LEGISLATIVE COUNCIL

Thursday 10 September 1987

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

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

AUDITOR-GENERAL'S DEPARTMENT

The PRESIDENT laid on the table the report of the operations of the Auditor-General's Department for the year ended 30 June 1987.

PUBLIC WORKS COMMITTEE REPORTS

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

Magill Home Replacement Facilities, Jarvis Road, Elizabeth Vale.

Finger Point Sewage Treatment Works (Revised Proposal)—Interim Report.

PAPERS TABLED

The following papers were laid on the table:

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

Pursuant to Statute—

Department of Transport—Annual Report, 1986-87.

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

Pursuant to Statute—

Department of Mines and Energy—Annual Report, 1986-87.

QUESTIONS

INTERNATIONAL YEAR OF SHELTER

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Attorney-General and Minister of Consumer Affairs a question on the subject of the International Year of Shelter.

Leave granted.

The Hon. K.T. GRIFFIN: In January this year, the Minister of Housing and Construction announced that $1.4 million would be applied by the Government towards programs during 1987, the International Year of Shelter. He announced that the $1.4 million would be taken from the Residential Tenancies Fund. The way in which it was announced claimed that this was Government money. The Residential Tenancies Fund was established under the Residential Tenancies Act and is a repository of security bonds required to be paid by tenants and any arrears of rent collected by the Residential Tenancies Tribunal. The money paid into the fund is not Government money but money that belongs to landlords and tenants. The money in the fund attracts interest from investment. Under the Residential Tenancies Act the income may be applied as follows:

1. Towards compensating landlords for damage caused by children when the landlords were required by the Act to live on rented premises.

2. Towards compensating landlords for damage caused by persons permitted on premises by tenants.

3. Towards the costs of administering the fund.

4. For the benefit of landlords or tenants in such other manner as the Minister, on the recommendation of the Residential Tenancies Tribunal, may approve.

Some criticisms were levelled at the Minister of Housing and Construction at the time of his announcement about the proposed use of this money. My questions to the Attorney-General are:

1. Did the Minister of Housing and Construction consult with the Attorney-General about the use of moneys from the Residential Tenancies Fund for the International Year of Shelter before the Minister of Housing and Construction made his announcement? If he did so consult, did the Attorney-General support the use of the Residential Tenancies Fund in that way?

2. Since the announcement in January has there been an application to the Residential Tenancies Tribunal for approval of the scheme to use $1.4 million or any other amount from the Residential Tenancies Fund for the International Year of Shelter? If so, who made the application and what was the result? If no application has been made, why not?

3. Does the Attorney-General approve the use of the income in the Residential Tenancies Fund for the purpose promoted by the Minister of Housing and Construction?

The Hon. C.J. SUMNER: In respect to the first question, I understand, although I cannot be sure, that some informal discussions were held at an officer level about this matter prior to the Minister of Housing making the statement to which the honourable member has referred. In respect to question 2, as the honourable member rightly points out, the Residential Tenancies Fund can be used for the benefit of landlords or tenants in such manner as the Minister may approve on the recommendation of the Residential Tenancies Tribunal. In the first instance, therefore, it is a matter for the Residential Tenancies Tribunal to consider any applications, to decide whether those applicatons fall within the provisions of the legislation, and then to make a recommendation to the relevant Minister; in this case, the Minister of Consumer Affairs. Some applications have been made to the Residential Tenancies Tribunal, although I am not aware of the precise recommendations that the tribunal has made to date. I have not approved any applications and am awaiting a report from the Residential Tenancies Tribunal on those matters that have been placed before it.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: The applications are being handled through the Minister of Housing's office by those persons responsible for the International Year of Shelter. They relate to particular projects that are considered to come within the purview of the authority of the Residential Tenancies Tribunal and are, therefore, for the benefit of landlords and/or tenants. I would think that the honourable member would not say that there are no circumstances where funding for the International Year of Shelter will not be for the benefit of tenants generally. I would think that there are a number of projects to come within the criteria provided for by the legislation, but that, in the first instance, is a matter for determination by the Residential Tenancies Tribunal. There have been discussions at an officer level. I understand that applications have been made through the office of housing for particular projects which will be of benefit for tenants generally. Those applications are currently being considered by the Residential Tenancies Tribunal and it will in due course make recommendations to me for approval of the application of funds for purposes that it considers to be appropriate within the terms of the legislation.

I will in answer to the third question await the recommendations of the Residential Tenancies Tribunal and consider the approval or otherwise of the projects that are placed before me when the time comes but in general terms, if the applications fall within the provisions of the Residential Tenancies Act, that is, the provisions which relate to the use of moneys contained in the Residential Tenancies Fund, there is no *prima facie* or absolute prohibition on the use of those funds for projects which are promoted as part of the International Year of Shelter. They will all be considered on a case by case basis, first by the Residential Tenancies Tribunal and then, of course, by me. I do not wish to pre-empt the decision of the Residential Tenancies Tribunal on any case and before giving consideration to the matter I will await the recommendations of the tribunal.

The Hon. K.T. GRIFFIN: I wish to ask a supplementary question. Is the Attorney-General prepared to ascertain the details of the applications that have been made so far and make those details available?

The Hon. C.J. SUMNER: I assume that that will be possible. If it is, I will do what the honourable member requests. I am not sure to what extent the applications are public or whether they are confidential. If any decisions are made, I will advise the honourable member.

ROYAL ADELAIDE HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Health a question about equipment replacement at the Royal Adelaide Hospital.

Leave granted.

The Hon. M.B. CAMERON: I am told that, to fit in with the Minister's 1 per cent cut in real terms last year to hospital budgets, a $1 million normal allocation for capital equipment at the Royal Adelaide in the 1986-87 financial year was halved to $500 000. I am further informed that the capital equipment budget eventually ended up at $60 000, and for an institution like the Royal Adelaide my informants say that that is absolutely disgraceful. So much for the Minister's promise to stop cuts in health spending! I received yesterday a leaked document of the hospital's 'simplified flow chart' for purchase of capital equipment, and I must say I am staggered. I seek leave to table a copy of that document and other information that goes with it.

Leave granted.

The Hon. M.B. CAMERON: I will read out what has to occur for a purchase of over $500 to take place. In some cases, pieces of medical equipment valued at under $500 are included in this procedure. The procedure starts at the department/unit head, then goes to something called 'Initiatives', then to the divisional head, then to divisional prioritising, and then to the Capital Equipment Priorities Committee. It then moves down to 'Resource Entry to Capital Control, Notice to Head of Department', then to the department head who initiates the requisition, then to the divisional head, then the materials department, then to 'Responsible Technological Department for specification/endorsement', and then to the materials department for quotation or tender call. If the person involved has not been overcome with frustration, the next stage is a quotation call by the Royal Adelaide Hospital, then it goes down to the State Supply Board and a public tender call, then to the responses to the materials department, then to the responsible technological department, then to the divisional head and administration, then to the materials department for order by Royal Adelaide Hospital or State Supply Board, then to the State Supply Board, and then finally to delivery/install, Time: Acceptance, Inspection: Commission (whatever that means). This incredibly elaborate process makes me wonder what would happen if, after six months, the equipment had not arrived and someone had to track down the initial letter of request.

The Hon. L.H. Davis: Is this the best Minister of Health in the world?

The Hon. M.B. CAMERON: It is an improvement on the previoius one I got—it used to be 50 procedures. It is an improvement on the last one. I suspect it would take another six months to find the piece of paper, and I am considering sending the details to the writers of *Yes, Minister* to be used in a forthcoming script. I am certain that they could take it up without any trouble at all.

The Hon. L.H. Davis: The Minister might be able to have a cameo role.

The Hon. M.B. CAMERON: Yes. On a serious note, I am told that there is a problem in our public hospitals, particularly at the Royal Adelaide Hospital, but also others, with equipment breaking down, being out of date and beyond repair, and I understand that a lack of capital equipment funding is now starting to affect patient care. I understand the process now takes about a year to get a piece of equipment—that is an improvement on the previous two years (when I last received this information). I wonder whether all this is not a deliberate attempt to hinder the purchase of equipment.

I point out that, in the private hospitals that I have contacted, the process of purchasing equipment involves three stages and it takes about a month. My questions to the Minister are: first, is the so-called simplified flow chart a deliberate attempt to stall the purchase of equipment as part of the Minister's cutbacks to hospital budgets? Secondly, will he ensure that the processes are streamlined so that the purchase of equipment is made quicker and simpler? Will he explain why the existing process of obtaining equipment in public hospitals is so drawn out when at private hospitals the procedure involves only three stages?

The Hon. J.R. CORNWALL: One thing in which Mr Cameron seems to have developed some proficiency is destroying the good name and reputation of the great metropolitan public teaching hospital system. To some extent, he also is proficient in attempting to destroy public confidence in that system. He does not mind how much he distorts the fact or how many untruths he tells in this place, provided that he can pursue, with single-minded dedication, the destruction of the good name of our public hospitals which are among the best in the country. Let us look at the facts rather than fiction. He says that things are quite desperate in terms of funding for capital equipment—that is the allegation. The fact is, as everybody knows (and it is on public record), as part of a compact that was reached between the Federal Minister and the New South Wales doctors during a major dispute about two years ago, the Federal Government granted $150 million nationally (and not $60 000 as Mr Cameron would have us believe) specifically for the upgrading of capital equipment in the public hospital system—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: —and South Australia's share—

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order! Mr Cameron, you have asked your question.

The Hon. J.R. CORNWALL: —of that was $13 million over three years in addition to the State's allocation for capital equipment. Let us deal in facts and not have the stupidity or the untruths that are peddled in this place and outside it by Mr Cameron.

The Hon. M.B. Cameron: How much was spent last year at the Royal Adelaide Hospital on capital equipment?

The Hon. J.R. CORNWALL: On one piece of equipment alone, $3 million was spent.

The Hon. M.B. Cameron: Not on capital equipment that was needed by the surgeons. Come on—you know that's not right!

The Hon. J.R. CORNWALL: The magnetic resonance imaging equipment, which was installed—

The Hon. M.B. Cameron: Oh, come on! That was paid for by the Commonwealth, not by you.

The Hon. J.R. CORNWALL: Dear me! The magnetic resonance imaging equipment which was installed at the Royal Adelaide Hospital last year—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: One piece of equipment had a cost, installed, of almost $3 million. Mr Cameron says that the total amount that was spent for all surgeons at the Royal Adelaide Hospital was $60 000. That is so manifestly stupid that he stands exposed for the rogue that he is.

The Hon. L.H. Davis: That's not parliamentary, I would have thought.

The Hon. J.R. CORNWALL: It may not be parliamentary, but it is very true. If Mr Cameron wants the details of the purchases and how much was spent on capital equipment at the Royal Adelaide Hospital last year, I will be very pleased to get those details and to make them very public.

The Hon. M.B. Cameron: Be very careful.

The Hon. J.R. CORNWALL: Stop being so damnably stupid. You are a jackass.

The PRESIDENT: Order! I ask the Minister to withdraw that comment.

The Hon. J.R. CORNWALL: I will withdraw it. As I have said on many occasions, this is the one place where truth is not a defence. I will be very pleased to get those details. To suggest that the major teaching hospital, the biggest teaching hospital in the State with something in excess of 900 commissioned beds, last year had a total capital allocation for equipment of $60 000, exposes the man for what he is. He is a phoney and he is not even very good at it. I do not have those figures at my fingertips. Obviously, I do not carry around in my head all of the details of every capital budget for every piece of equipment in every hospital in the metropolitan area or around the State, but I shall be very pleased to bring them in.

As to the mechanism that is observed in the spending of public funds, the Auditor-General insists that we follow certain procedures in tendering for or in purchasing equipment. Does the Hon. Mr Cameron believe that it ought to be otherwise? Does he believe that the hospitals should wander at large purchasing their equipment with public moneys without any series of checks or balances?

The Hon. M.B. Cameron: Tendering is only one stage.

The Hon. J.R. CORNWALL: Of course they go through the Supply and Tender Board.

The Hon. M.B. Cameron: You silly little peanut.

The Hon. J.R. CORNWALL: The Hon. Mr Cameron described me as a silly little peanut. He must withdraw and apologise unreservedly, and I demand that he do so.

The PRESIDENT: Order! I ask the Hon. Mr Cameron to withdraw.

The Hon. M.B. CAMERON: I withdraw and apologise. I like peanuts, Madam President.

The Hon. J.R. CORNWALL: That does not satisfy me, nor should it you, Ms President.

The Hon. M.B. Cameron: I still like peanuts.

The PRESIDENT: Order! Has the honourable member withdrawn and apologised?

The Hon. M.B. Cameron: That is right.

The Hon. J.R. CORNWALL: He did not, Ms President; he most certainly did not. It was a highly qualified withdrawal and no apology. I insist that he withdraw and apologise.

The Hon. R.I. Lucas: What about 'contemptible voyeurs'?

The Hon. J.R. CORNWALL: Well, you are contemptible voyeurs indeed.

Members interjecting:

The Hon. J.R. CORNWALL: I know it hurt.

The PRESIDENT: Order! I think that the honourable member has withdrawn and apologised to much the same extent as the Minister withdrew and apologised. I suggest that the Minister proceed with the answer to the question.

The Hon. Diana Laidlaw: If you want to raise the standard, it is up to you.

The Hon. J.R. CORNWALL: Minnie Mouse herself.

The Hon. R.I. Lucas: It is better than being Daffy Duck, like you.

The Hon. J.R. CORNWALL: No wonder they call this the Mickey Mouse House. I repeat that the Auditor-General insists that capital purchases that are made by public hospitals and public institutions follow the law. They go through the Supply and Tender Board and, if Mr Cameron wants to suggest that it should be otherwise, I must say that I really cannot follow the logic or, more accurately, the illogic of the man.

With regard to the amounts and how those amounts are allocated, let me say that, if Mr Cameron wants to get involved in the internal squabbles between departments at the Royal Adelaide Hospital, he is very welcome to do so. It is not my practice and it is not about to be my practice to get involved in the internal affairs of individual hospitals. However, I will certainly bring back details of the capital allocations not only at the Royal Adelaide Hospital but at all the major metropolitan hospitals. Indeed, I challenge the Opposition to raise this matter. Opposition members will have their day when all of the senior officers of the Health Commission will be in one of the Chambers during the budget Estimates Committees, and I challenge them to take up these matters at that time so that they can have all of the details. I have nothing to fear or hide.

The Government is currently spending about $600 million recurrent on the South Australian hospital system. This State spends more per head on the public hospital system than any other State, and those facts are documented. I have said on many occasions that it is a system of which all South Australians can be very proud. I find it quite despicable that, by distorting the facts and by telling deliberate untruths, Mr Cameron persistently tries to destroy both the culture and the reputation of our very fine system.

EARTHMOVING INDUSTRY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about the depression in the earthmoving industry.

Leave granted.

The Hon. L.H. DAVIS: I have been contacted by a firm of earthmovers who advise me that their industry is suffer-

ing its worst downturn in living memory. One national firm has recently retrenched 30 staff members and is moving resources interstate. In 1986-87, 10 per cent of that company's national turnover was in South Australia, but that figure will be down to 6 per cent in 1987-88.

The Earthmoving Contractors Association, with 150 members, represents about 20 per cent of the persons or firms operating in the industry, which employs up to 4 000 people. Hundreds of jobs have been lost in the industry in recent times. The industry involves subdivisional construction, including roads, water supply and gas, industrial and commercial work, shopping site preparation, footing excavation and infrastructure, water supply, finishing works, car parking, landscaping, house building, excavation for house sites and foundations, civil engineering, and major highway, freeway and bridge construction.

