employed' (84 per cent) were over-represented amongst fine defaulters in comparison with their proportions in the general prison population. People in the middle age range of 25-45, and married people were under-represented.

70 per cent of fine defaulters imprisoned had 'default periods; of 1 week or less. The average was 10.2 days. The average time actually served was seven days and over half the defaulters spent less then three days in gaol. The total impact on Institutions for February was equivalent to one five-year sentence (except that 258 intake/discharge procedures were required instead of one).

The defaulters owed a total of $87 422 of which 21 per cent was recovered after imprisonment. 75 per cent of offenders served their entire default period. The administrative cost involved in processing the 258 intakes was estimated at $19 520—more than the amount recovered from defaulters in prison.

64 of the defaulters had never been in prison before. 36 per cent of these were for non-payment of drunk driving, dangerous driving or speeding fine.

This Bill is aimed at redressing such imbalances. Firstly, it fixes the cut-out rate of imprisonment, in defaualt of payment of a fine, at one day for each $50 (or part thereof) of the fine, or any outstanding balance of such fine. The present rate is one day for each $25, a figure that was fixed over 5 years ago. Obviously, the effects of inflation have seen the value of this figure substantially eroded. The Government believes the new rate set by the Bill is both in keeping with contemporary expectations and more realistic. This Bill will also enable any future adjustments to the rate to be made by regulation.

Secondly, the Bill enables persons who experience severe financial hardship in consequence of having to pay a fine to make application initially to the proper officer of the relevant court, and then to the Executive Director of Correctional Services, to work the fine off by community service. The proper officer is required to satisfy himself or herself that the payment of the fine would cause the applicant (or the dependants of the applicant) severe hardship. The Director is required to be satisfied that a position for community service work is available to the applicant. An unfavourable decision of a proper officer may be the subject of judicial review.

If the criteria are met the applicant is obliged to enter an undertaking with the Director and the amount of community service that is to be performed is calculated at the rate of 8 hours for each $100 (or part thereof) of the fine or any balance outstanding.

A copy of the undertaking is to be filed with the proper officer of each of the courts involved (i.e. the Supreme Court, a District Criminal Court or a court of summary jurisdiction). The very act of filing the copy serves to suspend all enforcement and execution proceedings in relation to the fine. If the applicant fails to comply with his or her undertaking to do community service, a notice of cancellation of the undertaking is filed with the proper officer and all enforcement and execution proceedings (e.g. levy of distress, arrest and committal to imprisonment) are thereby revived.

If an applicant serves part only of the period of community service fixed by the undertaking then to that extent (and only to that extent) the outstanding liability to pay the fine is proportionately reduced. Enforcement proceedings can only be taken, if revived, in respect of the balance owing.

A maximum fine of $2 000 is set as the ceiling for the application of these provisions. Therefore, the maximum period for which any person can be required to perform community service is 160 hours. The minimum period of community service set by the Offenders Probation Act, 1913 is 40 hours. Notwithstanding this provision, the undertaking entered into by an applicant can stipulate that community service be performed for a designated period as low as 8 hours.

Finally, this Bill effects consequential amendments to other relevant enactments.

Clauses 1 and 2 are formal. Clause 3 contains definitions that are required for the purposes of the new Act. Clause 4 provides that a period of imprisonment for default in the payment of a fine must not exceed one day for each $50 of the amount of the fine up to a maximum of 6 months imprisonment. Clause 5 sets out the mechanism by which a person who would suffer severe hardship in the payment of a fine may apply to work off the fine by community service. Clause 6 provides for reduction of fines by imprisonment or community service. Clause 7 is a regulation making power. Schedule 1 contains a transitional provision. Schedule 2 makes consequential amendments to the Criminal Law Consolidation Act and the Justices Act. I commend this Bill to members.

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

GOODS SECURITIES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Goods Securities Act which was passed by the Parliament late last year and is expected to be brought into operation by the Department of Transport in the near future.

The Act as passed requires those lenders who seek registration of their interests in motor vehicles by which loans are secured to register, among other things, details of the debts or other pecuniary obligation. This requirement is related to the provisions in Section 12 of the Act for ordering the priority of competing registered interests in the same vehicle. It is the basis upon which, in subsections 12 (5) and 12 (6), the maximum extent of a secured lender's priority interest in conclusively defined by the information given by the lender to the Registrar and by the time at which the information is given to the Registrar. These provisions were designed to provide a stable and certain basis to assist the resolution of any dispute which might arise concerning multiple registered interests.

The requirement to register details of the debt is unique, and is related to the fact that this Act goes further than any comparable Australian legislation in working out the problems of priority that can arise between competing registered interests. Although there were repeated consultations during the development of the legislation, it was only in the continuing consultations after the Act had been passed that industry representatives identified a cost-benefit objection to complying with this requirement for the South Australian Act alone. They indicated to the Government that, in view

of the relatively small number of vehicles in which multiple interests were likely to exist, they would rather use the methods available to them in the course of business and under the general law to protect their interests than be faced with the costs of adjusting their systems and procedures to comply with this requirement. As well, the then Registrar of Motor Vehicles has identified a cost quoted by consultations of $16 000 to adjust the existing software package adopted from the New South Wales system to operate the register.

In view of these recently identified factors, the Government has decided not to persist with the requirement to register details of the debt or pecuniary obligation. It may be noted that the major and significant benefits of this Act are unaffected by this amendment. The register will enable those who seek to buy, or to lend money on the security of, a motor vehicle to assess their positions before entering into transactions and then, having completed their transactions, to safeguard their new positions. Those who buy from second-hand vehicle dealers will be able to rely upon the checks made by the dealers.

The Bill also amends Schedule 2 of the principle Act, concerning the transitional period under the Act, to provide that all interests registered during the transitional period shall be taken to be registered simultaneously at the moment the transitional period ends. The Government has agreed to make this amendment in response to industry representations since the Act was passed. The effect of the amendment is to avoid any unintended impact upon the priorities of existing, but previously unregistered, interests in the same motor vehicle during the intitial loading of the register with an expected 80 000 existing interests in motor vehicles. The amendment is technical. It retains the preservation of priority for pre-existing Bills of Sale and Companies Code charges. It does not affect the requirements on lenders in the preparatory arrangements that have been made with the Motor Registration Divisons for setting up the register. It is necessary to amend the Act in this way at this time in order to avoid delays in its implementation.

Clause 1 is formal. Clause 2 amends section 5 (2) of the Act which sets out the information that must be contained in the register in respect of registered security interests. Paragraph *(d)* which requires details of the debt or other pecuniary obligation secured to be included is struck out.

Clause 3 is a consequential amendment to section 9 of the Act which provides for certificates of registered security interests.

Clause 4 is a consequential amendment to section 12 of the Act which provides for the order of priority of security interests in prescribed goods. The amendment strikes out subsections (5) and (6) which relate to the details of debt or other pecuniary obligation contained in the register.

Clause 5 amends schedule 2 of the Act which contains transitional provisions. The schedule provides that security interests registered under the Act during the transitional period will be taken to be registered at the date and time of first registration under the Act, the Bills of Sale Act, 1886, or the Companies (South Australia) Code. The amendment does not alter the position in respect of security interests previously registered under the Bills of Sales Act, 1886, or the Companies (South Australia) Code but provides that other security interests registered under the Act during the transitional period will be taken to be registered at the date and time at which the transitional period ends.

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

LIQUOR LICENSING ACT AMENDMENT BILL (1987)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This amendment alters the method of licence fee assessment for holders of producer's licences under the Liquor Licensing Act, 1985. Holders of those licences may sell to liquor merchants or the general public any liquor (beer, wine or spirits) which they have produced.

When the Act came into operation on 1 July 1985, it provided that annual licence fees for producer's licences and other wholesale licences would be a percentage of the gross amount paid or payable otherwise than by liquor merchants for the sale of liquor (not being low alcohol liquor) during the preceding financial year. At that time, virtually all of the liquor produced under producer's licences was wine or brandy.

In August 1985, following the introduction of Commonwealth sales tax on wine, the Bannon Government altered the basis of fees for producer's licences to give relief to winemakers. The licence fee was set at a fixed annual prescribed rate (currently $100), so that 'cellar door' sales of wine and brandy would not be included in the amount upon which licence fees were assessed.

Following introduction of this relief, five beer brewers have obtained producer's licences. These include the South Australian Brewing Company Limited and Cooper and Sons Limited, as well as three companies which operate 'micro breweries' attached to hotels. In the case of the latter three breweries, beer is supplied exclusively to the hotels so they would not be affected by this proposal as they provide beer only to liquor merchants.

The two larger breweries, however, supply beer to persons other than liquor merchants, although these sales comprise a very small proportion of their total sales. This proposal would mean that the value of those sales will be included in the amount upon which an annual licence fee is assessed. This will place them in the same position as when the relief for wine and brandy producers was introduced in August 1985, and removes the unfair competitive advantage they have over brewers in other States who sell liquor in this State through wholesale liquor merchant's licences and so attract licence fees based on these sales other than to liquor merchants during preceding financial years.

It should be stressed that it will still be the case that no sales of wine, brandy or any low alcohol liquor, nor any export sale of any liquor, by holders of producer's licences will attract licence fees.

It is proposed that the new method of assessment will first apply to the 1988 licence year.

Clause 1 is formal. Clause 2 provides that the measure will come into operation on 1 January 1988. Clause 3 inserts a new paragraph *(c)* of subsection (2) of section 87 of the principal Act. The amount of the licence fee for a producer's licence will be eleven per cent of the gross amount paid or payable otherwise than by liquor merchants for the sale of liquor (not being wine, brandy or low alcohol beer) during the relevant assessment period. The prescribed minimum fee will continue to apply in cases where the licensee is a

wine or brandy producer. Clause 4 makes consequential amendments to section 93 of the principal Act.

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

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT (STATUTE LAW REVISION) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill provides for statute law revision amendments to the Industrial Conciliation and Arbitration Act, 1972. It is part of the continuing program of statute revision being carried out by the Commissioner of Statute Revision under the Acts Republication Act, 1967.

