LEGISLATIVE COUNCIL

Thursday 7 April 1988

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

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

DEATH OF HON. F.H. HALLEDAY

The PRESIDENT: It is with great regret that I have to draw to the attention of members that two days ago the death occurred of Mr Frank Halleday, who was a former member of the Legislative Council. He represented the then Southern District in this Chamber from 1938 to 1943. As President of the Council I wish to express sympathy of the Council to all his family in their bereavement, and I ask all members to stand in silence as a tribute to his memory and his services to the Council.

Members stood in their places in silence.

QUESTIONS

MOUNT BARKER HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister of Health a question about the Mount Barker Hospital.

Leave granted.

The Hon. M.B. CAMERON: Last week in this Chamber I raised the issue of the Mount Barker Hospital, recounting how $2.7 million had been spent on upgrading its theatre facilities but, due to a lack of funds, it was likely that those facilities would lie idle for three out of the next 12 months. I also said that as a further cost-cutting measure a decision had been made to cancel all elective surgery for two weeks over the Easter period, and that moves were being made to eliminate hip replacement surgery entirely at the hospital. The Minister's response to this was, as usual, more bluster than information. He said, and I quote from *Hansard* on 29 March:

> If there is any move by anyone—whether it be the administration of the hospital, the board of the hospital, or anyone else—to cut out hip replacement surgery, that will be stopped at once. All the hospitals are quite clearly instructed that under no circumstances are they to reduce services without the South Australian Health Commission's authorisation.

Later the Minister said:

> I certainly know of no authorisation by the Health Commission to reduce particular categories . . . if there is any proposal to reduce orthopaedic surgery at the Mount Barker Hospital I know that the commission would act at once, and it would certainly act with my full authority.

It seems the time is long overdue for both the Minister and the commission to act. Let me quote from a document that turned up in my office this week. It is an internal memorandum to all procedural staff at Mount Barker Hospital from the Principal Medical Officer and headed 'Philosophy and strategy towards implementing the services for Mount Barker.' It says in part:

> The SAHC is charged with the responsibility of administering this politically dominated service. Individual officers are obliged to implement policy even when it is opposed to their recommendations, view or politics. We thus find ourselves in agreement with the 1987 letter from the President of the Royal College of Surgeons of England who complained about under-funding in the NHS (National Health Service). He said, 'Managers are asking surgeons to do less work to balance the books.'

The memorandum continues:

> Hence the requests, or indeed board decisions, to close the (Mount Barker) operating theatres from time to time; limit the number of theatre periods to be utilised; to limit the services to only one theatre when we have two; to prevent by under-staffing the type of case the hospital chooses to handle; restricting the type of operations that can be done; limiting the time allocated to surgical list to limit staff overtime; reallocating operations of a major type, which require special post-operative nursing requirements; declining to accept patients who have surgical needs which are unusually expensive, like joint prostheses; being highly selective in what work we will do; being highly selective in what geographical catchment area the patient lives, declining admission to those outside our area, regardless of their needs. And so the list goes on.
>
> All in the name of under-funding. These are shortages, hardships and restrictions to be distributed between patients in need, surgeons, anaethetists, G.P.'s, nurses, para medicals, administration at local level, and the board. At our local level everything we can think up to obtain more funds is being implemented. When we get the money you can have it. The community is being victimised, but it is at its own choice. Perhaps a little more suffering can be persuasive.

Clearly the board, administration, and now surgeons have had it laid on the line what parameters the Health Commission is giving for the use of services at Mount Barker. Yet the Minister stood in this place last week and said:

> So, to summarise, the Mount Barker hospital is in very good order.

Either the Minister misled members, the Health Commission failed to advise the Minister of the true sitution at the hospital, the Health Commission chooses to ignore what is going on there, or a combination of all those three has occurred. If all these things, outlined in the memo to procedural staff, are going on then it is a scandalous situation for a newly refurbished hospital—refurbished at a cost to taxpayers of nearly $3 million. Clearly, it seems, the hospital is under-funded and cannot provide the appropriate services for which it has newly been upgraded.

Yet the Minister in his recent press release had the audacity to say that with hospital waiting lists the commission was examining the possibility that 300 people on the lists might be treated in country hospitals. In view of the obvious constraints being placed on the Mount Barker Hospital, what chance has such a plan got of seeing the light of day? My questions to the Minister are:

1. When did the Health Commission authorise the following changes to policy at the hospital: to prevent by under-staffing more surgeons bringing cases to Mount Barker; to prevent by under staffing the type of case the hospital chooses; restricting the type of operations that can be done; reallocating operations of a major type which require special post-operative nursing requirements; declining to accept patients who have surgical needs which are unusually expensive like joint prostheses; and being highly selective in what geographical catchment area the patient lives and declining admission to those living outside that area?

2. Who in the Health Commission gave the authorisation for those changes, and on what dates?

3. What steps will the Minister now take to see that the Mount Barker Hospital is adequately funded so that it can provide the services for which the new facilities were provided and assist with the waiting list problem?

The Hon. J.R. CORNWALL: It is obvious from the highly political memo that the Hon. Mr Cameron read out that the Mount Barker Hospital to some extent sees itself as being at war with the South Australian Health Commission. The powers that be at the hospital have been, I am told and to put it mildly, less than somewhat cooperative in trying to contain the hospital's operations in the 1987-88 allocated budget. We simply cannot have the 80 or so recognised hospitals around the State running over budget at will. That situation will not be tolerated—there is not an

unlimited amount of money. I have talked quite often about the high social cost of small government, and repeat that the shoe is pinching to some extent. Nevertheless, a campaign is being waged at Mount Barker in which the hospital strikes back because the Health Commission has told it that it must contain the projected $70 000 overrun on its budget.

If we were to say, 'Spend as much as you like, go for your lives, there is no problem and we will spend our way out of trouble', you can imagine the sort of difficulties that would arise very quickly within the health service. The fact that the Health Commission is able to bring the system in each year within a whisker of being on budget when the total budget is $900 million is, as I have said on many occasions, very much to its credit.

The Mount Barker Hospital is waging this campaign, which is significantly politically motivated, as instanced by the memo produced by Mr Cameron. There is no question of the surgeries or the operating theatres being shut down for three out of the next 12 months. That is a monstrous and stupid distortion. What happened as part of assisting the hospital to operate within its allocated budget for 1987-88 is that there was an Easter shutdown in relation to elective surgery. That is not terribly unusual and in fact it will help the hospital to come in very much closer to its allocated budget than would have otherwise been the case.

It is interesting to see Mr Cameron on his feet again, demanding that we spend more and more money. However, his Leader in the other place was on his feet yet again in the past 24 hours demanding that we slash public services and saying that State taxes and charges should be reduced—notwithstanding the fact that we may be further screwed down by the Federal Government in these difficult times. Members opposite cannot have it both ways. They cannot have unlimited funding for the health and hospital system or for human services and other areas of Government activity in general and make unlimited demands while at the same time preaching small government.

Members opposite are hypocritical in the extreme. I will continue to battle for every dollar that I can get for the health system, consistent with the whole of Government approach in relation to State Government budgetary difficulties. I have already made a plea at national level: I put the Health Ministers conference on notice that I will be making a formal submission for a hospital enhancement program prior to the special Health Ministers conference in early May. As I said, I will be doing everything that I can to direct the Federal Government's attention to the fact that in some areas, particularly in the public hospital system, this issue is pinching and making life a little uncomfortable. I just wish that the Opposition would cease this hypocrisy and these inordinate and foolish demands. The demands that have been made, just in my portfolio areas alone, by the Hon. Mr Cameron and the Hon. Ms Laidlaw and others already amount to $60 million a year in recurrent funding.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: We will be able to produce the details, and they are carefully costed.

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Cameron, the Hon. Ms Laidlaw and others have demanded $60 million a year in recurrent funding in the health and welfare areas alone.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Members opposite comprise what is laughingly called the alternative Government of South Australia. These are the people who would cut State taxes and charges and who demand in my portfolio areas alone that we should be spending an extra $60 million a year. They should cut out their cant and hypocrisy and put up their alternatives or shut up.

The Hon. M.B. CAMERON: As a supplementary question—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.B. CAMERON: —who in the Health Commission authorised the changes to operations which I outlined in the various procedures at the Mount Barker Hospital? When did that authorisation take place?

The Hon. J.R. CORNWALL: I cannot and will not vouch for the veracity of the allegations made by the Hon. Mr Cameron and whoever is providing him with his information. In fact, to put it mildly, it seems to be an exercise in hyperbole. Obviously, senior officers in the Country Health Services Division of the Health Commission, in conjunction with the hospital administration and management, authorised these things.

Mr SPENCER RIGNEY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about Spencer Rigney.

Leave granted.

The Hon. K.T. GRIFFIN: I want to pursue with the Attorney-General the long-running case of Spencer Rigney and his call for the Minister of Housing and Construction, Mr Hemmings, to acknowledge that Mr Rigney is in fact purchasing his house at Narrung. The Minister for Housing and Construction appears to be blind to the justice of Mr Rigney's claim and has prevaricated to an extraordinary degree. Yesterday, when questioned about a positive statutory declaration from a Mr R.V. Jones asserting that he was the public servant who dealt with Mr Rigney and that Mr Rigney was purchasing his house, the Minister of Housing and Construction again said there were still questions to be resolved and that finally the decision would be one for the Cabinet, and not for him.

Mr Rigney has been given quite an extraordinary runaround on this matter over the past five years, but the Minister just cannot deal with the matter decisively and make a decision. It has been left to Mr Rigney and his advisers to search for much of the evidence that he has been purchasing the house, even though the documents which relate to that within the Government's own possession now appear to be missing. The matter is with the Ombudsman, who will investigate it. However, it is not the Ombudsman's role to actually make a decision but, rather, to comment on any decision made by the Government, where it involves an administrative act.

The matter has also been to the Crown Solicitor, who gave some advice to the Minister of Housing and Construction last Tuesday. The whole sorry saga appears to be a classic case of buck passing by the Minister and a case of big government sitting back in a position of power, confident that an ordinary citizen will not be able to breach the walls of the bureaucracy. The justice of this matter and Mr Rigney's illness brought on by the worry of this case demand an immediate decision in favour of the citizen. My questions to the Attorney-General are:

1. Is the Attorney-General concerned about the way Mr Rigney has been treated by the Minister and about the extraordinary delay?

2. As the chief law officer of the Crown whose responsibility it is to see that justice is done, will the Attorney-

General now intervene to have the mess cleared up and the decision taken immediately in favour of Mr Rigney in the interests of justice?

3. Will the Attorney-General indicate what issues are still in doubt, or what questions still need to be answered as alleged by the Minister of Housing and Construction?

The Hon. C.J. SUMNER: I am not sure whether anyone really ought to comment on the explanation made by the honourable member; it seemed to contain a lot of value judgments about this case. From what I know of it, the matter was referred to the Crown Solicitor to see whether there was any basis for Mr Rigney's claim that he was the purchaser of this property. I understand that a further interview has to be conducted today, but the Crown Solicitor's view is that there is no legal basis for Mr Rigney's claim.

The matter has been investigated by a lawyer and a Government investigator of the Attorney-General's Department in the Crown Solicitor's Office. The Hon. Mr Griffin would be familiar with the work of those people. The matter was investigated by the Government investigation officer, with the assistance of an officer from the Crown Solicitor's Office. Subject to some additional contacts that have to be made today, I understand that the advice from the Crown Solicitor (I have not sighted it myself yet) will be that, after these investigations, including, I believe, an interview with Mr Jones by the investigating officers, there is no evidence, or certainly not sufficient evidence, to suggest that Mr Rigney was purchasing this home. In the light of that, the Hon. Mr Griffin's somewhat colourful explanation seems to me to be a little bit out of place, particularly for a person who, one would have thought, had some regard for objectivity in dealing with issues of this kind.

If after dealing with the matters that have to be clarified, which involves additional persons being interviewed today, the advice remains that, in the Crown Solicitor's opinion, there is no legal basis for Mr Rigney's claim, then Mr Rigney has two choices—one is to take the matter to court, and the other would be to approach the Government with a view to obtaining an *ex gratia* payment of some kind. That latter matter will be considered by the Government as soon as possible.

However, I repeat that at this stage, from the investigations that have been carried out, there does not seem to be sufficient evidence to give a legal basis to Mr Rigney's claim. Whether he was under the impression that he was purchasing the home is, of course, another matter. It may be that factors of that kind can be taken into account in the Government's determining whether or not to dispose of the matter by way of an *ex gratia* payment. But that is a matter that will have to be considered by the Government in due course. It would be a decision for the Government as a whole. Obviously the matter has received some press coverage. I know that the Minister is concerned to try to have the matter resolved as expeditiously as possible.

OZONE LAYER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Health a question about the ozone layer and CFCs.

Leave granted.

The Hon. M.J. ELLIOT: It was probably some nine months ago that I introduced into this place a Bill in relation to CFCs and the control of their production and release, which Bill was defeated. An article was published in the 'Newsweek' section of the *Bulletin* last week which reported on recent studies carried out by NASA, which I think most people would hold to be a very reputable body. In brief, the report stated:

> Newly analysed data revealed that since 1969 the ozone layer has thinned by as much as 3 per cent in the latitudes spanning much of the United States, Canada, Western Europe, the Soviet Union, China and Japan; the loss was more than 6 per cent over parts of Alaska and Scandinavia in winter months.
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> The findings were three times worse than expected, and they were hardly academic. According to the Environmental Protection Agency (EPA), each 1 per cent decline could bring as many as 5 per cent more squamous skin cancers and 2 per cent more cases of melanoma, which now claim 5 000 American lives a year. Ozone depletion may also be linked to a parade of other horrors, including a higher incidence of cataracts, suppression of the immune system, decreased crop yields and disruption of the aquatic food chain . . . Atmospheric levels of chlorine from CFCs reached 1.8 parts per billion in 1974; they are now at 3.5 ppb and will rise to 5 ppb by the end of the century under the accord.

That is the accord signed in Montreal earlier this year. The article continues:

> EPA administrator, Leigh Thomas, last week called speedy ratification of the treaty by other countries 'a crucial first step' in combating the ozone problem. Chemist Roland countered that 'it ought to be the first step in a sprint, not leisurely steps 10 years at a time'. Indeed, the very survival of the planet could depend on hastening the pace.

I notice that even the South Australian Chamber of Commerce devoted a page in its April edition of *South Australia in Business* to the problems of both the greenhouse effect and the ozone layer. So, even South Australian businesses are treating the problem seriously. My questions to the Minister are as follows:

1. What investigations have been made by the Ministers of Health, Agriculture, and Environment and Planning in South Australia in relation to the ozone layer and the relationship of the effects of CFCs?