All four sections of the industry are depressed. I have spoken to several earthmoving contractors who advise me that the industry has never been in worse shape in South Australia. There is little subdivisional work available and the Highways Department is now using virtually all day labour for its decreased capital works program. All contractors who were contacted said that they are working on negative margins. As one contractor said, 'It's murder tendering—you have to decide how little you can afford to lose on a job.' In other words, contractors are tendering for jobs at prices below cost to maintain cash flow and a skilled labour force. All contractors are pessimistic about the immediate future, as there are no major projects in sight for this financial year. Can the Attorney-General say whether the State Government is aware of the depression and the grim outlook in the earthmoving industry, and what is it doing about this problem?

The Hon. C.J. SUMNER: The honourable member has made certain accusations and assertions about a particular industry that I am not able to comment on, except to say that generally there has been a reduction in capital moneys available to South Australia. I understood that the Federal Government policy to reduce Australia's overall borrowing requirement was supported fully by Opposition Parties, including the Hon. Mr Davis—it was certainy supported by his Leader in Canberra, Mr Howard, who wanted to go significantly further than the Hawke Government went in reducing the funding available to the States, including the amount of money available for capital works.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: The honourable member would know that. As he would know, from time to time industries have ups and downs throughout Australia. I have no doubt two or three years ago he would not have received any complaints from the earthmoving industry during the period of a significant housing boom.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: It certainly was not during the term of the Tonkin Government. The honourable member can look to any indicator of economic activity—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —in this State over the past 15 or so years and he will find that during the period of the Tonkin Government the situation was very flat, according to almost any indicator.

Members interjecting:

The Hon. C.J. SUMNER: I certainly know that much. I will be quite happy for the Hon. Mr Davis or the Hon. Mr Lucas to produce an indicator from the Tonkin years which shows that things were better than they have been in the time of the Bannon Government.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Virtually every economic indicator during the Tonkin years and virtually all the graphs show that—

The Hon. L.H. Davis: I'll take you up on that one.

The Hon. C.J. SUMNER: Okay, you can, I hope you do your research well.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You won't win the bet, because I can tell you that virtually every economic indicator during the period of the Tonkin Government—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Anything you like. The honourable member knows the facts as well as I do, or he ought to know them, as the shadow, shadow Treasury spokesman—I can never work out who is doing what on the Opposition side as far as speeches and points being made about Treasury issues are concerned. I understood that Dr Eastick was the Treasury spokesman for the Opposition. Nevertheless, the Hon. Mr Davis is the shadow, shadow, or assistant deputy shadow Treasurer; he is the shadow, shadow, deputy assistant—

The Hon. C.M. Hill: He is the back-up.

The Hon. C.J. SUMNER: He is the back-up. Often he seems to me to be the front runner in this area. However, if he runs around to the Parliamentary Library and spends a few hours researching the issue, he will see that in respect of most economic indicators—

Members interjecting:

The Hon. C.J. SUMNER: Okay, I will go back: in respect of virtually all the economic indicators, during the Tonkin Government—

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: Anything you like.

The Hon. L.H. Davis: You will cross the floor on an issue?

The Hon. C.J. SUMNER: I will cross the floor on an issue, I will take you out to dinner—anything you like!

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The reality is that during the period of the Tonkin Government, as the honourable member well knows, on virtually every economic indicator the situation was worse—

The Hon. L.H. Davis: I'll show you that you are wrong.

The Hon. C.J. SUMNER: The honourable member will not be able to show it; he might be able to show the odd blip upwards but he certainly would not be able to show as a general pattern during that period—

The Hon. L.H. Davis: You will be embarrassed.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I won't be. I assure the honourable member that I am quite confident in what I am saying.

Members interjecting:

The PRESIDENT: Order! A question has been asked and an answer is being given. It is not a time for general conversation. If members want to have a private discussion, I suggest that they leave the Chamber and do so. Let us have questions and answers according to parliamentary procedures.

The Hon. C.J. SUMNER: Hear, hear! Well, I was sidetracked by members opposite.

The PRESIDENT: The Minister is under no obligation to take any notice of any interjection.

The Hon. C.J. SUMNER: I understand that absolutely, Madam President.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis must cease interjecting. He has asked his question but has interjected repeatedly since then.

The Hon. C.J. SUMNER: If the honourable member will insist on his inane patter then I have to respond and put the honourable member on to the right track in respect of what he has been saying. I repeat, that on virtually all economic indicators for the past 15 years the worst period in South Australia was during the period of the Tonkin Government. In any event, in respect to the general point that I was making, the economies of the various States of Australia show up and down movements in various sectors, over time. For example, recently Queensland was not—and still is not as I understand it—in a particularly buoyant economic situation and, of course, at various times in South Australia there are ups and downs in economic activity in various sectors. Over the past few years the Government's policy has been to attempt to create the situation, the infrastructure if you like, where those ups and downs in economic activity, which have always hit South Australia more severely than the other States because of the nature of our economy, are evened out as much as possible by trying to diversify the economy to ensure that that occurs.

As the honourable member would know, that is obviously a long-term project—just as the correction of the situation in Australia as a whole, involving the balance of trade and the like, is a long-term project. The Hawke Government has set about doing it in a way that was recently endorsed by the Australian electorate. If there is anything specific that I can add in relation to the honourable member's question, I will do so; I will refer the matter to the appropriate Minister. But in general terms—and the honourable member mentioned this—the capital works budget has been reduced and the borrowing requirement, both Commonwealth and State, has been reduced. That policy of the Federal Government was supported to a large extent by the State Government, but I would emphasise that it was particularly supported by the Federal Opposition. Indeed, it not only supported it but it wanted to go considerably further in reducing payments to the States. The Howard plan at the last election was an extra $1 billion reduction in terms of Commonwealth money available to the States. Obviously, that would have an effect on at least the Government's capacity to provide stimulus in terms of capital works programs.

AIDS

The Hon. T. CROTHERS: I direct a question to the Minister of Health as follows: in view of some concerns that have been expressed by the public about the expenditure of $14 500 on a grant to the Prostitutes Association to run education programs about AIDS for its members, at a time of considerable budgetary constraint, will the Minister provide the Council with an explanation of why this grant was considered necessary?

The Hon. J.R. CORNWALL: I would be very pleased to do that.

Members interjecting:

The Hon. J.R CORNWALL: Actually, this matter came up whilst I was overseas. I was not able to respond to it at the time, and when I came back the matter seemed—

Members interjecting:

The Hon. J.R. CORNWALL: I must say that having just been through a number of countries in the northern hemisphere and observing what they were doing in areas like this to educate the 'at risk' groups, I was rather dumbfounded about what in this instance seemed to be very much a village mentality. However, I decided that I probably ought to let the matter rest, but in the context of the budget the question is continually coming up of 'If the Government can find this money for the Prostitutes Association, some $14 500, how come it cannot find $1 million for this or $2 million for something else?' First, I point out that that is silly, but, secondly, I think we ought to put it in context. The grant was in fact part of an annual process—

The Hon. C.M. Hill: Why don't you read it?

The Hon. J.R. CORNWALL: Yes, all right, why not; it is a very important matter and it is most important that it be on the record—and there are copies to be circulated to the press, too, as the Hon. Mr Cameron always does when he gets up and asks his lead question every day. The grant was part of an annual process in which applications are invited for health promotion activities in the community. The Prostitutes Association's application was assessed (along with many others) according to strict criteria which apply to all applications for such grants. These applications are carefully considered by an independent panel of health professionals according to those criteria. In 1987, 56 submissions and applications were received for comnet grants—community health network grants.

The panel, comprising representatives from the South Australian Health Commission, South Australian Community Health Association and the Health Educator's Association then made recommendations for the allocation of grants and each was approved by the Chairman of the South Australian Health Commission. The projects for which the grants are allocated are carefully monitored and evaluated and financial statements are required as to how the money is spent. The project is based on similar schemes operating in New South Wales (funded there by the Federal and State Governments to the sum of $135 000 per annum), Victoria and Western Australia as well as in the United States and Britain and most European countries. The New South Wales scheme has been praised specifically by Dr Jonathon Mann, from the World Health Organisation—one of the world's leading experts on the AIDS epidemic. The national AIDS Task Force, under the Chairmanship of Professor David Pennington, has also identified prostitutes as a special 'target group' in the fight against AIDS, as have most health professionals working in the AIDS area.

Prostitutes, like other 'high risk' groups, need special attention. Not only do they need education (and there is still a great deal of ignorance about AIDS, regrettably), but they need special counselling in how to insist that their clients wear condoms—at present, as everyone knows, I would hope, the most effective protection against AIDS and other sexually transmitted diseases apart from celibacy.

Up until now the spread of AIDS has been largely confined to male homosexuals and intravenous drug users. AIDS experts have warned that if the infection is introduced into a heterosexually active population (such as clients of prostitutes and subsequent partners) rates of infection can rise dramatically. For example, in 1980-81, 4 per cent of the female prostitutes tested in one African city were antibody positive (honourable members may recall that I came home via the African continent, and so I speak directly on the information that was available to me); by 1985-86, 59 per cent were positive.

The South Australian Health Commission is not encouraging or condoning prostitution, but as the public health authority responsible for looking after the health of all South Australians it has a duty to take all reasonable steps to

control the spread of disease. The fact that prostitution is illegal is irrelevant in this case. Any public health system worth its salt must treat all people regardless of whether or not they have been engaged in illegal activities. As the only form of treatment for AIDS at present is education about safer sexual practices, obviously we must target prostitutes in the fight against AIDS.

The sum of $14 500 allocated to this group is very modest indeed compared to similar programs in other States and overseas. Professor David Pennington has estimated that the treatment of AIDS will cost the Australian taxpayer $100 million by 1990. Each new AIDS case costs $8 000 per patient per year in treatment, that is, in the early stages, and, once they have reached the category A stage, taxpayers are contributing $20 000 per patient per year. I think we should really look at the one-off grant of $14 500 in that context.

This is a genuine attempt to tackle a very grave public health problem. The officers who are working on these issues are very professional and dedicated to their task. They have my full support and I submit very strongly that they deserve the support of the entire South Australian public. Unfortunately, we now have 199 anti-body positive cases in South Australia. Figures to date show that numbers have been doubling every six months. Those who do not believe we should make every effort possible to combat AIDS should reflect on these figures.

REGISTRATION AND INSURANCE

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Health representing the Minister of Transport a question about motor vehicle registration and insurance.

Leave granted.

The Hon. I. GILFILLAN: It has been brought to my notice that, according to SGIC records, the number of uninsured and unregistered vehicles involved in accidents in 1984 was 60, in 1985 54, in 1986 67, and in 1987 and to date, 52. As honourable members will know, the real issue in this matter is not the lack of registration but the lack of third party insurance. It is the policy of the Motor Registration Division to send out one notice, which is a computer send out, three weeks before the expiration of the registration.

It has been brought to my notice by people who have been directly affected by this method that, in many cases, the notices do not arrive. There may be various reasons for this but we all know that a computer program can go awry. In consequence, a considerable number of vehicle owners in South Australia are inadvertantly driving uninsured motor vehicles. A very serious consequence of that situation is that, even if an accident does not occur—in which case, of course, there are other consequences—the owner will lose his drivers licence for a mandatory period of three months and will face a $300 fine. This, for many people can prove quite devastating, particularly for those people with a job involving the use of a motor vehicle.

The reason for my question to the Minister today is that a case has been brought to my attention of the sort of circumstance, which could be repeated, in which a family of complete integrity and sincerity in its wish to comply with these matters claims not to have received an expiry notice. The mother-in-law of the family died and there were several illnesses in the family, and the fact that the vehicle was no longer insured and registered was overlooked. This has resulted in an action which could make it difficult for the man to continue with his job, which involves driving.

For those people who are involved in accidents an additional penalty can be imposed if the SGIC seeks to recover costs from the owner of the motor vehicle, which can be quite extraordinarily high. In cases where large claims are involved, there can be a devastating effect on the finances of a family, pushing it, at times, to extraordinary degrees of hardship. It is important to realise that most people who fail to renew their registration and insurance do so purely from an oversight. There is a percentage of people who do not, for various reasons, receive an expiry notice. We must recognise the human nature factor in this situation.

My question to the Minister of Transport through the Minister of Health, recognising the detail that I have outlined in my explanation, is: will the Minister direct the Motor Registration Division to issue reminder notices to owners who have not renewed registration and insurance by a due date prior to expiry, and will he direct the Motor Registration Division to send the first notice of expiry at an earlier date than the current three weeks, which is the policy of the division?

The Hon. J.R. CORNWALL: I will refer those questions to my colleague and bring back replies.

RADIOACTIVE HERBS AND SPICES

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Health, as competently representing the Minister of Agriculture (there is a crossover), a question about radioactive herbs and spices.

Leave granted.

The Hon. T.G. ROBERTS: In an article in the *Sydney Morning Herald* on 3 April 1987 it was stated:

> Government officers have seized 3½ tonnes of radioactive herbs and spices containing 60 times the recommended limit of radiation. Officers seized 350 bags believed to have been contaminated by fallout from the Chernobyl nuclear accident, which occurred in April last year. Strong concentrations of the lethal isotopes caesium 137 and caesium 134 were found in each of the 10 kilogram bags of herbs imported from Turkey.

Turkey is not a country that we would normally associate with having heavy levels of contamination. The article continues:

> The Chief Food Inspector for the NSW Health Department, Mr Des Sibraa, said the department had been given the tipoff by [a publicly concerned group] People Against Food Irradiation. Mr John Penninger purchased the herbs from the importers H. J. Langdon and Co. Pty Ltd, of Lakemba, late last year. He carried out radioactivity tests, and, worried about what he felt was an unusually high reading, contacted Commonwealth health authorities. Testing found the level to be 1 491 becquerels a kilogram. The permissible amount is 30-50 becquerels to a kilogram.
>
> The Australian Government Analytical Laboratory recommended that Mr Penninger dilute the level of radiation to the permissible level by mixing with 'clean' herbs. A complaint over this instruction filed with the New South Wales Health Department by a PAFI member led to an investigation by the department.
>
> Its tests concluded that the radiation level was 1 800 becquerels a kilogram so the goods, worth an estimated $20 000, were confiscated. Mr Penninger is suing the New South Wales Health Department because he believes the goods are not dangerous. The case will be heard on 7 April.

It may have been heard, but I am not sure of the outcome. My questions to the Minister are as follows:

1. In view of the long term contamination problems associated with the Chernobyl disaster, has the South Australian Health Commission taken any extra precautions for a more stringent application of radioactivity testing on imported food?

2. Will the Minister of Health use his undoubted negotiating skills and influence at a State and Federal level to

encourage Australian grown replacement of agricultural products grown in affected parts of Europe?

3. Will the Minister of Agriculture identify some of those import replacement agricultural products and encourage farmers in Australia, especially South Australia, to grow them?

The Hon. J.R. CORNWALL: I did not hear any interjector screaming 'Dorothy' on this occasion. Had I heard such an interjection, it would have been absolutely wrong. As I had no idea that Mr Roberts was going to ask this question, I have not had the opportunity to check out some of the finer details.

The Hon. R.I. Lucas: He's not in your faction.

The Hon. J.R. CORNWALL: The Hon. Mr Roberts is a very close personal comrade of mine—and I am pleased to acknowledge that publicly and have it on the record—as is everybody who sits on this side of the Chamber, with the possible exception of the Hon. Mr Elliott. We have a very good and efficient occupational health and radiation control branch and the radiation control unit is also very good. It has been significantly upgraded over a number of years. A number of reasons exist for that, not the least being that we have in the 1980s literally rewritten the legislation with regard to radiation protection and control. In fact, that legislation was originally introduced in the time of the Tonkin Government and, by and large, despite a few hiccups initially it has turned out to be a comprehensive and very good piece of legislation.

The person in charge of that branch is Mrs Jill Fitch who has a masters degree in radiation physics and was a commissioner of the McClelland Royal Commission into the radiactive contamination of Maralinga by atomic tests in the 1950s. I have not been briefed on any specific or extra precautions that may have been taken over and above routine testing, so I cannot answer that specifically. However, I would certainly be prepared to use what the Hon. Mr Roberts referred to, very flatteringly, as my skills and influence to have the matters investigated. Indeed, if it becomes necessary I will even use raw or naked power to ensure that they are thoroughly investigated. As soon as I have comprehensive replies—

The Hon. M.B. Cameron: What a terrible thought.