The Industrial Conciliation and Arbitration Act, 1972, has been heavily amended since it was last reprinted in a consolidated form in 1975. Furthermore, the Act is the working document for all people who are involved in industrial affairs in this State. Accordingly some time ago the Commissioner of Statute Revision prepared a schedule of amendments to the Act to bring into a form suitable for reprinting. This schedule was submitted to the Industrial Relations Advisory Council and in turn considered by a working party of that council. After due consideration, agreement was reached on a set of amendments for a Statute Law Revision Bill. These amendments are primarily intended to delete unnecessary matter, replace out-dated provisions, revise poor or antiquated drafting and include gender-neutral language. The passage of this legislation will result in an Industrial Conciliation and Arbitration Act that is in a form appropriate for reprinting in 1987. The reprint will undoubtedly be of great benefit to all people who are involved in the industrial affairs arena.

Finally, the Bill is not a measure for effecting substantive changes to the Act. It is presented simply as a statute law revision exercise and should be accepted as such.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure. Clause 3 provides that the principal Act is amended in the manner set out in the schedule. A schedule of amendments forms the bulk of the Bill. These amendments constitute an extensive revision of the principal Act so as to bring it to a form that is suitable for reprinting.

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

CORRECTIONAL SERVICES ACT AMENDMENT BILL (1987)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The object of the proposed new section 37 of the Correctional Services Act, 1982, is to obtain greater security in prisons through improved searching procedures.

There is no doubt that the use of illicit drugs has become in recent years more prevalent throughout society and prisons have not been immune to this unfortunate development. Substantial steps have been taken in prisons to ensure that drugs are not introduced through contact visits, but the existing legislation prevents correctional officers from detecting such introduction of drugs to the greatest extent possible. At present, whilst prisoners are required by law to remove their clothing for the purpose of a search, correctional officers are unable to visually examine the mouth and other bodily orifices in order to ascertain the presence of illicit materials. It has been brought to the Government's notice that this deficiency has caused management problems relating to the behaviour of prisoners after illicit drugs have been introduced into prisons.

The Government accepts that in the current age appropriate contact between families and prisoners is important for the management of prisoners and their subsequent resocialization. Consequently, it is not a solution to take steps to close off such opportunities for contact. Rather, the prison managers require the ability to ensure that proper and thorough searching can be performed under appropriate guidelines. It is proposed that reasonable force may be applied to ensure compliance with requirements made in the course of a search, except that the use of force will not extend to the situation where a prisoner refuses to open his or her mouth. It addition, any search must be carried out expeditiously and in a way which is designed to minimize humiliation to the prisoner. Pursuant to the regulations a prisoner who disobeys a lawful direction given during a search (e.g. to open his or her mouth) or who hinders or obstructs a search may be dealt with under section 43 or 44 of the Act.

This measure should not be considered in isolation. Regular search of cells and common areas by officers and by the Dog Squad takes place in all prisons. These measures will be continued together with consideration being given by the Government to other possible measures which can be taken to minimize the receiving or introduction of illicit drugs into prisons.

It is proposed that clear procedures will be laid down by the Department of Correctional Services in relation to the circumstances under which the proposed powers for correctional officers will be able to be exercised.

Clause 1 is formal.

Clause 2 substitutes section 37 of the Correctional Services Act, 1982, which provides for the searching of prisoners in correctional institutions and their belongings. Subsection (1) restates the existing provision in relation to when a search may be conducted but subsections (2) to (4) give greater detail as to how a body search should be carried out. At least two other persons must be present at any time during a search when the prisoner is naked and they must be of the same sex as the prisoner (except in the case of medical practitioners). A prisoner may be required to open his or her mouth, to strip or to adopt particular postures for the purposes of the search and reasonable force may be applied to secure compliance with such a requirement. However, force may not be used to open a prisoner's mouth

except by, or under the supervision of, a medical practitioner, and only a medical practitioner may actually search an orifice of a prisoner's body. Subsection (5) provides that a search must be carried out speedily and undue humiliation of the prisoner avoided.

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

STATUTES AMENDMENT (CONSUMER CREDIT AND TRANSACTIONS) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Consumer Credit Act 1972 and Consumer Transaction Act 1972 both came into operation in 1973. Their aim was to give protection to consumers who borrowed money or purchased goods on credit. They presently cover consumer transactions of up to the monetary limit of $15 000 where no security is taken over land, and up to the limit of $30 000 where security is taken over land.

These monetary limits were last reviewed in early 1982. Since then, their effectiveness has been significantly eroded by inflation. For example, many motor vehicles now cost more than $15 000. It is therefore proposed to amend the Consumer Credit Act and the Consumer Transactions Act to increase the monetary limit to $20 000 for loans where no security is taken over land. This limit is the same as that in the uniform Credit Act 1984 which has been enacted in New South Wales, Victoria and Western Australia.

It is not proposed at this time to vary the $30 000 limit where security is taken over land used by a consumer as a place of dwelling for the consumer's own personal occupation. This is because, first, there is no comparable provision in the uniform Credit Act 1984. Secondly, the current legislation does not equally regulate all credit providers in the market. Finance companies are the most tightly regulated by it. The legislation is therefore not competitively neutral and it would be unreasonable to place finance companies in a competitively disadvantageous position, by increasing a burden on them, which is not placed on their competitors in the home finance area, such as banks and building societies.

South Australia is a member of the working party set up by SCOCAM in September 1986 to draft new uniform credit legislation. This working party is addressing the specific issue of home finance contracts. It is also addressing the broader issue of applying the legislation to banks, building societies and credit unions, in order that all these credit providers will be subject to the same rules.

The Bill also provides for future changes to the monetary limits which are specified in section 5 of the Consumer Transactions Act 1982 and section 6 (3) of the Consumer Credit Act 1972 to be made by regulation. This will bring South Australia's Act into line with the uniform Credit Act 1984 in which the monetary limits can already be varied by regulation.

Clause 1 is formal. Clauses 2 and 3 amend section 6 of the Consumer Credit Act 1972, and section 5 of the Consumer Transactions Act 1972, respectively. These sections deal with the application of the Acts. The amendments alter the monetary limits previously fixed at $15 000 for credit contracts, consumer contracts and consumer credit contracts to $20 000. The monetary limit previously fixed at $30 000 for credit contracts and consumer credit contracts remains the same. Provision for future alteration of the monetary limits by regulation is made in the amendments. I commend the Bill to the Council.

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

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 3611.)

The Hon. J.C. BURDETT: I rise to speak to the second reading of the Bill. I cannot support the Bill in its present form, and it would need amendment to almost every clause before I could. As the Hon. Mr Cameron has said, the Bill should be withdrawn and completely redrafted. My only option is to oppose the Bill now before us. In the past the Minister has always expressed concern about patient care, but his enthusiasm seems to have waned. I cannot see how this Bill will do anything for patient care.

Now that the South Australian Health Commission Act has been in force for about 10 years, I wonder whether it was a mistake in the first place and whether a department under the direct authority and control of the Minister responsible to Parliament would not have been a better approach. The New South Wales Health Commission was found wanting and has been abolished. This Bill tries to have it both ways: it tightens the control over the commission but retains the commission as a smokescreen to get the Minister off the hook. If the commission is to remain, it should not be under the unqualified direction and control of the Minister. It is significant and I think sinister that a change is intended from the present position where the commission is under the general control and direction of the Minister in the exercise of its functions. When I spoke to the original Bill in 1976, I said at page 1734 of the 1976-77 volume of *Hansard*:

> The commission will be a centralised monolithic structure with considerable powers.

I have certainly been proven to be right, and this Bill tends to considerably strengthen this centralist thrust. The *Sunday Mail* of 22 March 1987 carried an article headed 'The quango factor'. We have the Health Commission itself and, according to the article, 200 committees or working committees and similar organisations working within the South Australian Health Commission.

The Hon. J.R. Cornwall: It was way out of date.

The Hon. J.C. BURDETT: I am just quoting what the *Sunday Mail* said. The Minister is probably well up on that now.

The Hon. J.R. Cornwall: Never believe what you read in the *Sunday Mail*.

The Hon. J.C. BURDETT: I am quoting it. The Health Commission is a massive monolith and when it has been finally coalesced with the Department for Community Welfare it will be a very massive and powerful bureaucracy. I refer to the abolition of sectorisation in its present form. In his policy document before the 1982 election, the Hon. Mr Cornwall pledged abolition of sectorisation. In his colourful

way, he referred to sectors as administrative flak catchers. His policy document brought down the wrath of the hospital community in this regard. After becoming Minister, the Hon. Mr Cornwall did not pursue this course and admitted that that part of his policy was a mistake.

The Hon. J.R. Cornwall: No fear.

The Hon. J.C. BURDETT: Well, the Minister did. Situations change with time and I have an open mind about the Minister's present plans. The sector arrangement means that each country hospital has contact with a major teaching hospital; that is seen as an advantage. The proposed new arrangement may weaken this kind of link. However, situations change and I am not necessarily opposed to the change in this regard which the Minister proposes.

I am totally opposed to compulsory incorporation under the South Australian Health Commission Act as proposed in the Bill. The hospitals in question are already incorporated under the Associations Incorporation Act or its predecessors. When the original Bill to establish the South Australian Health Commission was introduced, the then Minister (Hon. D.H.L. Banfield) said on page 1553 of the 1976-77 volume of *Hansard*:

> Government hospitals and health centres will be incorporated; other organisations must consent to incorporation.

This Bill destroys the original concept of consent and provides for mandatory incorporation. One of the reasons for the provisions of incorporation under the original Bill which led to the South Australian Health Commission was to enable major public hospitals to operate under a board with independent managerial responsibility instead of being operated by the Hospitals Department. It was a move towards greater managerial independence, not less. Now the wheel has turned full circle and the Minister wants to make incorporation compulsory.