2. Does the South Australian Government intend to take any form of action or will it continue to wait for national action?

3. If the South Australian Government is intending to wait for national action, what steps is it taking to put pressure on the Federal Government?

The Hon. J.R. CORNWALL: The matters raised by the Hon. Mr Elliott are, of course, of significant concern to the global village, and I guess that they point to the need for increasing international cooperation. As far as my personal investigations are concerned, I have to say that I have not made any. If the Hon. Mr Elliott is suggesting that I am studiously going through the literature or have made this a project and taken it unto myself, I must confess that I have not. I do not know what the Minister for Environment and Planning or the Minister of Agriculture have done specifically in this area. But, I repeat that, clearly, he raises a matter of national and international significance.

There is not very much that we can do as a State Government. I do not want to have to tell the story about the three piece suit and the spare pair of trousers in Canberra again, but let me tell you that, by the time you get to Geneva or to Copenhagen, you become so small in the context of world affairs that you can have a complete wardrobe from that—

The Hon. M.J. Elliott: What about firearms legislation? You're doing that on a State by State basis.

The Hon. J.R. CORNWALL: Obviously we can control firearms to the extent necessary. It is rather different—

Members interjecting:

The Hon. J.R. CORNWALL: Yes, tobacco to the extent possible. I am chairing—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: Well, you should control yourself and not be abusive. You should have regard to the Standing Orders. If you can't you should absent yourself.

A little bit of self-regulation goes a long way, Mr Davis. You really should try to control yourself and stop these persistent and foolish interjections.

An honourable member interjecting:

The Hon. J.R. CORNWALL: I am trying to respond very seriously to a very serious and important matter that has been raised by the Hon. Mr Elliott. I am also pointing out that in this context—in the context of the good conduct of international affairs and the protection of the world environment—South Australia does not loom enormous on the world scene.

The Hon. M.J. Elliott: We are still part of the village.

The Hon. J.R. CORNWALL: We are indeed part of the village—a very small but, I suppose, important part of the village. These are the sorts of things in which the national Government has quite clear responsibilities.

The Hon. Diana Laidlaw: The Tasmanian Government has produced legislation.

The Hon. J.R. CORNWALL: This environmentally sensitive Tasmanian Government—what a wonderful example it has set the nation! Imagine this strange person—Ms Laidlaw—raising the Tasmanian Government as some sort of paradigm on environmental matters! What has the Queensland Government done, Ms Laidlaw? Perhaps you can tell us about that, too. I really find that extraordinary.

Members interjecting:

The Hon. J.R. CORNWALL: And you, Mr Irwin, should go back into your cave down there in the upper South-East.

Members interjecting:

The PRESIDENT: Order! The honourable Minister of Health has the floor.

The Hon. Peter Dunn interjecting:

The Hon. J.R. CORNWALL: You're not well, Mr Dunn; you clearly need treatment.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: With Mr Dunn's personal fortune, I am sure that he carries private health insurance and really should not have very much to worry about.

The Hon. Peter Dunn: Do you?

The Hon. J.R. CORNWALL: I said yesterday that if you care to raise that as a formal question I will be delighted to answer it. I will not do it by interjection. It is far too important to respond to a junior back bencher in opposition in the Upper House of the South Australian Parliament by interjection. I treat this matter seriously. I cannot speak specifically for what my colleagues may have been doing, but I will be very pleased to confer with them and, although the Parliament will rise in the near future, I undertake to write to the Hon. Mr Elliott during the winter recess and give him a formal response to the attitudes of the various Ministers; the initiatives which may have been taken or are being contemplated by the South Australian Government; our position in relation to the Federal Government; and what we may or may not be urging them to do.

BAREBOAT CHARTERS

The Hon. R.J. RITSON: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Marine, a question on the subject of answers to questions.

Leave granted.

The Hon. R.J. RITSON: Six weeks ago I asked the honourable Minister a question whether sailing vessels of 10 metres or more, which were chartered bare boat or for skippered sail training, required to be surveyed, and indicated that I simply required a yes/no answer that involved no research. My constituents are becoming concerned, because there is a company operating unsurveyed vessels in this manner, and has been for several years, without any apparent enforcement by the department as regards survey requirements, whilst another somewhat similar company has submitted its vessels for survey and is under very close scrutiny, almost to the extent where one would forgive the company for feeling that the department was exercising some form of favouritism. A simple yes/no answer would help put my constituents' minds at rest. As I say, it requires no research, merely a statement of policy, and I ask the Minister when may the question be answered.

The Hon. BARBARA WIESE: I am sure that the Minister of Marine is working diligently on trying to provide a reply to the honourable member's question, and I undertake to make further inquiries to see whether a reply can be hastened. If the reply to the question is as simple as the honourable member suggests, it might have been a better idea to have made a telephone call to the Department of Marine and Harbors in the first place to ascertain the information the honourable member is seeking. However, I shall contact my colleague to see whether a reply can be brought forward without any further delay.

ETHNIC HEALTH POLICY CONFERENCE

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister of Health a question about the Ethnic Health Policy Conference.

Leave granted.

The Hon. M.S. FELEPPA: As part of my explanation I wish to read a letter to the Council, then my question will follow. The letter was written to me on 16 March 1988. For reasons of discretion, I will omit the name of the person involved, at this stage, anyhow. The letter reads as follows:

Dear Mr Feleppa,

We have just been told by Mr . . . that our request to mount a display of our services during the Ethnic Health Policy Conference to be held in Adelaide (12-15 April 1988) has been turned down by the conference committee. About a month ago I asked Mr . . . , Chairman of the committee, whether we could participate. He said that we could apply and that boards and tables for the display would be made available. Yesterday we were told that our request had been rejected on the grounds that we were a private company. I was also told that ours was the only private company to make the request.

I find this exclusion and this argument quite extraordinary. For all these years the whole multicultural industry (Government, EAC and ethnic communities) has always lamented the fact that private industry has not responded to the multicultural call. Private industry has been encouraged and even forced through legislation to implement multicultural ideals.

My co-director and I have, of set purpose and in response to those ideals, set up a company which specifically responded to the needs of our multicultural society, and now we find that our zeal instead of being rewarded is punished. Omnicover uses bilingual/bicultural staff to provide its services in 15 different languages. In a conscious effort to provide the best possible services to our migrant population, Omnicover opted for the employment of bilingual/bicultural workers in preference to the less effective method of use of interpreters. The fact that none of the other private companies made a bid for a display does not seem to us to be a logical reason for our exclusion. There is an argument too, apparently, that we, advertising through the conference, would eventually make money out of migrants.

Again, I find this statement no more than illogical nonsense. Of course we need to make money, so that we can continue to service the community. In fact, no person seeking our services would need to spend a cent on us. All our income comes from WorkCover or the worker's employer.

I was told that our exclusion was supported in particular by Dr . . . , Federal Department of Health, and Dr . . . , Wollongong University. My request that I be allowed to speak with them was denied. We are concerned that this exclusion, under guise of ill-

founded arguments, ultimately penalises the injured person of non-English speaking background who is denied the right to have access to information about an agency which he/she may wish to choose precisely because it has been geared to respond to his/her linguistic and cultural needs. It seems to us the position taken by the conference committee to be in direct conflict with the aims of the conference as we understand it, which is to ensure the availability and equity of health services to people of non-English speaking background.

My questions are as follows:

1. Does the Minister agree that the request by the company concerned correctly reflects the principle and practice of multiculturism and that it therefore should be praised and encouraged?

2. Does the Minister agree that, under the circumstances, the rejection of the conference committee constitutes a denial of legitimate information on a matter of grave importance, in particular, to workers of non-English speaking background?

3. Given the imminence of the conference, will the Minister investigate the above matter with some urgency to ensure that the company concerned is given sufficient time to prepare the necessary material for the display?

The Hon. J.R. CORNWALL: We ought to put this matter in context. The general tone of the letter and, indeed, Mr Feleppa's question would suggest that there has been some sort of monstrous conspiracy to deny this company the right to be represented at the conference. That is most certainly not the case.

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Feleppa asks his questions without fear or favour in this place and represents his constituents with very great and commendable vigour. Let me briefly give some background to the matter. The 'Health Policy for a Multicultural Australia: Towards a National Agenda' is the first national ethnic health conference ever held in Australia. It has attracted speakers and delegates from around Australia and overseas.

The Migrant Health Unit of the South Australian Health Commission is responsible for organising the conference under the auspices of the National Ethnic Health Consultative Committee, which is made up of the Director of migrant health in each State and the Commonwealth. The conference was developed in order to bring together Government health officers from all over Australia to share ideas about issues and programs in migrant health, and to make policy recommendations to the Prime Minister for the health component of the national agenda for a multicultural Australia. Indeed, it is a very significant conference, and we are proud to be hosting it in Adelaide.

The emphasis of the conference is therefore to improve government funded health services to Australians of non-English speaking background in accordance with the principles of social justice, multiculturalism, and the WHO goal of health for all by the year 2000. I am pleased and proud that South Australia and, in particular, the South Australia Health Commission's Migrant Health Unit were unanimously chosen to host and organise this crucial, ground breaking event. Funding for the conference has come from the Commonwealth Department of Community Services and Health, the office of Multicultural Affairs in the Department of Prime Minister and Cabinet, and the South Australian Health Commission.

Turning specifically to the matters raised by the Hon. Mr Feleppa, having given that brief and important background, the conference organising committee received 20 applications for displays from around Australia. After extensive consideration with display experts it was decided that an absolute maximum of 14 displays could be mounted in the space available. There is only 27 metres of display space available in the State Government Convention Centre, including the entrance foyer, so there was obviously a problem with the display area. It was on those grounds, and no other, that the decision was made. The conference committee selected 14 displays on the basis of their intrinsic merit.

UNITED WAY/COMMUNITY CHEST FUND

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question on the United Way or Community Chest Fund.

Leave granted.

The Hon. DIANA LAIDLAW: The United Way or Community Chest concept seeks, as the Minister would be aware, to increase funding for the non-government community welfare sector by a variety of techniques, including corporate donations and voluntary deductions from employees' wage or salary. In March 1986 the Government provided SACOSS with a $35 000 grant to commission a consultant to report on the feasibility of implementing such a scheme in South Australia. This move followed a report to the former Minister of Community Welfare, the Hon. Greg Crafter, that recommended that the application of the scheme in South Australia warranted further investigation. As the Minister would be aware, a great need exists for funds in the non-government welfare sector in this State. Charitable and welfare organisations are facing an unprecedented demand for their services.

DCW is cutting back on its service provision. Funding from State and Federal Governments is limited, and there certainly are fears that funds from these sources will be cut in the forthcoming year. Whilst it is becoming increasingly difficult to attract donations and/or sponsorship from the private sector, in this environment it is not surprising that interest in the response by SACOSS and the Government to the consultant's report, to which I referred earlier, is gaining some momentum.

In response to a question I asked on this subject on 15 October last year, the Minister replied that he had received a copy of the consultant's report from SACOSS, although he was not aware at that stage whether it was a draft or a final report. He stated:

I am literally talking to SACOSS at the moment about the future options.

I understand that since that statement by the Minister, SACOSS in December last year recommended as follows:

1. That no further action be taken at this stage towards the establishment of a state wide community fund, in view of the doubts regarding the benefits and support for such a scheme.

2. That advice, support and limited resources be provided to local regional groups seeking to establish their own community funds, and to existing corporate based funds.

Is the Minister finally in a position to clarify whether or not the Government, in liaison with SACOSS, will endorse the implementation of a United Way or Community Chest initiative in South Australia on either a State-wide or regional basis and, if not, considering the fate of such schemes that have been in limbo for four years now in this State, when does the Minister believe he will be able to state that such schemes will or will not proceed in South Australia?

The Hon. J.R. CORNWALL: Little enthusiasm was expressed for a United Way or Community Chest scheme on a State-wide basis. The Hon. Mr Burdett expressed some enthusiasm when Minister. My predecessor, when Minister of Community Welfare, also expressed some interest. There was for every person expressing interest at least half a dozen

reputable organisations expressing some concern, particularly the larger non-government organisations—the spastic centres of South Australia is a case in point. They are having an enormous battle for financial survival at present. The State Government committed, for the first time two or three years ago, $800 000 in recurrent funding to the spastic centres of South Australia to keep them viable and in a position of financial survival. They, like so many organisations, are having difficulty maintaining their level of funding.

A Community Chest was seen as a straight competitor. Many of the non-government organisations were opposed to it in varying degrees. In the event I allocated, from memory, $35 000 to SACOSS, as the Hon. Ms Laidlaw stated, to have it commission a consultant to look at the whole business. She again reports quite accurately that SACOSS decided and recommended that there should be no further action regarding a State-wide Community Chest or United Way scheme and that there were serious doubts regarding the benefits of such a scheme.

Some support was suggested for local initiatives. To date nobody has come forward with such an initiative. One mentioned, from memory, was a scheme in the Lower South-East. Nobody has been near my office and I have no proposal before me at all. If somebody wants to put up a sound proposal, I am happy to look at it. Let me make clear that the fate of a State-wide United Way or Community Chest scheme is not in limbo. As far as I can gather, with the extraordinary lack of enthusiasm and united opposition to it, far from being in limbo it has virtually disappeared without trace.

I for one do not regret its passing. It would have been a competitor for the donated dollar, and that is not an elastic dollar. It would have meant in turn that it would have created difficulties for organisations such as Minda, the Spastic Centre of South Australia, Regency Park and a whole range of very noble and worthy non-government organisations in this State which literally battle from year to year for survival to perform the extraordinarily good work that they do. If they are to be adequately funded, one of the better ways of doing it is to make public funds available, without prejudice to their fund-raising. They rely, and will continue to do so, on the well-known generosity of the South Australian community.

To simply set up another organisation with its associated administrative costs to compete with those well-known organisations seems to me—and it seemed to SACOSS and to most of the sensible people involved after due consideration and careful scrutiny—to be an idea with little or no merit on a State-wide basis.

The Hon. DIANA LAIDLAW: I desire to ask a supplementary question. Will the Minister confirm that as far as the State Government and possibly SACOSS are concerned the United Way Community Chest is a dead issue now and will not be explored, promoted or discussed further? Has its implementation been ruled out in South Australia?

The Hon. J.R. CORNWALL: I refer the honourable member to my previous answer.

The Hon. Diana Laidlaw: So it's a dead issue?