The Hon. J.R. CORNWALL: There is some imagery in it that was not intended.

The Hon. M.B. Cameron: I feel sick.

The Hon. J.R. CORNWALL: I will not go any further with regard to the Hon. Mr Cameron, with or without imagery. Certainly it is a serious and important question and, as soon as I have comprehensive answers, I will not only provide them to Mr Roberts (because we will not be sitting again formally for three weeks) but I will ensure that they go into the record as soon as we resume after the budget Estimates Committees have been completed.

CHILD SEXUAL ABUSE

The Hon. DIANA LAIDLAW: Does the Attorney-General consider that an exemption is required under the Equal Opportunity Act for DCW to pursue a policy of insisting that female only paediatric psychiatrists examine the victims of child sexual abuse? If 'Yes', first, does DCW have such an exemption? Secondly, if it does not, will the Attorney advise the Minister of Community Welfare that an application be made by DCW for the appropriate exemption under the Equal Opportunity Act?

The Hon. C.J. SUMNER: The answer to the question is 'No'.

The PRESIDENT: I was going to point out that, as far as I am aware, questions in Parliament may not ask for legal opinions. Strictly legal opinions are not permissible in answer to questions in Parliament. That does not apply to the totality of the question asked, but it was an aspect that I thought should be drawn to the attention of the honourable member and other members.

COMPUTER SOFTWARE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question on computer software in schools.

Leave granted.

The Hon. M.J. ELLIOTT: It has been brought to my attention that there is a problem, particularly in high schools, with computer software. Many schools at this stage are struggling even to buy sufficient hardware to run the sorts of courses which the Government encourages but for which it does not supply money. Computer software often costs as much if not more than the hardware itself. Will the Government specifically consider whether the possibility exists for an approach to be made to the Federal Government to change copyright laws to specifically exempt schools from requirements of copyright on software, so that if a school has bought one copy of a word processing program (or whatever else) it can take off as many copies as it needs without additional cost? That would be an obvious benefit to the community as a whole in the long run.

The Hon. BARBARA WIESE: I will refer that question to my colleague in another place and bring back a reply.

COMMUNITY BUS SERVICES

The Hon. C.M. HILL: I seek leave to make a brief explanation before asking the Minister of Local Government a question about local government school bus services.

Leave granted.

The Hon. C.M. HILL: Considerable concern has been expressed within local government because, during the last financial year, it was thought that a $100 000 State grant that local government received to assist it with the 35 community bus services might be either reduced or abolished. These 35 councils have found this an excellent community service and I understand that about 17 councils are in the queue wanting to join the scheme. The Local Government Association a while back made representations to the Minister of Local Government to ascertain whether she could assist in continuing the State grant this financial year. Was the Minister able to assist local government in any way or what is the exact position now in regard to the school bus grant?

The Hon. BARBARA WIESE: I presume the honourable member is referring to the grants for community buses, which may or may not be used for school purposes. Most are used for community purposes as opposed to specifically school purposes. Indeed, the Local Government Association approached me some time ago when there was some speculation about the future of those grants. The Local Government Association expressed its concern that the grants be maintained.

I, too, was concerned about it, because the community bus services that exist in various parts of the State have been very valuable and have provided a service which has been useful for a whole range of people in our community.

Prior to the budget deliberations, at the request of the Local Government Association I approached my colleague, the Minister of Transport, to impress upon him the importance of the service. Unfortunately, it was not possible for the Government during this financial year to continue those grants due to the current financial climate in which we operate, but whether or not it will be possible to consider restoration of that funding next year will depend on financial circumstances at the time.

REPRODUCTIVE TECHNOLOGY BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to regulate the use of reproductive technology and research involving experimentation with human reproductive material. Read a first time.

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

That this Bill be now read a second time.

Spectacular advances in science and medicine have introduced an era in health care which a short time ago would have been characterised as science fiction. People who once would not have survived now lead fulfilling lives as a result of developments in life-saving technology. Death has been redefined and codified in the law. At the other end of the spectrum, the last decade, and particularly the past few years, have witnessed an explosion of new techniques in the field of reproductive technology.

The inability to conceive and give birth to a child has been the subject of clinical investigation for many years. With improved knowledge of human reproductive physiology, the development of the science of endocrinology, increasingly sophisticated radiographic techniques and procedures, and advances in the study of male infertility, of methods of assisting childless couples have become important priorities of gynaecological practice. Indeed, the investigation and treatment of primary and secondary infertility has become a sub-speciality in its own right, involving gynaecologists, surgeons, reproductive endocrinologists and physiologists. Major scientific advances of the past two decades have been applied to human fertility management and a variety of treatment modalities now exist for a number of previously untreatable forms of infertility in both men and women. However, while medicine and other branches of science have taken us to the point we have reached today, reproductive technology is not just a medical or scientific matter.

No doubt the advances which have been made are in large part attributable to the pursuit of knowledge, or the pursuit of excellence, in the particular fields of the clinician, the scientist and the technologist, but we cannot ignore the part that societal pressure has played in encouraging practitioners to improve facilities and techniques in order to deal with infertility not readily amenable to standard procedural methods.

The desirability of producing a child remains an issue of major significance in Australia today. Whether one believes it is attributable to a view of women which regards motherhood as an essential rather than an optional part of self-esteem and social acceptance, or whether one sees it as being more broadly based and reinforced by social, cultural and religious attitudes, the fact remains that the desire of most couples to have children remains an extremely important priority for them and for contemporary society in the 1980s.

The Family Law Council has observed that infertility is a problem for at least 10 per cent of married couples. In the past, infertile couples looked to adoption to satisfy their needs. However, the past 10 to 15 years have seen dramatic changes in the placing of children for adoption and in the nature of the adoption process. The decreasing availability of babies for adoption has meant that infertile couples who seek to parent a child have had to look for other avenues. Consequently, they have focused their attention on reproductive technology as a means of giving them children.

Beginning with increased sophistication in artifical insemination procedures, and taking into account the more recent rush of developments in IVF and related procedures, a whole new range of possibilities has opened up to meet the parenting wishes of infertile couples. Initially, the community responded uncritically, against a background of social mores regarding mothering and parenthood, the nature of the family and the wishes of infertile couples. However, the pace of the developments has in many ways caught society unprepared and uninformed to deal with the complex legal, social and ethical issues accompanying the developments.

The world's first baby born as a result of IVF arrived in England in 1978. In 1980, Australia's first and the world's fourth IVF child was born. By September 1985 the number of live births in Australia from IVF was approaching 500. Freezing of embryos has become an important component of a successful IVF program. Research using human embryos has become an area of very real public interest and concern. Developments have occurred rapidly, bringing with them a host of legal, social and ethical issues. As Professor Ian Kennedy, Professor of Medical Law and Ethics at Kings College, London, said:

> The genie is out of the bottle. You cannot put genies back into bottles. You can, however, try to make sure that the genie does not go around granting any old wish. You can give the genie some rules.

Governments around Australia (and indeed, overseas, for example the United Kingdom) have responded by establishing inquiries of one type or another into some or all of the issues. In South Australia, officers of the Health Commission and the Attorney-General's Department prepared a report in January 1984 on IVF and AID which grappled with some of the vexing issues. Later that year the South Australian Health Commission and the South Australian Post-Graduate Medical Education Association jointly hosted a public lecture and seminar as a forum for public information and discussion. In October of that year a select committee of the Legislative Council was appointed in order that a variety of questions surrounding reproductive technology could be examined in the wide-ranging and non-partisan manner made possible by the select committee process.

The select committee deliberated at length and handed down its report in April 1987. I place on record my appreciation of the work of the committee and officers who assisted it. Obviously, issues which have to do with the creation of life, challenge and make us examine our fundamental concepts of procreation and all that goes with it. These are issues on which we expect a wide divergence of views. The select committee, to its credit, was able to reach agreement on the majority of issues with which it dealt. On some, however, one has to say that it is unlikely that community consensus will ever be reached.

The select committee's recommendations foreshadow administrative and legislative action, some by the Attorney-General and some by the Minister of Health. The Bill before members today is the legislative response to the select committee's report as it relates to the health portfolio. Legislation dealing with the recommendations opposing surrogacy

and proposing that surrogacy contracts be unenforceable will be handled by the Attorney-General in the near future, as will recommendations relating to the Family Relationships Act.

Turning to the Bill, I point out that one of the main features is the establishment of the South Australian Council on Reproductive Technology. As I indicated before, reproductive technology is not just a medical or scientific matter. Obviously, medical ethics are involved, but one cannot and one must not ignore the broader issues—the moral issues and questions of moral values, the legal issues, the questions of public policy, and most importantly, the welfare of the child. As the Family Law Council in its report 'Creating Children' stated:

> Given that the major purpose of reproductive technology is to create a child who would not otherwise have been conceived, and that a substantial allocation of public resources is required to enable this, it seems clear that the community has a particular responsibility to promote and protect the interests, needs and welfare of that child when born.

The scope and complexity of the issues are such that they must be addressed by the community and by Governments in the broadest sense. They cannot be left solely to the medical and scientific professions, whether they be practitioners in the infertility programs or in the professions at large. It is undesirable and unreasonable to expect one part of society to shoulder such a burden. They cannot be left solely to institutionally based ethics committees—the issues go beyond hospital and university walls.

The select committee recommended and the Bill provides for the establishment of an eleven-member SA Council on Reproductive Technology. Six of those members will be nominated by the universities, various learned medical colleges, the heads of churches and the Law Society. Five are to be nominated by the Minister of Health and selected so as to ensure a balance of expertise and backgrounds and representation from the general South Australian community. Taking into account the all Party support for the select committee recommendations, action is already in hand to establish the council on an interim basis, pending the passage of the legislation. I assure members that careful attention is being given to appropriate membership, including male/female representation. If the primary interests of women in the issue of reproductive technology have not been given adequate emphasis in the past, we have the opportunity and the obligation to redress that now. The technology involves invasive procedures performed on women's bodies; it involves issues of women's health, and women's role in society; it should and it will involve women at the level of policy making and standard setting.

The role of the council will be one of the most important created under health legislation in recent years. In a sense it will be both pathfinder and trailblazer. One of its first and most vital tasks will be to develop a code of practice on reproductive technology. It will be required to consider ethical, social and legal issues and to formulate a code which will define the boundaries as to what is acceptable and what is not in research and practice of reproductive technology. It will be required to consider a whole range of issues such as:

- practices and conditions to be observed in premises licensed to conduct reproductive technology programs and by persons registered to carry out artificial insemination procedures;
- to whom reproductive technology should be available;
- consent forms and information to be recorded on them, including the couple's wishes as to the use of surplus embryos;
- record-keeping;
- access to information; and
- research involving human reproductive material.

On some of these issues, the select committee made specific recommendations and it is expected that the council will take these into account in drawing up the code. Most importantly, in formulating the code, the council will have a statutory obligation to treat the welfare of the child as being of paramount importance. It behoves us all to ensure that the welfare of the child does not have to battle for a place against the competing demands of adults for reproductive technology services.

Various reports around Australia have emphasised the need for issues arising from reproductive technology to be dealt with on a national basis and have suggested that uniform guidelines should be developed in an appropriate national forum. The select committee acknowledged the importance of the national perspective, and the Bill accordingly provides for the council to collaborate with other bodies in formulating the code and to adopt other codes or standards, with or without modification, where appropriate. The council will not be the final arbiter on what is contained in the code. In line with the select committee's recommendations, the code is to be promulgated in the form of regulations. In the normal process of subordinate legislation, it will be open to parliamentary and community scrutiny before finally being enshrined in the law. It will, of course, be able to be amended, taking into account the rate at which developments in this area occur, and any amendments will follow the same process.

Apart from formulating the code of practice, the council will have a number of other important functions. Research into the social consequences of reproductive technology will be within its charter. Promotion of informed public debate on ethical and social issues arising from reproductive technology and dissemination of information will be a vital task, as will advice to the Minister on various issues. The council will report annually to the Minister, thence Parliament.

Possibly one of the most vexed areas at the moment—the frontier of reproductive technology—is research involving experimentation with human reproductive material. We must strike a balance between pursuit of knowledge, pursuit of excellence and perfecting of technique on the one hand, and community acceptance on the other. Scientific advancement, no matter how well-intentioned, must not be allowed to move at a pace which outstrips the clearly expressed opinion of the community. The Bill therefore provides that research involving experimentation with human reproductive material can only be carried out if a licence has been granted by the council. The licence will be subject to a condition defining the kinds of research authorised by the licence and a condition requiring observance of specific ethical standards. The penalty for non-compliance is $10 000. There is also provision for suspension or cancellation of a licence.

The issues of costs of reproductive technology, supply and demand and quality assurance have been addressed by various committees including the select committee. The question, indeed the dilemma, which arises, is whether in times of finite resources we can afford the resources for extensions and innovations in fertilisation techniques when those resources are demanded elsewhere in the health system by professionals who argue that their patients are just as much or more in need. Although fertilisation techniques have increased the chances of hitherto infertile couples having children, the extent of that increase is by no means as successful as most medical and surgical techniques. Less than a third of all couples entering an IVF program can

expect a baby or babies, despite procedures ranging over a number of successive cycles.

In order to ensure optimum standards against this background, the select committee recommended that all premises used for IVF and related services should be licensed by the Health Commission, that they should be required to comply with the code of practice of the council and that any further expansion of IVF services beyond those currently approved, whether public or private, should be justified on the basis of need. The Bill makes provision accordingly. Licensing provides the mechanism whereby the spread and nature of reproductive technology programs can be regulated, quality assurance can be required and enforced and appropriate record-keeping can be assured. Non-compliance can bring a penalty of $10 000, as well as suspension or cancellation of licence. There is a right of appeal to the Supreme Court against refusal to grant a licence, imposition of a particular condition and suspension or cancellation.

The *In Vitro* Fertilisation Procedures (Restriction) Act 1987 makes it an offence for anyone other than the three programs specified in the legislation to carry out any *in vitro* fertilisation procedure. The legislation has a sunset clause, nominating 30 November 1987 as the expiry date. The Bill provides for the three currently approved programs (the University of Adelaide/the Queen Elizabeth Hospital; the Flinders University of SA/Flinders Medical Centre; Repromed Pty Ltd, at Wakefield Memorial Hospital) to be 'grandfathered' in under the legislation. It is unlikely that the legislation will be through Parliament, proclaimed, with the code of practice and licensing procedures in place by 30 November 1987. To guard against the possibility that private commercial entrepreneurs may seek to take advantage of any gap between the moratorium legislation expiring and the new legislation coming into force, I propose that the provisions enabling the existing three programs to continue, and prohibiting any others from operating without a licence, be proclaimed as soon as possible after the legislation has passed.

In relation to artifical insemination, the Bill follows the select committee recommendation that persons providing AID as a service, for fee or reward, should register with the Health Commission. They will need to comply with the council's code of practice. The Bill provides for the appointment of authorised officers, that is, persons authorised by the Health Commission, who may enter and inspect premises and generally ensure that the provisions of the legislation are being complied with.

Those are the main provisions of the legislation. There are, of course, a number of other important issues identified by the select committee that will need to be addressed, some by the Health Commission, some by the council, some by other bodies, namely, educational programs for health professionals and the wider community which clearly outline the physical, financial and emotional costs of infertility and reproductive technology, and which should canvass, for instance, the positive aspects of marriage without children and adequate counselling both for people first discovering infertility problems and contemplating treatment and, importantly, for those who do not achieve a pregnancy on the program. An article in the *Age* in 1985 (by Anna Murdoch) sums it up as follows:

> For the past four years, the press has shown photographs of radiant women holding babies conceived by *in vitro* fertilisation. What has not been shown are the faces of the 85 per cent of women for whom the treatment does not work.