The commission already has plenty of control through the power of the purse. To incorporate country hospitals and others compulsorily is a bureaucratic Big Brother attitude which will take out the heart of our excellent country hospital system of which previous Ministers were so proud. Clause 3 of the Bill deletes section 3 *(a)* of the principal Act. Section 3 reads, so far as is relevant:

> The objects of this Act are to achieve the rationalisation and coordination of health services in this State and to ensure the provision of health services for the benefit of the people of the State upon principles that allow for—
>
> *(a)* the establishment or continuation of hospitals and health centres under the administration of autonomous governing bodies;

In 1976, the Labor Government was right in adopting that principle. It is wrong to depart from it now. The word 'autonomous' may not have been the right word and was criticised by the previous Minister, but the intention of spelling out a measure of independence was a good one.

Proposed new section 3 *(a)* relates to the provision of health care through a properly integrated network of hospitals and health centres. Any reference to any sort of independence is taken away. Clause 4 strikes out the definition of 'board', which under the present Act is a board of management. It substitutes the following definition:

> 'board', in relation to an incorporated hospital or incorporated health centre, means its board of directors.

On many occasions the Minister has been very strong on the concept that boards should be similar to boards of directors, but boards are certainly involved in management and this change is a distinction without a difference. I believe that it is part of the Minister's move towards centralisation. Clause 4 *(b)* strikes out the definitions of 'Government health centre' and 'Government hospital'. I believe that those distinctions ought to be retained. It should be clear what are Government health centres and Government hospitals.

Under clause 5 the pattern is that the Chairman of the commission will not be full-time, but there should be a full-time Chairman so that we can get at the Minister through the Chairman more effectively. Clause 7 amends section 11 of the principal Act by striking out subsection (5). Section 11 (5) of the principal Act provides:

> Where the office of a member of the commission becomes vacant before the expiration of the term of office for which he was appointed, the person appointed in his place shall be appointed—
>
> *(a)* in the case of a person appointed to replace a full-time member of the commission, for a term not exceeding seven years;
>
> and
>
> *(b)* in the case of a person appointed to replace a part-time member of the commission, only for the balance of the term of his predecessor.

This provision is struck out. It was not referred to in the second reading explanation. Obviously, there should be some provision as to what happens when there is a casual vacancy. Clause 10 amends section 15 of the principal Act. Section 15 provides:

> In the exercise of its functions, the commission shall be subject to the general control and direction of the Minister.

Clause 10 strikes out the word 'general', and I have already referred to that. I am opposed to it. Clause 10 should be deleted. If there is to be a commission and not a department, the commission should be subject only to the general control and direction of the Minister. Clause 15 strikes out 'management' and substitutes 'directors', and I have made my point about that. Clause 16 does the same. Clause 18 strikes out 'Government', and I have also made my point about that.

Clause 20 repeals section 37 of the principal Act, and I relate that to clause 29. Section 37 of the principal Act provides that the board of an incorporated hospital may make regulations with respect to all or any of certain matters (and they are set out). That is struck out so that the board of an incorporated hospital may no longer do that, yet clause 29 provides that the board of an incorporated health centre may make, alter and repeal by-laws for certain purposes. That provision is taken away in relation to hospitals but not for health centres.

Clause 22 also refers to the board of directors, as do clauses 23, 25, 26, 27 and 28. I particularly refer to clause 12, which repeals section 17 of the principal Act and sets out the powers of delegation. It is important to know how the commission may delegate its powers. It may delegate its powers or functions as follows:

> *(a)* to a committee appointed by the Commission;
>
> *(b)* to a member, officer or employee of the Commission;
>
> *(c)* to any person holding or acting in an office or position specified in the instrument of delegation;
>
> or
>
> *(d)* to any other person.

It is that to which I object: 'to any other person' means anyone at all. That is not in the principal Act—it is a new departure, and it is far too wide. In the Committee stage I propose to seek to remove it. We might have long arguments as to whether or not the *ejusdem generis* rule applies, but in any event to me it is quite unnecessary to try to insert the concept of 'any other person'. We should be able to spell out the people to whom we are going to delegate. The powers in *(a)*, *(b)* and *(c)* to delegate seem adequate. If not, the Minister ought to be able to spell out in the Bill the people to whom he is going to delegate and not just to 'any other person'. From the few remarks I have made it will be clear that I object to most of the Bill. To me it is unamendable, and I oppose the second reading.

The Hon. R.J. RITSON: I oppose the second reading, and in doing so indicate that I have some sympathy for the Government's need to gain greater control over certain parts of the health system, but that the manner in which this Bill is cast has a number of defects which I believe, in common with the Hon. Mr Burdett, are not capable of being satisfactorily dealt with by amendment. In explaining my reasons for opposing the Bill I will make a few comments about the history of the Health Commission, the public hospital system and the country hospital system to draw some distictions and to suggest to the Minister and the public that there is a better way to go about solving some of the problems that have crept up on the health system in recent years.

First, in the view of about 100 per cent of the people to whom I have spoken, the Health Commission has failed. It has failed to be an inspirational source of clinical development and financial management. It has failed, not because of the faults of individuals in the Health Commission (and far be it from me to be critical of the professionalism of the individuals who work within the Health Commission), but in fact the commission that we all might have hoped would have been a source of inspirational development and creativity has become a 'No' saying commission—a group of people designed, put together and trained to say 'No' to creative proposals and expenditure, and to do very little else.

Madam President, the question of oversight of health care is an interesting one because the world of medical practice and the allied health professions is a world of constant financial, legal and administrative oversight of the consequences of the decisions of the people at the coalface who actually know what to do. However, the clinical consequences of the administrative and legal decisions are monitored by no-one. To give an example of the way in which the consequences are not monitored in reverse, we could take the imaginative position of, let us say, a judge who makes a decision that a certain X-ray should have been taken in a particular case. That would be an example of the legal oversight of a clinical decision. But when, as a result of the decision—if it is wrong—$6 million is expended on unnecessary X-rays and five additional cases of leukaemia arise, nobody takes the rap for that; nobody is monitoring it; nobody is understanding it.

When somebody decides that there are certain indications for CAT scanning, then the financial wizards, the administrators and the lawyers oversee those policies and make decisions. Nobody looks at the clinical consequences of not doing it. If a CAT scan costs a certain amount of money, then Ministers will get up and say, 'We must contain CAT scanners.' If, as a result, a tumour is missed, then a politician will get up and say, 'We must have more CAT scanners.' The whole CAT scan question lacks any real wise oversight. Nobody is assessing the savings in terms of bed occupancy or people who would otherwise have had invasive neurological investigations; nobody is assessing the savings in morbidity from the surgical and anaesthetic accidents that accompany angiography that otherwise would have been done—certainly not the Health Commission. The Health Commission has become a group heavily loaded away from the influence of practising clinicians and heavily loaded in the direction of practising accountants who are there in their 'No' saying capacity.

This Bill seeks to grant Government, through the Minister and the Health Commission, more control over the health system. As I said at the outset, in principle I would support a wise rethink of the whole system from square one, but I cannot support this Bill because I do not know where the control is leading and because the control is spread in a shotgun fashion over two different systems, namely, the metropolitan teaching and research system and the country community hospital system, in a way that seems indiscriminate and indicates a lack of Government understanding of the differences between the two systems and the roles that they play in society.

Let me talk first about the metropolitan teaching hospital system. It began life last century as the equivalent of satirist Alan Coren's mythical Royal Free Hospital for the Dead People. It was a charity hospital in the days when medical practice was entirely based on witchcraft instead of being partly based on witchcraft, partly on science and partly on art, as it is now. With the passage of time, the charity hospital became our modern public hospital system. It has always been public; it has always been Government; and it has always had a welfare function, but onto it became grafted teaching and research and high technology specialist services.

None of the senior medical practitioners that I know, either working within that system for a salary or visiting that system on a sessional basis, would for a moment question that it was the public system, that it always has been the public system and that it is the Government's responsibility. What has happened to it is that it has been somewhat overtaken by events; a number of changes have occurred to put that system under enormous pressure. Some of the changes, I suppose, are matters of Party political debate. We would put Medicare in that category, and however much we argue about the percentage increase in workload that has been placed on the system by Medicare, whether it is 3 per cent or 12 per cent, no-one can argue that that is one of the factors, of the Labor Party's making, which has put stress on the public system.

However, there are other factors, of no-one's making, that still must be dealt with. The ageing of the community puts pressure on certain types of services. In recent months and years we have often heard in debate reference to waiting lists for hip replacement. That operation has become one of the paradigms, one of the prime examples, of the procedures that one has to wait for. Well, of course, orthopaedic procedures have longer post-operative bed stays, but we have an ageing community, and this applies to South Australia more so than other communities. The availability of beds per unit of population in South Australia is, on first sight, very favourable. However, when one looks at the availability of beds per the number of people over 65 years of age one finds, according to the figures produced in the Senate Select Committee Report on Nursing Homes, that South Australia is either No. 4 or No. 5 out of the six States. In other words, in South Australia we have an increasingly ageing community compared with other States. That is one of the sorts of factors which makes the hip replacement operation, due to osteoarthritis of the hip, a strain on the service.

We have had demographic redistributions which have caused differential stresses on different hospitals within the system. So, within this enclave of public health teaching research in the metropolitan area, there have been multifactorial stresses and strains which have become quite acute in the last few years. They have become acute in different ways as between institutions. In some institutions there will be a waiting list for a certain type of procedure because of bed shortages due to increased demographic pressure on those institutions, while in other institutions there will be a waiting list because of difficulties with, say, anaesthetic services, rather than nursing staff or operating theatre availability.

In other institutions there will be a stress on a particular class of procedures, due to the number of sessions for which certain specialists are paid—it being an internal decision of an institution to employ only X number of specialists in a given field, whereas within the global budget of a hospital it may have the global salaries under control but might give more importance to a particular specialty and, therefore the stresses and strains within that specialty will not be so great in that institution.