The Hon. J.R. CORNWALL: On a State-wide basis, and I made that clear. In fact, I think I said it about three times during my reply. I have an unfortunate habit of occasionally repeating myself during Question Time, but obviously I do not repeat myself enough for some members opposite. Community Chest on a State-wide basis is no longer an issue. It has no basis of support and it is a dead issue.

INNER CITY VIOLENCE

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about recent outbreaks of violence in the inner city area.

Leave granted.

The Hon. G. WEATHERILL: It has come to my attention that there have been numerous assaults in and around the Festival Theatre, the banks of the Torrens River and Rundle Mall. As these regions are regular thoroughfares for tourists and others they must be made safe. Is the Minister aware of the numerous recent attacks of violence, both reported and unreported, in and around the inner city area? What remedial action is the Minister taking to make these areas safe?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the Minister of Emergency Services. Suffice to say that a number of initiatives have been taken in this area, including the declaration of Rundle Mall and Hindley Street as dry areas where liquor cannot be consumed in public, the establishment of a police station in Bank Street to serve this precinct and vigilance with respect to penalties before the courts. I will obtain more specific information from the Minister of Emergency Services and bring down a reply.

STATE RESCUE ONE HELICOPTER

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about the State Rescue One helicopter.

Leave granted.

The Hon. PETER DUNN: Two weeks ago on a Sunday a light aircraft ditched in Gulf St Vincent about four kilometres off the coast and not very far from Port Adelaide.

The Hon. J.R. Cornwall: Did it run out of fuel?

The Hon. PETER DUNN: I do not know the answer to that question but, even if it did, that has nothing to do with my question. Four people were rescued from the aircraft and one is presumed to have drowned. Before ditching the aircraft was visible on radar at Adelaide airport and the Department of Aviation had a very accurate fix on where it went into the sea. An Orion aircraft en route from Western Australia was in the area soon after the aircraft ditched and it stayed there for about one hour. However, Rescue One, which is the aircraft that we would expect to be on the scene very quickly, took at least 50 minutes, as I understand it, to reach the scene. I repeat that the incident happened four kilometres off the coast from Adelaide.

The Sea Rescue Squadron eventually rescued the survivors and I understand that it took a relatively long time to reach the area. I have received several letters from people who fly light aircraft and regular passenger transport (RPT) aircraft, which are very small aircraft that service the western sector of the State and normally carry about 10 passengers, and sometimes fewer. These people have indicated to me that a potential disaster could occur off the coast of Adelaide if an RPT ditched into the sea and that is the sort of reaction time that we can expect before rescue can occur.

In all probability one of these days an RPT will have a controlled ditching into the sea as a result of power failure or whatever. Of course, there will probably not be a heavy impact and most passengers will be able to get out of the aircraft and float in the water.

I have been told that there are many deficiencies with respect to State Rescue One. To begin with, on the night in

question it could not effectively winch out of the water because it does not have that capacity, as the aircraft is not large enough. It is also unstable when winching, particularly when it is removing water-logged people from the ocean. In fact, the people who have contacted me maintain that the aircraft is only an observation platform. It is a single engine aircraft which is underpowered, unstable and is not suitable for rescue operations. We should consider what it might be called on to do if, for instance, a number of small sailing boats were out on the ocean, and hundreds do this in Gulf St Vincent on Saturdays and Sundays, and a sudden line squall upset them. What help would be forthcoming from Rescue One?

Rescue One is not fitted with FLIR, which is an infra-red imaging capacity which allows rescuers to see people in the water. I point out that the aircraft which ditched did so just on nightfall, so most of the rescue operation took place in the dark, which meant that infra-red imaging was required. The Police Force has requested that it have an infra-red imaging capacity in an aircraft in the future. The facts as I have outlined them do not set a terribly good scene. My questions, given the slow reaction to an emergency call by the Rescue One, are as follows:

1. What action is the State Government taking to speed up this obviously inadequate rescue facility?

2. Will money be set aside in the Budget for a replacement rotary wing rescue aircraft?

3. Will the Government immediately make available by lease or hire a more suitable rescue helicopter fitted with FLIR and a proper winching facility?

The Hon. C.J. SUMNER: I will obtain a report from the Minister and bring back a reply.

WORKMEN'S LIENS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Workmen's Liens Act 1893. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to amend the Workmen's Liens Act 1893 pursuant to a request from the Chief Justice of the Supreme Court. It is desirable to deal with proceedings under the Act in accordance with the modern provisions of the Supreme Court rules. The present regulations under the Act provide procedures which are now obsolete. (They were promulgated on 20 February 1895.) To enable the judges to make and implement the new proposed rules this amending Bill is necessary. The present regulations will need to be appropriately amended at the same time as the Supreme Court rules are amended.

It should be noted that the workmen's liens regulations are due for expiry, by virtue of section 16b (1) *(a)* of the Subordinate Legislation Act 1978 on 1 January 1989. This amendment will enable them to be revoked before that date and the substitution of modern, simpler procedures. The new Supreme Court rules will deal with such things as the form of certificate of judgment under section 24, the consolidation of actions under section 28, applications for intervention under section 30, appeals to the Supreme Court under section 35 and costs of work, other than litigious work, awarded under section 37 of the Act. I commend this Bill to members. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on a day to be fixed by proclamation.

Clauses 3, 4 and 5 each change references in the principal Act from 'workman' to 'worker'.

Clause 6 amends section 10 of the principal Act which provides for the registration of liens at the General Registry Office. The clause makes provision for payment of a prescribed fee upon such registration and is consequential to the amendment rewording the regulation making provision (section 39).

Clause 7 amends section 14 of the principal Act which provides for inspection of notices of lien lodged at the General Registry Office. The clause amends the section so that it provides for payment of a prescribed fee for such inspection rather than the fee of 20c currently specified in the section.

Clause 8 amends section 16 of the principal Act which provides for the discharge of a lien by memorandum recorded in the Register Book or on the registered notice of lien. The clause makes provision for payment of a prescribed fee for such a process and is also consequential to the amendment rewording the regulation making provision.

Clause 9 amends section 24 of the principal Act which allows evidentiary assistance to be gained through the use of certificates of judgment in the prescribed form. The clause removes the words requiring that such certificates be in a form prescribed by regulation.

Clause 10 relates to section 28 of the principal Act which provides for the consolidation of actions in respect of matters to which the Act relates. The clause removes this section leaving the matter to be dealt with by rules of court and the provisions of the Acts constituting the courts.

Clause 11 amends section 29 of the principal Act so that service of a notice of claim under the section is governed by rules of court rather than the regulations.

Clause 12 amends section 35 which provides that appeals may be made in the manner and within the time prescribed by regulation. The clause amends the section so that time limits and other procedural aspects of appeals are governed by rules of court.

Clause 13 replaces section 39, the regulation making section. The section presently fixes a maximum of 50c for fees under the regulations and specifically authorises regulations in respect of procedural matters now to be regulated by rules of court. The clause inserts instead the standard provision conferring a general regulation making power.

Clause 14 removes sections 40 and 40a. Section 40 provides for the publication of regulations and for disallowance procedures, matters now dealt with under the Subordinate Legislation Act. Section 40a fixes in respect of certain fees that may be charged under the Act upper limits which have not been adjusted since their inclusion in the Act in 1936.

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

ADOPTION BILL

The Hon. J.R. CORNWALL (Minister of Health) brought up the report of the select committee, together with minutes of proceedings and evidence.

Report received and read. Ordered that report be printed.

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

That the Adoption Bill be withdrawn in accordance with the recommendation contained in the report of the select committee.

Motion carried.

ROYAL COMMISSIONS ACT AMENDMENT BILL

Consideration in Committee of the House of Assembly's message.

(Continued from 6 April. Page 3793.)

The Hon. C.J. SUMNER: I have already moved that we accept the amendment made by the other place. I have explained the effect of the amendment, but some clarification, which I have now obtained, was required. The amendment was moved by the Minister in the other place, as a result of advice received from Parliamentary Counsel, to clarify the way in which proceedings for offences will be instituted. Section 25 of the Royal Commissions Act provides that all offences against the Act not being indictable offences shall be disposed of summarily. The amendment provides that all offences not being punishable by imprisonment shall be disposed of summarily. All offences in the Act are punishable by imprisonment, although those in the regulations under the Act are not, so that would mean that all substantive offences under the Royal Commissions Act would be dealt with on indictment.

The amendment that I suggest we accept brings the Royal Commissions Act into line with the 1986 amendment to the Acts Interpretation Act. Section 43 of that Act provides that, where it is not indicated whether an offence is summary or indictable, if the offence is punishable by imprisonment, the offence will be taken to be an indictable offence. That is the basic proposition. Terms of imprisonment are provided in some statutes for offences which are dealt with summarily, most notably in the Summary Offences Act but, unless Parliament wants to specify some of these offences as being summary offences, in the absence of a specific indication of this kind in the Act it means that any proceedings for offences under the Act will be dealt with by a judge and jury. I think that was the situation under the Act before this amendment was proposed.

It seems that it is just a tidying up amendment to make the Royal Commissions Act consistent with the Acts Interpretation Act. If members feel strongly that it is a case for some of the offences in the Royal Commissions Act being dealt with summarily, a further amendment would be required, but I do not think that that is necessary.

The Hon. K.T. GRIFFIN: I appreciate that explanation. There is no reason for me to oppose this motion.

Motion carried.

SUPERANNUATION BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 3611.)

The Hon. I. GILFILLAN: The Democrats support the Bill. The history of the previous superannuation scheme has been, in the view of the Democrats, somewhat embarrassing to all concerned, and this legislation is welcome. It provides for a much more workable and tolerable scheme for the Government and the people of South Australia. As to the concerns we recognised in relation to the old scheme, the Superannuation Board failed to market the scheme, which led to a very low participation rate and membership level. Some of the benefits that were available to it were of an inappropriate and inflexible character, due to the inflexible nature of the contribution structure.

We believe that the Government was fortunate that the previous scheme was voluntary and that, because of the lower membership involved, the cost of pensions that were being paid was only about 5.5 per cent of the State's salary bill. However, had the scheme been compulsory the result would have been financially disastrous to South Australia. I recollect that my former colleague, the Hon. Lance Milne, signalled concern about this scheme five years ago.

The costs in the present scheme were spiralling, and that virtually compelled the Government—and quite wisely—to close off the scheme. The Democrats believe that the present Bill is a reasonable attempt by the Government to redress the real deficiencies of the present scheme, and that it will curtail the cost spiralling factors of the present scheme. The new scheme proposed in the Bill draws upon the recommendations of the Agars committee's review of State Government superannuation arrangements. We support the philosophy of a lump sum scheme, as opposed to an ongoing pension or percentage of salary type scheme, which applies currently. We also appreciate the portability that applies in relation to the proposed new scheme.

I think it is important to reflect on the funding of this proposed scheme. Although it will be a much better and more manageable scheme than the current one, the issue of being fully funded applies to this scheme as much as it does to other major Government expenditures. I think it is important for Parliament to consider more diligently than it has in the past the significance of actuarial accounting and of fully funding the proposals in the scheme that are instituted either by it or by Government departments.

The Auditor-General and the Public Actuary have contributed to a keener awareness of this Parliament, and the Public Accounts Committee in particular, to the need for actuarial accounting when looking at long-term costs in improvements and structural works for the community—and I refer to works undertaken by the E&WS and the Highways Department and other work of that type. It applies not only to the physical real property improvements but also to these financial arrangements such as those involved in a superannuation scheme.

I think it is important to consider whether Parliament should ask the Government to set aside funds as they become due by the Government as the employer, in a fund that is held in trust and controlled by the board—funds that would be inalienable for any other purpose, so that as the years went by the actual funds required to make the Government's contribution to the scheme would be in hand.

Of course, such funds could be profitably used in certain investments and be interest earning. At least this would indicate a responsible awareness of the financial commitment that the Government makes year by year through the superannuation scheme, and it would be preferable to what could happen in perhaps 20 or 30 years time, namely, the need for a quite substantial payout to be made from funds that will have been acquired by way of revenue at that time.

The Democrats were involved in quite detailed discussions on this Bill and we looked critically at several aspects of it. We appreciated the discussions that we had with people from Treasury. We were rather amused to find that several of the amendments that the Government has put on file are in fact Democrat amendments which emerged from the discussions that we had with the Treasury representatives. So, we now have the irony of the Government moving against a clause of its own Bill. Three such amendments are listed as Government amendments. I want to make quite plain during this second reading contribution

that the Democrats regard them as our amendments. We are pleased that we have persuaded the Government of the good sense of the amendments.

The Hon. L.H. Davis: Why didn't you put them on file yourself?

The Hon. I. GILFILLAN: I guess we rather naively believed that there was a tacit understanding that those amendments would be put up in our name. However, we are not people to take offence at not being given recognition for our contribution—as long as honourable members realise that we did make a substantial contribution in previous discussion on this Bill. We look forward to making comments in Committee in relation to the amendments.

Specifically, as to the amendments that were initiated by our discussions with the Government, the first relates to clause 28 (page 14, line 17) and the notion of an 'approved scheme'. This notion needed to be spelt out to ensure that the employers' component would be preserved and not be made available to the employee until a genuine retirement age had been reached. The second amendment relates to clause 39 (page 28, line 22). We detected a drafting omission concerning where a contributor who is a widower dies and where he has preserved his benefit. No provision was made for a pension or a lump sum to be paid to a surviving eligible child.

The other amendment relates to clause 46 (page 31, line 33). The division of funds between putative and lawful spouses on a 50-50 basis was obviously heading for a lot of trouble, with much litigation. We opposed that and suggested an alternative, which has been accepted verbatim by the Government. The wording is almost identical to that which the Democrats proposed. We will deal further with this matter in Committee. The Democrats will support a few of the amendments that have been put on file by the Liberals and we will certainly support the Attorney's amendments. We believe that the Bill is a very good piece of legislation, which will institute what we believe will be a workable superannuation scheme for Government employees in South Australia. The Democrats support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

The Hon. L.H. DAVIS: Clause 4, the interpretation clause, has several matters that I would like briefly to raise with the Attorney. I refer, first, to the definition of 'eligible child'. In the Superannuation Act of 1974, which will be repealed by this legislation, an 'eligible child' is defined as meaning a child who, having attained the age of 16 years, has not attained the age of 25 years. This definition is changed in clause 2 to 'between the ages of 16 and 25 years'. I know it is a semantic point, Mr Attorney, but I am not quite sure what 'between the ages of 16 and 25 years' means. Does it include someone 25 years of age or does it include only people up to the age of 24? I raise this question because, quite clearly, the existing Superannuation Act specifically states that the 'eligible child' is someone who has attained the age of 16 years but has not attained the age of 25 years.