The legislation is, I believe, something of a milestone. Some would say it is just the beginning. The Council on Reproductive Technology has a vitally important, if somewhat daunting, task before it. We as legislators and as a community must do all that we can to address the issues which are, after all, about the wellbeing and interests of Australian families and children. I commend the Bill to the Council and hope that it will be dealt with in the non-partisan manner which characterised the select committee which preceded it. I seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 is the interpretation provision. It defines 'artificial fertilisation procedure', 'artificial insemination', 'human reproductive material', '*in vitro* fertilisation procedure' and 'reproductive technology' for the purposes of the Act.

Clause 4 provides that the Act binds the Crown.

Clause 5 establishes the South Australian Council on Reproductive Technology.

Clause 6 deals with the terms of appointment of members of the council.

Clause 7 entitles a member of the council to such fees, allowances and expenses as the Governor may determine.

Clause 8 sets out the procedure to be followed at meetings of the council.

Clause 9 requires a member of the council who has a direct or indirect personal or pecuniary interest in any matter before the council to disclose the nature of that interest to the council. The maximum penalty fixed is $2 000. A member of the council must also abstain from participating in any deliberations or decision of the council in a matter which affects a member's personal or pecuniary interests directly or indirectly. The maximum penalty fixed is $2 000.

Clause 10 sets out the council's functions.

Clause 11 empowers the council to employ staff and to make use of the services of staff of the South Australian Health Commission.

Clause 12 requires the council to report to the Minister of Health annually and requires the Minister to table the report in Parliament.

Clause 13 prohibits the carrying out of an artificial fertilisation procedure except in pursuance of a licence granted by the Health Commission. The maximum penalty fixed is $10 000.

Subclause (2) provides that the commission must not grant a licence unless it is satisfied of certain things, namely, that the licence is necessary to fulfil a genuine and substantial social need that cannot be adequately met by existing licensees and that the applicant is a fit and proper person to hold the licence and has appropriate staff and facilities for carrying out the procedures for which the licence is sought. Subclause (3) sets out the conditions which a licence will be subject to. Subclause (4) provides that a licensee who contravenes or does not comply with a condition of a licence is guilty of an offence. The maximum penalty fixed is $10 000.

Subclause (5) provides that a licence is not required in respect of artificial insemination if it is carried out by a registered medical practitioner who registers with the commission and makes an undertaking to the commission to observe the code of ethical practice, or where artificial insemination is carried out gratuitously. Subclause (6) provides that an exemption under subclause (5) from the requirement to be licensed may be withdrawn by the commission if it suspects on reasonable grounds a breach of the code of ethical practice by the holder of the exemption.

Clause 14 prohibits the carrying out of research involving experimentation with human reproductive material except

in pursuance of a licence granted by the council. The maximum penalty fixed is $10 000. Subclause (2) sets out the conditions a licence will be subject to. Subclause (3) provides that a licensee who contravenes or does not comply with a condition of the licence is guilty of an offence. The maximum penalty fixed is $10 000.

Clause 15 empowers the council or the commission to suspend or cancel licences where satisfied that a condition of a licence granted by it has been contravened or has not been complied with. Before acting under this provision the council or the commission must allow the licensee a reasonable opportunity to make submissions.

Clause 16 gives a right of appeal to the Supreme Court against a refusal by the commission to grant a licence authorising artificial fertilisation procedures, a decision by the commission to impose a particular licence condition, or a decision by the commission to suspend or cancel a licence. Subclause (4) specifically provides that no appeal lies against a decision by the Council to refuse to grant a licence authorising research nor against any decision of the council related to such a licence.

Clause 17 sets out the powers of an authorised person. Subclause (2) makes it an offence to obstruct an authorised person acting in the exercise of a power conferred by the provision, to fail to answer an authorised person's questions or to fail to produce records when required by an authorised person. The maximum penalty fixed is $2 000. Subclause (3) provides that confidential information may be disclosed to an authorised person under this provision without breach of any principle of professional ethics.

Clause 18 deals with confidentiality. It prohibits a person who holds or formerly held the office of a member of the council or a position involving duties related to the administration of the Act from divulging confidential information except as may be required for the purposes of official duties or as may be permitted or required by the code of ethical practice. The maximum penalty is $2 000.

Clause 19 provides than an offence against this Act is a summary offence.

Clause 20 is the regulation making power.

The schedule to the Act contains a transitional provision requiring the commission to grant to specified bodies licences for the carrying out of *in vitro* fertilisation procedures.

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

AUSTRALIA CARD

The Hon. DIANA LAIDLAW: In accordance with Standing Order No. 248, I move:

That a message be sent to the House of Assembly transmitting a resolution agreed to yesterday concerning the Australia Card and requesting the concurrence of the House of Assembly thereto.

Motion carried.

FISHERIES (SOUTHERN ZONE ROCK LOBSTER FISHERY RATIONALISATION) BILL

Second reading.

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

That this Bill be now read a second time.

As this Bill comes from the other place, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill provides for the rationalisation of the number of rock lobster licence holders in the southern zone fishery, the establishment of a primarily industry based rationalisation authority to oversee the rationalisation, for payment of compensation to those licensees who voluntarily leave the industry, and for repayment of compensation moneys by remaining licensees.

By way of background, the South Australian rock lobster fishery is currently fully exploited with greater fishing capacity than is required to take the available catch. In addition, the continual introduction of new technology and new techniques results in further increases in this excess effort. Assessment of the industry has clearly indicated that, due to this excess, the economic returns to the fishery are significantly less than could be obtained as well as there being the potential for a slow run-down of the stock due to the need to fish harder to maintain a share of the catch. Numerous reports, since 1978, have indicated that the viability of the fishery would be significantly increased by reducing the number of participants in the fishery. The long-term yield from the fishery would remain the same.

Following the introduction of a number of less effective measures aimed at reducing the effort in the fishery and improving the viability, the Department of Fisheries and the industry conducted a two-day workshop in June 1986 at Millicent to assess the effectiveness of past measures and identify future options. This meeting supported the rationalisation option. During May 1987 a referendum of all licence holders in the southern zone rock lobster fishery was conducted by the South Australian Fishing Industry Council and the South-East Professional Fishermen's Association to determine support for the rationalisation scheme. The majority of licence holders (51.5 per cent) supported implementation of the scheme. During the period May to July 1987 a series of meetings was held between officers of the Department of Fisheries and delegates of the southern zone ports to discuss and finalise the details of the scheme.

It is proposed that the number of licence holders in the southern zone rock lobster fishery be reduced by the equivalent of 40 average licences (that is, approximately 2 400 pots) through voluntary surrender of pot entitlements and licences to a rationalisation authority. The rationalisation authority would consist of an independent chairman, 14 representatives of the southern zone rock lobster fishery; two each elected by the properly constituted fishermen's associations in Kingston, Robe, Beachport, Southend and Carpenter Rocks, and four elected by the properly constituted fishermen's association at Port MacDonnell, the Executive Officer of the South Australian Fishing Industry Council, a representative of the South Australian Department of Fisheries and a representative of the South Australian Government Financing Authority.

It is proposed to compensate licensees for the voluntary surrender of their pot entitlements and licences and for the remaining licensees, who will benefit from improved viability in the fishery, to contribute, according to the pot entitlements held, to the cost of providing that compensation. Vessels will be disposed of separately on the commercial market by those licence holders voluntarily surrendering their licences and pot entitlements to the rationalisation authority. Under the proposal, the Minister of Fisheries will borrow up to $6.5 million for distribution through the rationalisation authority to those fishermen who voluntarily surrender their licences. Funding is to be provided by the South Australian Government Financing Authority. In addition, an application has been made for contributory

funding from the National Fishing Industry Adjustment Committee, a committee formed by the Commonwealth Government to provide funds to assist Australian fishing industries seeking rationalisation.

The documentation distributed to industry during discussion on this scheme provided indicative estimates of the value to be paid for the surrender of a pot. The actual value that will be paid will be determined by the authority at its first meeting. The price to be paid per pot will remain constant throughout the rationalisation period. The rationalisation period is defined as the time required to remove the 2 400 pots or two years, whichever is the lesser. To avoid speculation in licences prior to the introduction of the proposed scheme, the transfer provisions in the 'Scheme of Management (Southern Zone Rock Lobster Fishery) Regulations, 1984' have been removed with industry concurrence. It is proposed that transfer provisions only be provided during the rationalisation period within the family or to the rationalisation authority. It is further proposed that, if the rationalisation period extends for the full two years, that transfer provisions will not be returned to the fishery until nine months after that period has elapsed. This is to provide a disincentive for licence holders not to sell to the rationalisation authority towards the end of the rationalisation period.

The funds borrowed to compensate fishermen who voluntarily surrender their licences will be recouped by licence surcharge over a 10-year period. The surcharge will be payable quarterly from the date of implementation of the scheme and is expected to be of the order of $100 per pot. The Act only allows the implementation of the surcharge for defraying the net liabilities of the scheme. To ensure some proportionality in removal of licences along the south-eastern coastline, the Act provides for acceptance of licences voluntarily surrendered in the first 18 months to be based on the distribution of pots between southern zone ports at the commencement of the scheme.

To reduce the costs of the scheme to the authority and therefore industry, the Department of Fisheries will be responsible for receiving and processing applications (submitted by certified mail) at the direction of the authority. The authority itself will not see any personal details of applicants such as licence number, boat name, licence holder's name, etc.; the only information made available will be the port name and the pot allocation. This will avoid nepotism (favour to relatives), or patronage (beneficial treatment), towards any applicant who voluntarily surrenders his/her licence and pot entitlement.

All southern zone rock lobster fishery licence holders will be advised in writing of the procedures associated with the scheme (including the requirement for lodgment of applications by certified mail) prior to its implementation. Licence holders will not be able to split their licences—this applies particularly to holders of State and Commonwealth licences, and also to the holders of Victorian and South Australian rock lobster licences. An application for voluntary surrender of a licence and pot entitlement from either of the above two categories of licence holders will not be considered by the rationalisation authority. It is the Department of Fisheries' intention (resources permitting) to provide for monitoring of the southern zone rock lobster fishery during the course of the rationalisation scheme. This will include monitoring of the stock/recruitment relationship and the economic condition of the fishery. It is not intended to introduce any further restrictions in the fishery other than those required for resource conservation purposes. I commend the Bill to the House.

Clause 1 is formal.

Clause 2 provides for commencement on a proclaimed day.

Clause 3 defines certain words and expressions used in the Bill. In particular, 'the rationalisation period' means a period of two years or that required to remove the equivalent of 40 average vessels (that is, 2 400 pots) from the fishery, whichever is the lesser.

Clause 4 provides for the formation of the Southern Zone Rock Lobster Fishery Rationalisation Authority, which comprises 18 members appointed by the Minister of Fisheries. Representation consists of a presiding member (approved by the Minister of Fisheries), four appointed on nomination of the Port MacDonnell Professional Fishermen's Association, two are appointed on nomination of the fishermen's associations of Kingston, Robe, Beachport, Southend and Carpenter Rocks, one appointed on nomination of the South Australian Fishing Industry Council, one employee of the South Australian Department of Fisheries and one appointed on nomination of the South Australian Government Financing Authority. The clause also provides for the authority to conduct business in the absence of the Chairman or a member and outlines provisions for the replacement or removal of a member. In addition, it provides for immunity of members from liability.

Clause 5 provides for the procedures of the rationalisation authority meetings. In particular, 10 members constitute a quorum and a decision in which a majority of the members present at a meeting concur is a decision of the authority.

Clause 6 provides for the functions of the authority, namely, the assessment and acceptance of voluntary offers of surrender of licence.

Clause 7 provides that the authority has access, with the approval of the Minister, to the services of employees and/or facilities of Government departments.

Clause 8 provides for the transfer provisions that will apply during the rationalisation period, namely, to a member of a licensee's family only. If the rationalisation period is two years, transfer provisions will not be reintroduced until nine months after the period. When transfer provisions are reintroduced, a licensee cannot transfer his or her licence unless the licensee pays the accrued liability she or he has as a result of this Bill.

Clause 9 provides for the authority to assess and accept an application from a licensee to surrender a licence during the rationalisation period. In considering surrender applications, the authority must for the first 18 months of the rationalisation period ensure, as far as possible, that the distribution of pots between the southern zone ports at the commencement of the scheme is maintained. Otherwise applications must be considered in the order they are received.

Clause 10 provides for compensation for surrender of licences to be paid to former licensees. The amount to be paid per pot for surrender will be determined by the rationalisation authority and fixed by gazettal notice within three months of the rationalisation period. Once determined, this amount will remain for the full rationalisation period. The amount paid will be the value per pot determined by the authority multiplied by the number of pots allocated in respect to the particular licence less any amounts owing by the licensee by way of surcharge. On acceptance of a surrender application, the Minister will pay the surrender value to the licensee within 21 days.

Clause 11 provides that the net liabilities under the Act will be recouped to the Fisheries Research and Development Fund by means of a surcharge on licence fees payable by remaining southern zone rock lobster fishery licensees. The Minister will have the power to impose the surcharges, vary

their amounts and give direction as to payment. If a licensee fails to pay the surcharge or an instalment of the surcharge, on recommendation of the rationalisation authority and by notice in the *Gazette*, his or her licence may be suspended or cancelled. Net liabilities of the fund under this Act relate to the aggregate of the amounts paid to former licensees for the surrender of their licences to the authority, the interest and charges in respect of loans associated with the Act, any costs in administering the Act less the amounts received by surcharge imposed under the Act.

Clause 12 provides for the Minister to borrow money for the purpose of the proposed Act, and any money so borrowed will be paid into the Fisheries Research and Development Fund.

Clause 13 provides, if the target number of pots is surrendered before two years, the rationalisation period must be declared ended by notice in the *Gazette*.

Clause 14 provides for the authority to prepare quarterly reports to be made available to the Minister of Fisheries and each southern zone port association.

Clause 15 enables regulations to be made.

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill is introduced as a result of a move by fishermen in the South-East of South Australia—

The PRESIDENT: Order! When a second reading explanation has been made there must be either a suspension of Standing Orders or the moving of Contingent Notice of Motion No. 1 to enable the debate to proceed without waiting until the following day.

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

That the Standing Orders be so far suspended as to enable the Bill to pass through its remaining stages without delay.

The Council divided on the motion:

Ayes (17)—The Hons G.L. Bruce, M.B. Cameron, J.R. Cornwall (teller), T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, Carolyn Pickles, R.J. Ritson, T.G. Roberts, G. Weatherill, and Barbara Wiese.

Noes (2)—The Hons M.J. Elliott (teller) and I. Gilfillan.

Majority of 15 for the Ayes.

Motion thus carried.

The Hon. M.B. CAMERON (Leader of the Opposition): After that short interlude, I shall proceed with my remarks. The southern rock lobster industry has been around for a long time. I guess there are members in the Council who would say the same about me—and that is true. I first became associated with this industry in a minor way in the 1940s, when as a young person—

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: Yes I still had hair—I used to assist several fishermen in my now hometown of Beachport. So, I think I could claim to perhaps have more knowledge than most members in this place of the southern rock lobster industry. Secondly, when I became a candidate for the seat of Millicent in 1966, one of the issues that I took up very strongly was the need for management of crayfish, as they were then called, in the South-East. That was not an easy thing to do, because it meant that we had to start getting acceptance from the fishermen of the need to have a licence to do something that they had done completely unlicensed until that time. I believed that that was necessary because it was becoming very clear to everyone who was associated with that area that the rock lobsters were in trouble, that there was far too much effort going in with fewer and fewer rock lobsters. This was a process that took some getting through in relation to Governments of the day.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: That is probably still true. This was not an easy matter to get through, because it meant that a system of pots per boat had to be worked out and people had to be organised into accepting some restrictions. The matter of crayfish length was at odds then, as we had a different length than applied in other States. The designated length was altered in the very early stages of controls in the industry—not immediately but at a slightly later stage. All these things were necessary because, like any fishing operation, if there are too many people catching too few of the available resources then eventually the subject of the catch must slowly disappear—and that occurred. As the Minister of Health has rightly pointed out, I have rarely been in Government in this State, but this is one of the few matters over which I feel I had some direct influence. I was able to have a very direct influence in this matter, as a person outside politics altogether at that stage in the sense of one's being a member. I am quite proud that I did start that move in a very positive way.