One of the coping mechanisms has been an attempt to titrate patients from one system to another, and we saw this in the famous, or infamous, transfer of procedures from Flinders Medical Centre. There is one thing fundamentally wrong with that, and that is that you are transferring from one institution to another, from one administration to another and from one set of treating doctors to another. In that case, there are enormous dangers and pitfalls. It is very easy for someone like the Minister to say, 'We have a policy of stabilisation before transfer,' as if that meant anything, because so many things can go wrong with that.

There was a tragic accident some months ago (and I will describe it, because I think it gives the Council a very good example of how an incoordinate public system can endanger people) and the victims were taken to the Flinders Medical Centre. One of the victims was a child who had spinal injuries as well as a very substantial blood loss. Children compensate enormously for blood loss and do not show the signs of shock and falling blood pressure until they are almost dead, at which time they decompensate quickly and can succumb.

That is not a matter which is generally appreciated by basically trained casual doctors. This child was taken to the hospital and it was decided that he was fit for transfer on to the Royal Adelaide Hospital for treatment of the spinal injuries. A decision was made in the absence of the only paediatric anaesthetist who, had he been there, would have appreciated the need for resuscitation before transfer on, in spite of the normal blood pressure. That anaesthetist was absent, because he was away on a paediatric retrieval. Had the Children's Hospital been asked to do the paediatric retrieval (it had two paediatric anaesthetists on duty), then the Flinders Medical Centre paediatric anaesthetist would not have been absent and the child might have been resuscitated before being transferred to the Royal Adelaide Hospital, because that is where the spinal injuries unit is located and that is where the other paediatric anaesthetists are not.

In the end, the situation was half saved by an urgent attendance of a paediatric anaesthetist from the Children's Hospital at the Royal Adelaide Hospital. That is a chronicle of the dangers faced by people who suffer from falling between two stools or three stools when they are transferred around within a system which consists of multiple different administrations and different rosters of medical officers, and one does not really know what the other is doing. It is also an example of the way that the retrieval services operate in terms of the hospital that is asked to do the retrieval doing its best; it does not have a mechanism whereby it can know what resources the other hospitals have, and there is not a central retrieval service.

I could go on. I could talk about the question of anaesthetic services where in some hospitals operations are being cancelled because of the lack of an anaesthetist, because of rostering problems and, quite probably, at the same time three or four anaesthetists will be sitting around in a changeroom at another hospital with not much to do until the next case comes along. However, they are separate administrations and separate rosters and one does not know what the other is doing.

In saying these sorts of things I recognise that I am perhaps about to incur the ire of the medical hierarchies within various institutions which feel that they run their own ship okay and they cannot really see much point in having to interact with other institutions. But, really, quite pivotal in this whole examination of the public hospital system in this State was the role and function study of the Queen Elizabeth Hospital, because that document began by asking what was the role of those people in that hospital who provided a State-wide service outside the hospital.

It is not possible to start to discuss that until you start to discuss what is available in the other hospitals. So, to have a role and function study of Queen Elizabeth Hospital necessarily implied that there must be a role and function study of all the public teaching hospitals. I do not think that the individual institutions at the general service department level will sit down and of their own motion decide that they will talk to the people at the other hospitals and be co-operative.

In fact, departments in each of them have directors. It is possible that a combined State service would have a director and some people who are presently directors would have to be deputy directors. I am sure that that could be adjusted with pay and status but, nevertheless, those sorts of fears and anxieties will be in each institution and the institutions will not fix themselves up by inspiration and co-operation unless a higher authority drags the metropolitan teaching hospital system kicking and screaming into the 1990s.

The Urhig committee purported to do this, and I certainly have the feeling that many people were sympathetic to the way Urhig perceived and stated the problem but felt that the proposal for the quango metropolitan hospitals board, which would be there as a virtually new quasi autonomous non-government organisation to direct those hospitals, was not the way to go. They also felt that the view of the university's role by that committee was somewhat misunderstood and were anxious about its recommendations in regard to the universities.

After all, the universities have been co-ordinating patient services—teaching and research—across three or four hospitals from the one chair for years and years, and doing it quite successfully. It does not seem to me to be beyond the bounds of realisitc expectation that we cannot have a State nephrology service co-ordinating itself across all of these institutions so that the availability of dialysis facilities etc. is better balanced.

It does not seem to me to be beyond the wit and wisdom of the service departments—the Children's Hospital—to have trans-hospital appointments between the various hospitals for anaesthetists, surgeons, etc., so that some of the highly specialised treatment performed on adolescent children can be continued under the same clinic when they achieve adult age.

The Minister is facing perhaps a once only chance to revamp the system. I suspect that he wants to but he has brought into this Council a Bill that gives us no indication of his master plan, no indication that he has gathered about him some highly qualified experts from outside the system who can put this new legislation together. The Minister is asking Parliament to grant him a whole set of new powers, and Parliament has to ask itself whether the Health Commission has failed, what these new powers are to be used for and where is the Minister's master plan. The master plan is not evident in the Bill. There is no evidence in the Bill that new blood is to be brought in to implement perhaps a once only reorganisation of the metropolitan teaching hospitals, and the real problem is that the powers that the Bill asks Parliament to give the Minister, in spite of the fact

that he has not indicated just what he wants them for, extend in a very broad fashion across to the rural sector.

[*Midnight*]

The rural sector does not have the same set of problems. It does not deliver dialysis, radiotherapy, neurosurgery and a number of the other specialties which really need to be coordinated on a State-wide basis. Historically, the rural sector did not begin life as the royal free hospital for dead people; it began life as the community hospital, paid for and run by the community, delivering general practice with an occasional visiting surgeon to do some intermediate and non-high tech work.

It got that grafted on to it, through Medicare and Medibank, the requirement to treat indigents to take over some of the welfare aspects of the public hospital system, and concomitant with that extra duty it got deficit funding. One of the problems with the Health Commission, historically, is that it has ducked and weaved on the autonomy business. Personally, I think that there is an alternative to autonomy and that there is a potential scheme with the metropolitan teaching hospitals of a much more coordinated and forward looking approach.

As far as the country hospitals are concerned, the powers that the Minister is asking for—powers to dismiss boards and direct in great detail the services granted—are not necessary. The Health Commission and the Minister for years have been saying, on the one hand when it suits them, that one cannot interfere with the hospital's decision. The Minister will come here and say that he does not make the decisions and cannot direct the hospital to do this and that; that it is not his fault; he is not responsible; the hospitals are autonomous. On the other hand, when it suits the Minister he will visit hospitals and bully and threaten board chairmen about appointments to the board and get his way. Therefore, he has *de facto* command when it suits him; and when it does not suit him he has taken refuge in board autonomy.

It has to be one thing or the other. The present system has ducked and weaved so expediently that politically it has castrated itself, and no-one takes much notice any more; that is the nature of the problem. I would like to see the Minister take this Bill away and bring back a comprehensive plan for powers to control a new re-formed coordinated metropolitan teaching hospital service. He already has quite enough powers over the country system.

For example, the Minister's powers of conditions of subsidy are very real. A metropolitan teaching hospital has a huge budget. It has within itself the power to purchase facilities for high technology medicine of doubtful cost effectiveness and then it cries poor mouth in relation to nurses salaries. However, the country hospital system does not have that power or budget. If it wants to introduce a new service or reduplicate a neighbouring hospital service, it has to ask for the money and the Health Commission merely has to say no.

I put it to this Parliament that what we have is a Bill which gives powers of direction and powers of control in a broad net, shotgun fashion over metropolitan teaching hospitals and country community hospitals alike, and that that is not necessary. The Minister has existing sufficient power to control the country hospitals. He has a need and a duty to provide better coordination of services in the metropolitan teaching hospitals. This Bill is not the way to do it. I challenge the Minister to take the Bill away and come back, in the next session, with a master plan for the metropolitan teaching hospitals. I challenge him—

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: Come on, the Minister knows exactly what I mean. He can do it better than he is doing it with this Bill, and it needs to be done, but not in the way proposed here. The Parliament ought to be told what these powers are needed for and how the hospitals need to be organised. We could then look at giving the Minister more power. I do not believe that the metropolitan hospital boards would to any significant extent resist a plan for more coordination, more direction from the Health Commission, or more trans-hospital integration. I would have a really good look at legislation which came back to us with a plan so that we could see where it was going.

I will draw now from comments made by the Hon. John Burdett on another occasion about this issue, when he pointed to the failure of the Health Commission and to the fact that it is time for us to accept the need to review the whole question of individual autonomy. If we are going to do that, let us not have a vague set of powers across the board for country and city alike when there are two different systems operating. If we need a department with ministerial responsibility then let us have it. If we need a department of Metropolitan Hospitals subject to the direction of a Minister, let the Minister come back with the plans of such a department.

At the moment we do not have very much confidence in the ability of the Health Commission, looking at its track record as constituted, not because of the ability of individuals, who are all fine people, but because of the balance of skills where it has basically become an accounting no-say organisation. We do not have much confidence that a new set of powers, without much explanation as to the nature of the master plan, will be wisely used by a Health Commission which has already been overtaken by events and which is universally agreed to be a failure.

I oppose the second reading. If the Bill had been drafted in a somewhat different way so that in every substantial matter, and in every consequential matter, one did not have to distinguish between rural and city hospitals or between teaching and service functions in order to make some amendments along the lines of the philosophy I have proposed, then perhaps it could have been seen as a Committee Bill and we could have sat down, albeit in the small hours of the morning, and tried by amendment to rectify it. We will try for some amendments, but I tend to support the Hon. Mr Burdett's view that technically it is incapable of being honed in by amendment.

The chances of ending up with a drafting mess are very high when one tries to radically alter the fundamental philosophy of a Bill by multiple amendments. It is a reflection not on counsel but on the difficulty for members of the Opposition in trying to flash-up amendments on the night. While I will certainly be supporting the amendments moved by my colleagues tonight, I have to say emphatically that the Bill is not capable of being satisfactorily refined by amendment. It is a grant of blanket powers across the whole spectrum of health services when in fact what is needed is a highly professional review of the powers needed to integrate the public hospital service system.