The Hon. C.J. SUMNER: This applies to a person up to the age of 24 years.

The Hon. L.H. DAVIS: 'Invalidity' is defined to mean 'physical or mental incapacity to carry out the duties of employment'. It is a matter of some concern to the Opposition that 'invalidity' is defined so briefly. 'Invalidity' in private sector superannuation schemes is defined in much more detail.

In the second reading debate the Government went to some pains to emphasise that every precaution would be taken to minimise invalidity and that emphasis would be placed on rehabilitation. I would have thought that if that, was the case, the definition of 'invalidity' would perhaps be expressed in the same detail as it is in relation to the private sector. For instance, in one private sector scheme 'invalidity' is defined as 'apparent inability to work again in any profession or occupation to which the claimant is suited by qualification or experience'. Another private sector scheme defines invalidity as follows:

> 'Total and permanent disablement' means disablement resulting from an illness, accident or injury to the employee which commences or occurs prior to his 65th birthday while he is insured and is in the active service of the company, and as a result of which either:
>
> *(a)* he suffers the loss by physical separation of two limbs or the complete and irremediable loss of sight of both eyes or the loss by physical separation of one limb and the complete and irremediable loss of sight of one eye (limb meaning at least an entire hand or foot); or
>
> *(b)* he is continually absent from his employment for a period of six consecutive months commencing prior to his 65th birthday and determines that it is unlikely he will ever be able to engage in any regular remunerative work for which he is reasonably fitted by education, training or experience.

I have gone into some detail because it is clearly a matter of some concern, and it may well be that there is a simple answer later in the Act, or that it will perhaps be covered by regulation.

The Hon. C.J. SUMNER: The Government does not believe that there is any need to define 'invalidity' more specifically. Clause 37 (4) of the Bill provides that a contributor has to satisfy the board before the termination of employment that he or she is incapacitated for work in the contributor's present position and that there is no other position, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, which the contributor could reasonably be expected to take, available to the contributor. The Government believes that while the definition is general, admittedly, the protection—if that is what the honourable member is concerned about—is contained in the fact that the board must satisfy itself as to the incapacity.

The Hon. L.H. DAVIS: I accept what the Attorney has said, that section 37 covers the subject of invalidity. But, I raise the matter that the definition here seems to be rather light compared with the definition one would traditionally expect to find in a private sector superannuation fund scheme where the precaution is taken to define 'invalidity' carefully and specifically, as I have done in the example I quoted from a major life office. I think that it is disappointing there is not a stronger definition of 'invalidity'. Perhaps it is something on which the Attorney may care to reflect.

The definition of 'old scheme contributor' on page 3 at line 38 states:

> . . . means a person who was accepted as a contributor to the fund before 31 May 1986 (and includes a person accepted as a contributor after that date if that person is classified as an old scheme contributor by the board).

I recognise that the new scheme does not officially come into existence until the passage of this legislation. Nevertheless, there are public sector employees who have joined the scheme subsequent to 31 May 1986 who will be deemed to be contributors to the new scheme on the agreed terms of this legislation, once it has passed the Parliament. However, I would be interested to know from the Attorney whether any contributors will be classified as old scheme contributors by the board. When we refer to the board in

this context, I presume we are referring to the board that will be created by this legislation.

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

The Hon. L.H. DAVIS: Does the Attorney believe that there will be any people who will be classified as old scheme contributors, notwithstanding the fact that they were accepted as contributors to the fund after 31 May 1986? If so, what will be the grounds that would justify their being deemed as contributors to the old scheme which, of course, was closed off on 31 May 1986, following the recommendations of the Agars committee?

The Hon. C.J. SUMNER: I am advised that there are three such persons known at this stage, who are people who negotiated terms of employment prior to the close of the old scheme but who had not actually taken up that employment and entered the old scheme. In other words, their terms of employment had been fixed prior to the scheme being closed but before they had an opportunity to join it. There are three such people, and they will be old scheme contributors. The grounds for their being considered such will be the grounds that I have just outlined. Apart from that, the old scheme is closed.

The Hon. L.H. DAVIS: On page 4 the definition of 'salary' is said to include all forms of remuneration except the five specific areas that are excluded in clauses *(a)* to *(e)*. Could the Attorney advise the Committee as to the status of fees paid by statutory authorities or corporate or other bodies from which public servants, who are contributors to the scheme, may derive fees? I am thinking, for example, of people who may be associated with the State Bank or be departmental heads—

The Hon. C.J. Sumner: Normally they don't get paid.

The Hon. L.H. DAVIS: —or other public servants who draw a fee? I accept what the Attorney-General has said, that they normally do not get paid, but are there any instances where public servants within the public sector or perhaps statutory authorities receive a fee which they retain and which may come within the ambit of this definition of remuneration?

The Hon. C.J. SUMNER: Government employees appointed to boards generally do not get paid for their participation on those boards, but there may be some where that does not apply. If that is the case, that remuneration will be excluded from the definition of 'salary' for the purposes of the Superannuation Act by means of *(e)*, a regulation-making power.

Clause passed.

Clauses 5 to 7 passed.

Clause 8—'The board's membership.'

The Hon. L.H. DAVIS: I move:

Page 5, after line 28—Insert subclause as follows:

(1a) A person is not eligible for appointment as a member of the Board unless that person has appropriate professional qualifications and experience conforming with the requirements of the regulations.

The Agars committee, which has been commended by all people associated with public sector superannuation for the thoroughness of its report and for the detail of its recommendations, has been quite specific in terms of its recommendations about the people who should serve on the board and on the trust. It places great emphasis on persons with appropriate skill and expertise being on the South Australian Superannuation Board and Trust. Everyone accepts the wisdom of that recommendation, but I think that it is important that, when we are talking about the board, which has largely an administrative function (as distinct from the trust which has a much more important function in being responsible for the management investment of the fund), we should recognise that this skill and expertise is fundamental to the membership of that board.

This amendment seeks to do no more than that—to recognise that no person should be appointed as a member of the board unless they have appropriate professional qualifications and experience, conforming with the requirements of the regulations. We are dealing with a fund which, in aggregate, would have assets of about $600 million. We should remember that we are dealing with the administration of not only the new scheme that will come into operation following the passage of this legislation on 1 July 1988, but also the old scheme which has been operational for some 14 years. We are dealing with a composite scheme—the old and the new schemes—with aggregate assets of at least $600 million. It is perhaps no more than semantics to the Attorney-General, but it is important that the legislation recognises that. It will certainly prevent any Government of the day appointing a union official or a person from business who does not have the appropriate professional qualifications and experience to fit this very important position. I am asking the Committee to recognise what the Agars committee has recommended by supporting the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment as it is considered unnecessary and it could prove to be unduly restrictive. The Government has always aimed to have people with appropriate superannuation knowledge and experience on the board. It is not quite clear what that would mean in any event or in fact what the right qualifications will be. There would obviously be a difficulty in determining what are the right professional qualifications for superannuation people, anyway. It is a muddled statement that really does not add anything to the Bill.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. The great difficulty is in determining what are appropriate professional qualifications for superannuation: the amendment could be unduly restrictive. It could be difficult to get the right people on the board. The Government would appoint people with appropriate superannuation knowledge and experience, and we leave that to its judgment.

The Hon. L.H. DAVIS: I read in the *News* today that the Democrats have given notice that they will not be pushed around, and already we can see from the reply that the Hon. Ian Gilfillan just gave that he is living up to what has been written of him in Tony Baker's column today. I fail to see why there is opposition to the amendment. It is not unusual for legislation to have clauses of this nature. I remind the Hon. Ian Gilfillan that the Democrats will be the first to complain if, for example, Mr Ron Owens was appointed to such a position when perhaps it may be said he had no skill or experience in this area. I select him as an example because we have had instances in the past 12 months of the Government of the day appointing people to a board when they clearly cannot make a great contribution to that board and do not necessarily have the skill and expertise in that particular area. Just because it happens to be the South Australian Superannuation Board with assets of $600 million will not necessarily be a guarantee of an appropriate appointment.

I am not pointing a finger at the Government of the day, but talking also of future governments. It is important that the largest superannuation fund in South Australia, by so far that it does not matter, has such a precaution. I accept that the words 'appropriate professional qualifications and experience' are subject to debate, but the Hon. Ian Gilfillan would recognise that an accountant with a background in investment and superannuation, an actuary, an insurance

broker, someone with a commercial legal background, or experience in property or Government bond dealings would comply quite clearly with the requirement of appropriate professional qualifications or experience. I am surprised and disappointed that the Democrats are not supporting the amendment.

Amendment negatived; clause passed.

Clauses 9 to 12 passed.

Clause 13—'The Trust's membership.'

The Hon. L.H. DAVIS: I move:

Page 7, lines 4 to 6—Leave out paragraph *(b)* and insert:
(b) one member elected by the contributors;
(ba) one member appointed by the Governor on the nomination of the South Australian Government Superannuation Federation;.

We have just dealt with the membership of the board, which is the administrative body for the fund. The superannuation fund management and investment is handled by the trust which, of course, is the more important of the two bodies. This clause proposes that the trust consist of five members, one being a presiding member or chairperson appointed by the Governor. Two members will be appointed by the Governor on the Minister's nomination. It is proposed that two members be appointed by the Governor to represent contributors. My amendment proposes to delete clause 13 *(b)*, which seeks to have one of the contributor representatives nominated by the United Trades and Labor Council and the other nominated by the South Australian Government Superannuation Federation. This amendment suggests that one member should be elected by the contributors and one appointed by the Governor on the nomination of the South Australian Government Superannuation Fund.

The Hon. I. GILFILLAN: The Democrats support this amendment. We have been consistent in our rejection of clauses in legislation giving specific nomination from the United Trades and Labor Council. This is another example of it, and we support the amendment.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment carried.

The Hon. L.H. DAVIS: I move:

Page 7—
Line 14—After 'appointed' insert 'or elected'.
Line 16—After 'appointed' (twice occurring) insert 'or elected'.

These amendments are consequential on my previous amendment which was successful.

Amendments carried.

The Hon. L.H. DAVIS: I move:

Page 7—
Lines 30 and 31—Leave out 'the United Trades and Labor Council or'.
Line 32—Leave out 'Council or'.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clauses 14 to 16 passed.

Clause 17—'The fund.'

The Hon. L.H. DAVIS: I move:

Page 8, after line 29—Insert subclause as follows:
(7) The valuation must be made by a person with appropriate professional qualifications and experience conforming with the requirements of the regulation.

Proposed subclause (6) provides:

A valuation of each division of the fund (including the investments in which it is invested) will be made as at the end of each financial year.

The fund is made up of various types of investment including property investments (such as the Aser development), fixed interest securities—both Commonwealth bonds and private sector—preference shares, equity shares, convertible notes and various other forms of investment. I believe it is important that the valuation of each division of the fund should be made by people who have the appropriate professional qualifications and experience. I note that my amendment proposes that a valuation must be made by 'a person'. I suggest that it should be amended to read 'a person or persons'.

The Hon. C.J. Sumner: It's not necessary.

The Hon. L.H. DAVIS: I thought that it might be necessary but, if it is not, I will not proceed with that suggestion. This again is consistent with the Liberal Party's belief that the Bill should recognise the importance of having people with the appropriate qualifications and experience.

The Hon. C.J. SUMNER: The Government opposes the proposed amendment which is designed to require that the annual valuation of the trust's assets to determine the market values be carried by a person with appropriate professional qualifications and experience. The amendment is not required because the Bill provides in clause 17 (6) that a valuation be carried out annually. Furthermore, as the Auditor-General is required to audit the accounts of the fund, the Auditor-General would have to be satisfied with the procedures and reasonableness of the valuations. To have each and every asset valued by people in the private sector would result in huge administrative costs. Generally, large assets are valued by professional people from outside or overseas once every few years and some sort of indexing process is used for the valuation procedure for the in between years.

The Hon. I. GILFILLAN: The Democrats are not persuaded of the necessity for the amendment. We assume that the people who do this work in the public sector would be properly qualified. If in the fullness of time there are queries and doubts about the way that the valuation has been carried out, I think that that is the time to address it. We are content that the situation is under control and we oppose the amendment.

The Hon. L.H. DAVIS: I accept where the numbers lie, but I hang on to the point to the extent of explaining that in, for instance, fixed interest securities it would not be common practice in the valuation of Commonwealth bonds, which may involve tens of millions of dollars, for the superannuation fund to value those investments itself. It would seek a valuation from a sharebroker. That would be standard practice. There is no security for that acceptable practice to be followed in the legislation as it now stands. That is the point that I seek to make in moving my amendment.

Amendment negatived; clause passed.

Clause 18 passed.

Clause 19—'Investment of the fund.'

The Hon. L.H. DAVIS: Page 106 of the Agars committee report states:

The committee recommends that the current restriction on investment by the trust to real estate in South Australia be removed as competent trustee investors have not always found that the best real estate investments are in South Australia. However, overseas investments involving a possible exchange risk other than in shares and in Australian public companies with overseas investments should require approval by the Treasury in every instance.

The committee confirms the equitable principle to which the trustee must adhere, that the assets of the trust are to be invested to the contributor's maximum advantage without reference to local political or economic considerations.

Of course, that is a matter of great concern to the public servants who contribute to this fund and are its beneficiaries. It is a matter of concern to the taxpayers of South Australia because, if the assets of the fund are not maximised and the investments are not used to best advantage, in the long term both the public servant contributors and

the taxpayers of South Australia suffer. Clause 19 gives effect to the recommendations of the Agars committee to the extent that more flexibility is given to the fund.

It is able to invest in property outside Australia and in real property outside the State, subject to specific authorisation from the Minister. It is curious that paragraphs *(a)* and *(b)* of subclause (3) use the word 'property' in a different sense. Subclause (3) *(a)* refers to property outside Australia and paragraph *(b)* refers to real property outside the State. Will the Attorney-General explain why that distinction is made in the treatment of the word 'property' in those two paragraphs?

The Hon. C.J. SUMNER: The Minister's approval is required for investment in any property, whether it be real, personal or shares, outside Australia but, with respect to property outside the State, it only applies to real property or land.