But that was not the end of the subject, because one thing about fishermen is that, like farmers and everyone else, they get smart over the years. The fishermen have become smarter than the crayfish and they have developed technologies that have led to greater and greater effort being put in with the same number of pots. That has led to a lot of problems. One of the problems was—and I think anyone associated with the area would know this—that the number of pots of amateur fishermen increased dramatically. A lot of these amateurs came from Victoria, because, as I understand it, Victoria does not allow amateur pots. So, we found it increased tourism potential to the South-East no end but decreased the number of crayfish. This was because so many Victorians found South Australia an acceptable place to visit because they could in fact have pots here that they were not allowed to have in their own State.

The Hon. T.G. Roberts: They were good at bandicooting, too.

The Hon. M.B. CAMERON: Yes, they were. So we headed towards a situation where the number of amateur pots was frozen and, at the same time, professional fishermen accepted a 15 per cent reduction in pot numbers. The assumption at that time was that this would lead to a reduction in effort. Of course, that did occur in terms of pot numbers but not in terms of effort, because the technology that fishermen now use is very much improved. For example, I refer to the location of reefs and the type of depth sounding equipment that they use. They now have a very excellent system of locating their former fishing spots, so any reef out at sea can be located forever. There is no hit and miss anymore. With the navigation aids that they now have, fishermen can go to within virtually a square metre of where they have been before and drop their pots right on the spot. This has meant a very large increase in effort.

So, I guess it reaches the stage of what is the next thing to do. I must say that I have been a little disturbed by the criticism that has occurred in relation to some officers in the department on this matter of management. I think they have the most difficult job that I know of—and that is, pleasing fishermen. There is no-one in this world who can do that. I do say that I respect the way that they do their job. No doubt they are not always right, but no person in this world can claim to be that.

The Hon. R.I. Lucas: Except John Cornwall!

The Hon. M.B. CAMERON: Well, the Minister thinks he is. But at least these officers have a go. I would say to the fishermen who do not agree with the attitudes of the department that they should keep their criticism at a profes-

sional level and perhaps be careful not to get down to the personal level. I fear that in some cases that has occurred. One of the disappointments that I have found in this whole argument is that the industry in my home area is divided. That is a disappointment, because it has been a very close community in terms of people's respect for one another and their concern for one another's problems on issues associated with the fishing industry. I am extremely disappointed that this matter seems to have caused a division. I say to the Hon. Mr Elliott, who divided this Council a minute ago on the matter of getting this Bill through today, that I would be very careful if I were him in taking a stand on a matter in a way that will exacerbate these differences because, after this Bill is passed, the fishermen have to go back to sea and work with one another; they have to go back and conduct an industry.

I believe that that is absolutely essential, once this Bill is passed—and the Opposition will be supporting this Bill—that these people go back to their industry at sea without having deep feelings against one another and that we should assist the commencement of the healing process between people in the industry. It might prove to be the case (I am not a genius in this matter any more than are the fisheries officers, the Minister, or anyone else) that this is not the final answer, but I can say to the Hon. Mr Elliott and to anyone else that, if we are to try to reduce effort and to increase the number of crayfish, one of the things that must be considered and tried is a reduction of the number of people fishing that industry and, through that, the number of pots being worked in that industry.

It is simple arithmetic: if there are fewer pots and fewer fishermen then there must be less effort. I would have thought that that was a fairly reasonable proposition. I would say that we may well have a problem with fishermen developing further technology and that maybe at some stage we will have to look at abandoning some of the technologies, to reduce effort to a bit more of a hit and miss practice, where the fishermen are not always smarter than the crayfish. We might well have to do that.

The Hon. M.J. Elliott interjecting:

The Hon. M.B. CAMERON: I understand what the honourable member is saying—but it is not a joking matter. There is now some technology that is making it extremely difficult for the crayfish to miss the pots, and that is creating a lot of difficulty. I would say to everyone associated with the industry that certainly there will be problems, but one very serious problem that could occur is that, if this matter has not been resolved by the beginning of the season, that is, 1 October, all hell will be let loose down south. There will be real problems on the high seas. Occasionally I go fishing with the fishermen but after 1 October if this matter is not resolved, you would not be able to drag me on board one of their boats with a drafthorse.

The Hon. T.G. Roberts: You'd come off quicker than you went on.

The Hon. M.B. CAMERON: Not just because of me, but I suggest to anybody not in the industry to keep right away from it until the matter is resolved. It has to be resolved or there will be problems with people at sea. Once the legislation is passed the healing process will start. I have no doubt that some people in the South-East associated with the industry will suffer financially. That is a problem that the Minister and his staff need to look at very closely, because for some smaller fishermen fishing is a way of life rather than a profession. They do not try to catch thousands of dollars worth of crayfish each year. To them it is an occupation rather than a business and they will find the situation financially difficult. I accept that. That is a matter that needs to be looked at, although I understand that it was looked at by the select committee in the other place.

A more important point, however, is the future of the industry. This industry is extremely valuable to South Australia, Australia and, particularly, the South-East of South Australia. It is of the utmost importance that we do not allow it to deteriorate any further. It is sad that we have reached the point where this has to be done because I know, from experience as a young person who went out to sea with those fishermen, that the pots used to come up absolutely full of crayfish, they could hardly wait to get in the pots. Now, pot after pot is empty. The disappointment to these fishermen is enormous in view of the money that they expend on bait, plant and equipment. Something must be done to ensure that a reasonable average catch is restored, that is close to the situation that existed when they first started fishing.

Fishermen have always taken the initiative. I come from the town where Safcol began, where the initial steps were taken by the fishermen to control their marketing. That story is a legend in that town. The fishermen used to catch crayfish, pack them in wooden crates for holding offshore, then put them in bags, put them on the train at Beachport and send them to Adelaide. Almost inevitably at some stage during the season they would receive a bill for freight because the fish were unsuitable for sale. One day some of the smart old fishermen thought they would go on the train with the crayfish—and they did. They followed them to town. They watched them being sold in the fish market and the next week they received a bill for the sale of the fish because they were unsuitable for sale. That was the beginning of Safcol because the fishermen realised that they had been taken for a ride for a long time. That was one occasion when fishermen took control of their industry and set up their own marketing organisation.

On this occasion the fishermen are also taking control. The only problem that I have with the motion that was passed by the fishermen is that I believe there was some pressure brought to bear by the Minister and other people to ensure that the matter was passed by saying, 'If you don't do it, we will do it for you.' I advise the people who were involved in that process to be careful that they do not appear to be putting on undue pressure. It is far better if the decision is made on the basis of the fishermen's own feelings. After discussion with some of the fishermen concerned I believe the motion is a true reflection of the opinion of the majority of fishermen in the majority of ports—only just, I agree, but nevertheless it was a reflection.

I believe that in some areas undue pressure was exerted on both sides, but particularly by fishermen who have a greater gift with words than others. This influenced the situation. That is not a one sided situation; both sides were involved. There is no doubt that an opposing point of view was put by both sides in a way which some fishermen found it difficult to vote against. However, out of all that discussion emerged a vote that was narrowly won by the case for buy-back. I accept that.

I also accept that there has been a select committee in another place that allowed people to put their point of view. As a result some changes have been made to the original Bill and those changes are of great value to the fishermen. For the first time, fishermen in the southern area will be able to use their licences as collatoral for loans. That is a big advantage. That provision is not contained in the Bill but it will come about as a result of the Minister's agreement to that in the select committee. I will be watching very closely to make sure that the Minister brings that provision into being.

Some problems exist at Port MacDonnell. As I said, I have some feeling for the people down there because some of them who have spoken to me are, or at least were, very close friends. I have heard their case and have had many conversations with them. There is the problem of the border and those fishermen who have what is called a historic licence which was issued on the basis that they could fish in Victoria and South Australia. I understand the problems that they now face. There is no compulsion on anyone to sell his licence. This is not a compulsory scheme. It is different from the prawn scheme in that way because in the prawn scheme a certain number were going to be taken out whether the fishermen liked it or not, and if not enough were taken out then there was going to be a ballot. In this case there is not going to be a ballot. The fishermen are conducting the scheme themselves and they will be managing it.

The Hon. J.C. Irwin: It's their scheme.

The Hon. M.B. CAMERON: Yes, they will be managing it. There will be no compulsion, I would say to those who oppose this proposition that it is far better, once the matter has been decided by this Chamber—as I assume it will be because of the support it has received—for the process of reconciliation, acceptance and assisting one another through the difficult times to commence I do not believe that any purpose will be served by continuing problems among the South-East fishermen. They have been a very united group, a very easy going group, easy to deal with. There will always be fishermen who do the wrong thing. One of the things I would say to fishermen is that it is about time that they stopped relying on the department to discover the wrongdoers amongst them. They should go out and find the people who are doing the wrong thing and, if necessary, report them because I do not believe that such people are doing the industry or themselves any good by their actions. The Hon. Mr Roberts would know that who does the wrong thing is well known. I could give names of people who have been reported to me by fishermen, people who scrub the spawn off the female crayfish, who consistently do the wrong thing within the industry and it is those people against whom action should be taken.

The Opposition will support this Bill. I have been told that a Mr Rainer, Principal Research Scientist with the CSIRO, was not called before the select committee. I have received a copy of correspondence which indicates that even if he had given evidence he would have said at the end of his submission:

> At this stage of our understanding, I could not see a proposal for mariculture of the southern rock lobster providing a substitute for traditional management measures.

This piece of correspondence would be useful if it were available to the Council. I will not table it, but if any member wishes to read it I would be prepared for them to do so. With those few words, I support the Bill.

The Hon. M.J. ELLIOTT: I called for a division when it was moved to proceed with this debate today because I felt that it gagged me from saying much of what I wanted to say, and, in particular, did not present me with the opportunity to do some research that I wanted to do. For example, a couple of volumes containing a couple of hundred pages were given to me this morning. They could not be given to me earlier because they were evidence before the select committee. I wanted to look at the proceedings of the select committee to see what all the expert witnesses had to say. I have only had a chance to read through a rather thin report, namely, the report of the select committee. I really do object very strongly to the Parliament acting this way. The sorts of excuses given—that it had to be done before the opening of the season—are absolute nonsense and the only excuses that could be concocted. Nothing about this Bill requires that it be done by 1 October. I have had a gag placed on me for political reasons and no other—no doubt exists about that at all.

I tried to play a constructive role in this matter as, indeed, I did in the Gulf St Vincent buy-back scheme. I made suggestions that led to alterations to that Bill that made it more workable. Any constructive role that I could have played here I have been barred from for political reasons. These political reasons led to a select committee, which was a total farce. The Liberal Party had problems, with Harold Allison, representing Port MacDonnell fishermen who were against the buy-back, and Dale Baker, the member for Victoria, representing many ports supporting the buy-back. That in itself is a very uncomfortable position.

When I spoke with the fishermen some weeks ago I said that, if a select committee is set up in the Lower House (which is what I expected), there will be no sensible debate. I said that if they wanted a balanced committee it should be set up in the Legislative Council where there would have been a balance of three Government and three non-government members and where the terms of reference would have been set by the Legislative Council and not by the Government, which clearly did not want a select committee and had firmly committed itself to a certain path. That select committee sat—

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: That is absolute nonsense.

The Hon. R.I. Lucas: That's an interesting development.

The Hon. M.J. ELLIOTT: That is a lie.

The Hon. Peter Dunn: It is not a lie.

The Hon. M.J. ELLIOTT: The fishermen know—because I committed myself to them—that I was willing to support a select committee of the Legislative Council.

The Hon. Peter Dunn: You did not.

The Hon. M.J. ELLIOTT: The honourable member can ask them himself. I gave a commitment to the fishermen and they know that. The Liberal Party passed the buck to the select committee, which sat very quickly over a small number of days and took evidence before five people who knew as close to nothing about fisheries as we could get. The committee heard evidence that would have been beyond members' comprehension in the time allowed, and then brought out a report that was very thin on the ground.

The Hon. Mr Cameron claims some expertise. I cannot claim expertise but can claim that Port MacDonnell was a town in which I lived for some 30 years of my life. I had an uncle who had two crayfish boats and was in the industry for 25 to 30 years and now manages the crayfish factory in Port MacDonnell. My family still knows many families in the business.

The Hon. R.I. Lucas: And you eat crayfish, too.

The Hon. M.J. ELLIOTT: When I can get it—it is so expensive. I have reasonably close contacts with the fishing industry. My science majors in ecology would have given me a chance to understand the biological arguments involved. I should address that point. No argument has been put forward that the fishery is in any form of biological problem. According to the people in the fisheries in the South-East, they are essentially harvesting the crayfish once they reach the legal size. The catches have dramatically declined because when the fishery first began there was an accumulated biomass. There was a large number of very old crayfish and we are essentially harvesting the crayfish as they come to size.

Nothing from the select committee suggests any biological problems at all, and nothing I have seen anywhere else

suggests that, although the Hon. Mr Cameron seemed to suggest otherwise. I am aware that the size of catches has dropped. I saw with my own eyes as a child fishermen coming in with eight, nine or 10 bags of crayfish. They now get between a quarter and a half a bag, so no doubt exists that catches have declined. That does not reasonably indicate that the crayfish population is at risk.

If that is the case, for what reason are we intervening? The reasons are given as economic. I can understand the economic arguments when put forward for the Gulf St Vincent fishery where we had expensive boats going out for a handful of days in a season. If they had gone out any longer they would have decimated the fishery. We had the interrelationship of a real economic over-investment combined with a fishery which was at risk biologically. We do not have that situation in the South-East. We might argue about the level of investment, but the problem is not compounded by biological problems.

The Liberal Party espouses freedom for individuals and denounces regulations. I do not denounce regulation—we need necessary regulation. The Bill has thrown in extra regulation which has not been demonstrated to be necessary. The fishermen even now have the capacity to sell out. If they hit hard economic times (and there is no suggestion that they will not have any fish to catch but that the price will drop), there is the capacity in the industry now for them to be removed. If remaining fishermen went up to the maximum of 80 pots, another 70 boats could be taken out of the fishery now. That is due to the 15 per cent pot reduction that occurred a few years ago. The slack is there to remove the boats if there are any economic problems. Why on earth are we buying into it at this stage? There is no biological case and I do not believe there is an economic case.

The Hon. Mr Cameron suggested that we do not have compulsion in this case, so it is not a problem, as we had in the Gulf St Vincent fishery. We have a compulsion that everybody in the fishery will have to pay extra, whatever their economic situation. Some have just bought into the industry and had to borrow at high interest rates because they had no collateral against their pot licence. They are very hard pressed. They will be forced out of the industry. The guys who borrowed to the hilt to get in will be out.

Some of the wealthy investor fishermen—and there are a few mostly up in the northern ports—will be fine. They will write it off against their tax as they have cash in hand and strong assets. They may be running farms and I know of one who is running a motel as well. They will have no problems, but some of the smaller fishermen doing their own thing will have a compulsory levy thrown on top and that is not right. If an alternative exists we could have done something to help the 15 per cent pot reduction to bite further.

The real problem was that a lot of people did not buy pots, partly because of the cost of buying them. I believe that the Government could have helped the pot buy-back by offering loans through SAFA at a little under 14 per cent, while at the same time allowing extra for costs. At 14 per cent it could have made moneys available, with a special proviso that SAFA could take the pots back. It would be in a position where it could use them as collateral and resell them, so at 14 per cent it could have loaned moneys to these fishermen and I think that very quickly we would have seen a lot of these pots disappear and many fishermen go out of business, but we will not see one lot willing to buy when they have to borrow at 20 per cent or more.