I am somewhat disappointed. Little gremlins running around the corridor indicate to me that the Democrats were at some stage considering supporting the second reading in the belief that they could help us tinker with amendments. That really bothers me. I wonder whether they understand that, if they do that, they are passing up the once-only opportunity to say to the Government, 'Look: we know about your problems with the metropolitan teaching hospitals; we want to cooperate. We don't think that you need

to hire and fire the country boards. We don't think they are the same sorts of hospital. Let's wait until the budget session and ask the Minister to come back with his comprehensive plan, and we'll give him some new powers if it looks like a good plan.'

That is what I would expect the Democrats to do if they were the balance of reason. I would expect them to take note of the Hon. Mr Burdett's comment about the great difficulty of dealing with a Bill like this in trying to separate two issues, when every clause refers to every issue, by amendments. It ends up with a mess. So, I hope that we do not have to get to the stage of trading amendments with corridor bargains. I plead with the Democrats to delay this Bill until we can see more evidence of the Government's master plan. We will see what happens, anyway. I can only say that in its present form, whilst I understand some of the problems of the Government and the Health Commission, I think it would be a disaster to pass the second reading of this Bill. For that reason, I oppose it.

The Hon. M.J. ELLIOTT: I think I might begin by looking at the second reading explanation of the Minister when the Bill was being introduced. He said that it was against the background of almost 10 years operation of the Act and taking into account major reviews which have focused on the Act itself, the central office of the commission and the metropolitan hospitals. In fact, what is decidedly missing from that introduction is a reference to country hospitals, small health services and a number of other bodies which will also be affected by this Bill.

If we read through the second reading explanation, quite clearly, much of what is intended in this Bill is aimed primarily at the metropolitan hospitals, perhaps some of the major country hospitals and some of the major health services which are already incorporated. But the Bill goes well beyond that, and I recognise that. I am not at all pleased with the time we have had to consider this. I am still waiting for correspondence to arrive from some people with whom I spoke last week. I guess that will arrive by tomorrow, but until I am satisfied I will not let the Bill pass from this House.

Nevertheless, I have already spoken with a large number of people, particularly from country areas, including some connected with hospitals mentioned in the third schedule—those facing compulsory incorporation. I think that it is a fairly simple operation to find the main clauses which are causing problems: they stand out. The major question is whether or not the Bill in its present form is capable of amendment that will solve the problems which arise.

I believe that the Hon. Dr Ritson has already conceded that, at least in terms of the major health services, the sorts of things that this Bill seeks to do probably are necessary. I think it is also true that the Liberal side of politics generally talks very big about accountability, the need for smaller taxation and various other things. You will not get lower taxation and savings unless you have very good accountability procedures. I do not think that it looks good for the Liberals to be so hypocritical, which is what they are in danger of doing if they do not accept that accountability must run through the total system.

What I am looking for in the balance, if that is achievable, is accountability through the entire system, but without losing sight of what is offered, first, by the country hospitals and, secondly, by some of the smaller health services. I think that, in a system which would tend to be heavily bureaucratic, the needs of those smaller sections will tend to be forgotten, overlooked and not properly understood. I believe that we must still seek to give at least a level of autonomy to those sorts of bodies.

I will conduct a quick excursion through the Bill, and obviously we will have a chance to look at some of these matters in more detail in the Committee stage. Clause 5 proposes that the commission will consist of not more than five members, but clause 8 makes it possible that the commission will have only two or three members. That is certainly a radical change, and in fact it appears to be very rapidly approaching a health department—not a commission. Without getting into the merits of that or otherwise, certainly no argument has been produced at all in the second reading debate as to that being necessary. Therefore, I will oppose it and push that the commission will consist of five members. Of course, I will oppose clause 8 so that the quorum remains at three members, which retains the *status quo*.

The first area of major concern from the correspondence and discussions that I have had so far relates to clause 14, where we see the potential for compulsory incorporation of something like 30 hospitals, as shown under the third schedule. I believe that the reality of the situation is that we will not see anything like that number undergoing compulsory incorporation because I have had discussions with several of them already and they accept that incorporation will occur, that it is inevitable. Their concerns relate to other parts of the Bill. However, I have said that they want to see country hospitals retain as much autonomy as possible. Among the things that I will be aiming to do is to insist that, should compulsory incorporation occur, the constitution drafted up for the body being incorporated must be modelled on the existing constitution. So the first thing I seek is that the constitution itself remain unchanged. The legislation as it is drafted already guarantees that the board itself, even if it reaches the ultimate stage of compulsory incorporation, will have a majority of members from the local area. I believe that that is a second safeguard in terms of the local community.

The third matter which needs addressing concerns clause 18, which affects the appointment of the chief executive officer. As currently proposed, the chief executive officer of all incorporated bodies would be appointed subject to the approval of the Minister. I do not accept that and I propose to move an amendment that the concurrence of the Minister is required only for those bodies for which it is presently a requirement. At the moment, the 30 hospitals which are listed in the third schedule and a large number of other country hospitals and smaller health services appoint their own chief executive officer and will continue to do so under the amendment that I propose. In other words, they will still have control of that appointment. They will need to consult with the Minister, but the appointment will not need to be ratified by him. That is not markedly different from what happens with most of them now.

In clause 21, I will propose similar amendments to those which I have already foreshadowed to clause 14. They will protect the constitution of any body which becomes incorporated. Similarly under clause 25, which relates to the chief executive officers of health centres, the only bodies which will need the concurrence of the Minister are those that the provision applies to presently. So, there is no change in that respect.

The next area of great concern involves clause 30, which provides powers for directions to be made by the commission. Further, a board which persistently fails to comply with a provision may be removed by proclamation of the Governor. The point promoted recently by the Liberals and me was the need for some sort of an appeal process. The reality is that the appeal process can go for a considerable time, involves the courts and, in the meantime, the hospital

or health centre concerned is caught in a hiatus. I propose a very simple alternative that, where a board has been removed from office, the administrator must within four months have a board reconstituted according to the constitution. In other words, the board has a right of appeal which goes back to the people who originally appointed them. That will happen within four months. If the Minister sacks the board and the same board is returned four months later, any further persistence by the Minister against that board would land the Minister in a degree of political strife. If this debate is protracted, there will be a great deal of heat and very little light.

Already in the past couple of days I have received phone calls and letters from people who have not seen the Bill but who have been told what it provides and what it will do. It is quite plain that there are a number of organisations (and anyone who follows politics would not have to be too smart to work out what they are) that are using this issue purely for political means. They really could not give one damn about what happens to some of the country hospitals and the centres. I am entering this debate purely—

The Hon. R.I. Lucas: What about the Australian Hospitals Association?

The Hon. M.J. ELLIOTT: The association has contacted me and it has no problems with the Bill, particularly with the amendments that I propose. The South Australian Hospitals Association is putting a different view.

The Hon. R.I. Lucas: And no problems?

The Hon. M.J. ELLIOTT: They are mainly with the clauses to which I have alluded, and I believe that the amendments I propose might cope with them. I still reserve my judgement until I have had a look at some of the other submissions which, as I said, I expect to receive tomorrow morning. The Bill could perhaps be amended, although I have some reservations. If it is held over for another couple of months, there will be a great deal of political skulduggery, and I do not mean just from political Parties, although some political Parties might decide that it is a good vehicle for that. But other organisations quite plainly have their own axe to grind, and they have been grinding it for a couple of years.

Rather predictably, the same people are saying things that are similar to what they have said in the past. It is about time those people realised that, if they cry wolf too often, the tendency is not to listen to them. It is very difficult to take seriously a person who is, quite plainly, playing political games. I am not impressed by people who do that, regardless of what side they take on an issue—whether in favour or against. I still reserve my final judgment for a later day, but at this stage I have proposed a number of amendments, which are on file. We will have a chance to thrash these things out further in Committee.

The Hon. R.I. LUCAS: Before we lose the Hon. Mr Elliott, before he turns into a pumpkin, I will turn my contribution upside down to raise one specific point in relation to clause 21. There is a further matter which I will raise with him tomorrow morning and about which I have had a quick discussion with him already. Clause 21 will allow the Minister to force incorporation. New section 48 (3b) provides.

Where—

(a) a body that provides health services derives a substantial proportion of its revenue from public funding;

and

(b) it is, in the Government's opinion, appropriate that the services should be provided by an incorporated health centre . . .

They are the operative provisions in relation to the takeover of health services as opposed to hospitals, which have been the subject of major debate so far. I have already had representations from a couple of bodies, and I will be looking for a response from the Minister later. The Hon. Mr Elliott might like to look at my final contribution tomorrow morning in *Hansard*. I have had representation from bodies such as the Royal District Nursing Society, which, from the preliminary budget allocations, receives about $7.2 million from the Health Commisison. The society tells me that it has fought incorporation for many, many years for its own reasons (which, I am sure, it would be prepared to tell the Hon. Mr Elliott if he is interested in pursuing the matter).

That is only an example of one body. It is a body that provides health services and receives, in the words of the Bill, 'a substantial proportion of its revenue in public funding'—$7.2 million. It is a significant percentage. Under this Bill and upon my reading that body could be compulsorily incorporated by the Health Commission.

If one goes through the blue book from the Health Commission (I am not sure which of these bodies are incorporated and which are not, but I will be seeking information from the Minister of Health in his contribution) one sees organisations such as the St John Council (receiving $12 million), Red Cross Blood Transfusion Service, Minda, Strathmont Centre, Adelaide Rape Crisis Centre, COPE, GROW, the Royal District Nursing Society, Royal Society for the Blind, Anti-Cancer Foundation, Crippled Children's Association, Family Planning Association, Royal Flying Doctor Service, and Spastic Centres. They are the major ones. About four pages of bodies are listed as receiving Health Commission funding. They are nothing to do with hospitals but bodies which, upon my reading clause 21, will in my view clearly come within the purview of the Health Commission.

The Hon. J.R. Cornwall: The Rape Crisis Centre has been incorporated for three years.