The Hon. L.H. DAVIS: I am not sure whether or not the Attorney-General would see this stage as being the appropriate point to raise the subject of existing investments of the scheme, or whether he would prefer to take the question on notice and answer it later. I think it is not inappropriate to ask about the status of the major investment of the existing scheme, and that is the ASER Property Trust. Nine months have passed since the end of the 1986-87 financial year and the Auditor-General has reported on the liability of the fund with respect to its investment in the ASER Property Trust. Will the Attorney-General advise the Committee as to what the expected final investment of the superannuation fund will be in the ASER development, given the fact that it is due for completion later in 1988? I accept that he may well have to take that question on notice.

The Hon. C.J. SUMNER: These matters are reported on each year. I can only suggest that the honourable member refers to the latest report which was provided and to the next one when it becomes available.

The Hon. L.H. DAVIS: I find that to be a very defensive answer. I am seeking information. The Committee stage is the time when information can be given. It is a matter of public interest and some importance.

The Hon. C.J. Sumner: It is a new investment; a new fund. It is not relevant to the old fund. That is the reality and the Acting Chairperson should overrule that question, because it is not relevant.

The Hon. L.H. DAVIS: This Bill covers both funds—it covers the new scheme and the old scheme. I could ask this question when we come to matters relating to the old scheme. I asked the Attorney-General whether or not it was appropriate to ask the question at this stage. I have raised the question now. Perhaps, if he could take that question on notice, will he provide me with a written answer?

The Hon. C.J. Sumner: I am advised that it is in the trust's annual report.

The Hon. L.H. DAVIS: In other words, the Government is not in a position to provide up-to-date information.

The Hon. C.J. Sumner: Annual reports provide that—that is the purpose of them.

The Hon. L.H. DAVIS: In other words, information is only available once every year on a major investment of over $100 million? Is that the Government's answer?

The Hon. C.J. Sumner: The trust reports to the Government only once a year.

The Hon. L.H. DAVIS: Is the Attorney-General saying that the Government has no idea what the final investment will be because, if it does know, and as it is a matter of public interest, I think it is not inappropriate to make that information available to Parliament and the public. I could well ask the Attorney-General this question during Question Time but, given that this is important legislation covering both the old and the new schemes, I have taken the opportunity of asking him for information about the ASER development.

The Hon. C.J. SUMNER: As the honourable member would well know, I do not have that information. If he wants that information, he can put it on notice; then I could refer the matter to the appropriate Minister. The honourable member knows full well that I do not have the information at my finger tips. He knows also that an annual report is produced and that that is the means whereby he can glean the information relating to the state of the investment in the ASER trust. Obviously, the Government does not assess the situation on a day-by-day basis. The Superannuation Fund Investment Trust has the day-to-day carriage of the investment that it decides upon. It reports annually. If the honourable member has questions to ask about the report, I am sure he can do that but, if he wants to put a question on notice about the matter, I will refer it to the appropriate Minister.

The Hon. L.H. DAVIS: The Attorney-General's response to this matter is somewhat disappointing and defensive. I suggest to him that, if information on a $100 million plus investment was not available in the private sector, questions would be asked. I am sure that the Government would monitor that investment very closely and that it would be fully aware—

The Hon. C.J. Sumner: Put it on notice.

The Hon. L.H. DAVIS: Do I have to go through the formality of that, or can you not take this up during the Committee stage?

The Hon. C.J. Sumner: The honourable member knows that I do not have that information.

The Hon. L.H. DAVIS: I have said that already, Mr Attorney. I have said that on two occasions.

The ACTING CHAIRPERSON (Hon. G.L. Bruce): I think that this is a rather futile exercise. I think that the Hon. Mr Davis is looking for an indication from the Minister that he will provide a written reply to the question but, failing that assurance from the Minister, I can only suggest that the Hon. Mr Davis puts this question on notice.

Clause passed.

Clause 20 passed.

Clause 21—'Reports.'

The Hon. L.H. DAVIS: I am pleased to note that subclause (1) requires the board to report on or before 31 October in each year, in other words, within four months of the end of the financial year. On more than one occasion I have fought for that procedure and for an amendment of the legislation to ensure that practice was followed. Subclause (4) provides:

> The Public Actuary must, in relation to the triennium ending on 30 June 1989, and thereafter in relation to each succeeding triennium, report to the Minister on—
>
> *(a)* the state and sufficiency of the fund;
>
> and
>
> *(a)* the operation of the supperannuation scheme under this Act.

The existing Act requires the Public Actuary to report on a triennial basis on the state and sufficiency of the fund. The last time that we received a report was in 1984 for the triennium ended 30 June 1983. We have not yet received a report for the triennium ended 30 June 1986. Parliament rises next week and that will mean that, unless Parliament receives that report next week, it will not have received for over two years a report from the Public Actuary on the triennium ended 30 June 1986.

I regard that as being a totally unsatisfactory state of affairs. I am quite sure from my checking that that triennial

review is not available. I want the Attorney-General to confirm that fact and also to indicate to the Committee when he expects the triennial review for the existing scheme to become available.

The Hon. C.J. SUMNER: A delay in producing this report has been due to a considerable workload on the Public Actuary's Office over the past two years, together with the resignation of the previous Actuary early in 1987. A new Public Actuary has since been appointed. Work on the review has commenced and a report should be produced in about six months.

The Hon. L.H. DAVIS: I move:

Page 10, after line 25—After paragraph *(b)* of subsection (4) insert '(and the report must be submitted to the Minister within 12 months after the end of the relevant triennium)'.

The Hon. I. GILFILLAN: I indicate the Democrats' admiration and support for the amendment, the insertion of which in the Bill would be very wise.

The Hon. C.J. SUMNER: The Government accepts.

Amendment carried.

The Hon. L.H. DAVIS: The Agars committee recommended the adoption of the New South Wales Public Accounts Committee recommendation, which required that in relation to all proposed amendments to public sector superannuation funds a full report should be prepared by the Public Actuary before being submitted to the Treasurer, detailing the financial implications of the proposed changes and covering a number of matters which are fully detailed on page 7 of the Agars committee report. I am concerned that we do not have the full costings of the fund.

I want to echo the comments that have already been made by the Hon. Ian Gilfillan and by my colleague in another place, Mr Stephen Baker, about the funding of this scheme: that it is not a fully-funded scheme, that it is unfunded, and that we are taking a leap in the dark to the extent that it will be a few years before the funding implications of the new scheme become better known. I am interested to ascertain from the Attorney whether the Government proposes in the first annual report to publish full details of the information that is suggested should be covered in any new scheme, as recommended by the Agars committee.

The Hon. C.J. SUMNER: I am advised that future reports will contain cost projections.

The Hon. L.H. DAVIS: Will the Attorney also further indicate whether the annual reports will include an assessment of the effects of the changes on the present and future capacity of the fund to finance its obligation and also an assessment of the present future cost implications for the employer? The Attorney has already answered the first point, but this is one of the specific recommendations of the Agars committee (on pages 108 and 109), namely, that their annual reports will include references to all changes to the scheme during the reporting period. As I have said, the reports should include an assessment of the effects of the changes on the present and future capacity of the fund to finance its obligations. I raise this point because the existing scheme is closed off to new entrants, and there may be cost implications to that existing fund given that there are no new entrants coming in; and, of course, with commutation there is a continuing build-up of the Government's liability in respect of the existing scheme.

The Hon. C.J. SUMNER: The changes will be reported on as part of the annual report. The costings will be assessed and included in the Actuary's triennial report.

The Hon. L.H. DAVIS: The other point which was raised by my colleague the Hon. John Burdett concerned the following reference in the Agars committee report (pages 111 and 112):

> The committee does express serious concern that a situation has been allowed to develop where the credibility of the trust has suffered through lack of regular consultation with contributor representatives through inadequate reporting on performance. The committee urges the trust and the South Australian Superannuation Board to establish channels for regular and open communication with contributor representatives with at least quarterly meetings . . .

Can the Attorney give an assurance that the recommendations of the Agars committee with regard to consultation, particularly with contributors, will be attended to?

The Hon. C.J. SUMNER: In future it is planned to issue member entitlements to both old and new scheme members on an annual basis. Computer specifications for these notices are currently being devised, and the first notices will be issued in February-March 1989.

Clause as amended passed.

Clause 22—'Entry of contributors to the scheme.'

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

Page 10, line 39—After 'conditions' insert '(being conditions authorised by the regulations)'.

This amendment is required so that benefit limitations that will apply to persons who are not medically fit can be prescribed by regulations. The amendment merely resolves a technical drafting omission.

Amendment carried; clause as amended passed.

Clause 23—'Contribution rates.'

The Hon. L.H. DAVIS: I move:

Page 11, line 30—Leave out 'two months' and substitute '30 days'.

This is a small amendment. This clause requires a contributor to elect to contribute to the fund at various levels, between 1½ per cent and 9 per cent of salary. The Opposition has already commended this new-found flexibility in the scheme. It is one of the commendable aspects of the scheme that will ensure a greater participation in the scheme. But, under clause 23 (3), the election for the following year must be made two months or more before the commencement of a particular financial year. The Opposition believes that in this day of computers and in this day of being able to input data fairly quickly two months is an unnecessarily long time. We believe that it is not unrealistic to suggest that contributors be required to make their election 30 days or more before the commencement of a financial year.

The Hon. I. GILFILLAN: The Australian Democrats indicate their opposition to the amendment. We are advised that it is an extremely busy time for the Treasury. We believe that the two month requirement is reasonable.

The Hon. C.J. SUMNER: The Government opposes the amendment.

Amendment negatived.

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

Page 11, after line 44—Insert subparagraph as follows:

(iv) if after the date on which contributions for a particular financial year are fixed there is a reduction in the contributor's salary resulting from a reduction in hours of work (other than a temporary reduction of less than two weeks' duration), there will be a proportionate reduction in the contributor's contributions (but such a contributor may, with the Board's approval, elect to contribute as if there had been no reduction in salary and in that event benefits payable under this Act will be calculated as if there had been no reduction of salary);.

This amendment is required so that a contributor's contributions can be reduced as soon as possible after he or she reduces his or her hours of work—that is, goes part time. Without this amendment a contributor who goes from full-time work to part-time work would have to maintain contributions based on full-time salary until after the next 31 March salary review date. The amendment overcomes a technical drafting problem.

The last six lines of the amendment give the board the power to allow a contributor who has reduced his or her hours of work due to sickness to be treated as being full-time for a very limited period.

Amendment carried.

The Hon. L.H. DAVIS: Clause 23 (6) *(b)* enables a contributor who is on leave without pay to continue contributing to the fund, notwithstanding that he or she is on leave without pay. Provision is made that, where more than 12 months leave without pay has been taken, a contribution can continue to be made only where approval is authorised by the regulations.

The situation could arise—and I am hypothesising here—where a contributor to the fund takes leave without pay for, say, a period of 12 months. That person goes overseas, works, earns an income, and contributes to a superannuation scheme elsewhere. Is that person able to continue contributions to the public sector superannuation scheme here? That is the impression that this clause gives. Can the Attorney-General tell the Committee whether that is a correct interpretation of the clause?

The Hon. C.J. SUMNER: As I understand it, in those circumstances the leave without pay would be granted only if the person for whom the employee was going to work agreed to pay the employer contribution to the South Australian scheme.

Clause as amended passed.

Clause 24 passed.

Clause 25—'Attribution of additional contribution points and contribution months.'

The Hon. L.H. DAVIS: I move:

Page 13, after line 15—Insert subclause as follows:

(3) Where the Minister acts under this section, full particulars of the action taken by the Minister must be included in the Board's report for the relevant financial year.

Clause 25 gives the Minister a discretion to attribute additional contribution points to a contributor. In other words, the Bill provides for a Minister to provide a bonus or incentive as part of an overall package to someone who is to be employed in the public sector or who may be employed in the public sector. The Opposition does not deny the validity of the clause. It supports and recognises the need for the Government to meet the increasingly attractive remuneration packages which are available in the private sector.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. Sumner: Yes, it does.

The Hon. L.H. DAVIS: I would take it to mean 'name', and I raise this matter because we recognise the need to balance the incentive factor which I have just mentioned and the accountability which, necessarily, is part and parcel of this scheme. It would not be proper, for example, to discover that someone has been given a big bundle of contribution points when an examination of the case might find it hard to justify. We believe that there is merit in requiring the Minister to include details of any additional contribution points which have been attributed to a contributor in the board's report for that financial year.

The Hon. C.J. SUMNER: The Government opposes this. To provide publicly the full details would require the individual to be named, and this obviously has difficulties. A very senior employee who realised the possibility of being named in respect of his superannuation may just choose to decline an employment offer.

The Hon. I. GILFILLAN: We are sympathetic to the intention of this. We think that there is very good reason why there should be no deals done that do not see the light of day, but we are uneasy about the naming of the particular recipient, which is why I interjected with a question to the mover. It appears to me, from the signals I am getting, that the Hon. Mr Davis would be amenable to a change of wording which would indicate that the particulars other than the naming of the recipient are included in the board's report. That would receive Democrat support.

The Hon. L.H. DAVIS: I accept what the Hon. Mr Gilfillan said. I have some unease about the name J. Brown, say, appearing in the report with 50 additional contribution points alongside his name for that financial year. Perhaps that has some disadvantages and could lead to some unease and some pressure in the public sector. I think that there is a middle ground, which the Hon. Mr Gilfillan seized on, and I think that there is a form of words which would cover this proposition where they could perhaps say that seven people—

The Hon. C.J. Sumner: That is done now, anyway.

The Hon. L.H. DAVIS: It would be built into the annual report that seven people receive additional bonus points?

The Hon. C.J. Sumner: It is done now.

The Hon. L.H. DAVIS: We have the assurance of the Minister that that will be covered in annual reports of the scheme, and with that I will withdraw that amendment.

The Hon. I. GILFILLAN: I think that it quite often pays to have details clearly spelt out in *Hansard*: would the Attorney be good enough, rather than by way of interjection from his seat, to spell out what he sees will take place.

The Hon. C.J. SUMNER: I am advised that the existing practice is to indicate not by name but indicate the circumstances where people have been given additional contribution points or special consideration, and that appears in the annual report. That practice will continue.

The CHAIRPERSON: Before the Hon. Mr Gilfillan spoke, the Hon. Mr Davis was seeking leave to withdraw the amendment he had moved.

Leave granted.

Clause passed.

Clause 26 passed.

Clause 27—'Retirement.'

The Hon. L.H. DAVIS: There is no doubt that this new scheme is one of the more generous of the superannuation schemes available, and the *South Australian Teachers Journal* of 9 September 1987 stated:

The new scheme is an exceptional investment. It is understood that no private schemes are presently able to or likely to compete. The older you are when you join the scheme, the more likely this is to be true.