I believe that we could have looked at that sort of option, but the commitment indicated by the Liberal Party and the Government has made that sort of option impossible. The Hon. Mr Cameron calls for a bit of belt tightening and a bit of camaraderie among the fishermen and a little solace for some people who are perhaps forced out. People say, 'That's life.' In this case, it is something that has been inflicted probably unnecessarily. I do not want to make any judgment of the Department of Fisheries, although I believe that recommendations that are philosophical and not biological in nature really should not emanate from that department. I believe that the key role of the Department of Fisheries should be to give advice on the state of the fishery and the ongoing resource. I am not sure that it should give advice as to economics but, rather, I think that is something upon which the Government and the Parties should make decisions.

I am extremely disappointed that, on what was a very narrow vote of 51.5 per cent to 48.5 per cent, a decision has been made. I recognise that the State and Federal elections are decided on narrower margins than that, but in this case there was not an urgency for this to be done now, or even this year. I believe there was opportunity for discussion so that the majority could have been stronger one way or the other. In fact, the vote was so close that, even in the past couple of weeks, a letter was received by the select committee that showed a few of the Southend fishermen had changed their minds. If there were a vote today, the majority of fishermen would be against it.

The Hon. T. Crothers interjecting:

The Hon. M.J. ELLIOTT: There is always the opportunity. We have a very evenly divided fishery and, without the sort of urgency that we pretend to have at the moment, I believe that we could have pushed it one way or the other, or that we could have worked out a better solution—such as the one that I suggested before in terms of cheap money being available so that the pots would be transferred between fishermen and some could go out voluntarily, without impositions being placed on those fishermen who could not afford it at the time, which is what we are doing now.

I repeat again my protest. There are many things that need to be said. We have not heard during debate in this place any real discussion of the biology or economics involved which apparently necessitated this Bill. It has been pushed through. It is a highly political Bill but it is more political in the way that it has been treated. I am extremely disappointed and I oppose the Bill because I believe that insufficient discussion took place to justify its being passed.

The Hon. J.R. CORNWALL (Minister of Health): I will be very brief. I do not think that I have anything to add to Mr Cameron's contribution, and I thank him for it. Perhaps it is a pity that I am not the Minister of Fisheries—we might be able to find common ground more often. I thank Mr Cameron and the Opposition for their cooperation. It is important that this Bill passes today: it is important that there be certainty before the opening of the season. It is not conservative ideology at work; it is not the great democratic socialist initiative of our time. It is not a political Bill.

The Hon. M.B. Cameron: It is a request from fishermen.

The Hon. J.R. CORNWALL: It is a request from fishermen and from the industry. The Hon. Mr Elliott said that he wished he could have more time to consider it. It seems that virtually in every subject that comes before this Chamber he has a remarkable breadth of knowledge. Mr Elliott suggested that, if only he had more time to consider it, he could have single-handedly, presumably, come up with a better solution. I do not know for how long he has been dealing with fishermen, but I lived in the South-East for a decade and I participated in the now fabled Millicent by-election in 1968.

The Hon. M.B. Cameron: So did I.

The Hon. J.R. CORNWALL: And so did Mr Cameron, indeed. In fact, he was very actively involved. If there was one identifiable vote which at the end of the day—

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: There was certainly one identifiable vote, we believe, but many people said that they were the identifiable vote. In the re-run, as it were, a tremendous amount of effort went into wooing the fishermen's vote.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: I said 'wooing' them. I think at the end of the day, probably on balance, the Labor Party might have won one, two or three back, but even at that time, the whole question of a managed fishery and the effort in the fishery was a very hot topic and it has been so for a generation. I do not think that Mr Elliott will discover or rediscover anything in the South-East that a lot of us have not known about for a very long time.

Fishermen are very rugged individuals. I think that sometimes they make other primary producers such as farmers and graziers look as though they are highly organised and following the leader. Fishermen tend to go in all directions depending on their view at any particular moment. This initiative came from the industry and from the fishermen. I think that Mr Elliott makes the mistake, in putting forward his proposition, of coming up with something that would merely redistribute effort. There is a very significant difference. This legislation upon which the Government and the Opposition are agreed results in a significant reduction of effort.

The Hon. M.B. Cameron: Two thousand four hundred pots out.

The Hon. J.R. CORNWALL: It takes 2 400 pots out, as Mr Cameron says and, as a result, there will be a reduction in effort and an even better management of the resource. Management of the resource is something in which successive Governments and officers in the Department of Fisheries have been involved for a generation. In all of the circumstances and on balance, I believe that it is the best that can be arrived at.

The Hon. M.B. Cameron: They train steamer captains down there dodging the pots. It is great steering experience, I am sure.

The Hon. J.R. CORNWALL: Mr Cameron is interjecting a little and I think that in a sense he is indulging in a little journalistic licence. However, I am sorry that Mr Elliott has not had more time perhaps to digest all of the evidence that was presented to the select committee, but I know that at the end of the day it would not have made one jot of difference, because commonsense will prevail on both sides of the Chamber. I suggest that we get on with it.

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

JURISDICTION OF COURTS (CROSS-VESTING) BILL

Adjourned debate on second reading.

(Continued from 11 August. Page 59.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill, which is designed to establish a system of cross-vesting of jurisdictions between the State Supreme Courts, the Supreme Courts of the Territories and the Federal Courts. It is an issue that has been around for a long time and has been the subject of discussion between the States and the Commonwealth, in particular, since the 1970s. The issue has been one of debate at the various Constitutional Conventions that have been held in recent years.

The legislation is designed to ensure that, when a court is seized of a particular matter and some of the issues impinge upon Federal or State law, as the case may be, the court is enabled to deal with all of the issues before it and is able to make all of the appropriate orders in the matter without being prevented by questions of jurisdiction from so doing. Concern has been expressed, particularly at the State Supreme Court level, that when matters of a commercial nature come before it the court is unable to make all of the appropriate orders, some of which may depend upon Federal legislation, although on the other hand, when matters go before the Federal Court and are principally issues of a Federal nature, the Federal Court's jurisdiction has been widened to the extent that it is enabled to make incidental orders that might depend upon State law for their effectiveness.

The scales have tended to be weighted in favour of the Federal Court to the detriment of the State Supreme Courts. One of the concerns of Attorneys-General of the States when I was Attorney-General and, I understand, since that time has been to enhance the status of the State Supreme Courts and to ensure that they are not bypassed in favour of the Federal Court, particularly in commercial matters, and that such steps were taken as were reasonable and necessary to halt that drift of jurisdiction to the Federal Court.

An element of risk is involved in any cross-vesting proposal because it depends upon the goodwill of the various courts participating in the scheme to ensure that they deal only with matters of which they are properly seized and that they do not attempt to gather up jurisdiction to enhance the volume of work or the status of the work of a particular court. Although the procedure set forth in this legislation is complex and seeks to achieve a position in which a court will only deal with matters of which it has the principal jurisdiction, nevertheless there is a risk that if there is not goodwill within the judicial system it may break down.

There is something of a dilemma. If the legislation is not passed, the jurisdictions of the State Supreme Courts may be whittled away, not so much in legal terms but in practical terms. At present, it is very much easier to get matters on quickly in the Federal Court. It is also easier to have matters resolved quickly and it is also possible to get a wider range of orders from the Federal Court than it is from State Supreme Courts. If the legislation is not passed, we will see a growth in the volume and nature of work undertaken in the Federal jurisdiction. On the other hand, if we move in this direction, as I have said, unless there is an element of goodwill in the various judicial systems that are participating, it may act counter to one or other of the participating jurisdictions. Really there is not much option but to accept the proposal that has been through the Standing Committee of Attorneys-General, the committee of the Solicitors-General and has been worked through quite thoroughly, and I have indicated that the Opposition is prepared to support it.

I recognise that clause 15 of the Bill provides a mechanism for determination of the scheme or, at least, suspension of it upon a year's notice being given. I am not opposed to the general principle of that although I am opposed to the way in which that is to be achieved. The difficulty with that clause is that it leaves the decision about termination or suspension to the executive arm of government. It is the Governor in Council making a proclamation that can trigger the suspension of the operation of the legislation. I do not

believe that it is appropriate for the Governor in Council to exercise that responsibility.

We are talking about the exercise of judicial power and about the role and responsibility of the State Supreme Court. If any decision is to be taken with respect to the suspension of the operation of the legislation, in some way or another the Parliament should be involved. The procedure that I propose retains some flexibility but allows the Governor's proclamation to be made only on the resolution of both Houses of Parliament. One could vote against clause 15 and that would have a similar effect because legislation would have to be introduced, fully debated and voted upon by both Houses of Parliament. On the other hand, for the purpose of completeness, it is important to set down a mechanism for suspension somewhere on the public record, readily accessible in the legislation, that is to govern the cross-vesting scheme, and that mechanism should be clearly identified. It seems to me that the better course is to provide a scheme by which both Houses of Parliament could debate a resolution that would deal with the question of suspension prior to the Governor's proclamation becoming effective.

I have some questions for the Attorney-General with respect to the legislation. The first is whether the Chief Justice of the State Supreme Court has been consulted and, if he has, what was his response. The second question relates to the status of the legislation in the other States. The second reading explanation indicates that the Commonwealth Act was assented to on 26 May 1987 and the Victorian Act on 12 May 1987.

In relation to drafting, clause 3 (1) makes reference to 'special Federal matter', which has the same meaning as in the Jurisdiction of Courts (Cross Vesting) Act 1987 of the Commonwealth. I have a concern about adopting definitions from other legislation if they are not set out fully in our own legislation. I think that would make it very difficult for people to pick up this Bill, if enacted, and see everything that they need to see governing the operation of the legislation without recourse to other statutes.

I suppose that there is some convenience in the way in which it is provided in this definition, but that is only, I suspect, for the Government Printer rather than for those who will be using the legislation. I raise, also, the question of legislative competence of the State Parliament. If one looks at clause 4 and subsequent clauses one sees that the legislation purports to require courts outside the State to transfer relevant proceedings to the Supreme Court of South Australia. I do not believe that it is legislatively competent for the State to do that. I recognise that, probably for the convenience of the package, both those within the legislative competence and those without the legislative competence of the State Parliament should be on the public record, but I wonder what consequences there may be in including in the legislation material which may well be beyond the competence of this Parliament, whether that is likely to have any effect on the validity of the legislation and, if it does, the extent of that problem.

I raise in relation to clause 5 (8) a question about the entitlement to practise of barristers or solicitors. This clause provides that, if a proceeding is transferred to another court under a law or laws relating to cross vesting, then the barrister or solicitor acting in the matter has an entitlement to practice in the other court as he or she had in the initial proceedings. I suppose that what that really means is that South Australian barristers and solicitors, if a matter is transferred to, say, the Victorian Supreme Court, would then without any other requirement be competent to handle that matter in the Victorian Supreme Court, and *vice versa*. If a New South Wales matter is transferred to the Supreme Court of South Australia then, presumably, if a New South Wales solicitor or barrister was acting they would have a right to practice here to the extent of their involvement in that particular case without satisfying any admission requirements.

I will explore with the Attorney-General the extent and the consequence of that proposition. The provision of clauses 7 and 13, but particularly clause 13, relates to an embargo upon appeals from a decision of a court. Clause 13 relates to a decision of a court in relation to the transfer or removal of a proceeding under the Act, or as to which rules of evidence and procedure are to be applied pursuant to clause 11. I would have thought that, at least in relation to the High Court, it was not possible for this legislation to prevent appeals by leave to the High Court, and I wonder also what the extent of the jurisdiction of the Parliament might be to prevent appeals to the State Supreme Court, either to a single judge or to a full court. They are the sorts of questions which I raise on this issue. Subject to their being answered satisfactorily, I indicate Opposition support for the scheme.

The Hon. C.J. SUMNER (Attorney-General): I thank the Opposition for supporting the Bill, which I believe is an important measure. The cross vesting proposals embodied in this Bill, and in the mirror legislation in other States, complemented by Commonwealth legislation, have arisen out of discussions over a number of years on how to overcome the jurisdictional conflicts that sometimes occur between State and Federal law and the forum in which those issues should be determined. If one court cannot deal with all the issues of law that are before it on the facts because the court is able to deal only with issues of State law in the case of the South Australian Supreme Court, or in the case of Federal court with Federal law, then there can be major inconvenience to litigants and, of course, it can give rise to certain tactical procedural battles which have nothing to do with the substance or merit of the case and which, frankly, can bring the law into disrepute.

This proposal is all that is left of a more far reaching proposal to have an integrated system of courts in Australia. I support an integrated system of courts for Australia and I have little doubt that at some time in the future we will move to a much more integrated system of courts for our country. This is not a first step but the only proposal that was left out of the integrated courts proposals discussed at Constitutional Conventions. I, personally, see this as the first step on the road to what I hope will be a more integrated system of courts in Australia.

To answer the honourable member's question, there has been consultation with the Chief Justice in South Australia, and he generally supports the scheme. He expressed some concern about the removal of Federal jurisdiction in the tax and intellectual property area and the capacity for matters to be decided in the State courts in preference to the Federal court on an exclusive basis, but that is not really a matter in which we had any say in any case, the Commonwealth Government having insisted that those matters should be dealt with by Federal courts. That was dealt with in an accompanying Bill in the Federal Parliament.

The Chief Justice has generally supported the actual cross vesting proposals, although it is probably fair to say that at various stages queries were raised in relation to the proposals. With respect to the other States, the situation is that Victoria, New South Wales and the Northern Territory have passed legislation which has certainly been approved in the other States, as I understand it, and will proceed in due course. With respect to the question of entitlement to practice of barristers and solicitors, clause 5 (8) provides com-

plete reciprosity for barristers and solicitors to practise in any court to which a particular matter has been transferred.

Personally, I do not have any objection to that. Again, in future we will see a situation of complete reciprosity in legal practice in Australia and, in my view, the sooner that occurs, the better. There are some differing views on the matter. I think the profession, and perhaps the Government in particular, in Queensland are probably the hardest liners against reciprosity. I know that there are differing views in the South Australian profession, but I do not think that there is much doubt that as time goes by we will see reciprosity of rights to practices throughout Australia. This proposition that barristers and solicitors could appear in the court to which a matter was transferred was seen as being the only reasonable way to deal with the situation. Apart from anything else, added costs could occur if fresh barristers and fresh solicitors had to be instructed and briefed in relation to a matter that had been transferred to another court.

In respect of the question in relation to clause 13 and whether there would still be an appeal to the High Court, I will get further instructions on that, but my impression is that clause 13 does prevent appeals to any court on the decision to transfer or the decision as to what rules and proceedings should be used in the new court. Simply, the reason for that was to avoid tactical procedural battles which could occur if there was an appeal from this sort of decision. The whole thrust of this scheme is to try to facilitate getting to the substance of an issue and to deal with all the issues in the one court as expeditiously as possible. It was felt that it would be undesirable to have an appeal mechanism against the decision to transfer—given that we were not talking about any substantive rights—as it would give the capacity to those litigants, who wished to use that right of appeal in a procedural tactical way, to delay or perhaps to try to force the other party to settle because they did not have the funds to go on with appeals. The only way really to resolve that was to have no appeals from this sort of decision.

I agree with the honourable member on the question of the definition of 'special Federal matter', in clause 3, where it is defined as having 'the same meaning as in the Jurisdiction of Courts (Cross-vesting) Act 1987 of the Commonwealth'. I would be happy to see details of those special Federal matters actually spelt out. The only disadvantage I suppose is that the Jurisdiction of Courts (Cross-vesting) Act 1987 of the Commonwealth might change the definition of 'special Federal matter' in the future, in which case we would have to amend our legislation accordingly. But I am happy to talk to Parliamentary Counsel about that matter. I would have thought in this day of modern plain drafting that possibly a footnote or something of that kind could overcome the difficulty, at least to show at this particular date what the matters were that were classed as special Federal matters. However, I agree with the honourable member in principle. I am happy to talk to Parliamentary Counsel about that before the matter is passed in another place.