The Hon. R.I. LUCAS: I indicated that I will be seeking, when the Hon. Mr Elliott has gone, a list from the Minister, when we further debate the issue, of bodies that have been incorporated and those that have not. I have picked out half a dozen of the big ones, but there are a number of small bodies (and quite important smaller health services as well) which, under the definition would be within the clutches of the Health Commission for forced incorporation.

We have four pages of organisations listed in the blue book as receiving funding from the Health Commission. There are some important ones, such as the Spastic Centres, Minda, Strathmont and the Anti-Cancer Foundation. There is a range of smaller community based organisations, such the Mt Gambier Extended Care Service.

The Hon. J.R. Cornwall: Community Health Centre now.

The Hon. R.I. LUCAS: All right. Under 1986-87 preliminary budget allocations it will receive $836 000. There are lots of smaller groups like that for which I would guess the funding from the Health Commission is a significant proportion of public funding. There have been no discussions of this from the Minister except for a small reference in his second reading explanation.

The matter has not been one for public debate so far and certainly in the day or so in which we will have to debate it I will pursue the matter at some length and in some detail with the Minister in the second reading and Committee stage.

The Hon. M.B. Cameron: Lengthy Committee stage.

The Hon. R.I. LUCAS: It will be. I will be seeking to contact as many of these associations as possible over the next 24 hours.

The Hon. J.R. Cornwall: You may even find that the St John Ambulance has its own Act of Parliament which you helped to pass.

The Hon. R.I. LUCAS: That one might. A number of others are listed. What we are saying here and what we will be trying to get from these associations is whether they are aware of the Government legislation that the Minister is trying to sneak through in the dying days of Parliament, with very little public debate and no consultation. There has been debate for many years about incorporation of the Royal District Nursing Society.

The Hon. M.B. Cameron interjecting:

The Hon. R.I. LUCAS: Let us not worry about the hospitals for the moment. Let us take it into a whole new area of health services and organisations. The hospitals have been well debated. There are pages of community health services, major community organisations, which in many respects may have built up assets, partly through Government funding but in many respects through fund raising of their own over many years.

All the arguments that the Hon. Mr Cameron and others have put in relation to the takeover of community assets for unincorporated country hospitals can equally be used for these sorts of community based organisations. I ask the Hon. Mr Elliott, as he goes off to get his beauty sleep, to think seriously about the purview of this Act, in that we are not just talking about, in my view, some 30 unincorporated country hospitals.

The Hon. M.J. Elliott: If you read my speech, you will see that I said that.

The Hon. R.I. LUCAS: It is not a matter that you have raised in your second reading debate. All you talked about was providing protection to keep the constitution of these unincorporated health services.

The Hon. M.J. Elliott: I said health services as well.

The Hon. R.I. LUCAS: The only protection you are offering in your amendments is that they can keep their constitution. They can still be taken over, but they can keep their constitutions.

The Hon. M.J. Elliott: There is a lot more than that to it.

The Hon. R.I. LUCAS: That is all you said in your speech as to what your amendments would be.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: What you are saying is basically that the Anti Cancer Foundation, the Spastic Centre or the Royal Society for the Blind can be taken over quite happily; if you go down that path. I accept the fact, as you have indicated, that you have reserved your position on the second reading. All I am asking the Democrats to do before they go now and before they vote tomorrow is to think seriously about the fact that it involves not just 30 unincorporated country hospitals.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: Who is this—the spastic centre?

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: It does not say from you—it says 'public funding'. You do not say Health Commmission funding. You have drafted it wide enough to get in any Government funding, which means that any education or Schools Commmission funding would be covered by public funding. There is no response from the Minister to that.

The Hon. M.B. Cameron interjecting:

The Hon. R.I. LUCAS: I would not hope that.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: When you cannot respond to a point that is made, you resort to personal abuse.

The Hon. J.R. Cornwall: No, I don't.

The Hon. R.I. LUCAS: Well, give us some answers then. You resort to personal abuse when you do not have a response. It is as simple as that. You did not even understand the drafting of that clause. You thought it was Health Commission funding when it says public funding.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: You cannot tell the difference.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I am calling for order. That includes both Mr Lucas and the Minister. When I call for order, I expect every member in the Chamber to take note. There is far too much cross conversation.

The Hon. M.B. Cameron: Whom from? Him!

The PRESIDENT: It has come not only from the Minister: it has come from numerous corners of the Chamber. Mr Lucas has the floor. I would ask him to continue his remarks if he wishes to, and other members will have a chance to speak at other times.

The Hon. R.I. LUCAS: Ms President, thank you for your protection from the Minister. The point I was making there, and the point that the Minister obviously does not understand in his own legislation, is that the clause refers to 'public funding'. What he sought to indicate in an interjection, which, of course, was out of order, was that we were talking about Health Commmission funding. It is not just Health Commmission funding that we are talking about in relation to places like the Crippled Children's Home, the Spastic Centre and a range of associations like that. It involves significant sums of Commonwealth Schools Commission funding which is, of course, public funding, and in some cases it involves significant sums of money from the Education Department. The point I raised—and the Hon. Mr Elliott has left us—is that we will be seeking in the next 12 to 24 hours before this Bill is voted upon to contact as many of these associations as possible to try to indicate to them the possible dangers that exist in relation to this Health Commmission Bill for their future. As I said, it involves not just some 30 unincorporated hospitals that may well be taken over by the Health Commmission under this Bill.

As I indicated, I tipped my speech upside down, as I wanted to get that point in prior to the Democrats leaving us, so, I will now return to the start of my speech. I indicate that one or two provisions in the Bill make some good sense, and these matters were referred to by the Minister in the second reading explanation, I refer to the administrative restructuring that he has talked about in relation to the sectors. I, for one, could never understand the sector arrangements of the Health Commission, with one teaching hospital and sort of ballooning out into country areas in all sorts of strange configurations. The arrangement referred to, at least administratively, and mentioned in the second reading explanation, is that there be a metropolitan health service, a country health service and a State-wide health service—I think they were the terms that were used.

Certainly, if that is the direction in which the Minister is heading, I have no objection at all to that sort of rationalisation of the development of sectors. I think all members would agree with the principle that we should support the rational delivery of medical and health services in the community. However, I guess the difference is that the Opposition takes the view that that should be achieved through coordination based on consultation, encouragement and persuasion with the individual services, whereas the view

taken by the Minister—as he does with many other things—in relation to this Bill is one of coercion or enforcement.

One other matter of an administrative nature that the Minister of Health touched on in his second reading explanation related to the reorganisation of the department. In particular, the Minister pointed out that an important part of the reorganisation was the creation of an upgraded Planning and Policy Development Division. We have touched on this matter before. This upgrading or this important reorganisation, which created a Planning and Policy Development Division, was so important that a staffer of the Minister of Health who wanted permanancy in the service, Mr John Webb, was appointed to the position created: the division was so important that that person was seconded back full time to the Minister's office, doing a range of ministerial duties—press duties and handling, as we understand it, coalescence.

So, one can see from that, as we have indicated before (and I think the Hon. Mr Hill has touched on this matter before) that it is quite clear that the creation of a Planning and Policy Development Division had very little to do with planning and policy development within the Health Commission but had a lot to do with creating a position—and a well paid and permanent one—for a former employee of the Minister's office, Mr John Webb. However, I will not pursue that matter in any great detail at this stage.

In relation to clause 10 of the Bill, once again, the Opposition touched on this subject in another debate on the Public and Environmental Health Bill, namely, the Minister's attempt to strike out the word 'general' from the subject to control clause of the Health Commission. The view that I stated in relation to the Public and Environmental Health Bill remains my view here, namely, that the Minister cannot have his cake and eat it, too. If he wants the department, if he wants control, then he must change the commission to a department. However, if he wants the Health Commission to remain, if he wants a supposedly 'at arm's length' statutory authority controlling the delivery of health services in South Australia, then he must leave the commission under the present provisions placed in the original Act. The Hon. Mr Burdett I think eloquently made this point in his second reading contribution.

Clause 14 has attracted the most debate thus far and that is the forced incorporation clause. If one reads the second reading explanation from the Minister, no persuasive reasons are given for that provision and the Hon. Mr Cameron has dealt at some length with that matter. I am sure that we will deal with it again during the Committee stage.

I have already referred to clause 21. As I have said, I think it is a most important matter which has not been discussed and, once again, I am sure that we will need to spend some time on it during the Committee stage. I will ask a question of the Minister at the second reading stage so that he may respond to it when he concludes his remarks, or perhaps in the Committee stage and that is whether he will provide an up-to-date list of the incorporated health centres and hospitals under the Health Commission Act and whether he will get his officers to go through the pages of the blue book that were released with the budget papers last year and look at the range of organisations providing health services which receive not only Health Commission funding but also significant amounts of public funding and which might be included within the purview of clause 21. If that is not forthcoming during the Committee stage, I intend to address a question on each and every service listed in the blue book and to seek a response from the Minister of Health or his officers as to whether those bodies are, first, incorporated and, secondly, whether they are possibly within the purview of the Health Commission Act.

Concerns have been raised about the fear amongst country communities in relation to the development of area health boards. I seek a response from the Minister as to whether he has made any announcement about that. I could not see anything in the second reading explanation, but there appears to be a genuine concern from many people in the country communities about area health boards. If he has not made an announcement, what are the ramifications of this legislation if passed in relation to the possibility of area health boards in South Australia?

In relation to regulation, I seek to raise some questions so that, hopefully, we can expedite the Committee stage. The regulations and by-laws clause (clause 29) seems to be an extraordinarily wide provision. My concern is that I can possibly see the argument for the major hospitals to have these powers and provisions, but there are also the other small incorporated health centres, such as the Adelaide Rape Crisis Centre. These powers include regulating, restricting or prohibiting the consumption of alcoholic liquor; preventing undue noise; requiring drivers of vehicles to follow traffic directions; regulating traffic control; prohibiting parking; and regulating the speed at which vehicles may be driven. Subclause (4) provides for a reverse onus of proof, and subclause (5) for expiation notices.