I am interested to know whether the Attorney-General expects, with a considerable number of people in their 50s in the public sector, a large number of people in their early 50s joining the scheme perhaps on high contribution rates and, of course, incurring a liability for the Government in the near future. In other words, have the models of cost projections taken this likelihood into account?

The Hon. C.J. SUMNER: We do not expect many people in that category to join. The cost projections have taken that into account and made an assessment of it. We anticipate that most people in that category would already have some private superannuation arrangements that would not justify them quitting such and joining a private sector scheme.

The Hon. L.H. DAVIS: Is the Attorney indicating that a survey has been done on public servants in their 50s and this factor ascertained, namely, that they are in private sector schemes in preference to the public sector scheme or is it anecdotal information?

The Hon. C.J. SUMNER: A survey has not been done.

The Hon. L.H. DAVIS: It is a matter of importance because the *South Australian Teachers Journal* emphasised the point that the older one is when joining a scheme the

more likely it is for the scheme to be an exceptional investment. Someone in their early 50s with no mortgage could pay 9 per cent of their salary into the fund for seven or eight years and receive a healthy benefit at the end. I am not denying their right to do that, but simply saying that it has important cost implications down the track for the Government of the day.

The Hon. C.J. SUMNER: People in that category do not get any extra benefit from the Government over a person who pays the standard 6 per cent. A specific survey has not been done, but we do not anticipate the problem to which the honourable member refers as being a major one.

The Hon. L.H. DAVIS: The Attorney-General earlier indicated that there will be publication of expected future costs of the scheme incorporated into the annual report. Will it look at alternative scenarios, for example, different levels of membership of the scheme? We know that the existing scheme has only 30 per cent membership. If the new scheme attracts a higher level of membership, is it expected that it will have cost implications?

The Hon. C.J. SUMNER: We assume that the assumptions on which the Actuary made his predictions will be included in the report.

The Hon. L.H. DAVIS: I refer to clause 27 (3) which refers to the contributor being able to take benefits at a time when either his employment terminates or he attains the age of 55 and retires from employment. In the private sector I understand that superannuation schemes generally provide that the benefit cannot be taken until one retires from employment, irrespective of age. If one is 57 but still employed one cannot take from the fund. With this scheme, if one retires at 56 years does one have to reserve the benefit until retirement from any occupation or can it be taken straight away?

The Hon. C.J. SUMNER: One can take it straight away if one indicates that it is retirement.

The Hon. L.H. DAVIS: If one retires from employment at age 55 years, one can take it straight away, but if one has retired from the Public Service at 55 and gone on immediately to private sector employment, can one still take that benefit?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 28—'Resignation and preservation.'

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

Page 14, line 17—After 'Board' insert ', in accordance with criteria prescribed by the regulations,'.

This amendment is required to ensure that the board only approves of another scheme for the purpose of portability of benefits where the other scheme meets the criteria laid down in regulations. It is proposed that an approved scheme shall only be one that guarantees preservation of the employer funds transferred from the State fund until genuine age of retirement, or agrees to allow employees transferring to the South Australian State fund to transfer accrued employer funds.

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

Amendment carried.

The Hon. L.H. DAVIS: I move:

Page 14, after line 18—Insert subclause as follows:

(1a) A contributor cannot make an election under subsection (1) *(b)* or *(c)* unless he or she has been an active contributor for at least five years.

This amendment follows the Agars Committee recommendation that the preserved benefits option should be available only to people resigning with at least five years membership. It is important to recognise that differences exist between private and public sector superannuation schemes. I accept that, but the recommendation of the Agars Committee is quite appropriate. The amendment seeks to recognise that fact.

The Hon. C.J. SUMNER: The Government opposes the amendment. Whilst the Agars Committee recommended a preserved benefits option only be available to people resigning with at least five years membership, the Government rejects the proposition because of its discriminatory nature. People who give less than five years service and belong to the superannuation scheme are entitled to employer benefits just the same as those giving more than five years service. The additional costs to the Government of providing preserved employer benefits to people with less than five years service is minimal. This is because the scheme is voluntary and most people with less than five years membership tend to prefer to take their own contributions immediately.

The Hon. I. GILFILLAN: The Democrats oppose the amendment as it is discriminatory.

Amendment negatived.

The Hon. L.H. DAVIS: I move:

Page 15, lines 18 and 19—Leave out subparagraph (ii) and substitute:

(ii) an employer component which will, subject to subsection (6), be the lesser of—

—the amount of the employee component;

—10 per cent of the amount of the employee component for each complete year for which the contributor has been an active contributor in excess of five years.

The Hon. C.J. SUMNER: The amendment is opposed. Subclause (5) deals with the portability of benefits between approved funds—and it is expected that they will be only Government funds—which provide the board with a guarantee that the employer funds will be preserved until retirement. The amendment is totally unacceptable because a contributor would need to be a member for 25 years before he or she could receive the full accrued employer contribution and take it to another approved fund. On this basis no other Government fund would be interested in coming into an agreement under this provision.

The Hon. I. GILFILLAN: The Democrats oppose the amendment. Actually, we are somewhat confused about how the amendment would work in practice. As the mover did not go into the reasons behind his amendment and spared us a long and exhaustive argument in favour of it, I will not go through the detail but indicate simply that the Democrats oppose the amendment.

Amendment negatived.

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

Page 15, lines 20 to 22—Leave out subclause (6) and insert the following:

(6) The employer component cannot exceed either of the following amounts:

(a) twice the amount that would have constituted the employee component if the contributor had contributed to the Fund at the standard rate of contribution throughout the contributor's contribution period;

(b) 3.86 times the contributor's adjusted salary immediately before resignation (expressed as an annual amount).

The amendment is required to overcome a technical deficiency. The insertion of an additional limitation of 3.86 times salary is required to restrict the size of the employer funds that may be paid over to another fund where the member has been in the scheme for more than 30 years.

Amendment carried; clause as amended passed.

Clause 29 passed.

Clause 30—'Disability pension.'

The Hon. L.H. DAVIS: Subclause (2) provides:

A contributor who becomes incapacitated for work in a particular position will not be regarded as incapacitated for work for the purposes of this section if some other position, carrying a salary of at least 80 per cent of the salary applicable to the former

position, is available to the contributor and the contributor could reasonably be expected to take that other position.

This will be much more difficult to operate with respect to lower grades. I refer to the lowest grade of all, let us say a junior starting out in the fund at age 18 or 19 or someone on the very lowest grade. In practice it will be very difficult for them, if they have incurred some disability, to find another position which will carry a salary of at least 80 per cent.

The Hon. C.J. SUMNER: Technically, what the honourable member says is correct, but we do not anticipate a major problem because most people who obtain a disability pension are older and have already had some considerable time in the Public Service. Presumably most of them would have moved some rungs up the ladder, so the figure of 80 per cent is realistic.

The Hon. L.H. DAVIS: On the general matter of disability pensions, is the Attorney-General able to comment on the level of disability generally in the existing scheme? Has there been any sharp increase in disability pensions over the past 12 months?

The Hon. C.J. SUMNER: No. I am advised that over the past couple of years there has been a downward trend.

Clause passed.

Clauses 31 to 37 passed.

Clause 38—'Pensions payable on contributor's death.'

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

Page 26, line 42—Leave out 'the contributor was, immediately before death, a pensioner' and substitute 'the contributor's employment had terminated before the date of death'.

Page 27, lines 4 to 17—Leave out paragraph *(b)* and substitute:

(b) where the contributor's employment terminated on his or her death and the contributor reached the age of retirement on or before the date of death—a reference to the amount of the retirement pension to which the contributor would have been entitled if he or she had retired on the date of death;

(c) where the contributor's employment terminated on his or her death and the contributor had not reached the age of retirement on the date of death—a reference to the amount of the retirement pension to which the contributor would have been entitled if he or she had not died and—

(i) had continued in employment until reaching the age of retirement (but without change to the contributor's actual or attributed salary as at the date of death);

(ii) had contributed to the Fund between the date of death and the date of reaching the age of retirement at the standard contribution rate;

and

(iii) had retired on reaching the age of retirement.

The amendments are required to overcome a technical deficiency whereby under subclause (4) of the Bill a spouse would not receive the benefit of the slightly higher pension that would have been payable to a contributor whose benefit had essentially matured but was still working after the age of retirement.

Amendments carried; clause as amended passed.

Clause 39—'Resignation and preservation of benefits.'

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

Page 28, after line 22—Insert paragraph as follows:

(d) if the contributor dies and is survived by an eligible child, or two or more eligible children, a pension will be paid to each eligible child.

The amendment is required to overcome a drafting omission. The proposed new paragraph will ensure that people with more than 10 years' membership who preserve their benefits are covered for the same category of benefits as those that apply to those who continue as members.

The Hon. I. GILFILLAN: The Democrats support the amendment as it was our initiative. It is interesting that the Government has this nice little brief of amendments which are to come in to approved legislation. Once again it proves the benefit of consultation with the Democrats and the effectiveness of this Chamber. I indicate that in this form the Democrats support what is really our own amendment.

The Hon. L.H. DAVIS: Subclause (2) provides:

Where a contributor resigns after a contribution period of less than 120 months and elects to preserve his or her accrued superannuation benefits in the fund, the following provisions apply...

How was the period of 120 months selected? Is there any magical reason behind that figure?

The Hon. C.J. SUMNER: It was arrived at after negotiations with interested parties to try to keep the costs of administration down by not having to pay very small pensions.

The Hon. L.H. DAVIS: What was the calculation involved for the pension to be paid to each eligible child? It is conceivable that there could be, say, seven or eight eligible children. Is the Attorney-General able to give the Committee some indication as to the calculation involved for that payment, which could become quite complicated?

The Hon. C.J. SUMNER: No greater pensions are paid, no matter how many children.

The Hon. L.H. Davis: You are splitting it?

The Hon. C.J. SUMNER: That is right.

Amendment carried; clause as amended passed.

Clauses 40 to 45 passed.

Clause 46—'Division of benefit where deceased contributor is survived by lawful and putative spouses.'

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

Page 31, line 33—Leave out the clause and substitute new clause as follows:

46. (1) If a deceased contributor is survived by a lawful spouse and a putative spouse, any benefit to which a surviving spouse is entitled under this Act will be divided between them in a ratio determined by reference to the relative length of the periods for which each of them cohabited with the deceased as his or her spouse.

(2) Where a number of periods of cohabitation are to be aggregated for the purpose of determining an aggregate period of cohabitation for the purpose of subsection (1), any separate period of cohabitation of less than three months will be disregarded.

(3) A surviving spouse must, at the request of the board, furnish it with any information that it requires for the purpose of making a division under subsection (1).

This amendment achieves a more appropriate split of the benefits between a lawful spouse and a putative spouse. The original provision could have resulted in many cases being put to the Supreme Court for a more appropriate division of benefits. The consequences could have seen the board faced with considerable court costs. This amendment is in accordance with the Agars committee recommendation. The Women's Adviser to the Premier supports the amendment.

The Hon. I. GILFILLAN: The wording of this amendment is exactly that which the Democrats evolved, having identified the fact that the original clause was bristling with potential litigation and could cause great distress—

The Hon. C.J. Sumner: Did you do it yourself, or did your research officer do it? Isn't he paid for by the Government, or seconded from the Government?

The Hon. I. GILFILLAN: Madam Chair, would you kindly protect me from these ribald interjections which are distracting me from answering the question?

The CHAIRPERSON: The interjections are out of order, but the Standing Orders do not say anything about their being ribald.

The Hon. I. GILFILLAN: Well, I did. Very few members are able to have the benefit of direct assistance in analysing legislation, but I am quite happy to acknowledge the help that we have had from Lindon Price, who has been our researcher, and he has been invaluable in providing assist-

ance with this legislation. His work has so improved the legislation, but of course it is the Democrats' initiative and, if we had not been here, I suppose that the Government would have blithely continued with its original clause or the equally uncomfortable and inappropriate amendment which the Liberals will move and which will provide a lot of economic fodder to the lawyers along with a lot of distress to people who should be preserved from it.

The amendment which was very clearly and sensibly worked out by the Democrat team and now put forward by the Attorney-General is supported by the Democrats. I am not quite sure whether or not the Attorney-General understands how this clause works, but no doubt his adviser sitting alongside him will explain it to him. To save the Hon. Mr Davis any pain or anxiety, we indicate our opposition to the amendment that he has on file.

The Hon. L.H. DAVIS: The Liberal Party is bemused as a result of watching the Democrats attempt to claim credit for Government amendments and with the Government's expressing surprise that the Australian Democrats did not move the amendment.

The Hon. I. Gilfillan: Ask why it suddenly decided to oppose clause 46? It had the Bill. All its forces were marshalled and now—

The Hon. L.H. DAVIS: I am getting no protection at all. I am surprised that the Australian Democrats did not have the foresight to put the amendments in their own name and that they did not notice that they were not on file. I am surprised also that the Democrats made such a point of that, but the Opposition is not unhappy with the fact that the Government has had second thoughts about this clause. There was no doubt that the Agars committee had difficulty in resolving the matter, and this seems to be a sensible compromise. Nevertheless, the problem, which at least was recognised in existing clause 46, remains; namely, that the Supreme Court became involved in the clause as it now stands.

The Attorney-General has developed a formula which will provide for equity between the lawful spouse and the putative spouse, in the sense that they will be entitled to divide the benefits between them in the ratio determined by reference to the relative length of the period for which each cohabited with the deceased as his or her spouse. That is a very neat and equitable formula, but disputes will occur and the clause remains silent about that matter. What does the Attorney-General believe would be the situation in the event of a dispute (where this clause did not settle it) as to the share of the benefits between a lawful spouse and a putative spouse who survived a deceased contributor?

The Hon. C.J. SUMNER: If there is a dispute, the matter would be taken to the courts in any event by the parties who are in dispute.

The Hon. L.H. DAVIS: I would have thought that it would not be inappropriate for the clause to recognise that a dispute could be referred to the Supreme Court. The amendment proposed by the Liberal Party referred to that situation. I am quite prepared to give way to the Attorney-General's amendment, which I think is a reasonable solution, but I do not think it would be inappropriate also to provide for the board to have the power to refer the matter to the Supreme Court in the event of a dispute which it could not resolve.

The Hon. C.J. SUMNER: We do not believe that that is justified. Is the honourable member now suggesting that not all matters go to the Supreme Court?

The Hon. L.H. DAVIS: No, I am happy with your formula, but I am talking about a solution in the event of a dispute, which could occur.