In respect of clause 5 and the competency of Parliament to compel other States to refer matters to us, I think the answer to that is simply that the South Australian provision is a statement of what will happen. The transfer by the Supreme Court of other States occurs because of the legislation applicable in those other States, so our Act will not compel a court, either a Federal court or a court of another State, to transfer a case to the South Australian courts, because we do not have the capacity to do that. So, the provision is merely a statement of what will happen. The power to transfer is, in fact, contained in legislation in each State and in Commonwealth legislation, just as the power in this regard for our courts to transfer to another State court or Federal court is in this Bill.

In respect to clause 15, I think that the provision contained therein was put there in an abundance of caution, in case the system does not work. There were some differences of opinion between the Federal court and the State Supreme Courts as to what we were doing, and it was felt that there should be this let out in case the system did not work. As the honourable member has said, it will require the cooperation of the courts. The Chief Justices have agreed to monitor the operation and to confer about the sorts of guidelines that would operate in respect of the transferring of cases, and I am hopeful that there will not be any major difficulties with this. But the reason for clause 15 was in case there were problems and it was felt that the scheme had to be dismantled. However, I have no objection to the amendment to clause 15 that the Hon. Mr Griffin has on file, which is to require the Governor in Executive Council to act on a resolution of both Houses of Parliament.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: From what the Attorney-General has said during his reply, I take it that he will examine the definition of 'special Federal matter' before the matter is disposed of in the other House, and it may be that that can be amended to more adequately reflect the question of definition. I am happy with that. I must say that I appreciate the responses that the Attorney-General has given to the other questions that were raised, which means that I will not have to explore them in any depth during the Committee stage.

The Hon. C.J. SUMNER: I will discuss with Parliamentary Counsel that definition to see whether it can be included in the Bill. Certainly, from a commonsense point of view, I think that would be desirable.

Clause passed.

Clauses 4 to 14 passed.

Clause 15—'Suspension or cessation of operation of Act.'

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

Page 12, after line 30—insert new subsection as follows:

(6) The Governor shall not make a proclamation under this section except on resolution of both Houses of Parliament.

I am pleased that the Attorney has indicated that he is prepared to support the amendment, as that will mean there will be some involvement of Parliament in suspending the operation of the cross-vesting scheme.

Amendment carried; clause as amended passed.

Preamble and title passed.

Bill read a third time and passed.

LONG SERVICE LEAVE BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 485.)

The Hon. K.T. GRIFFIN: The Opposition in the Council indicates its support in principle for the Bill. There are some matters to which I want to refer that may be the subject of amendment during the Committee stage, depending upon the response by the Attorney-General. Those amendments will be directed towards ensuring clarity in the legislation and will also deal with some matters of substance.

It is correct to say that this Bill has been considered by the Industrial Relations Advisory Council and, while the

Minister of Labour in another place likes to throw up the Industrial Relations Advisory Council as the body which has the principal responsibility for agreeing legislation where it relates to employer/employee relationships, I do not believe that we ought to be totally dependent upon the decisions of that body. Let me remind members that when the worker's rehabilitation and compensation legislation was being considered the Industrial Relations Advisory Council did not unanimously agree with it. You cannot pick and choose; you have to take the good with the bad. While consideration of this Bill by the Industrial Relations Advisory Council is important, it does not mean that the legislation should not in any way be commented upon, criticised or even amended.

My colleague, the member for Mitcham, in another place has raised a number of questions on the Bill with the Minister, but there are some areas which I believe need to be more fully debated and on which there needs to be a greater level of clarification than was given in the House of Assembly. Rather than dealing with the principle of long service leave, which has been well-established in South Australia for about 20 years, I propose to deal with the particular difficulties that I see in aspects of the Bill in the hope that that will enable the Government to consider the issues which I raise and bring back appropriate replies at the end of the second reading debate. I should make the observation on the principle of long service leave that South Australia is reputed to have the most generous long service leave provisions of any State or the Commonwealth and certain of the amendments proposed in this Bill will only serve to make the long service leave provisions more generous.

We should also recognise that when legislation went to the Industrial Relations Advisory Council it was in the form of proposed amendments to the 1967 Act and not in the form of a new Bill. I recognise that for the sake of convenience it may now be appropriate to propose it in the form of a Bill, but I think the point ought to be made that it was considered by the Industrial Relations Advisory Council in a different form from that which now comes before us.

The other point I make about long service leave is that there are State, Federal and industrial awards which make provision for long service leave independently of this Act and, as I understand it, this Act is not intended to impinge upon those award provisions.

Clause 3 of the Bill deals with definitions. The first definition to which I draw attention is that of corresponding law. Under the definition that means a law of the Commonwealth or a State other than South Australia or a territory of the Commonwealth or another country. There is nothing in this Bill which says that the corresponding law has to be identical with, or similar to, the South Australian legislation; it only has to deal with the question of long service leave. My experience with the reference to corresponding law in South Australian statutes is that it is relevant in situations where the law in South Australia is similar to the law in that other State or the Commonwealth or other country and that, in effect, it applies only where there are reciprocal arrangements between the States or between the State and the Commonwealth or between the State and another country.

It seems to me that, because of the dependence upon that broad definition of corresponding law in determining entitlement to long service leave, it ought to be more carefully defined, that it ought to be dependent upon a regulation which may be made declaring a law of another State or territory or the Commonwealth or another country a corresponding law for the purposes of the South Australian Long Service Leave Act. Unless that is done there will undoubtedly be a lot of argument, a lot of debate and possibly a lot of litigation to identify what is, in fact, a corresponding law. I am not sure of the relevance of including in the definition of corresponding law reference to the law of another country. What sort of country is envisaged? Is it a British Commonwealth country? Is it an English speaking country? Is it a country from whose bounds persons migrate to Australia? Are there other criteria for determining what other country should be identified? Questions there need to be clarified.

I turn now to the definition of related corporations. The present Act makes some reference to related employers but nothing so broad as the definition included in clause 3. Section 5 of the present Act deals with associated companies and the question of transmission. No similar section exists in the present Act to that now proposed in clause 3. A number of cases deal with whether or not there has been a transmission of business and whether therefore the transmittee acquires a responsibility for long service entitlements of employees. A number of criteria are applied by the courts.

It is clear that employers are related if they are related in terms of paragraph *(a)*.

The major difficulty is paragraph *(b)*. Paragraph *(a)* picks up a description within the Companies (South Australia) Code in section 7 (5) of that code, which provides:

> (5) Where a corporation—
> *(a)* is the holding company of another corporation;
> *(b)* is a subsidiary of another corporation;
> or
> *(c)* is a subsidiary of the holding company of another corporation,
>
> that first-mentioned corporation and that other corporation shall, for the purposes of this code, be deemed to be related to each other.

Other provisions are contained in section 7 which help to clarify that relationship. That is clear and I have no difficulty with that as it is a fair basis on which one can determine who employs a particular employee on the transmission of the employee from one part of the business to another.

Paragraph *(b)* is the major cause of concern because it states that a related corporation is a corporation that has substantially the same directors or is under substantially the same management. It is quite possible for even public companies to have three out of five, four out of six or four out of seven directors common to both public enterprises. The enterprises may be totally unrelated in terms of shareholding and operation. It seems quite wrong for a person who works for corporation A, who leaves that job and goes to corporation B (a totally different corporation), to gain the benefit of the Long Service Leave Act only on the basis that a majority of the directors may be common to both companies, yet the shareholding may be totally different.

The same applies with the question of management. It is unrealistic and certainly unwise to determine relationships of bodies corporate by looking at the management. It may be that we have two separate companies sharing the same management adviser. Are those companies then related because they have the same management adviser? Maybe they have the same accountants who involve themselves in management decisions. One could argue that they are under substantially the same management, but it would be quite wrong in practice, at law and morally, to say that because of that factor those corporations are therefore related and, when there is a movement of employees from one to the other, even coincidentally or maybe by the choice of the employee, that therefore the consequences of this Act should follow. A question exists there.

I turn now to the question of service. The definition of service causes some concern. In the present Long Service Leave Act 'service' is not defined. Section 5 deals entirely

with what would be deemed, for the purposes of the Act, to be continuous service and what would not. There is some judge-made law relating to casual contracts of employment which are a series of contracts as opposed to one uninterrupted contract and, undoubtedly, this definition in the Bill is trying to pick up that judge-made law. It is an attempt through the back door, however, to make all casuals' service deemed to be continuous, whether or not the series of contracts happen to all dovetail together. In those circumstances it is a substantial change to the existing Act. Under the judge-made law, if the casual's contract of employment—which strictly speaking begins and terminates each day or indeed, in some extreme cases, each hour—still gave the employee a reasonable expectation of continuity of employment and the history of work rosters showed that week after week the employee rendered services, the courts would be prepared to grant long service leave to that employee.

If the new definition is to acknowledge service in the case of an employee who works one week and does not again work for two or three weeks, it substantially increases the entitlements of workers who have hitherto been unable to obtain long service entitlements. So, concern exists with the linking of a series of contracts of service into this definition of service. My proposal would be that, unless a compelling reason exists for leaving in the words 'or a series of contracts of service', they ought to be deleted. That is the definition of 'service' on page 2, line 25. 'Service' would then mean 'continuous service with the same employer or with related employers under a contract of service'. Each case would have to be judged on its merits and we would not have the sort of extreme cases to which I have referred being picked up.

In the hospitality industry, for example, Judge Olsson, when a judge of the Industrial Court, decided that somebody who worked something like 20-25 hours per week on a regular basis week in and week out, which were a series of contracts of service, was entitled to long service leave, whereas somebody who was working a few hours every Saturday night at the Redlegs Club, the Glenelg Tigers Club and so on, although it was a regular engagement, was casual and ought not to be the subject of an entitlement to long service leave. If we leave in 'series of contracts of service' we will catch the person who might work three, four or five hours in the circumstances to which I have referred every week, every fortnight or once a month. I do not think that was ever intended, but that is the consequence of the way in which it is proposed in the Bill.

In principle, paragraphs *(a)* and *(b)* of clause 3 (2) are acceptable; they are fair. In the agricultural industry, if there has been a bumper crop during one year and a person has been engaged to work long hours of overtime, then even if in preceding years only average hours have been worked, the year of the bumper crop determines the entitlement to long service leave if it is taken during that year. Also, for example, in the timber industry, a bushfire, necessitates a lot of cleaning up of timber, particularly in the pine forests and timber workers work exceptionally long hours. In those circumstances, under the present Act, a person who is entitled to long service leave and who takes his or her long service leave at the end of that bumper year would be entitled to a disproportionate amount of long service leave, whereas, if it were averaged over something like a three year period immediately preceding the relevant date as is proposed in this subclause, that would be fair to both the employers and the employees.

The only difficulty I have with clause 3 (2) is paragraph *(c)*, because it seeks to ensure that the accommodation that is provided by an employer to an employee is added to the worker's ordinary weekly rate of pay for the purpose of determining an entitlement for long service leave. There may well be a situation where an employee lives in accommodation provided by an employer and, during the period of long service leave, the employee continues to live in that accommodation free of charge but, at the same time, he receives from the employer a weekly or fortnightly remuneration which takes into account the value of that accommodation, so there is double dipping.

During the period of long service leave the employee lives in the accommodation provided by the employer, but also receives an amount that takes into consideration the weekly value of that accommodation. I think that that double dipping concept is wrong. Of course, if the employee is moved out of the accommodation whilst on long service leave, there ought to be an entitlement to reimbursement for the accommodation forgone, but there should not be a double dipping concept as provided in clause 3 (2) *(c)*. Clause 4 (1) provides:

> ... a workers' long service leave entitlement accrues ... in respect of—
>
> *(a)* service in the State;
>
> *(b)* service outside the State where the worker is predominantly employed in the State;
>
> *(c)* service outside the State in pursuance of a contract of employment of which South Australian law is the proper law.

I have no difficulty with that concept, because it may be that, for example, someone works for the State Bank. If there is no specific provision for long service leave in the award and that person is sent, say, to London, New York, or even interstate, then they are employed by a South Australian statutory corporation and, generally, they are entitled to the pay, terms and conditions according to what transpires in the State Bank here. It would be quite wrong for their entitlement to long service leave not to be calculated according to the benefits under which they were employed in this State. On the other hand, there may also be an entitlement which accrues in other States, so it is important to find some way by which that can be balanced so that it is not unfair either to the employer or to the employee.

It seems therefore that subclause (2) is inappropriate. Where there is service inside South Australia and outside South Australia, the entitlement to long service leave should not be subject to an election by the employee but, rather, it should be determined according to the principles outlined in the statute. The Bill means that the employee can pick or choose which long service leave entitlement is to be preferred. I would have thought that the provisions of the legislation ought to apply principles to determine the entitlement of the employee rather than the employee having a right to elect.

Of course, the other difficulty is that in those sorts of circumstances there is no guarantee that the employee, having picked up an entitlement under the most advantageous scheme in South Australia, for example, also would not seek to collect an entitlement interstate or overseas. There is no way that this Bill will be able to prevent that, particularly with the right of election which is included in subclause (2).

There is a problem with paragraph *(a)* of clause 6 (1). Under section 31 of the Industrial Conciliation and Arbitration Act, which relates to unfair dismissal, it is possible for the Industrial Commission to provide that the terms of re-employment may be less advantageous in respect of long service leave than apply under the Act. Therefore, it seems to be appropriate that paragraph *(a)* be qualified to be made subject to any order of the Industrial Court or the Industrial Commission. The flexibility which the Industrial Court or

Commission has under the Industrial Conciliation and Arbitration Act is then retained. If that proviso is not included, it is mandatory upon the court or the Industrial Commission to order re-employment on terms no less favourable than provided in the legislation even though the court believes that some other provision ought to be awarded. Where a State award might be less advantageous to an employee than the provisions under this Bill, the court or commission is not able to acknowledge that in ordering the reinstatement of an employee.

Clause 6 (1) *(g)* allows continuity of service where a worker is stood down by an employer on account of slackness in the trade and is subsequently re-employed by the employer. Such period of unemployment does not prejudice the entitlement to long service leave. Surely that should be subject to some time limit and to some criterion which provides that it is not applicable where there has been some other employment engaged in during the period that the employee has not been employed by the employer against whom an entitlement for long service leave is sought to be established. A period of six months would be appropriate and I understand that that is what is in the present Act. One must not come back after three years of being unemployed and be re-engaged by an employer and claim continuity of service under the legislation.

Clause 10 provides a requirement for an employer to keep a record of certain matters relating to an employee. That is quite appropriate. The difficulty arises where a business has been transmitted from one employer to another and the records of the previous employer have been inadequate. There should be some defence provided to ensure that, where an employee is taken over by another employer and continuity of service applies, the new employer does not suffer a penalty as a result of the inadequacies of records kept by the previous employer.

Clause 11 deals with entry to premises, and all members know that I have a great deal of concern about powers of entry to premises. I do not say that it is unreasonable for that power to be in this legislation, but paragraph *(a)* of subclause (1) should at least be limited to reasonable times for entry to premises and then that would be satisfactory.

Under clause 12, an inspector may direct an employer to grant long service leave or to make a payment within a period stated in a notice given by the inspector in certain circumstances. What surprises me about this provision is that there is no right of appeal. There should be some right of review by the Industrial Court of any notice given by an inspector. It is not good enough to say that, where the employer fails to comply with the notice and there is an offence, there is also a defence. We must separate the statutory civil responsibility and the industrial area of responsibility from the penal provisions. There should be some right of review of an inspector's direction.