As I said, I can see a possible argument for major institutions such as the Queen Elizabeth Hospital having these sorts of powers but, to provide them for the smaller community health centres and rape crisis centres, if that is the effect of this provision, causes me concern. If that is not the case, I would seek a response from the Minister.

Clause 30 has been raised with me by many people in country communities. It appears to be the clause that most communities are concerned about, that is, the power of the commission to direct. New section 58 (1) provides:

Subject to subsection (3), where, in the opinion of the commission, an incorporated hospital or incorporated health centre has failed in a particular instance properly to perform the functions for which it was established, the commission may give such directions to the hospital or health centre as are necessary to remedy the failure.

The problem raised with me is how this provision is likely to be interpreted, in particular, as to the words 'properly to perform the functions for which it was established'. I seek a response from the Minister how this provision will be interpreted in relation to each individual incorporated hospital or incorporated health centre.

In the case of all these institutions, is it that their functions are as outlined in the constitution that they lay down, is there some sort of agreement with the Health Commission prior to their being incorporated, or is there some overriding provision within the Health Commission Act, which talks generally about the delivery of health services? If that was to be the case, that provision is far too widely drafted and could be interpreted in any way by the commission, which might want to achieve any particular direction for an incorporated hospital or incorporated health centre.

The next matter I want to raise is a matter that has been raised with me by country doctors. As the Minister would be well aware, about one or two years ago the commission and the Minister were engaged in an ongoing dispute with country doctors.

The Hon. J.R. Cornwall: No we weren't; it was a Clayton's dispute.

The Hon. R.I. LUCAS: A Clayton's dispute is still a dispute. The view that has been put to me is one about which I seek a response. For example, in regard to the negotiation of remuneration packages for country doctors

when they take up a posting, if unincorporated hospitals become incorporated hospitals, is there any greater power or control from the commission in respect of such hospitals negotiating a remuneration package for a doctor? Can the commission say that a package is too great a package to be negotiated for a doctor in such a country area and direct an incorporated hospital to reduce the level of the remuneration package offered?

The next question was in relation to a problem that arose during the dispute to which I have referred. That involved the case of one or two of the doctors who were deemed to be stirrers in that dispute. A senior commission officer sought to direct an unincorporated hospital to withdraw the clinical and admitting privileges of one of the country doctors who was in dispute with the Minister and the commission on that matter. That unincorporated hospital board said to the commission that it could go and get nicked, that it would not do anything about that, and that it supported what was being done by the local doctor.

That particular Health Commission senior officer did not have the power to direct that board in relation to the clinical and admitting privileges of the country doctor. Country doctors are telling me that if the hospitals become incorporated the Health Commission senior officer will have the power to affect the clinical and admitting privileges of the particular country doctor.

The Hon. J.R. Cornwall: That particular country doctor is obviously misleading you.

The Hon. R.I. LUCAS: I do not know; I am just asking. That is the reason for the second reading debate and the Committee stage. The Minister says that the country doctor is misleading me. I hope that in one respect that is the case, that the Minister can indicate how that is the case, and that the fears of the country doctors in relation to that particular problem are not founded in fact. As I indicated, I have raised a lot of questions that possibly I might have raised during the Committee stage, in an attempt to expedite that stage. I support the views of the Hon. Mr Cameron, and I will be voting against the second reading. If we unfortunately happen to get into the Committee stage because of the attitude of the Australian Democrats on this particular matter, then I fear, because of the large range of questions that the Hon. Mr Cameron, myself and other members have indicated, that we are in for a long and bloody Committee stage.

The Hon. J.R. CORNWALL (Minister of Health): We may well be in for a long debate during the Committee stage of this Bill, but in my judgment there will be very little blood spilt because there is not much cause to spill it. I will address some of the questions raised by the Hon. Mr Lucas now. There are many others he raises that clearly ought to be asked when the relevant clauses come up during the Committee stage. First, as to a list of all health units, whether or not incorporated under the South Australian Health Commission Act, I would be quite pleased to provide that. By the time my staff get home and have four or five hours sleep, like me, I am not sure how quickly it will be provided. However, I will endeavour to see that it is in the hands of the Hon. Mr Lucas by around 3.15 p.m. tomorrow.

The other health units, principally hospitals (and that is what we are are talking about here, by and large) are incorporated either under the old Hospitals Act or under the Associations Incorporation Act. Specifically with regard to the hospitals that currently are not incorporated under the Health Commission Act, the power or control of the commission over those hospitals in some ways is greater than those that are incorporated. There is a great mythology that somehow, on incorporation, the assets of the hospital disappear and are expropriated by the commission, the Minister or the Government of the day. That sort of mythology has been about now for a decade and nobody, by and large, who is active in health administration, or who knows their way about the political scene, any longer believes it.

There have been literally dozens of country hospitals which have over the past decade incorporated under the Health Commission Act. The experience, uniformly, has been that it does not hurt one little bit. Nobody expropriates their assets; nobody carts any of the assets away, they remain very much within the local community, and the good conduct of the hospital is invariably enhanced by the act of incorporation. One of the immediate advantages is that the staff of that hospital, technically and legally, become employees of the South Australian Health Commission.

That means that they have full portability of long service leave entitlements and access to the complete superannuation benefits which apply within the public health sector generally. On the other hand, it gives hospitals the potential to recruit their key appointments, particularly the Director of Nursing and the Chief Executive Office, system-wide. They can recruit bright young men and women on the way up, whether they be in the metropolitan area or elsewhere. They can spend a period during their career path and development in that country hospital knowing that they will not lose any of their entitlements and knowing that when they have served that period of service and are ready to move onwards and upwards in their career they can do so within this umbrella system that is the health family. So there are very significant advantages in incorporation. There are no disadvantages.

The mythology that while hospitals remain unincorporated or outside the general umbrella of the legislation they somehow have more independence is, of course, just that—it is a myth. We apply conditions of subsidy to hospitals which are not incorporated under the Health Commission Act. We can, and do, on many occasions apply conditions to the budgets of those hospitals which are more stringent than those that apply to hospitals which are incorporated under the Act.

It is a simple fact that all of those hospitals now, whether incorporated or otherwise, are 100 per cent funded for their recurrent budgets by the South Australian taxpayer. It is no longer the case, as it was 12 years or more ago, that they are able to set their own day bed charges or significantly conduct a profit and loss account. The simple situation is, and has been now for 12 years, that they are funded 100 per cent. Any fees that they collect from private patients are paid to consolidated revenue. Whether they are incorporated or not, whether they are in the country or the city, they are the rules of the game and they have to be met; of course, they are met.

We really should not be carried away with trying to perpetuate artificial fears that somehow or other through incorporation we interfere with the functioning of a hospital within its local community. To prove the truth of that statement, there are innumerable examples of hospitals large and small which have incorporated over the past decade. Really, the Opposition does a grave disservice to those hospitals and those communities when it peddles myths and untruths. It does nothing, of course, to assist in the organisation of an integrated and coordinated Statewide service.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Cameron interjects and I must take him up on that interjection, because he has been peddling those untruths for months.

The simple fact of the matter is that Professor Child was asked by the commission to come to South Australia from Sydney.

The Hon. M.B. Cameron: You peddled it to a reporter of the *Advertiser*.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Professor Child was asked by the commission to come from Sydney to South Australia specifically to look at obstetric services at Modbury and at the Lyell McEwin Hospital. I had a particular concern to upgrade obstetric services at Modbury.

He produced for the commission a report on obstetric services at those two hospitals, and on the final page of that report he commented—and it was a general comment—on the fact that there had been a number of reviews done of obstetric and neonatal services in South Australia in the previous decade which had not been acted upon. He made some general observations.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: We can go on parrotting like this all night.

The Hon. M.B. Cameron: Because you won't answer.

The PRESIDENT: Order!

The Hon. J. R. CORNWALL: If the Hon. Mr Cameron wants to act like a cockatoo which has lost its feathers with the mites—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order! The Minister is under no obligation to answer any questions. This is not Question Time and repeated interjections are out of order.

The Hon. J.R. CORNWALL: A comment was made by Professor Child that we really ought to be looking at obstetrics and neonatal services in non-metropolitan hospitals—nothing more, nothing less. But a great wave of hysteria was whipped up. As a result of that—or despite it—the commission formed a committee which comprised people from the College of Obstetricians and Gynaecologists, the College of General Practitioners, the CWA and from the commission—a whole range of interested bodies, all of whom gave their services free of charge so that the cost to the commission and the South Australian taxpayer was absolutely minimal.

They produced a document which has been out now for comment for some time which, for the first time in this State, sets a whole range of objectives which ought to be met by metropolitan hospitals as well as country hospitals, private hospitals as well as public hospitals system-wide—city, country, public and private. they have set the levels which ought to be met in terms of staffing, experience and equipment. In a whole range of different areas they have set the parameters, not using raw statistics as to the number of births per year but levels of expertise and levels of retraining which would be appropriate for the medical staff, for the nursing staff and for other people involved in the delivery of those services. They have set quite clear parameters which all of those hospitals will be required to meet in the delivery of level 1, level 2 and level 3 obstetrics services.

If those hospitals fail to meet those levels, they will not be deemed to be appropriate to be involved in obstetric and neonatal care: it is as simple as that. It is not, as the Hon. Mr Cameron says—and this is the great lie that he has peddled around rural areas—just some sort of defensive tactic. It is the best report of its kind that has ever been produced in this State, and it sets out with certainty the sorts of levels of care which are necessary for the well-being of the mother and the baby.

When the comments are all in, there will literally be a manual, and they will be the levels of care. they will be the standards of care which all hospitals in this State will be required to meet—as I said, city and country, public and private, according to the level of care which they opt to deliver: level 1, level 2 or level 3. The result of that will be that a good service will be upgraded even further.