The Hon. C.J. SUMNER: I am advised that the only area in which a dispute could occur concerns the actual period of cohabitation—

The Hon. L.H. Davis: Or whether or not there has been cohabitation.

The Hon. C.J. SUMNER: If the board makes a determination with which a party is not satisfied they can take the matter to the court.

The Hon. L.H. DAVIS: I have not officially moved my amendment, and I will not do so; I know where the numbers lie. But I would just ask the Attorney—

The Hon. I. Gilfillan: The honourable member does not want his amendment?

The Hon. L.H. DAVIS: No. I do not want my amendment, but I am just suggesting that the Attorney might reflect on the matter that I have just raised, because I believe that there is some merit in providing for the board to be able to refer a matter to the Supreme Court in the event of a dispute. I suspect that that will occur in more cases than we might generally appreciate. I really believe that this area could well make for a large number of claims.

The Hon. I. GILFILLAN: I trust that the amendment and the way that the board operates would allow for deliberation on the material that is presented to the board from the two spouses or people involved and that the board is competent to make a judgment. I am uneasy about there being this avenue through to the Supreme Court. I am not persuaded that it improves the legislation.

The Hon. K.T. Griffin: Well, who is going to sort out the dispute?

The Hon. I. GILFILLAN: The board. It can have the authority—it certainly has my trust—provided that it has the capacity in the Act to hear both sides and to deliberate on the matter. I have questioned whether there is a right of appeal for further consideration. However, I am not at all enthusiastic about seeing another avenue through to the Supreme Court put into this legislation.

The Hon. L.H. DAVIS: We are talking here not about a small matter but about a lump sum scheme in some cases, while in other cases, of course, it is a pension, a continuing benefit with the existing scheme. However, we could well be talking about a lump sum involving hundreds of thousands of dollars that could be bitterly contested on the facts concerning the length of cohabitation. I am not sure what experience the Superannuation Board has had in matters such as this, and it is perhaps not relevant to raise that now. But I am not satisfied that the Hon. Ian Gilfillan's objection in relation to a right of appeal has been covered. No right of appeal is provided for here, and I do not think that that is an appropriate mechanism. I am simply saying that the board should be safeguarded from a problem that will arise. There will be no loss in providing a subclause in clause 36 that will cover a dispute between lawful spouses and putative spouses who have survived a deceased contributor.

Clause negatived; new clause inserted.

Clause 47 passed.

Clause 48—'Repayment of balance in contribution account.'

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

Page 32, line 27—After 'pension payments' insert ', and (if relevant) the proportion of any lump sum resulting from commutation of pension,'.

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clauses 49 to 51 passed.

Clause 52—'Annuities.'

The Hon. L.H. DAVIS: The board, with the Minister's approval, can provide annuities on terms and conditions fixed by it. I accept the wisdom of this clause. Presumably it recognises the new status attached to annuities and approved deposit funds as havens whereby people retiring before the age of 65 can defer tax liability; and annuities, of course, have additional attractions attaching to them. Is the Attorney in a position to give the Committee examples of where the board would perhaps provide annuities to a contributor?

The Hon. C.J. SUMNER: It is not intended that this approval be given, until the situation in the community gets to the point where annuities become more acceptable as a form of receiving superannuation, and it is not possible to say what conditions might lead to that circulation in future. The provision is there as a fail-safe device, I suppose, for the board, but it is not intended that it will be acted on at this stage.

Clause passed.

Clauses 53 to 57 passed.

Clause 58—'Pensions payable in foreign currency.'

The Hon. L.H. DAVIS: This clause provides an opportunity to ask questions about pensions that are payable overseas to former contributors to the fund who have retired or been invalided out of the Public Service. Obviously, the Attorney-General, for all his skills, would not have this information readily at his fingertips. However, can he provide in writing, at some time in the near future, details of the number of people who reside overseas and have taken an invalidity pension out of the public sector?

The Hon. C.J. SUMNER: We will attempt to provide that information for the honourable member. We do not anticipate anything; we are just being cautious.

Clause passed.

Clause 59, schedules and title passed.

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

That this Bill be now read a third time.

The Hon. I. GILFILLAN: Ms President, I make one observation in relation to this Bill. I am not critical of the legislation in any way, but in our deliberations in Committee we dealt with the disclosure of benefits that an employee may have and the difficulty of disclosing that information in the report without disclosing the lack of anonymity that may go with it if the detail were to be too specific.

I am concerned that the legislation as it is before us and, in particular, the question of confidentiality of an individual will not mask or disguise steps that any Government may take to entice or to reward certain employees at certain times. I make the point (and I hope that this is recognised by the Government), that clause 55 in relation to confidentiality is designed specifically to protect the personal details of an individual. I hope that it will not be so bland and smokescreened that any Government will hide behind it as an excuse for not identifying particular cases where extraordinary benefits have accrued to individual public servants.

This is only an observation, Madam President, because I think it is important that the detail that the Government may disclose is adequate so that the Parliament can see what specific measures are being taken. Certainly, the name of the individual should be protected. However, I do not want clause 55 to be used as an excuse by any Government in the future.

The Hon. L.H. DAVIS: This is important legislation. It replaces the 1974 Superannuation Act which, although it proved to be a generous scheme in many ways, has been quite inflexible and impractical for the majority of public servants. It has certainly been a costly scheme for the taxpayers of South Australia. Despite repeated denials from the Government, the Public Actuary and Treasury officials, the Agars committee was damning in its findings. There is no doubt that the South Australian superannuation scheme was one of the most generous public sector schemes in the world. However, for all that it was not a good scheme for most public servants, particularly young public servants—career public servants—in terms of the inflexibility of its structure.

It tended to lock people into the public sector and discouraged mobility between the public and the private sector. This scheme, which is much more in line with private sector schemes, giving a lump sum payment based on final year salary to the maximum of seven times salary, is an attractive scheme providing flexibility of contributions ranging between 1.5 per cent and 9 per cent. As the Bill comes out of Committee I am pleased to see the degree of unanimity with which all three Parties have accepted the Bill. The Liberal Party, I think quite rightly, can take credit for raising over a number of years the problems with public sector superannuation in South Australia, and we have some satisfaction with the legislation as it now stands.

However, I emphasise that there is still concern about the cost of the South Australian superannuation scheme and, as has been mentioned during the second reading debate and the Committee stage, we will closely monitor those costs in the ensuing few years. There has been concern about the fact that the triennial review for the three years to 30 June 1986 has yet to see the light of day. I hope that we will find out shortly from the Government what it intends to do with the other two major public sector superannuation schemes, namely, the Police Pensions Fund and the Electricity Trust superannuation scheme. Also, I hope that the Government will take very close note of the many sound recommendations of the Agars committee in terms of the management of the fund. One of the many initiatives which that committee recommended and which I heartily endorse is the use of private sector managers for at least a section of the fund. That is an initiative recommended to be undertaken by the Victorian Government last year. I hope that with the establishment of the new fund some of that fund could be made available for private sector management.

Ultimately, this fund is for the benefit of the public servants of South Australia. We recognise that, increasingly, private sector managers have had superior packages—salary, superannuation and other fringe benefits—and whilst this superannuation scheme is seen by many to be a very attractive scheme, and arguably in the top 10 per cent compared with the top 10 per cent of all private sector schemes, we recognise that it is a positive part of an overall package for public servants in South Australia.

The Liberal Party therefore supports this third reading with the proviso that it will continue to monitor closely the existing scheme which has been subsumed within this new Superannuation Act, and also will watch with interest the development of this new scheme.

The Hon. C.J. SUMNER (Attorney-General): The only point to which I wish to respond is the question of the other public sector schemes. The Government has closed the existing ETSA Staff Superannuation Scheme and the existing retiring and gratuity scheme for blue collar workers. A single new lump sum scheme is being established for all new workers. The new scheme is basically the same as the new scheme for public servants. The Government has also commenced discussions on superannuation with the Police Department and the Police Association. The Government's

intention is to also close the existing Police Pensions Fund and establish a new police superannuation scheme.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (1988)

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

On 30 September 1987 WorkCover, a new integrated approach to workers rehabilitation and compensation, commenced in this State. The new scheme represented a major economic and social reform. Since its commencement the scheme has been kept under constant review and as a result a number of amendments are now considered necessary to improve the general operation of the system. Given the complexity of the Act and the significant nature of the reform the need for these amendments was inevitable.

As members are aware the 1986 Act established a sole insuring authority, the Workers Rehabilitation and Compensation Corporation, which is controlled by a 14 person board. The board comprises six employer association nominees, six representatives nominated by the UTLC, a rehabilitation expert and a presiding officer. The amendments contained in this Bill have been recommended to the Government by the board and have its unanimous support. Given the nature of the amendments it behoves well for the future of the system that such consensus has been achieved. In the main the amendments are of a technical nature but there are a number of more substantive issues which I will refer to in detail.

The first major area of proposed change is to insert into the Act detailed provisions setting down the benefits for those volunteers acting in the public interest who have been deemed employees of the Crown. As the Act currently stands there are no specific provisions for the calculation of benefits for those volunteers who are self-employed or unemployed. This Bill makes good that deficiency and is in line with similar provisions under the State Emergency Service Act 1987.

The Bill also seeks to extend the coverage of the Act to all domestic workers. The current Act picked up the same workers compensation coverage of domestics as the old Act. Unfortunately under the old system the distinguishing line between the categories of domestic workers who were or were not covered was not clear and that defect was carried over into the new Act. This Bill will remedy that deficiency and the WorkCover system will then apply to all domestic workers whether they are employed casually or otherwise. The Bill also contains a provision to relieve households of the first week's payment and will put beyond legal doubt the ability of WorkCover to indemnify households for any common law actions that may be taken by domestic workers.

The subject of fraud is another area tackled by this Bill. The Bill provides that where an injury suffered by a worker arose from a traffic accident WorkCover will be entitled to refrain from determining a claim until such time as the accident has been reported to the police under the Road Traffic Act. This type of provision has proved to be effective in Victoria in restricting fraudulent claims.

Since the commencement of the new system it has become apparent that there are loopholes in those provisions of the Act which are designed to restrict the right to pursue common law actions against employers. To overcome these loopholes the Bill seeks to break new ground by placing limitations on common law actions initiated by workers against third parties. In particular the Bill seeks to place restrictions on those third party actions that can lead to employers having to make a contribution to all or part of any common law damages payable to workers by a third party. As the Act currently stands, the employer is placed in a situation of double jeopardy. Through having to pay a workers compensation levy and yet still be exposed to a common law action from a third party seeking to recover a contribution from the employer for the damages awarded against that third party in respect of a compensable disability. The Bill accordingly provides for a restriction on so-called 'worker to worker claims' except where the offending worker has been criminally negligent and seeks to stop other third parties such as manufacturers of faulty equipment from claiming a contribution from the worker's employer.

One of the more significant deficiencies that has been found in the operation of the Act is in the area of return to work. The key to the success of the WorkCover system will be the effective provision of alternative work to disabled workers. The Government is of the view that employers have a duty to provide alternative work to those workers who have been disabled in their employment wherever that is practicable. If alternative work is not provided where it is reasonable to do so then a considerable and unnecessary drain is placed on the compensation fund. Already there is evidence of dumping by employers of their disabled workers onto the system. The amendments contained in this Bill recognise that in many cases the provision of such alternative work is not practicable, particularly for small employers or where the work available would be unsafe for the worker to tackle.

However, where work can be reasonably provided by keeping an existing job open or by providing suitable alternative work the employer should be under a legal and moral obligation to do so. Failure to provide alternative work simply transfers the cost to other employers. Where unreasonable failure to provide work occurs the Bill also provides for the ability of WorkCover to increase a defaulting employer's levy to reflect that employer's breach of the obligation to retain their workers in employment. The Bill also requires employers to give 28 days notice to their workers and to WorkCover of any proposed termination of employment where those workers are entitled to benefits under the Act. This period of notice is designed to enable WorkCover sufficient time to intervene and attempt to keep a worker in employment where it is reasonable and practicable to do so.

One of the major areas of reform brought about by the new Act was to the system of appeal. The new appeal provisions under the WorkCover system have thus far been most effective. It is estimated that the amount of litigation and associated legal costs have been reduced by approximately two-thirds thus achieving one of the major planks of the legislation. However, it has become apparent that there is an emerging trend to attempt to circumvent the first level of appeal to review officers. To put a stop to this practice the Bill proposes a major restructuring of the processes of appeal. As the Act currently stands the appeal to the tribunal which is the final more formal level of appeal is by way of a complete rehearing.

To avoid the parties treating the initial appeal before review officers as a mere preliminary step to the main event before the tribunal the Bill provides that the appeal to the compensation tribunal shall be in the nature of a 'true' appeal and not a rehearing. This change will compel the parties to put their full cases before review officers or if not to then run the risk that they will not be able to produce new evidence before the tribunal. The proposed changes will bring the appeal processes even more into line with the successful appeal system now operating under counterpart laws in New Zealand.

A further area of difficulty that has arisen with the new Act relates to the sharing of costs between the new and the old system. Experience in Victoria has shown that real practical difficulties exist in sharing the cost of those claims which have arisen partly under the new and partly under the old system where the courts have been given the monopoly of deciding what the sharing of costs will be in the first instance. Under the first schedule of the current Act the sharing of the costs of these so-called transitional disabilities is a matter to be decided by the Industrial Court. This is now considered to be a far too legalistic and cumbersome procedure and accordingly this Bill provides for the corporation to be empowered to determine the appropriate sharing of costs with the old insurers in the first instance rather than the Industrial Court, but with a right of appeal should the old insurers contest the decision of the corporation in this matter. The Bill also provides for the old insurers to pay in advance the amount of their contribution determined by the corporation pending the resolution of any appeal to the Industrial Court.

A further significant amendment is proposed in regard to the exchange of confidential information. The Bill provides for a general enabling provision in this area which will allow the transfer of prescribed information to prescribed Government authorities. An example of the type of problem being encountered with the confidentiality provisions of the current Act is the restrictions placed on WorkCover's ability to provide its lists of registered employers to the Department of Labour in order to facilitate the collection by the department of registration fees under the Occupational Health, Safety and Welfare Act.

The Bill also contains a clause which will enable relief to be given to those employers operating in isolated locations where the costs of providing transport to their workers for urgent medical attention would be unduly excessive.