In respect of clause 13 (2) *(c)*, a registered association of which the worker is a member may make an application to the Industrial Court for certain orders with respect to long service leave. I have no great difficulty with that in the industrial jurisdiction, although it could be abused. The paragraph should include a provision that an association may act where the member consents.

Clause 13 (3) contains a reverse onus provision. If proceedings are taken and it appears that an employer has not kept proper records relating to long service leave, an allegation made by or on behalf of the worker as to the period of service or the average number of hours worked per week over a particular period will be accepted as proved in the absence of proof to the contrary. That is absolutely ludicrous and should not be tolerated. It should be deleted from the legislation. As I indicated earlier, an employer may acquire a business in which those records are inadequate because the previous employer has not kept them. Why should the new employer be subject to a reverse onus clause? The provisions—

The Hon. G.L. Bruce: Why should the worker be subject to it?

The Hon. K.T. GRIFFIN: The ordinary course of events is that the worker gets up, makes a claim and indicates on the balance of probabilities that the period of time has been served. The employer gets up, and it is a question of credibility. Why should there be a reverse onus of proof? There should not be such a provision. It should take the normal course of events and that is no disadvantage to the employer or employee.

The Hon. G.L. Bruce: Surely they should keep good records and pass them on to the people coming in?

The Hon. K.T. GRIFFIN: Of course they should, but the new employer should not be penalised for the faults of the previous employer.

The Hon. G.L. Bruce: You should not penalise the worker for it.

The Hon. K.T. GRIFFIN: The worker is not penalised. The worker has a right to get up in the Industrial Commission. In view of the time, I suggest that this point be debated in the Committee stage, because I am happy to take it up at that point.

The next difficulty is in clause 13 (4), where there is a new provision. Under the present Act, the Industrial Court shall not have jurisdiction to consider questions of long service leave where it is more than three years after the service of the worker has been terminated. Subclause (4) turns that around and provides that an order cannot be made under this section if the service of the worker was terminated more than three years before the date of the application. That seems to me to place the whole issue in a different context which would enable the court to consider the matter, even though a period of more than three years has lapsed since the termination of employment. I think the present provision in the Act is preferable unless there is some other good reason which I may have overlooked for including this different provision in the Bill.

What I have tried to do, Mr Acting President, is to quickly deal with the issues as I see them. I will raise other matters during the Committee stage, but I hope that, by doing it in the way in which I have, some assistance may have been given to the Council in considering some of the issues which I think are important in the consideration of this Bill. Subject to those matters being adequately resolved, we support the Bill.

The Hon. I. GILFILLAN secured the adjournment of the debate.

TECHNICAL AND FURTHER EDUCATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 September. Page 708.)

The Hon. BARBARA WIESE (Minister of Local Government): First, I would like to thank members opposite for their support for this Bill and, in responding in this second reading debate, I would like to reply to some questions asked by the Hon. Mr Lucas during the course of his second reading speech. First, he asked whether the provisions in the Bill provided for the some sort of entitlements as applied

under the GME Act. I am able to confirm that the effect of the provisions of this Bill is to provide the same entitlements to long service leave for officers appointed under the TAFE Act as apply to officers appointed under the Government Management and Employment Act. The wording prepared by the Parliamentary Counsel for this Bill is slightly different to that contained in the GME Act for drafting convenience. Section 9 (1) *(b)* and (4) of schedule 4 of the GME Act have been combined in new section 20 (8) as inserted by clause 4 of this Bill. The authority of the Commissioner of Public Employment contained in GME regulation 31 is similarly vested in the Director-General of TAFE for officers of the teaching service in appropriate circumstances under new section 20 (8).

I was asked what was the current situation in relation to the payment of long service leave for officers within the Department of TAFE who might have already acted at higher classification levels than their substantive classification levels. Officers of the teaching service acting at a higher classification and taking long service leave during the period of acting receive their substantive salary during the period of long service leave. Prior to the passage of this Bill, all such officers were paid long service leave at their substantive classification levels.

In answer to the question relating to the number of officers within the Department of TAFE who are likely to be in a position to seek payment of long service leave at a higher classification than their substantive classification level, the Acting Minister indicated that it is estimated that a maximum of three officers per year will be affected. I was asked whether it was envisaged that they are the sorts of officers who might be covered by this provision and, therefore, after the passage of this Bill would be eligible to receive payment of long service leave at the higher classification level rather than at the substantive level which might have been at the level of teacher or perhaps lecturer. The answer is that officers who are seconded to the central office of TAFE are generally seconded for short periods not exceeding two years. Should any be seconded at higher classifications for periods in excess of the period to be set and take long service leave during that period of secondment they would be eligible under the new provisions for payment of salary at the higher classification rate.

The honourable member also asked whether the information that he had been given outside the Chamber—that the two-year qualifying period would be the one picked up by the Department of TAFE via the administrative direction—was correct. The Acting Minister indicated that officers appointed under the GME Act who had received a higher duty allowance continuously for a period of at least two years immediately prior to taking long service leave, and who resume performing the higher duties immediately on return to duty, are paid salary during their leave at the higher classification. The same criteria will be established for officers of the teaching service by means of administrative instruction.

I was asked further, if that was to be the case, how many officers within the Department of TAFE would come within that provision where they have been acting at a higher classification level for a period of two years or more. The response is that, as I answered previously, it is estimated that a maximum of three officers per year will come within that provision. In response to a further question I am able to confirm that clause 20 (7) is a new provision which corresponds to an existing provision of the regulations under the GME Act.

I was asked whether it was envisaged that many officers would be availing themselves of that provision. The response provided indicates that, while it is uncertain how many officers will avail themselves of this provision, it is envisaged that a reasonable number of officers who have worked on a part-time basis will be interested in this facility. The Hon. Mr Lucas also asked which officers of TAFE currently enjoy those benefits, the number of those officers, and how those benefits came about. It has been indicated to me that clause 19 (4) *(a)* protects the entitlement of officers appointed such that their sixteenth or subsequent year of effective service falls between 1 July 1974 and 30 June 1975, as this period constitutes the straddle year between nine days entitlement per year and 15 days entitlement per year and attracts a variable entitlement for that year depending on the date of appointment.

Clause 19 (4) *(b)* preserves the existing entitlement to pro rata long service leave of officers who commenced service before 1 January 1980, may resign or retire for specified reasons in the near future and will have accrued in excess of five years effective service but will not accrue seven years effective service. The number of officers who may be affected by this provision is likely to be very small.

While the number of officers who may be eligible for these entitlements is not easily determined it is not intended to deprive any officer of an existing entitlement. The addition of these 'saving' provisions preserves the entitlements which would otherwise disappear due to the redrafting of these sections of the Act.

The entitlements conferred by the existing provisions were adopted as of 1 January 1978 to confer the same benefits upon officers of the teaching service as had been provided for officers appointed under the then Public Service Act. They are the replies that I have been able to get from the Acting Minister of Employment and Further Education in response to the questions that were asked by the Hon. Mr Lucas. I would like to thank him for asking those questions in advance so that replies could be provided. I understand that the honourable member is reasonably satisfied with those responses, although he might wish to raise one or two questions in the Committee stage. I would like to thank members for their cooperation during the debate on this Bill and I look forward to the Bill's quick passage through Parliament.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Repeal of sections 19 to 21 and substitution of new sections.'

The Hon. R.I. LUCAS: Because of the late hour and the pressing engagement of the Minister, I will keep my remarks brief. I thank the Minister for the replies that the Acting Minister of Employment and Further Education has provided. I am not sure whether we will get to the companion Bill—the Education Act Amendment Bill—but certainly the responses that the TAFE officers have provided have been much more substantive and have answered many of the questions that I had, as opposed to the responses in regard to the Education Act Amendment Bill. My major question relates to section 20 of the substantive measure and the situation of officers being appointed to a higher classification level. While they act at that higher level, they might seek to take long service leave.

We have understood, under the Government Management and Employment Act and now in the responses from the Minister, that the general rule will be that, if an officer is acting at a higher classification level for two years and applies for long service leave, the officer will be eligible for long service leave at the higher salary, rather than at the substantive salary.

We now understand that there will be consistency between TAFE and public servants under the Government Management and Employment Act. In regard to the companion Education Act Amendment Bill, in the responses that the Minister in charge of the Bill has been kind enough to show me (although they have not yet been read into *Hansard*) we see a discrepancy in the way that this provision will be policed.

The Education Act Amendment Bill second reading explanation the Minister will read indicates that teachers who are appointed to advisory positions—that is, at a higher classification level within the Education Department—currently in most circumstances can be paid long service leave only at their old salary level, that is, at the lower salary level. They are not able to apply for long service leave at the higher level. The notes on the Education Act Amendment Bill from the Minister of Education's officers indicate that, following the passage of this Bill, it is likely that that situation will continue, that is, those advisory teachers appointed to a higher position will continue to be paid long service leave, if they apply for it, at the lower classification level, with its lower salary rate. However, we have on the record here from the Minister of Employment and Further Education that similar officers in the Department of Technical and Further Education would be eligible for long service leave at the higher level.

Because of the lateness of the hour—and I know the Minister has a pressing engagement—at this stage once again I simply thank the Minister for the responses given. I have raised the matter pertaining to long service leave as it relates to this Bill (and I will raise the matter when we again debate the Education Act Amendment Bill) because I think that we need consistency across the sectors between public servants, officers of the Department of Technical and Further Education and officers of the Education Department. After all, that was the original purpose of both these Bills, namely, consistency in the application of long service leave provisions. From what we have already heard from the Minister of Employment and Further Education and from what I have seen from the Minister of Education's notes in relation to the Education Act Amendment Bill I note that there is a difference in the provisions.

The Hon. BARBARA WIESE: I indicate that I will seek replies to the questions that the honourable member has asked in relation to clause 4, and I will ensure that they are provided at a later time.

Clause passed.

Title passed.

Bill read a third time and passed.

EDUCATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 September. Page 710.)

The Hon. C.J. SUMNER (Attorney-General): In reply to questions raised by the Hon. R.I. Lucas during the debate, I make the following remarks. With respect to new section 19 (4), it does not provide any additional entitlement to long service leave for any officer of the teaching service. Its aim is twofold. First, it is intended to ensure that teachers whose sixteenth or subsequent year of service commenced during the period 1 July 1974 to 1 July 1975, do not receive more days entitlement than the straddle year formula currently in section 19 (3) of the Education Act provides. Secondly, it ensures that no officer who is on leave without pay at the time of the amendment is disadvantaged. For example, a female teacher who may have started teaching in the late 1970s and who commenced accouchement leave in the early 1980s, and who is still on extended leave without pay, will not forfeit the long service leave entitlement earnt pursuant to the provisions of section 20 (2) of the Education Act if she resigns without returning to active duty.

As indicated, the intended effect of new section 19 (4) *(a)* is to ensure that no employee receives an advantage because of the change, that is, this protects the Government. New section 19 (4) *(b)* is intended to protect teachers, although the number likely to be covered by the provision is extremely small and cannot be determined with any guaranteed accuracy. However, it will come into effect only if women teachers currently on leave decide to resign.

New section 20 (8) has been introduced to retain consistency with the long service leave provisions applicable to public servants. Education Department policy concerning secondments to school support services positions is that requests for long service leave during periods of secondment will not be approved other than for medical or compassionate reasons and that any such leave approved will be at the teacher's substantive salary rate. This policy is rigidly applied.

As far as other officers acting at a higher level are concerned, it is the Education Department's intention to pursue policies and practices similar to those employed by the Commissioner for Public Employment. There are no differences in effect intended as a result of different wording. The Parliamentary Counsel, when drafting the amendment Act, took the opportunity to simplify and consolidate provisions in schedule 4 of the Government Management and Employment Act and associated regulations. New section 20 (8) is intended to allow the Director-General sufficient discretion to pay teachers additional salary or allowances while on long service leave as are authorised by the Commissioner for Public Employment for public servants in similar circumstances.

In relation to costs, there is no provision in the Bill which will provide additional entitlements or payments in respect of long service leave. The only new provision is new section 20 (2) of the amending Bill. This will permit teachers to take pro rata long service leave after seven years while still in service. Whilst this may result in some teachers making application for long service leave earlier than otherwise would have been the case, their applications will still have to be considered in the light of funds available for long service purposes during the particular year.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Repeal of sections 19 to 21 and substitution of new sections.'

The Hon. R.I. LUCAS: I thank the Attorney for the response that he has provided from the Minister of Education in relation to the questions I raised during the second reading debate. As I did with the Committee stage of the Technical and Further Education Act Amendment Bill, I will briefly address one or two matters. First, I refer the Minister of Education's officers who prepared the response for the Minister in this Chamber to similar responses that the Minister of Employment and Further Education's officers provided to similar questions in relation to amendments to section 19 (4) of the parent Act. As those provisions are similar in both Bills, if the officers of the Minister of Education look at the response provided by the officers of

the Minister of Employment and Further Education to the same question they will understand the import of the questions that I was directing to both Ministers.

The second matter that I want to address is in relation to amendments to section 20 of the parent Act. I will quote again the response from the Minister of Education to the question that I put in relation to the eligibility of officers of the Education Department, who are acting at higher classification levels to apply for long service leave, and whether they are to be paid long service leave at their acting classification, which is a higher salary, or at their substantive classification, which is a lower salary rate.

This matter is of some importance to officers in that situation. You will be well aware, Ms Chair, that in the Education Department there are many hundreds of officers who are teachers seconded to higher classification levels, many are acting in advisory positions many, at locations such as the Wattle Park Teachers Centre and the orphanage on Goodwood Road, who are substantively teachers but are acting in a higher classification level for the Education Department. Therefore, this provision is important to them. The Minister's response to my question was:

> This provision is being introduced to obtain consistency with the long service leave provisions applicable to public servants. Education Department policy concerning secondments to school support service positions is that requests for long service leave during periods of secondment will not be approved other than for medical or compassionate reasons and that any such leave approved will be at the teacher's substantive salary rate. This policy is rigidly applied.

That clearly summarises the existing situation and, as I asked a question of the Minister and this is his response as to what will be the situation after the passage of this Bill, I can only presume that the inference we are to take from it is that officers in these seconded advisory positions will continue to be treated in the way so described by the Minister, that is, it will be only in rare circumstances that they will be able to get long service leave and, if they do, the long service leave salary will be paid at the lower salary rate applicable to the substantive classification of the teacher.

As I indicated in the second reading debate, whilst most of these secondments are generally for periods of two years, many officers of the Education Department roll over their secondments and a number of officers who have spoken to me have been acting in higher classification positions for up to eight or 10 years because they get rollover provisions each two years. As I said, they have an interest in this provision and it would appear that the inference to be gained from the Minister's response is that they will be paid at the old substantive rate of teacher.

The point that I made in the Committee stages of the Technical and Further Education Act Amendment Bill was that it would appear that the Minister of Further Education, whose officers have looked at a similar question, is going to allow the payment of long service leave at the higher classification level. I do not intend to delay the passage of this Bill, but I believe that the reason we have had both of these Bills before us was to bring the long service leave provisions of the Education Act and the Technical and Further Education Act completely into line with the public servants under the Government Management and Employment Act and, generally speaking, we have done that.

However, in relation to this particular provision it would appear that administratively there may well be a difference in implementation by the two departments that I have referred to. I would ask the Minister in charge of the Bill in this Chamber to ask the Minister of Education—and the Minister of Tourism has already given a commitment in relation to the Minister of Employment and Further Education—to ensure that the two Ministers responsible for these two Bills get together to ensure that the administrative implementation of the long service leave provisions in this Bill will be consistent across the sectors and completely consistent with those provisions applicable to public servants under the Government Management and Employment Act.

The Hon. C.J. SUMNER: I note the remarks of the honourable member and undertake to refer his comments to the Minister for his consideration.

Clause passed.

Title passed.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL

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

JUSTICES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 6.4 p.m. the Council adjourned until Tuesday 6 October at 2.15 p.m.