I make it very clear that the whole organisation of those services will be based not on political considerations or economic considerations but on what is best for the mother and what is best for the baby. It is important that that is on the record.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Cameron interjects again and shows his great ignorance. We have become used to the Hon. Mr Cameron's great ignorance. He used the Queen Victoria Hospital to say that it was an example of what is happening in the public hospital system. He did not say that 60 per cent of all deliveries at the Queen Victoria Hospital involved private patients. The Hon. Mr Cameron chose the worst hospital that he could possibly have chosen to try and give strength to his story. The simple fact is that because of the levels of care which have been defined by the commission and because of the protocols which have been set in the document for referrals, more and more obstetric patients are being referred for delivery from country areas. Logically, a very great number of those referrals go to the Queen Victoria Hospital, which provides level 3 services.

The Hon. M.B. Cameron: And you're going to close it.

The Hon. J.R. CORNWALL: He interjects again. He will keep me going all night, and I am happy to stay here. The interjections are inane but they give me an excellent opportunity to put a whole lot of important things on the record. The Hon. Mr Cameron says, 'And you're going to close it.' It was Jenny Adamson (as she then was) who was going to close it in 1980. There was a clear proposition to close the Queen Victoria Hospital.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: What happened? Almost seven years later the boards of the two hospitals have got together and they have looked at the very considerable advantages of amalgamation and the boards—

The Hon. M.B. Cameron: Of their own volition.

The Hon. J.R. CORNWALL: Yes, very much of their own volition. This matter has been driven by the Chairpersons of the two hospitals—Mrs Beverley Perrett and Mrs Judith Roberts.

The Hon. M.B. Cameron: You would be surprised at what we know.

The Hon. J.R. CORNWALL: Quite frankly, I do not give a damn what you think you know. The simple situation is that this has been very much initiated by the hospitals, which have approached the commission and in turn approached me. I am already on the record as saying that I give it my enthusiastic support. However—and I made this very clear from the outset—it must be driven by the hospital boards and by the hospital administration, and it must have the blessing of the staff, the unions and the university—to name just three very important players. To date, when it was announced to the staff of the Adelaide Children's Hospital, they gave the Chairperson and the administration a standing ovation. That is how well it was received at the Adelaide Children's Hospital. Despite the fact that it is 1.15 a.m.—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: I have always said that when it really hurts members opposite you can hear them squeal. You see it during Question Time: as soon as something really starts to hurt, they squeal. Mr Davis has come along to join the chorus. The fact is that everybody with the exception of Mr Cameron and a couple of his dopey mates has applauded it because—

The Hon. M.B. Cameron: Who are they?

The Hon. J.R. CORNWALL: Mr Davis is one of them. He is very easy to identify. The appellation suits him well and is most appropriate. Everybody has applauded it. What is proposed is not that the Queen Victoria Hospital be closed in the sense of losing any beds but that a new facility—

The Hon. M.B. Cameron: Of 91 beds compared with 181 put somewhere where there is no parking—wonderful idea!

The Hon. J.R. CORNWALL: I will tell the honourable member about the parking, too. He wants a full scale debate. Just remind me not to go without telling the Council about the parking, and the self funding, multistorey car park that is proposed.

The Hon. Diana Laidlaw: Where are you putting that?

The Hon. J.R. CORNWALL: It will all become clear in the fullness of time, but members might have to wait another month or two. However, I do tell the Council that a self funding, multistorey car park is part of the proposal as part of the schematic design and brief. The new facility will provide 90 beds, 80 of which will be obstetric beds and 10 for the intensive care of at-risk mothers. With all of the pooling of facilities and expertise that will be involved, it will be a first-class teaching hospital for women, babies and children. It is proposed that gynaecology will be transferred to the Royal Adelaide Hospital, which is appropriate. That is some way down the track.

I am very pleased to be able to announce to the Council, despite the lateness of the hour, that Cabinet endorsed in principle what the boards have initiated when it met on Monday. The proposal has approval in principle of Cabinet. The hospitals will now appoint a steering or coordinating committee to be chaired by an eminent independent person and, within five or six months, a comprehensive plan and program will be produced and presented through the commission to me, and ultimately to Cabinet. There are so many advantages that I can understand the Opposition squirming about the whole thing. All that the Opposition does in the health area is to be completely negative.

The Hon. L.H. Davis: Park a patient.

The Hon. J.R. CORNWALL: You are not well.

The Hon. L.H. Davis: Perhaps you will have parking meters so that they can pay for their health as they go.

The Hon. J.R. CORNWALL: What have you been on?

The Hon. L.H. Davis: I have been on about listening to you for too long.

The Hon. J.R. CORNWALL: You are acting most strangely. You do not appear to be at all well. Perhaps it is the lateness of the hour. What are you full of?

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: What did you say you are full of? I can understand the Opposition being completely peeved by the whole business. Opposition members spend all of their life rubbishing the South Australian health system. Never in all of the time—

The Hon. L.H. Davis: No, the commission.

The Hon. J.R. CORNWALL: The Hon. Mr Davis says that they only rubbish the commission.

The Hon. M.B. Cameron: And you.

The Hon. J.R. CORNWALL: And me. I would not mind if that were so, although I do object violently to the naming and attacking of senior officers in the commission in this coward's castle. They do it all the time, but they say that they do not attack the health system, and that is day after day after day. The Hon. Mr Cameron persistently and consistently attacks not only the system but also individual hospitals—hospital after hospital—and we can see that—

The Hon. L.H. Davis: Can you remember when you were shadow Minister of Health?

The Hon. J.R. CORNWALL: Yes, I can remember very well when I was shadow Minister of Health and never did I attack individual institutions because, I can tell members, it is completely counterproductive. How do members think individuals in hospitals feel when their very fine institutions are attacked day after day? Someone should tell me (if they can) when the Hon. Mr Cameron last made a positive contribution.

When did the Hon. Mr Cameron last say, 'If I were Minister of Health, this is how I would organise the public hospital system'? When did the Hon. Mr Cameron say, 'If I were Minister of Health, this is what I would do about health advancement and health promotion'? When did the Hon. Mr Cameron last say, 'If I were Minister of Health, this would be our attitude to community health programs'? The simple fact is that the Hon. Mr Cameron has not once, in the entire time that he has been the shadow Minister of Health, publicly made one constructive suggestion or acted as though he was, in some sense, the alternative Minister—not once has he done that. He is becoming a joke in very poor taste around the health services of this State.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: Most of these documents in the health system are *quasi* public documents from the day they are produced.

The Hon. M.B. Cameron: That is why you rush over to see what I am tabling.

The Hon. J.R. CORNWALL: I am not the slightest bit interested.

Members interjecting:

The PRESIDENT: Order! I ask that interjections cease. It is nearly 1.30 a.m. A second reading speech should not be a conversation across the Chamber.

The Hon. J.R. CORNWALL: Nor has it been, Ms President, with great respect.

The PRESIDENT: I am sorry; I did not wish to imply that the fault was all on the Minister's side.

The Hon. J.R. CORNWALL: The fault was not on my side at all, with respect. Members opposite are carrying on with a constant cacophony—

The PRESIDENT: Order! I am asking members to stop interjecting so that those of us who want to get to bed sometime can do so.

The Hon. J.R. CORNWALL: As long as this constant cacophony continues, I will stay on my feet, because I am really sick to death of their trying consistently to stifle me from even speaking every time I attemp to perform my duties as Minister of Health and Minister of Community Welfare. The Hon. Mr Lucas wanted to know the likely policy on area health boards. I am not particularly fussed one way or the other about area health boards. I believe that, where there is a common interest in a particular area, whether it be the Murray Mallee or the Lower South-East, the Upper South-East or the southern suburbs of Adelaide—anywhere where there are common interests—area health boards, if they are a logical development, would be encouraged.

However, there is no master plan (to use the Hon. Bob Ritson's expression) to impose area health boards anywhere at this stage. There certainly is a well advanced plan to develop district health councils. Three district health coun-

cils will be developed in 1987-88—two in the metropolitan area and one in the country. That will be part of the social health program as it develops. Although I could say a number of other things, I do not wish to hold up the Council for much longer.

I want to comment, however, on some of the more outrageous claims that were made by the Hon. Mr Cameron. The Bill before this Chamber will have a positive impact on the organisation of health care in this State. It allows for the coordination of health services in the manner that makes best use of available resources. The welfare of the patient and client will remain paramount. That being the goal, an integrated and coordinated system is the only effective and efficient way in which to operate health services. This brings the direct implication of a responsible degree of central planning control, for which I am unapologetic. It is not my intention that there be any sort of takeover of the South Australian hospital system by the Health Commission or the Minister. I acknowledge and appreciate the important role that hospital boards have in ensuring that high standards of health services are maintained in South Australia.

It is important that there be local public interest and support for hospitals. It is through hospitals boards that this interest and support is maintained, and I do not intend that it be lost. I have placed an amendment on file to make it quite clear that a hospital or health centre already incorporated under the Act cannot have its functions changed without the consent of the existing board. This amendment makes quite clear that hospitals boards will not be demolished, as the Hon. Mr Cameron has suggested. Hospital boards will continue to exist and to play a most important role as part of an intergrated and coordinated health service. The Bill allows for the hospitals named in the third schedule to become incorporated as a matter of course. The Act was designed 12 years ago so that all funded hospitals could be incorporated under its provisions.

The majority of funded hospitals have already chosen to become incorporated under the Act. It is not as though hospitals in the third schedule were not aware of the intention that they become incorporated under this Act. Over, 10 years have passed during which some of the hospitals have considered incorporation, and it is now time to ensure that incorporation takes place. It is hoped that incorporation will be by consent, and for this reason it is intended to allow up to 18 months lead time before the provision requiring incorporation is involved. During that period it is hoped that many hospitals will voluntarily become incorporated. Incorporation under the Act, as I said at the beginning of the second reading reply, is not something to be feared. The property of the hospital will not become Commission property, nor does the hospital become part of the commission. The hospital simply becomes part of an intergrated health service—it joins the family.

I have the utmost confidence in hospital boards and administrators in this State. However, health services must be organised and delivered within an integrated system. With those remarks, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 1.30 a.m. the Council adjourned until Wednesday 8 April at 12 noon.