As I have previously stated, these amendments have the unanimous support of the full membership of the board of the Workers Rehabilitation and Compensation Corporation. That such agreement was reached is of great significance and shows a real preparedness by employers and unions to look objectively at the needs of the system. I accordingly commend the Bill to the House and seek leave to insert into *Hansard* the Parliamentary Counsel's detailed explanations of the clauses.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause3 provides for various amendments to the words and phrases defined by section 3 of the principal Act. The definition of 'employment' is to be amended so that this concept covers all work done under a contract of service (including casual work that is not for the purposes of a trade or business carried on by an employer). Subsection (2) is to be removed, and replaced with a more extensive provision under new section 103a.

Clause 4 amends section 14 of the principal Act to give the Corporation a general power of investigation. This provision will overcome any argument that the Corporation is restricted to being only able to make such investigations and inquiries as it thinks necessary to determine a claim (see section 53 (1)).

Clause 5 provides that the presumption under section 31 of the principal Act will not apply to a claim made by a worker who has retired on account of age or ill-health and who makes a claim for noise-induced hearing loss more than two years after his or her retirement.

Clause 6 amends section 32 of the principal Act to clarify that the Corporation can approve classes of persons under paragraph *(f)* of subsection (2) and classes of costs under paragraph *(i)* of that subsection.

Clause 7 amends section 33 of the principal Act so as to allow employers who incur transportation costs in excess of a prescribed amount to recover the amount of the excess from the Corporation.

Clause 8 is an amendment to section 36 of the principal Act to provide specifically that the Corporation may recover weekly payments made to a worker who has in fact returned to work.

Clause 9 alters the prescribed sum under section 43 of the principal Act to the appropriate 1987 figure (being the year in which the operation of the Act commenced).

Clause 10 amends section 46 of the principal Act in two respects. Firstly, it will allow an employer to recover from the Corporation the cost of compensation paid under the section by the employer in respect of an unrepresentative disability. Secondly, it will allow the Corporation to undertake the potential liability of prescribed classes of employers under subsection (3).

Clause 11 will allow the Corporation to dispense with the requirement of a medical certificate in relation to claims that are solely for medical expenses.

Clause 12 will allow the Corporation to refrain from determining a claim arising out of a road accident that must be reported by the claimant to the police until the claim is so reported.

Clause 13 amends section 54 of the principal Act in several respects. New subsections will prevent claims in negligence by one worker against another worker (unless the other worker has been guilty of serious and wilful misconduct) and claims against employers to recover contribution from them. Provisions will also address the possibility that a worker might proceed with an action in respect of a compensable disability in a court outside the State. It is proposed that if a worker were to take such an action and the court awarded an amount in excess of the amount that could have been awarded in a comparable action in South Australia, the Corporation would be entitled to recover the excess from the worker. Similar provisions were inserted in the Wrongs Act by the Parliament in 1986 in respect of injuries suffered in motor vehicle accidents.

Clause 14 alters the sum prescribed under section 58 to the appropriate figure for 1987.

Clause 15 introduces two new sections into the principal Act. New section 58a will require employers to notify the Corporation whenever a worker who is receiving weekly payments under the Act returns to work, has his or her weekly earnings of work altered, or has his or her duties at work altered. A worker who returns to work with another employer will also be required to notify the Corporation of that fact. New section 58b will require the employer of a worker who has been incapacitated for work to attempt to find the worker suitable employment when he or she is able to return to work. An employer will also be required to give the Corporation and a worker who has suffered a compensable disability at least 28 days notice before the employer terminates the employment of the worker.

Clause 16 amends section 60 of the principal Act so that the Corporation will be able, on an application by an employer for registration as an exempt employer, to take into account the record of the employer in providing suitable work to workers who suffer compensable disabilities, and the effect that the registration would have on the Compensation Fund. It is also proposed that it be expressly provided that the list of matters in subsection (4) does not affect the Corporation's absolute discretion to decide an application for exempt status as it thinks fit.

Clause 17 makes minor amendments to the list of actions in respect of which delegations are made to exempt employers.

Clause 18 amends section 65 of the principal Act so as to allow the grouping of related employers under Division IV of Part V.

Clause 19 amends the section under which levies are to be determined. The Act presently provides for the imposition of levies against employers according to the work carried on by their respective workers in the various classes of industries. It is proposed to alter the Act so that the employers are classified according to the industries in which they are engaged and are then levied accordingly.

Clause 20 extends the matters that the Corporation may take into account when considering whether to grant a particular employer a remission of levy or whether to impose a supplementary levy.

Clause 21 amends section 68 of the principal Act to provide that the levy payable by an exempt employer is a percentage of the levy that could have been payable by the employer if the employer were not registered as an exempt employer and must be fixed so as to recover a fair contribution towards administrative expenditure, rehabilitation funding, appeal proceedings, and the liability of the corporation to make payments of compensation if an exempt employer becomes insolvent.

Clause 22 makes a consequential amendment to section 69 of the principal Act and recasts subsection (4).

Clause 23 will ensure that the Board of the Corporation has a complete discretion to decide whether or not an employer may appear before it when it is considering an application by the employer for a review of a levy.

Clause 24 will allow the Corporation to appoint various people who will be able to require employers to produce evidence of their registration under the principal Act.

Clause 25 inserts a new provision that will expressly provide that a levy payable under the Act (and any penalty interest or fine) is a debt due to the Corporation.

Clause 26 sets out various matters for which the President of the Tribunal may make rules. It will also be provided that, as a general rule, the hearing of appeals before the Tribunal will be heard in a place open to the public.

Clause 27 corrects a printing error in section 84 of the principal Act.

Clause 28 will specifically allow a review authority to refer any technical or specialised matter to an expert, and will requre a review authority to act as expeditiously as possible.

Clause 29 revises subsection (2) of section 89. In particular, in conjunction with a later amendment that will delete the requirement that an appeal before the Tribunal is to be conducted by way of rehearing, it will no longer be the case that a party to an appeal before the Tribunal has the right to call evidence on an appeal (that right being inconsistent with proceedings that are appeals 'in the strict sense').

Clause 30 will ensure that a member of a Medical Review Panel who examines a worker on an appeal cannot be subsequently called as a witness.

Clause 31 will have the effect of ensuring that a Medical Review Panel always provides a statement under section 93 of the principal Act.

Clause 32 is related to another amendment that will provide that an appeal by an employer who is dissatisfied with a decision of the Corporation on an application for registration as an exempt employer will be direct to the Minister.

Clause 33 makes various amendments to section 97 of the principal Act in relation to appeals. Most of the amendments are related to the decision to repeal subsection (4) of section 97 so that appeals will not be by way of re-hearing. New subsection (8) will also allow the Tribunal to stay the operation of a decision of a Review Officer that is subject to an appeal.

Clause 34 enacts a new provision dealing with the right of appeal against a decision of the Corporation on an application for registration as an exempt employer. The appeal will not proceed through a Review Officer but will instead be direct to the Minister. If the Minister finds in favour of the appellant, the Minister will be required to furnish a statement of his or her reasons to the Corporation.

Clause 35 enacts a new section 103a relating to persons who voluntarily perform work of benefit to the State. The provision is far more sophisticated than the approach that is presently contained in the principal Act and is consistent with other provisions relating to specific classes of volunteer workers that have already been passed by the Parliament.

Clause 36 revises section 105 of the principal Act. In particular, the section will extend to employers who are not required to be registered because of an exemption under the regulations.

Clause 37 inserts a new provision that expressly provides that a payment by the Corporation or an employer to a worker does not constitute an admission of liability or estop a subsequent denial of liability.

Clause 38 will amend section 112 of the principal Act to allow the disclosure of information that is statistical and the disclosure of information in accordance with the regulations to prescribed agencies of the Crown.

Clause 39 makes various amendments to section 113 of the principal Act relating to noise-induced hearing loss.

Clause 40 will make it an offence to make a statement knowing it to be false or misleading in a material respect in connection with making a claim under the Act.

Clause 41 is an evidentiary provision.

Clause 42 clarifies the ambit of section 122 so as to ensure that criminal proceedings cannot be taken against the Corporation, or any person acting on behalf of the Corporation, when acting in the enforcement or administration of the Act.

Clause 43 makes a technical amendment to the regulation-making provision of the principal Act to allow matters to be determined at the discretion of the Corporation.

Clause 44 amends the first schedule to the principal Act in relation to the procedure that is to be followed when the Corporation is faced with a transitional disability.

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

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

COMMUNITY WELFARE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

EVIDENCE ACT AMENDMENT BILL (1988)

Returned from the House of Assembly without amendment.

CRIMES (CONFISCATION OF PROFITS) ACT AMENDMENT BILL

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

The Hon. I. GILFILLAN: I move:

That this Bill be now read a second time.

The Crimes (Confiscation of Profits) Act is a relatively new innovation in this State and the purpose of the principal Act, as members will be aware, is to ensure that persons who have been convicted of a prescribed offence do not profit from the proceeds of their crime. Offences prescribed under the Act are selected on the basis that they are primarily undertaken for the massive potential financial return they offer, and include drug trafficking and the sale of native flora and fauna.

The principal Act has now been in operation for some time and a number of applications for forfeiture orders have been launched by the Attorney-General, with some reaching a successful conclusion, while other applications are still proceeding through the courts. Unfortunately, there have been indications that some members of the judiciary may view the forfeiture system as part of the sentencing process, with at least one case receiving some media attention last year in which the sentencing process was postponed while the matter of the forfeiture application, with respect to the profits of the drug related offence of which the person had been convicted, were resolved.

There was a clear implication that the sentence for the original offence would be to some extent dependent on the outcome of the forfeiture application. Forfeiture is only applicable to certain crimes particularly identified by the Parliament and it is essential that those who contemplate such an offence are aware that the proceeds of the crime are never theirs to deal with and that the forfeiture order is quite separate from the punishment that the offence and the circumstances might otherwise merit.

Now is the time to ensure that the ground rules under which the confiscation system is to operate are clearly defined. The system of confiscation has the potential to deny to those who would break the law the fruits of their actions and represents a very powerful deterrent. This Bill seeks to ensure that the process retains its full impact in respect of those particular offences which the Parliament has specifically designated for the purpose. The Bill contains only a single clause which embodies the principal purpose of the measure and is self explanatory.

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

SEWERAGE ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

There are a number of changes necessary to the Sewerage Act 1929, as amended, to create a more appropriate legal base for the continued operations of the Sanitary Plumbers Examining Board and the Plumbing Advisory Board. The procedures for the registration and examination of plumbers and drainers are laid down in regulation 6 made under the Sewerage Act 1929, as amended, and in regulation 27 made under the Waterworks Act 1932, as amended.

The duties for the administration of these functions are vested in the Sanitary Plumbers Examining Board by the provisions of regulation 5 made under the Sewerage Act and regulation 27 made under the Waterworks Act. The duty of the consideration of the cancellation or suspension of any certificate of registration issued pursuant to these regulations is vested in the Plumbing Advisory Board by virtue of the provisions of regulation 7 made under the Sewerage Act and regulation 30 made under the Waterworks Act.

The Crown Solicitor has advised that the enabling powers in the Sewerage Act 1929 under which the Sanitary Plumbers' Examining Board was created by regulation in 1929 are somewhat tenuous as regards the power to create the board. Section 13 (1) (v) appears to be the only power under which the creation of the board seems possible. The power to licence and charge fees under that Act is also very tenuous. The power to licence and charge plumbers' fees under the Waterworks Act 1932 is more certain. A power to regulate for the licensing of plumbers is contained in section 10 (1) (xiv) of that Act. This power to licence includes an ability to charge in respect of the administrative cost of granting the licence. Any charge beyond administrative costs is invalid.

In view of the opinion that the powers to register persons are somewhat tenuous, the capability of the Plumbing Advisory Board to consider disciplinary actions based on registrations issued and resulting from breaches of the Sewerage and Waterworks Acts or the regulations made under those Acts is also tenuous. Amendments to the Sewerage Act are therefore proposed in order to establish a more appropriate legal base for the continued operation of the Sanitary Plumbers Examining Board and the Plumbing Advisory Board.

Clauses 1 and 2 are formal.

Clause 3 inserts a new Part IIIA into the principal Act. New section 17b empowers the Governor to make regulations in relation to the Sanitary Plumbers Examining Board and section 17c is a similar provision in relation to the Plumbing Advisory Board.

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

LOTTERY AND GAMING ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

It seeks to amend the Lottery and Gambing Act to provide a licensing system for printers and suppliers of instant lottery tickets. In the course of administering the lottery regulations, a considerable number of problems have been exposed through dealings with ticket printers and suppliers. A working party established by the Minister of Recreation and Sport in 1987 to examine certain problems associated with the conduct of instant lotteries in hotels and other commercial outlets, revealed serious deficiencies involving transactions with printers and suppliers of instant lottery tickets.

The situation has reached the critical stage where blatant instances of malpractices and substandard methods are being regularly witnessed. This has provoked a groundswell of criticism from the community as well as from organisations licensed to run lotteries and from those printers and suppliers who endeavour to maintain high standards and a reputable image within the industry.

Some of the more obvious areas of abuse are the poor paper texture and adhesion of tickets, the duplication of ticket numbers, the pre-identification of winning tickets, 'sweetheart' deals with lotteries promoters in falsely declaring actual ticket sales, the display of fictitious licence numbers and overcharging for cost of tickets. In addition, because of lack of controls on printers and suppliers, some unscrupulous members of the community have found it to be easy to set up business in this field and to adopt questionable practices and ethics that make for a very lucrative business indeed.

Enforcement officers have also been experiencing considerable difficulty in collecting and recording data from some printers and suppliers in the course of investigating suspect lotteries activities. The proposed licensing system should result in significant benefits in this area of lotteries control.

It is the view of the Government that the most important issue in the instant lottery area, is the proposed licensing of printers and suppliers of tickets, in accordance with rigid standards, as a positive means of eliminating the current spate of problems.

Clause 1 is formal.

Clause 2 provides for commencement of the Act on proclamation.

Clause 3 inserts new Part III providing for the licensing of suppliers of instant lottery tickets. New section 15 defines what constitutes an instant lottery ticket and also what constitutes the supply of such a ticket. New section 16 requires suppliers of tickets to be licensed. The remaining sections are the usual provisions relating to applications for licences, conditions of licences, the term and annual renewal of licences and the cancellation of licences for offences or breaches of licence conditions.

Clause 4 inserts a general regulation-making power in the Act. As the Act now stands, the regulation-making power is limited to lotteries and lottery licences.

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

TRADE STANDARDS ACT AMENDMENT BILL

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

ADJOURNMENT

At 5.43 p.m. the Council adjourned until Tuesday 12 April at 2.15 p.m.